

**“Don’t Ask Don’t Tell Don’t Work:  
A Ten-Year Evaluation of Military Personnel Policy Concerning Homosexuality”**

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“It's no great secret that military studies have proved again and again that there's no valid reason for keeping the ban on gays ... The country and the military know that eventually the ban will be lifted. The only remaining questions are how much muck we will all be dragged through, and how many brave Americans ... will have their lives and careers destroyed in a senseless attempt to stall the inevitable ... We have wasted enough precious time, money and talent trying to persecute and pretend. It's time to stop burying our heads in the sand and denying reality for the sake of politics. It's time to deal with this straight on and be done with it. It's time to get on with more important business... When you get down to it, no American able to serve should be allowed, much less given an excuse, not to serve his or her country. We need all our talent.”

—Barry Goldwater, *Washington Post*, 1994

## **Executive Summary**

\*\* This report is intended to examine the ten-year history of the Don't Ask, Don't Tell policy in the context of whether the ban enhances military effectiveness

\*\* Statistical and anecdotal data suggest that the Don't Ask, Don't Tell policy does not preserve or enhance unit cohesion.

\*\* Data also show that the Don't Ask, Don't Tell policy imposes five different types of costs on the armed forces including talent-loss, financial costs, undermining the military's reputation, undermining the work environment and unit cohesion, and increased violence against women.

\*\* Five factors suggest that lifting the ban would not undermine combat performance. Domestic organizations such as the FBI, CIA, Secret Service, as well as twenty-four foreign militaries, have lifted their bans without suffering a decrease in performance. In addition, Americans have worked successfully with openly gay foreigners in integrated military units in NATO, NORAD, and the United Nations.

\*\* Data show that lifting the gay ban would not undermine heterosexual privacy in military barracks or showers. Almost all service members will soon have their own bedrooms and a bathroom to share with just one other individual.

## Introduction

Ten years ago, stories about gays in the military dominated the headlines when former President Bill Clinton attempted to make the issue his administration's first priority, and to force the Pentagon to allow known homosexuals to serve in the armed forces. A decade has passed since Clinton's fiasco, and it is now time to assess whether the Don't Ask, Don't Tell policy has enhanced American military effectiveness, particularly in light of the new security environment that the armed forces must now confront. This report is intended to examine the ten-year history of the Don't Ask, Don't Tell policy in the context of four questions that concern organizational effectiveness:

- (1) Has the policy enhanced military effectiveness?
- (2) Has the policy undermined military effectiveness?
- (3) What impact would lifting the ban have on military effectiveness?
- (4) What impact would lifting the ban have on heterosexual privacy?

Because Don't Ask, Don't Tell is justified in terms of the preservation of military effectiveness, it makes sense to analyze the policy in terms of its implications for effectiveness of the armed forces. Hence, this study uses the lens of military effectiveness to examine the ten-year history of the Don't Ask, Don't Tell policy, and to ask whether the policy has achieved its goal of enhancing military effectiveness.<sup>1</sup>

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<sup>1</sup> This report is based on a combination of original research as well as several previously-published papers including Aaron Belkin and Melissa Levitt, "Homosexuality and the Israel Defense Forces; Did Lifting the Gay Ban Undermine Military Performance?" *Armed Forces and Society* 27 (2001): 541-565; Aaron Belkin and Jason McNichol, "Homosexual Personnel Policy in the Canadian Forces; Did Lifting the Gay Ban Undermine Military Performance?" *International Journal* 56 (2001): 73-88; and Aaron Belkin and Melissa S. Embser-Herbert, "A Modest Proposal: Privacy as a Flawed Rationale for Excluding Gays and Lesbians from the U.S. Military" *International Security* 27 (2002): 178-197.

