

Policy Management Project - Analysis of Department of Defense "Don't Ask, Don't Tell"

Personnel Policy

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The views expressed in this academic policy analysis are those of the author and do not necessarily reflect the official policy or position of the US Government, the Department of Defense or any of its agencies.

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Table 1

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I. **Introduction**

This policy project seeks to conduct a policy evaluation of “Don’t Ask, Don’t Tell”, examine alternative policy constructs and suggest a sound and rational recommendation. The project contains the six major sections described below.

- I. **Introduction:** outlines the report’s organization and describes the paper in general.
- II. **Executive Summary:** an abstract that delivers the salient points of the current policy debate, background and significance, key policy alternatives, recommended policy options and implementation considerations.
- III. **Problem Statement:** provides the rationale and theoretical framework for the research; states the research questions and specifies the scope and limitations of the study.
- IV. **Consideration of Policy Alternatives:** analyzes three policy courses of action that the Department of Defense could pursue in charting future discussion on this topic.
- V. **Implementation Strategy:** provides general guidance to the policy decision maker and considers unintended consequences.
- VI. **Conclusions/Recommendations:** interprets the findings, presents a qualitative analysis of the data and suggests conclusions and implications of the study.

II. Executive Summary

In the eleven years since the policy became public law, there has been a significant amount of new research focused on the issue of gays in the military. The past decade has seen landmark court cases, like Lawrence versus Texas, whose rulings have yielded significant yet controversial impacts on policy discussion. Last year, three military flag officers historically “came out of the closet” and painted a startling contrast of the military landscape of living in the post-DADT era. The Urban Institute, a nonpartisan economic and social policy research organization, recently published a study of gay men and lesbians in the military compiled from data from the 2000 Census which estimates that more than 65,000 homosexuals are serving in our Armed Forces. Less than two months ago, Rep Meehan (D-MA) introduced legislation to repeal the current “Don’t Ask, Don’t Tell” prohibition on gays serving in the military.

Contrary to previous assumptions, there does not exist a demonstrable risk to military order and discipline that warrants the exclusion of otherwise qualified individuals. The policy rests on a faulty assumption that the integration of gays and lesbians would destroy a unit’s tactical cohesion and morale to the extent that it would jeopardize the ability of the military to accomplish its national defense mission. On a cursory look, the military doesn’t seem at risk in accomplishing its wartime mission with the roughly 65,000 gays and lesbians that the Census data suggests is already serving. More striking, the military’s critical manpower requirements are in peril of being unmet – in part because of its exclusion of people who are prejudiced against based solely on a faulty assumption.

Three alternatives are offered in this debate – maintain the status quo, repeal the current ban of not asking service members their sexual orientation and return to the policy of inquiring for the

purpose of denying eligibility to serve in the Armed Forces or repeal the ban and replace with a policy of nondiscrimination on the basis of sexual orientation.

Based on the four evaluative criteria of political feasibility, economic impact, public opinion and recruitment and retention impacts, political feasibility strongly supports maintaining of the status quo. The economic impact criteria, though not heavily weighted, favors the latter alternative that does not spend millions of dollars on discharging otherwise qualified service members. Public opinion as measured by opinion polls, surveys, and media bias seem to be shifting towards more tolerant acceptance of gays and lesbians serving in the military. Finally recruiting and retention is still very questionable. But in the absence of any compelling data that would suggest otherwise and in light of the fact that the military was still well able to make its recruiting mission in the months and years after the policy was enacted, it seems to me that recruiting and retention would shift to the final alternative. Based on this reasoning, it seems that the final alternative of ban repeal and integration of homosexuals would yield higher readiness rates, save potential millions of dollars in wasteful investigations and discharge processing of gays and improve our overall national security posture.

II. Problem Statement

A. Rationale for the Research

The issue of allowing gays and lesbians to serve openly in the United States military has been a major issue of debate for decades. In the years since the passage of legislation frequently dubbed “Don’t Ask, Don’t Tell” (DADT), there has been a long litany of activist organizations, academic institutions, congressional studies, conservative institutions, think tanks and Pentagon briefings that have resurfaced and rekindled the debate. The issues are far more complex than mere homophobia. We continue to be a nation in transition when it comes to issues of gender roles, discrimination and sexuality in general and homosexuality in particular. It strikes at the intersection of moral values, religious tolerance, equal and civil rights. In addition to being a country in transition, we are a country at war, facing critical challenges in recruiting and retaining young men and women to exchange their tennis shoes for combat boots. The military is a revolving door where more people are lining up to exit than join. A significant portion of those who are joining the exodus are either being discharged for their sexual orientation or are leaving early because of an inability to tolerate socially unhealthy work environments. It seems to bear some relevance for the Defense Department to re-examine the expected as well as the unintended effects of the policy and its implications on future force readiness.