### **Has Don't Ask, Don't Tell enhanced military effectiveness?**

The Don't Ask, Don't Tell policy is based on the unit cohesion rationale, the argument that if known gays and lesbians were allowed to serve, unit cohesion, performance, readiness, and morale would decline.<sup>2</sup> According to Lieutenant Colonel Robert McGinnis, "Cohesion is the glue that holds small units together. In ranger school we would wrap a poncho liner around us when we were cold. So you're sharing body heat. If there is any perception of inappropriate behavior that you think might result from that, you have to have total trust that not only are they going to pull your wounded body off the battlefield but that they won't do any thing untoward."<sup>3</sup>

The unit cohesion rationale is premised on the assumption that because heterosexual service members do not like gays and lesbians, they cannot develop bonds of trust that are necessary for units' operational effectiveness. Since trust is so closely related to affection and acceptance, the dislike and discomfort that characterize most heterosexual service members' views towards their gay and lesbian peers serve as an impediment to the emergence of confidence that is necessary for units to function in battle. The unit cohesion rationale is articulated in Congressional statute as well as federal court decisions and serves as the most prominent basis for the Don't Ask, Don't Tell policy.

Establishing that the Don't Ask, Don't Tell policy has preserved or enhanced military effectiveness would require showing that the policy has preserved unit cohesion. And showing that the policy has preserved unit cohesion would require demonstrating that the policy has prevented gay and lesbian service members from revealing their

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<sup>2</sup> U.S. Code 654, Public Law 103-160 – Nov. 30, 1993, 107 Stat. 1671.

<sup>3</sup> Robert McGinnis, *Don't Ask, Don't Tell*. 60 Minutes, December 12, 1999.

sexual orientation. If gays and lesbians reveal their sexual orientation to their peers despite the Don't Ask, Don't Tell policy, then the policy cannot be said to preserve unit cohesion (unless numerous gays and lesbians would reveal their orientation after the lifting of the ban, a possibility that is addressed below). What the evidence shows is that gay and lesbian service members do reveal their sexual orientation to peers in spite of the Don't Ask, Don't Tell policy. Anecdotal and statistical data suggest that known gays and lesbians do serve openly in the U.S. armed forces. Consider, for example, Melissa Sheridan Embser-Herbert's testimony:

One day my drill sergeant called me into his office. And he called me in with another woman in my unit, whom I had been dating on the weekends. He said, 'I know what's going on. This is the Army, and you two have got to be more discreet.' End of conversation. He was not a bleeding heart liberal, and by all accounts he was heterosexual, as well. But he knew. As did most of the women in Bravo Company, Tenth Battalion. They might not have liked it—that is a different question—but they knew.<sup>4</sup>

A University of California study released in 2001 discusses a number of cases in which open and highly visible gay or lesbian officers served their country without problems and often maintained exemplary careers.<sup>5</sup> The study considers four officers, who “[c]ollectively ... served more than 18 years as openly homosexual service members. During that time, they received outstanding evaluations, promotions and expanded responsibilities.”<sup>6</sup> Reviewing each person's case, the study found that each served openly without jeopardizing the effective operation of his or her unit.

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<sup>4</sup> Melissa Sheridan Embser-Herbert cited in Aaron Belkin and Geoffrey Bateman, eds., *Don't Ask, Don't Tell: Is the Gay Ban Based on Prejudice or Military Necessity?* (Boulder, CO: Lynne Rienner Publishers, 2003). Her remarks were made on December 9, 2000, at the Commonwealth Club of California.

<sup>5</sup> Rhoda Evans, “U.S. Military Policies Concerning Homosexuals: Development, Implementation and Outcome,” (Santa Barbara, CA: The Center for the Study of Sexual Minorities in the Military, 2001); available from [www.gaymilitary.ucsb.edu/Publications/evans1.htm](http://www.gaymilitary.ucsb.edu/Publications/evans1.htm).

<sup>6</sup> *Ibid.*, 38.

Statistical data seem to confirm that these anecdotes do not reflect isolated cases. For example, a recent study of 368 officers and enlisted personnel in the U.S. Navy and Marine Corps found that 20.1 percent personally know a homosexual service member; another 22.3 percent are unsure as to whether they know a homosexual service member.<sup>7</sup> If these figures are extrapolated to the entire U.S. armed forces, then approximately 301,500 service members personally know a homosexual peer, and approximately 334,500 service members are unsure as to whether they personally know a homosexual peer. Although this small study may not represent overall trends, it seems to suggest that many service members already serve with people who they know to be gay or lesbian. Indeed, a 1995 study includes an eight-page list of gays and lesbians who served openly in the U.S. military.<sup>8</sup>

In the early 1990s, Herbert collected survey data on women's experiences in the U.S. military from 394 female veterans and active-duty service members.<sup>9</sup> She asked women who identified as heterosexual for any part of their military career to respond to the statement, "I knew military women who were lesbian/bisexual." Seventy-nine percent of the women responded yes. Then, Herbert asked respondents who identified as lesbian or bisexual during any part of their military career to indicate "definitely not true," "probably not true," "uncertain," "probably true," or "definitely true" to these statements:

1. Women whom I believe were heterosexual knew that I was lesbian/bisexual.

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<sup>7</sup> John W. Bicknell, Jr., *Study of Naval Officers' Attitudes toward Homosexuals in the Military* (Monterey, CA: Naval Postgraduate School, 2000).

<sup>8</sup> C. Dixon Osburn, "A Policy in Desperate Search of a Rationale: The Military's Policy on Lesbians, Gays, and Bisexuals," *University of Missouri-Kansas City Law Review* 64 (1995): 215-223.

<sup>9</sup> The following data is from Melissa S. Herbert, *Camouflage Isn't Only For Combat: Gender, Sexuality, and Women in the Military* (New York: New York University Press, 1998).

2. Men whom I believe were heterosexual knew that I was lesbian/bisexual.
3. Some of my supervisors knew that I was lesbian/bisexual.

Of the 111 women who responded, sixty-four percent indicated that it was “definitely true” or “probably true” that women whom they recognized as heterosexual knew that the respondent was lesbian or bisexual. Fifty-one percent indicated “definitely true” or “probably true” that men they believed to be heterosexual recognized them as lesbian or bisexual. And fifty-six percent indicated “definitely true” or “probably true” with regard to their supervisors.

Herbert then asked respondents who answered “probably true” or “definitely true” to any of the three items listed above what led them to believe that others thought they were lesbian or bisexual. Of the eighty-six open-ended responses to this question, slightly more than half were a variation of “I told them.” Others provided a range of examples of how co-workers and supervisors came to know that they were lesbian or bisexual. For example, one private first class wrote, “Some just outright asked and I told. Others just had gay-dar I guess.” Another wrote, “I told a supervisor who was trying to get me to date him.” Some women felt that they had to be honest with supervisors whose help they needed. An enlisted woman in the Army wrote, “I told my supervisor because I was breaking up an eight year relationship with my lover. I needed time off and he supported me a hundred percent.” And an army captain offered, “Due to a difficult situation which arose, I informed my commander because I needed his help.”

Even though many gays and lesbians reveal their orientation despite the Don’t Ask, Don’t Tell policy, the policy might preserve unit cohesion by preventing numerous additional gays and lesbians from revealing their sexual identity. What the evidence

shows, however, is that even though many known gays and lesbians already serve in the U.S. armed forces, few additional homosexuals would reveal their sexual orientation after the lifting of the ban. Four recent studies of gays and lesbians in the Australian, British, Canadian, and Israeli forces found the same pattern: In all four cases, the authors discovered that few additional homosexual soldiers revealed their sexual orientation after the lifting of the ban.<sup>10</sup> In other words, there was no flood of “coming out” statements after the lifting of gay bans. Prior to the lifting of the bans in Australia, Britain, Canada, and Israel, some gay and lesbian soldiers already were known by their peers to be homosexual. Then, a few more revealed their sexual orientation in the immediate aftermath of the policy change, but the vast majority chose not to do so. Finally, as time passed, a few more gay and lesbian soldiers disclosed their sexual orientation, yet the majority still refrained from doing so.