B. Legislative Policy Background

On November 30, 1993, Congress included in Public Law 103-160, a new policy concerning homosexuality in the Armed Forces. This particular National Defense Authorization Act would prove to be the most controversial and problematic for the Executive Branch, Congress and the Department of Defense to reconcile. Early on in his Presidential campaign, Bill Clinton brought the issue of the right of gays and lesbians to serve in the military to the forefront of the national agenda. Clinton faced stiff opposition from the Defense Department and Congress and eventually had to concede a compromise, billed “Don’t Ask, Don’t Tell”. Ironically, the language in the new policy actually extends the military’s long-standing, conservative exclusion policy and makes clear that known homosexuals must be separated from the military:

“The prohibition against homosexual conduct is a long standing element of military law that continues to be necessary in the unique circumstances of military service...the armed forces must maintain personnel policies that exclude persons whose presence in the armed forces would create an unacceptable risk to ... the high standards of morale, good order and discipline. The presence of persons who demonstrate a propensity or intent to engage in homosexual acts would create an unacceptable risk to the morale, order and discipline and unit cohesion ...” (10 U.S.C. Art 654)

The policy was widely seen as a compromise that sought to protect the traditional institution of the military and the privacy rights of those serving in the Armed Forces while moving in the general direction of a less conservative policy with respect to homosexuals serving in the military. This is a false presumption that mistakenly secures

many individuals in the belief that gay and lesbians can serve in the military if they remain discrete. This is not the case at all as current policy clearly states that homosexual conduct is incompatible with military service - period.

In general the original policy only prohibited military personnel from being asked about their sexual orientation during their initial processing into the military. The Defense Department eventually extended the “don’t ask” guidance more broadly to include the entire span of a service members tour of duty in the military. The intent was to create a zone of privacy in the military for individuals with no threat of the wide scale witch hunts, harassment and aggressive pursuit policy which so widely characterized the Armed Forces in the decades leading up to 1993. Don’t Ask, Don’t Tell is a policy paradox in that presumably a very discrete gay or lesbian individual could enlist and serve in the military as long as they didn’t make a statement that would inadvertently “out” them, engage in any activity that could be construed as homosexual (sexual or nonsexual), or attempt to marry someone of the same sex. It is almost inconceivable to imagine that a person could enter under the parameters of today’s policy and honorably serve a distinguished military career without inadvertently violating one of the prohibitions – namely not having private sex. The new 1993 policy deviated from the former policy in one other minute way – it changed the language from “homosexuality” to “homosexual acts” being incompatible with military service. This was meant to alleviate the concern that the Pentagon was punishing orientation versus conduct.

In the eleven years since the policy became public law, there has been a significant amount of new research focused on the issue of gays in the military. The past decade has seen landmark court cases, like Lawrence versus Texas, whose rulings have yielded significant yet controversial impacts on policy discussion. Last year, three military flag officers historically “came out of the closet” and painted a different scenario of the military landscape of living in the post-DADT era. The Urban Institute, a nonpartisan economic and social policy research organization, recently published a study of gay men and lesbians in the military compiled from data from the 2000 Census which estimates that more than 36,000 homosexuals are serving on active duty (about 2.5% of the active duty military). The numbers climb to just over 65,000 when the Reserves and Guard are considered. There has been a significant shift in public opinion in support of gays serving in the military, especially in the global war on terror environment that we live. However, in stark contrast to the perceived shift to the left, the past election year saw a large number of states adopt sweeping anti-gay marriage initiatives. There remains strong disagreement across academic circles, military units, public opinion surveys, scholars and experts on whether allowing gays and lesbians to openly serve would actually undermine military order and discipline, unit cohesion and morale.

The Problem Defined

Eugene Bardach, noted political scientist and policy professor, suggests in his guide to policy analysis, that both conditions that cause problems are in themselves problems and that missing an opportunity is a problem (Bardach, 2000, 5,6). Both of these social conditions seem particularly applicable with regard to the current policy. Contrary to previous assumptions, there does not exist a demonstrable risk to military order and discipline that warrants the exclusion of

otherwise qualified individuals. The policy rests on a faulty assumption that the integration of gays and lesbians would destroy a unit's tactical cohesion and morale to the extent that it would jeopardize the ability of the military to accomplish its national defense mission. On a cursory look, the military doesn't seem at risk in accomplishing its wartime mission with the roughly 65,000 gays and lesbians that the Census data suggests is already serving. More striking, the military's critical manpower requirements are in peril of being unmet – in part because of its exclusion of people who are prejudiced against based solely on a faulty assumption.