In Australia, for example, a 1996 report noted that three years after the lifting of the ban, only thirty-three homosexual soldiers were willing to identify themselves to the authors of the study.<sup>11</sup> In Canada, the Department of National Defence received only seventeen claims for medical, dental and relocation benefits for homosexual partners in 1998, six years after the lifting of the Canadian ban.<sup>12</sup> Given the military’s own estimate that 3.5% of its personnel are gay or lesbian, the low figure suggests that service members

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<sup>10</sup> Aaron Belkin and Jason McNichol, “Effects of the 1992 Lifting of Restrictions on Gay and Lesbian Service in the Canadian Forces: Appraising the Evidence” (Santa Barbara, CA: The Center for the Study of Sexual Minorities in the Military, 2000); Aaron Belkin and Melissa Levitt, “The Effects of Including Gay and Lesbian Soldiers in the Israeli Defense Forces: Appraising the Evidence” (Santa Barbara, CA: The Center for the Study of Sexual Minorities in the Military, 2000); Aaron Belkin and Jason McNichol, “The Effects of Including Gay and Lesbian Soldiers in the Australian Defence Forces: Appraising the Evidence” (Santa Barbara, CA: The Center for the Study of Sexual Minorities in the Military, 2000); Aaron Belkin and R.L. Evans, “The Effects of Including Gay and Lesbian Soldiers in the British Armed Forces: Appraising the Evidence” (Santa Barbara, CA: The Center for the Study of Sexual Minorities in the Military, 2000); all studies are available at [www.gaymilitary.ucsb.edu/Publications/PublicationsHome.htm](http://www.gaymilitary.ucsb.edu/Publications/PublicationsHome.htm).

<sup>11</sup> Belkin and McNichol, “The Effects of Including Gay and Lesbian Soldiers in the Australian Defence Forces,” 15.

<sup>12</sup> “Few Soldiers Claim Same-Sex Benefits,” *The Edmonton Sun*, 12 April 1999, 13.

may hesitate to out themselves by requesting benefits. Based on interviews with nine gay and lesbian service members in Canada, all described their professional personas as relatively private and discrete. While many confide in their close friends and invite their partners to military functions, they nonetheless do not feel the need to out themselves in any formal way. One lesbian soldier told us that in the Canadian military, “gay people have never screamed to be really, really out. They just want to be really safe from not being fired.”<sup>13</sup> That being said, most of the currently serving members interviewed believe that at least some members of their units know of their status as sexual minorities.

In practice, the presence or absence of a ban on gays and lesbians has little to do with disclosure rates.<sup>14</sup> Rather, the culture of the unit is the primary determinant of decisions to reveal sexual orientation: Gay and lesbian service members reveal their sexual orientation only when it is safe to do so. For example, a study of American police departments that allow acknowledged homosexuals to serve identified seven open gays and lesbians in the Chicago Police Department and approximately 100 in the New York Police Department.<sup>15</sup> Several factors may account for the variation in disclosure rates, but scholars who have compared police and fire departments believe that much if not most of the variance reflects the fact that personal safety is the primary determinant of Americans’ decisions to reveal their sexual orientation. Because individual safety varies from organization to organization depending on whether leaders express clear messages in support of integration, disclosure rates vary as well. One Army Research Institute expert claims that “perhaps one of the most salient factors that influences whether

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<sup>13</sup> Interview with Michele Douglas, Former Lieutenant, Canadian Forces, 23 January 2000.

<sup>14</sup> This paragraph is based on Belkin and Levitt, “Homosexuality and the Israel Defense Forces.”