Recent empirical data suggests that increasing numbers of service members have been discharged post-DADT policy. In 1994 for example, 617 service members were discharged for being homosexual, compared to 1241 in 2000 (Table 1). The number of discharges has more than doubled in the first six years of the policy. This seems incongruent to the intent of the Clinton policy and a potential indicator of policy failure.

Scope and Methodology

My aim is to conduct a brief policy evaluation of “Don't Ask, Don't Tell”, using the problem analysis as a backdrop to explore alternative policy options and eventually construct a sound and rational recommendation. I will focus on the Pentagon's military culture of good order, discipline and unit cohesion and in contrast, examine other allied countries military services who have integrated homosexuals in their ranks and assess their unit performance, order and discipline. I will focus specifically on Israel and the United Kingdom as my case studies as their organizational structure most resembles that of the US Defense Department. They also have arguably participated in more, small unit, tactical and operational combat actions in the past 50 years where the measure of unit cohesion, morale and discipline become critical. It is clear that

their troops have seen more sustained combat than the US and function well as a credible lens of contrast (unlike countries like Canada or Australia, for example, whose combat experience is significantly less pronounced). I expect to rely heavily on individual interviews in fleshing out the impacts of the current problem and integrating the volume of research data available on the subject.

Analysis of the Risk

The Pentagon has long asserted that allowing gays and lesbians to serve openly would jeopardize military performance, specifically with respect to readiness, unit cohesion and morale. While no one would doubt that a military unit requires certain precision, discipline and behavior that is not typically expected in the rest of society, it seems illogical to assume that homosexuals would compromise any of these qualities. I will paint compelling examples in foreign military as well as “like-structured” organizations in the US to illustrate the point.

For fifty seven years, the Israeli Defense Forces (IDF) has continually been engaged in tactical military operations and is considered to be one of the premiere fighting forces in the world. Born in battle in 1948 during the Arab Egyptian army invasion, the IDF saw battle in the Sinai Campaign, the Six Day War, War in Lebanon and participated in rescue/humanitarian operations in Kenya, Macedonia, Turkey and India (Israeli Defense Forces Official Website, 2005). Additionally, it has occupied the West Bank and Gaza for over 30 years. The IDF is considered to be one of the most high-tech armies in the world, possessing top-of-the-line weapons and computer systems. Both the U.S. and Israel participate in joint military planning and combined exercises, and have collaborated on military research and weapons development. Israel has the official distinction of being a US Major Non-NATO ally (Wikipedia, 2005).

In 1993, Israel abolished its restrictions on gay and lesbian soldiers serving in the IDF. Its official website states that “The IDF and its soldiers are obligated to protect human dignity. Every human being is of value regardless of his or her origin, religion, nationality, gender, status or position” (Israeli Defense Forces Official Website, 2005). Professor Aaron Belkin, political science professor at the University of California – Santa Barbara conducted an in-depth empirical study of the aftermath of Israel’s decision to abolish its restrictions on gay and lesbian soldiers and found no data indicating “that lifting the ban undermined Israeli military performance, cohesion, readiness or morale” (Belkin, Aaron & Melissa Levitt, 2001). Their report which interviewed dozens of gay and straight service members, commanders, and an Israeli panel of 35 experts, served as a compelling argument that the Pentagon position is based on a flawed assumption.

Similarly in the United Kingdom, who only four years ago were ordered by the courts to repeal its long standing ban on gays serving in their military, found no evidence that the readiness or morale of British troops were jeopardized as a result of the decision. The European Court of Human Rights ordered the integration of the U.K. armed forces on Jan. 12, 2000. Professor Belkin here also found that “through academic investigation and analysis that the presence of acknowledged gay service members clearly has not compromised unit cohesion or operational effectiveness among U.K. military personnel” (Crea, Joe, 2004). This was further highlighted during a 2001 Army War College panel discussion in front of an audience of 300 senior Army officers. British army and naval officers briefed the attendees that unit cohesion was actually strengthened as a result of the lifting of the gay ban. What is interesting is that during Operation Iraqi Freedom, American military units served under and with multinational military units who had openly gay allied soldiers and officers serving in them and again, unit cohesion

clearly was not compromised. (Crea, Joe). Thus it seems that American service members interact and work well with openly gay personnel from foreign military services – would we expect them to function differently with openly gay service members from within the same service?

Clearly there are challenges with contrasting US defense policy with other European countries policies. A Congressional Research Service report in February 2005 articulated that differences of force structure, roles and mission, and military recruiting structures (conscription versus volunteers) make comparison difficult (Congressional Research Service, 2005, 34). That being true, I find it extremely useful and relevant for US policy makers to consider the positive effect that integration has had on our close military allies. Perhaps too, it bears some relevancy that with the exception of Turkey, all of the current NATO military forces have allowed homosexuals to serve openly in their respective military units.

Retired Army Brigadier General Virgil Richard dismissed claims that unit cohesion would suffer if gay people served openly in uniform. General Richard stated that "the policy is creating tension. It's not contributing to unit cohesion," (Crawley, Vince, 2003). General Richard is one of three retired senior officers who, in a Dec. 10 story in *The New York Times*, publicly acknowledged being gay. The other two are Army Brigadier General Keith Kerr, who retired in 1995 after serving on active duty and in the Reserve, and Public Health Service Rear Admiral Alan Steinman, who was chief medical officer of the Coast Guard when he retired in 1997. They are the highest-ranking U.S. service members yet to acknowledge being gay. The three senior officers decided to go public because "they were alarmed at the number of troops harassed by other service members on suspicion of being gay" (Crawley, Vince).

The empirical data from studies conducted in Israel, Great Britain, Canada, Australia and other countries seems to all paint a strong and consistent theme – that allowing gay and lesbians to serve openly did not degrade nor jeopardize the ability of these military units to accomplish their missions. Although there are notable cultural and geographical differences between these countries, it still seems relevant and germane to consider their positive experiences.

Additionally, the Urban Institute's 2000 Census report puts the number of gays and lesbians serving currently in our Armed Forces near 65,000. This seems to be the greatest hypocrisy of all – if the effects of having gay service members will be so devastating, then how can the military be performing so well in Iraq and Afghanistan and other regions of the world where troops are deployed? On the contrary, the issues that are causing major morale and unit cohesion problems are the Abu Gharaib scandal where prisoners were sexually harassed and abused or the truck driver scandal where military drivers refused to drive unsafe vehicles into Iraq along roads targeted by insurgents with car bombs.

A final nail in the coffin of the current policy comes from a report by Dr. Nathaniel Frank, Senior Research fellow at the University of California, Santa Barbara who interviewed thirty gay, lesbian and bisexual service members who were deployed to the Middle East. Although largely anecdotal, his research was the first to assess the impact of the DADT policy in actual combat environments. Dr Frank found that gays and lesbians are serving on the frontlines of Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom in Iraq (Frank, Nathaniel, 2004). Among the interviewees was Sergeant Brian Hughes, a highly decorated Army Ranger who was part of the Jessica Lynch rescue operation. Interestingly, Sergeant Hughes and the report as a whole found that the policy forces soldiers to lie to other members of their units,

who often talked about their sexual exploits. Gay soldiers found themselves substituting "she" for "he" in stories just so they could join in conversations. According to Sergeant Hughes, "It hurt. I was lying to those people. I eventually withdrew and became quite anti-social because I didn't want to deal with it anymore." Although he enjoyed the Army, he did not re-enlist because of the stress that the "don't ask, don't tell" policy had on his life. If anything, the policy itself, does seem to cause a disruption in unit cohesion for the soldiers who are living under the policy and are prohibited from being truthful with their fellow friends and battle buddies. More recently, Army Sergeant Robert Stout, awarded the Purple Heart for wounds sustained in Iraq combat, became the first gay soldier to publicly discuss his gay sexuality (Rulon, Malia, 2005). Stout said that "I know a ton of gay men that would be more than willing to stay in the Army if they could just be open. But if we have to stay here and hide our lives all the time, its just not worth it."

Alternatives

Having discussed the limitations of the current DADT policy, it becomes necessary to consider various policy alternatives. Three courses of action bear some room for discussion:

- a. Policy Alternative 1 - Maintain the status quo
- b. Policy Alternative 2 - Repeal the current ban of not asking service members their sexual orientation and return to the policy of inquiring for the purpose of denying eligibility to serve in the Armed Forces. The Center for Military Readiness suggests that in order to discourage the recruitment of persons who are not eligible to serve that the Administration should consider reinstatement of the routine inquiry about homosexuality that used to appear on induction forms. A provision was included in

- the initial National Defense Authorization Act of 1994 that permits reinstatement of appropriate questions by the Secretary of Defense at any time, without Congressional approval.
- c. Policy Alternative 3 - Repeal the current ban of not asking service members their sexual orientation and replace with a policy of nondiscrimination on the basis of sexual orientation.

I have identified four evaluative criteria to apply to the three policy alternatives. These are not all inclusive yet generally reflect the current parameters germane to the policy debate. These criteria include political feasibility, public opinion, economic impact and military manpower retention and recruitment. These four considerations will be pivotally considered in my analysis of the three policy options.