<sup>15</sup> Paul Koegler, “Lessons Learned from the Experience of Domestic Police and Fire Departments,” in *Out in Force*, ed. Gregory M. Herek, Jared B. Jobe, and Ralph M. Carney (Chicago, University of Chicago Press, 1996), 137.

homosexual police officers or firefighters make their sexual orientation known to their departments is their perception of the climate ... The more hostile the environment, the less likely it was that people publicly acknowledged their homosexuality.”<sup>16</sup> Similar variance can be found in the U.S. military: A recent study found that while 21.2 percent of naval officers know a gay sailor, only 4.1 percent of U.S. Marine officers know a gay marine.<sup>17</sup> It seems likely that this difference results from the fact that closeted gays believe that it is safer to reveal their homosexuality in the U.S. Navy than in the Marine Corps. Indeed, the same study found attitudes of personnel in U.S. Navy to be more tolerant toward homosexuals than those of the Marines.<sup>18</sup>

In sum, demonstrating that the Don't Ask, Don't Tell policy enhances military effectiveness would require showing that the policy prevents gays and lesbians from revealing their sexual orientation. Because the unit cohesion rationale posits that the presence of known gays and lesbians undermines combat effectiveness, the Don't Ask, Don't Tell policy cannot preserve military effectiveness if gays and lesbians already reveal their identities despite the policy. Data indicate that the number of known gays has little if anything to do with the presence or absence of a gay ban, and much more to do with the safety of each unit. Numerous gays and lesbians already reveal their sexual orientation in units in which it is safe to do so. However, since the safety of each unit will not change after the lifting of the ban, very few additional homosexuals will reveal their identities after Don't Ask, Don't Tell is rescinded. The policy, in others words, does not preserve or enhance unit cohesion.

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<sup>16</sup> Ibid., 138.

<sup>17</sup> Bicknell, 176.

<sup>18</sup> Ibid.

### **Has Don't Ask, Don't Tell undermined military effectiveness?**

In this section, we ask whether the Don't Ask, Don't Tell policy has undermined the armed forces by imposing any costs. Below, we identify five different costs that Don't Ask, Don't Tell seems to have imposed on the armed forces.

#### *Talent loss*

According to the *New York Times*, the country “faces a troubling obstacle: few of its intelligence agents are fluent in Arabic, the native language of Osama bin Laden ... [There is] a dire shortage that had been apparent throughout the government for years. Even if background checks are accelerated, it could take months, perhaps years, to bring the government's translation abilities into line with the expanded wiretapping powers it is seeking.”<sup>19</sup> A *New York Newsday* report found that “[w]ritten materials can sit for months, and sometimes years, before a linguist with proper security clearances and skills can begin a translation.”<sup>20</sup> In the midst of the war on terrorism, however, the *New Republic* reported in November 2002 that the military recently fired seven Arabic language specialists for being gay.<sup>21</sup>

Don Hamilton, Deputy Director of the Oklahoma City National Memorial Institute for the Prevention of Terrorism, and a former senior advisor for the National Commission on Terrorism, told University of California researchers that the discharge of Arab language specialists “presents a clear example of the costs of ‘Don't Ask, Don't

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<sup>19</sup> Robert Worth, "A Nation Challenged," *New York Times*, 1 October 2001, B7.

<sup>20</sup> *Newsday*, October 5, 2001.

<sup>21</sup> Nathaniel Frank, “Perverse: The Gay Ban v. The War on Terrorism,” *New Republic*, 18 November 2002.

Tell' in terms of losing qualified personnel.”<sup>22</sup> Hamilton explained that for those uniformed soldiers who perform intelligence activity, the need to keep their sexuality secret automatically puts them in a compromised position. “Coming out of the closet or being outed ends your military career,” he said. “So ‘Don’t Ask, Don’t Tell’ more or less forces a uniformed homosexual to stay in the closet. This *creates* a security risk. Being closeted *defines* you as a security risk because anyone guarding a career-ending secret is a great target for blackmail.”