Policy Alternative 1 – Maintain the Status Quo

Political Feasibility

Usually the “let present trends continue” option is not a viable, final alternative in policy analysis, in that the defined problem can only be mitigated by action or reform. However, with keen sensitivity to the fact that the executive branch and the legislature enjoy an unparalleled majority in the current political stream, neither the Bush Administration nor the leadership of Congress has sought to officially re-visit the issue of gays in the military. During last year’s national elections, no campaign platforms centered debate on the controversial issue of homosexuals serving in uniform. The War on Terror, the economy and gay marriage seemed to dominate the political agenda. It is highly doubtful that the current administration will want to

expend any political capital on this issue. Even senior staffers who work for traditionally sympathetic congressional allies are unwilling to tackle the social cost of action. During an interview with Sharon Alexander, staff attorney at the Servicemember's Legal Defense Network (SLDN), admitted that even staunch Democratic supporters like Senator Edward Kennedy (D-MA) was resistant to expending any political energy on this agenda item (Alexander, Sharon, March 30, 2005). Therefore it seems logical that the status quo option is the most preferred and likely alternative in terms of political feasibility

Public Opinion

Public opinion seems to affect the agenda more than the status quo alternative. Among military service members, who tend to be more conservative than the country at large, there seems to be general acceptance of the current policy. The National Annenberg Election Survey (NAES), asked a sampling of military members if gays and lesbians should be allowed to serve openly in the military. 42% said yes and 50% said no, contrasted to the general population that reflected 67 percent agreeing with the alternative of them serving openly and 27 agreeing with the current Pentagon policy. This seems consistent with other surveys conducted in the Military Times (Military Times) which combined polling results of all four major service periodicals (Army Times, Air Force Times, Marine Times and Navy Times). The Military Times showed sharp disagreement in the ranks, particularly in senior officers and noncommissioned officers with the notion of allowing gays to serve openly in the armed forces. Only among junior enlisted soldiers did there appear to be disagreement with the policy, indicating a possible cultural paradigm shift in attitudes and tolerances of younger generations.

Economic Impact

According to a recent GAO report released two months ago, the Department of Defense has spent approximately \$200 million in the process of discharging gay and lesbian soldiers (Government Accountability Office, 2005). Admittedly, this is a minute amount compared to the total defense authorization budget for FY 2005 – just over \$400B (Department of Defense, 2004). But what is significant about this study is that it is the first of its type to attempt to quantify financial costs of the DADT policy. By all accounts, the \$200 million is considerably underestimated as the Marine Corps was unable to contribute its determination of what they had spent in discharging Marines under the policy. One might assess that under the current policy, the economic burden to DOD would equal its current expenditures of \$200 million. It is difficult to do a cost benefit analysis with these figures as it would be challenging to identify a common unit of analysis to measure.

Military Manpower Recruiting and Retention

Senator Dan Coats (R-IN), who led the Republican GOP during the Clinton struggle for this policy, believed that lifting the ban would have a

“negative effect on the military’s ability to recruit and retain the best young men and women in our military. In one hearing, all four personnel chiefs from the four branches said that the admission of homosexuals would have a significant negative influence on recruiting and retention” (Coats, Dan, 1993)

The Gulf War hero General Norman Schwarzkopf remarked that “You enlist the soldier, you reenlist the family. Lifting the ban would have a devastating effect on the military.” (Coats, Dan, 1993)

In today's global war on terrorism environment, momentum has been building from a bipartisan effort in Congress, pushing for significant increase in the size of the military. The concern that the Guard and Reserve troops are over-extended and the Marines and Army have been unable to meet their recruiting goals for the past few months have birthed renewed interest in relaxing the policy of allowing gays to serve. The Secretary of the Army was "cautiously optimistic" about achieving the Army's goal of 80,000 recruits in FY 2005 (Department of Defense News Conference, 2005). The Army is currently 6 percent behind in its year end goal, Army Reserve is 10 percent and Army National Guard is 25% off its goal. The growing number of casualties certainly adds to the strain of a smaller force – over 1500 US troops have died and more than 11,000 wounded. In the past few months, the Army began lowering some of its recruiting and admission standards to attract more high school drop-outs and older volunteers.

It appears that senior leaders in Congress, the Executive Branch and the Defense Department seem to support maintaining the status quo and prohibiting homosexuals to serve in the military. When the new Secretary of the Army was recently asked if he would re-look the policy, he responded that "it's a long standing policy and I don't see any need to change it." (Department of Defense News Conference, 2005). Public opinion polls among military members seem to strongly support maintaining the prohibition in stark contrast to polls of non-military persons. The GAO economic impact report highlights a relatively significant amount of money expended in discharging gay troops, while the Army and Marines still struggle to recruit and retain service members. It seems plausible that the continued inability of our military to recruit and retain troops in ample numbers might lead to a compromised national security posture.

Policy Alternative 2 – Repeal the ban and replace with language that allows military to ask personnel their sexual persuasion.