Since the 1940s, the armed forces have fired approximately 110,000 service members for being gay, including doctors, pilots, lawyers, and many other highly skilled individuals. Given the difficulty the military has in recruiting qualified individuals, the continued loss of well-trained and highly capable personnel already in the military takes on new meaning, especially when these individuals specialize in skills that are difficult to replace. For example, prior to the Gulf War, the military fired two Arabic linguists for being gay. When the Gulf War started, the government was unable to rehire these individuals.<sup>23</sup> Opponents of gays in the military claim, correctly, that most service members fired for being gay are discharged after voluntary disclosures of their homosexuality. Whether or not one has sympathy with these individuals, lifting the gay ban would remove a loophole that lets some service members escape from their commitment to their country by disclosing their sexual orientation.

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<sup>22</sup> Personal Communication, Don Hamilton and Nathaniel Frank, Senior Research Fellow, Center for the Study of Sexual Minorities in the Military, November 2002.

<sup>23</sup> Randy Shilts, *Conduct Unbecoming: Gays and Lesbians in the U.S. Military* (New York: St. Martin’s Press, 1993).

*Financial cost*

The General Accounting Office has estimated that the cost of the Don't Ask, Don't Tell policy is approximately \$30 million per year. The most conservative estimate is that since it began enforcing the Don't Ask, Don't Tell policy, the Pentagon has spent more than \$230 million in lost training. And the cost has increased almost every year the policy has been put into place. In 1994, the military spent a little over \$18 million to enforce Don't Ask, Don't Tell; in 2001, it spent \$36 million. These estimates, however, do not include numerous legal costs such as the cost of investigation as well as litigation during trials and administrative discharge hearings. Rather, the estimates reflect solely the cost of lost training that follows from discharging gay and lesbian service members. In addition, the estimates are premised on the assumption that all service members who are discharged for homosexuality are enlisted. The facts that training officers is far more expensive than training enlisted service personnel, and that many of those discharged for homosexuality are officers, provide additional evidence for the hypothesis that the \$30 million estimate of the annual cost of Don't Ask, Don't Tell is extremely low.<sup>24</sup> One scholar estimated conservatively that during the Cold War, the U.S. spent \$500 million to fire gay and lesbian service members.<sup>25</sup>

*Undermining the military's reputation*

The public does not support Don't Ask, Don't Tell, and as a result, the policy exacerbates the gap between the public and the military. High schools denied military recruiters access to their campuses on 19,228 separate occasions in 1999, in part to

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<sup>24</sup> *Conduct Unbecoming: The Eighth Annual Report on "Don't Ask, Don't Tell, Don't Pursue, Don't Harass"*, (New York: Servicemembers Legal Defense Network, 2002), 1-2.

<sup>25</sup> Shilts, 476.

express opposition to the gay ban. The growing visibility of gays and lesbians in a variety of American institutions has helped increase the opposition to Don't Ask, Don't Tell. A recent poll by the Gallup organization found that seventy-two percent of the public supports the right of gays and lesbians to serve in uniform.<sup>26</sup> Another recent study by two leading experts on civil-military relations, published in 2001 by MIT Press, reports that fifty-six percent of civilians responded affirmatively to a survey asking if they thought gay men and lesbians should be allowed to serve *openly* in armed forces.<sup>27</sup> The MIT study suggests that the policy on gays and lesbians no longer reflects the opinions of most Americans. "The military is a reflection of the society it exists to defend," says Loyola University Chicago Professor John Allen Williams, co-author of the MIT study, "and American society is becoming more tolerant of different lifestyle choices. Sooner or later these changes will filter into the military."<sup>28</sup>

Republican attitudes are also changing in a similar fashion, reflecting a greater concern for equality in the armed forces. New polling data indicate that Republicans have demonstrated a growing acceptance of gays and lesbians in the military. In the summer of 2001, Alan Yang, a political scientist at Columbia University, published an analysis of the 2000 National Election Survey data. The study, which polled 1,807 adults during the fall of 2000, shows that 65.7 percent of Republicans now support the right of

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<sup>26</sup> Frank Newport, "In-Depth Analyses: Homosexuality," Gallup Poll News Service, September 2002; available from <http://www.gallup.com/poll/analysis/ia020911v.asp>.