This alternative suggests a return to the environment prior to the Clinton Administration. Congress built into law a trump card for the Secretary of Defense to resume questioning recruits about their sexual history and conduct, at any time that he desires. It is entirely conceivable that the military may return to its former prohibitive stance without any Congressional intervention. This alternative would send a strong message that the military environment is not conducive for homosexuals to serve.

The success of this option is based on the assumption that prospective applicants will be truthful on their entrance applications. As there is no way to verify or prove one's sexual orientation, it is extremely difficult to ascertain truthfulness. For the decades that the military asked prospective service members about their sexual identity, the high gay discharge numbers suggest that many people were less than truthful in their recruiting applications. Simply requiring a person to swear that s/he has not performed homosexual conduct does not go far enough in aggressively denying entrance into the military service.

Political Feasibility

Elaine Donnelly, president of the Center for Military Readiness, strongly supports this alternative which returns to the pre-DADT military environment. The thought is that the military has wasted much time and money on training unqualified service members who are unfit for military service because of their sexual orientation. Military application and processing forms would return to asking service applicants if they had ever participated in a homosexual act.

There would be a perception of taking a “step backwards” in terms of progress and non-discrimination if the Secretary of Defense returned to directly asking service members about their sexuality. Although the decision could easily be made within the bowels of the Defense Department without any Congressional or political influence, it seems that the spill-over effects would be rippled throughout the political community. It would be foolhardy to assume the change wouldn't incur significant political impact and accountability. This alternative would probably be “dead on arrival” because of the implacable opposition of essential political stakeholders.

Economic Impact

If the ban was repealed and the policy reverted to the pre-DADT, the findings would indicate an even larger fiscal expenditure. It would be expected that a return to this type of environment would birth increased investigations, witch-hunts and harassment. Just a glance at the pre-DADT discharge numbers averaging thousands per year indicate an expected increase and higher processing costs for the military in handling these cases.

Public Opinion

There is no survey or poll data that queried Americans about their attitudes about returning to the pre-DADT policy environment. No survey asks its respondents about their attitudes about asking service applicants about their sexual history. This is in some small measure due to the media consideration of just two options – maintain status quo or segregate by sexual orientation. However, one can look at the existing data on thoughts of gays serving and make some generalizations. For example, the data that found 70% of Americans supporting gays serving in

the military could be read as 70% not supporting outright prohibition of these individuals serving. Therefore, it seems plausible that public opinion would little tolerate a return to the pre-DADT policy environment.

Military Recruiting and Retention

It is difficult to conceive a scenario where this alternative would promote military recruiting or drive thousands of potential applicants to recruiting offices around the country. On the contrary, the 2000 Census data estimates of 65,000 homosexuals serving today, would more aptly suggest that if some portion of them chose not to re-enlist beyond their service period because of a harsher work environment which would degrade the ability of the military to retain their critical manpower strengths. Under the current policy, there is a quantity of gay service members who are entering the service daily. Therefore, it seems that from a recruiting and retention perspective, a serious consideration of this alternative would be adverse.

Policy Alternative 3 – Repeal the Ban and Integrate Homosexuals in the Military

Political Feasibility

There is little motivation in the Executive Branch or Congress to seriously consider this alternative. Just a few weeks ago, several members of the House Armed Services Committee called on its chairman to hold hearings to review the ban (U.S. News Wire, 2005). The call for hearings is closely tied to the introduction of the Military Readiness Enhancement Act, a bill that would accomplish the aims of this alternative. Rep Meehan (D-MA) along with 73 other members of Congress have come out publicly endorsing this alternative. Although this represents 20 percent of Congress, it is seen as primarily a liberal democrat agenda with no bi partisan flavor. Only three Republican lawmakers have pledged support of the bill and it is unlikely that

this initiative will pass without full bipartisan support from both houses of Congress. It is equally unlikely that the Bush Administration and his conservative lawmakers will be willing to expend their political capital on such a controversial policy debate. Ironically, the Supreme Court agreed this past week to hear an appeal of the Solomon Amendment to decide whether the US government may withhold funds from colleges that deny military recruiters access to their campuses (Biskupic, Joan & Donna Leinwand , 2005). Many college campuses are protesting the Pentagon's ban on openly gay people from serving in the military.

Public Opinion

According to a national poll conducted by the Los Angeles Times in March 2004, 70 percent of Americans support the right of homosexuals to serve in the military. Surprisingly, a solid majority of conservatives support gays serving in uniform (57%) and 88% of liberals. During the period of 1977 to 1999, the Gallup poll surveyed Americans about whether gays should be allowed to serve in the Armed Forces. In 1992, just before the Clinton debate on DADT, only 57% of those surveyed agreed that homosexuals should be allowed to serve. By 1999, 70% advocated support. Karlyn Bowman of the American Enterprise Institute, a conservative think tank in Washington, conducted an in-depth study of public opinion on the subject of homosexuals. Her study traced back 30 years of credible survey and poll data and showed remarkable historical trends. While the surveys consistently show that about 2/3 of Americans oppose gay marriage, they also demonstrate shifts on numerous other fronts, mainly gays serving in uniform. Public acceptance of gays serving in the military grew from 51% in a 1977 Gallup poll to 80% in 2003 (Bowman, Karlyn, 2004).

Economic Feasibility

If the ban was repealed and there were no discharges for homosexuality, then it stands to reason that DADT would not expend any monies in chaptering these service members out. If they were involved in an incident, it would be handled under one of the other judicial or non-judicial punishment avenues. The federal government would be expected to save at least \$200 million – a low end estimate based on the earlier GAO report figures.

Military Recruiting and Retention

There were anecdotal theories from General Norman Schwarzkopf, Colin Powell and Senator Dan Coats (R-IN) in 1993, who believed that lifting the ban would have a negative effect on the military's ability to recruit and retain. There has been no credible testing of these claims to date. However, Elaine Donnelly, from the CMR, during our electronic interview of her, had this to say:

“I understand your search for “quantitative” data, but human emotions are not so easy to quantify. That does not mean that human emotions, and the power of sexuality, do not matter. They matter a great deal. The volunteer force depends on the support of Americans who decide over the kitchen table whether sons and daughters should join.”(Donnelly, Elaine, 2005)

It is difficult to determine whether recruiting and retention metrics would increase or decrease with the ban lifted. It takes a certain caliber of person to be a part of a military that is fighting a protracted war on foreign soil. Although the applicant pool would considerably enlarge, it is difficult to measure how many additional recruits would be enlisted. It is equally difficult to measure how many heterosexual families, who at their dinner tables would decide that the military no longer subscribes to the traditions and conservative value system and would resist decisions to send sons and daughters into its ranks. The ultimate question is whether the

unintended consequence of heterosexuals deciding not to enlist as a result of the policy change is worth the tradeoff of allowing homosexuals to enlist. Would the pool of new recruits compensate for the small loss of those who would not join as a result of this policy alternative? I attempted to conduct a small random sample of Army recruiters who daily target young men and women to enlist in the Army, to ask their opinion on the effects a repealed ban would have on their throughput. Although I received very few responses, two significant themes emerged. One is that for the past three months, the Army has failed to meet its recruiting goal, in spite of a myriad of creative incentives, bonuses and renewed marketing campaigns. Secondly, the comments I did receive from active duty recruiters seemed to reflect a wide spectrum of beliefs. All of them agreed that lifting the ban would result in more people enlisting, however there were very mixed results when queried about the impact on heterosexual recruiting and retention decisions. Interesting to note however is that when the DADT policy was implemented, recruitment nor retention was a problem for the military. The first time that any military service did not make its personnel recruiting mission was May 2000 and subsequently the first few months of this year. This seems to strongly support the notion that young people are less concerned about serving with homosexuals and are less impeded by that consideration when making the decision to join the military.

Alternative Selection

Based on the four evaluative criteria that I established at the outset, political feasibility strongly supports maintaining of the status quo. The economic impact criteria is not heavily weighted but favors the alternative that does not spend millions of dollars on discharging otherwise qualified service members. Public opinion as measured by opinion polls, surveys, and media bias seem to be shifting towards more tolerant acceptance of gays and lesbians serving in the military. Finally

recruiting and retention is still very questionable. But in the absence of any compelling data that would suggest otherwise and in light of the fact that the military was still well able to make its recruiting mission in the months and years after the policy was enacted, it seems to me that recruiting and retention would shift to the final alternative. Based on this reasoning, it seems that the final alternative of ban repeal and integration of homosexuals would yield higher readiness rates, save potential millions of dollars in wasteful investigations and discharge processing of gays and improve our overall national security posture.

Implementation

Implementation of a policy alternative repealing the prohibitive ban would be closely linked to one of two mechanisms – legislative or judicial. In other words, the ban can only be overturned by a federal judge declaring it unconstitutional or by Congress passing new legislation. Congress can legislate a change in United States Code 654 that establishes the policy concerning homosexuality in the Armed Forces. Alternatively a judge can rule that the current policy is illegal and order the Defense Department to implement reform. These are two very contrasting alternatives that warrant individual implementation strategies.

On March 2, 2005, Representative Richard Meehan (D-MA) introduced a bill to amend Title 10 of the U.S. Code, effectively repealing the policy and replacing it with one of non-discrimination on the basis of sexual orientation. Meehan stated that “in a time of war, it is outrageous our military continues to discharge courageous service members...for reasons that have nothing to do with their conduct in the military. We have a problem with recruiting and retention. The evidence is overwhelming and we need to change the policy” (Hess, Pamela, 2005). An effective policy would:

- (1) insure that no current member of the military or candidate seeking to join the military, be discriminated against on the basis of their individual sexual orientation,
- (2) require the Secretary of Defense to prescribe procedures that guarantee all service members be governed by the same standards of conduct without regard to their orientation,
- (3) establish a process where former service members who were discharged from the military post 1993, solely on the basis of homosexual conduct, be considered for reinstatement or upgrade of discharge. Reinstatement of service members discharged prior to the policy would be predicated on the ability of the discharged persons to meet the same qualification and eligibility criteria expected of new recruits.
- (4) Deny any service member from initiating claim action as a result of damages incurred as a result of their discharge.

It is likely that any legislative change would be reflected in a National Defense Authorization Act which the President would sign. A judicial change would take the flavor of a lawsuit very similar to the one currently pending where twelve discharged service members have brought suit against the Department of Defense for violating their constitutional rights in unfairly discharging them. Regardless of the specific mechanism by which the reform occurs, the Secretary of Defense would revise all the pertinent DoD regulations and policies to reflect the non-discrimination language of the new policy. To insure that individual services are consistent with their respective implementation strategies, the Defense Department should establish a realistic timeline for subordinate military departments and units to replace dated language with new

policy vernacular. Clearly, a mere policy change cannot change the individual tolerances, prejudices, moral compasses or personal belief systems of the military force as a whole. It would be naive to assume that such a controversial policy shift would go unnoticed by our service members in uniform. Special training classes that clearly articulate to every service member the specifics of the new policy must be established. Additionally, including periodic discussions on the policy in on-going equal opportunity and sexual harassment classes would be highly effective. Clearly the most effective means that the military has is its chain of command. Leaders and commanders at all levels must speak with one voice and promote the type of organizational culture that embraces the diversity within its ranks. Acts of harassment or abuse cannot be tolerated and would be dealt with in accordance with the disciplinary authority that commanders currently exercise in their military units.

There certainly will be circumstances which will challenge the traditions and organizational culture of the military. Take for example, a formal military ball where couples are expected to dine and dance together. Will same sex couples be encouraged to exhibit public displays of affection in environments where heterosexual couples are allowed to do so? Will “recognized” partners of gay soldiers be recognized as such for fatality notification, base housing considerations and spouse/partner ID cards? What will define a “recognized” partner? Will the Veteran’s Administration treat and accept claims for service members who were refused care and treatment because of the discharge they received? Will conservative commanders be tempted to send their gay soldiers on more hazardous missions than their straight soldiers? There are a myriad of intended and unintended consequences that must be considered and mitigated to insure the policy is mitigated. However, as in the integration of blacks in the military a few decades ago, the military accommodated and turned the experience into a success story.

Conclusion

Last year, former President Clinton stated that “Simply put, there is no evidence to support a ban on gays in the military.. Our nation as a whole has moved significantly . . . toward recognizing the full citizenship of gay Americans.” (Servicemembers Legal Defense Network, 2004) He urged Americans to “keep striving for the time when serving in our military is an honor open to everyone regardless of sexual orientation.” Today’s current policy on gays in the military seems to rest on many faulty assumptions – namely that homosexuals will jeopardize unit cohesiveness. My research has been unable to justify that position and has found that the opposite is more true. Denying service members the right to serve freely and openly violates basic dignity and respect of the human experience and puts our national security at risk.

Table 1

Fiscal Year	Total Number of Homosexual Discharges	Percentage of Total Active Force
1980	1754	0.086
1981	1817	0.088
1982	1998	0.095
1983	1815	0.085
1984	1822	0.085
1985	1660	0.077
1986	1643	0.076
1987	1380	0.063
1988	1101	0.051
1989	996	0.047
1990	941	0.046
1991	949	0.048
1992	730	0.040
1993	682	0.040
1994	617	0.038
1995	757	0.050
1996	858	0.058
1997	997	0.069
1998	1145	0.081
1999	1034	0.075
2000	1212	0.088
2001	1227	0.089
2002	885	0.063
2003	770	0.054

Table 1

Sources: Data for the years 1980 through 1997 are from U.S. Department of Defense, Office of the Assistant Secretary of Defense (Personnel and Readiness), Report to the Secretary of Defense, *Review of the Effectiveness of the Application and Enforcement of the Department's Policy on Homosexual Conduct in the Military*, April 1998. Percentages may vary slightly due to rounding. Data for later years are from the Department of Defense, Defense Manpower Data Center.

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