<sup>27</sup> Laura Miller and John Allen Williams, "Do Military Policies on Gender and Sexuality Undermine Combat Effectiveness?" in *Soldiers and Civilians*, ed. Peter D. Feaver and Richard H. Kohn (Cambridge, MA: MIT Press, 2001), 386-429.

<sup>28</sup> "Polls Show Reduction of Soldiers' Opposition to Gays," The Center for the Study of Sexual Minorities in the Military, 6 August 2001; available from [http://www.gaymilitary.ucsb.edu/PressCenter/press\\_rel9P.htm](http://www.gaymilitary.ucsb.edu/PressCenter/press_rel9P.htm).

gays and lesbians to serve in the military, up from the fifty-seven percent of self-described “conservatives” who favored gay troops in 1996.<sup>29</sup>

*Undermining the work environment and unit cohesion*

In the past ten years, violations of the “Don’t Pursue” clause of the Don’t Ask, Don’t Tell policy have interfered with service members’ ability to do their jobs. Although they appear to be on the decline, witch-hunts continue to be a problem under the current policy. Officially, military commanders and investigators are required to respect service members’ privacy and are not allowed to arbitrarily investigate personnel for homosexuality. However, the annual reports of the Servicemembers Legal Defense Network (SLDN) have demonstrated that the military has violated this part of the policy. In 1998, for example, the Air Force attempted to use a gay Senior Airman’s America Online Buddy List, which contained twenty-one names, to track down other personnel suspected of being homosexual, a violation of the “Don’t Pursue” clause of the policy.<sup>30</sup> Previous to 1998, SLDN documented twenty-eight witch-hunts from March 1995 to February 1996, the largest of which occurred on a ship in Sardegna, Italy.<sup>31</sup> At least sixty sailors were investigated for their sexual orientation. Lacking credible information, the investigators used intrusive investigative tactics to ferret out suspected homosexuals, again in defiance of the “Don’t Pursue” provision of the policy.

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<sup>29</sup> Alan Yang, *From Wrongs to Rights: Public Opinion on Gay and Lesbian Americans Moves Toward Equality* (New York: National Gay and Lesbian Task Force, 2001).

<sup>30</sup> Michelle Benecke and Dixon Osburn, *Conduct Unbecoming: The Fifth Annual Report on “Don’t Ask, Don’t Tell, Don’t Pursue, Don’t Harass*, (New York: Servicemembers Legal Defense Network, 1999), 51-54.

<sup>31</sup> Michelle Benecke and Dixon Osburn, *Conduct Unbecoming: The Second Annual Report on “Don’t Ask, Don’t Tell, Don’t Pursue”* (New York: Servicemembers Legal Defense Network, 1996).

The most recent example of a witch hunt began in March 1999, at the Defense Language Institute at the Presidio of Monterey, California. During that year, SLDN recorded 470 “Don’t Pursue” violations, which marked a thirty-four percent increase from the previous year.<sup>32</sup> The episode at DLI illustrates the damage that a witch hunt can inflict upon the working environment. The DLI witch hunt involved at least fourteen airmen, mostly women, and caused a substantial disturbance at the Institute. It began when two female student leaders were accused of having a relationship with each other, but quickly spread to other women who had associated with them. As SLDN documented, once investigations were launched, “fears of investigation increased dramatically” and slowly began to consume DLI and interfered with the accomplishment of its mission of educating some of the most promising young Air Force personnel.<sup>33</sup>

Ultimately, witch hunts interfere with service members’ ability to do their jobs effectively. In this light, it is easy to see how once set in motion, such proceedings can ensnarl many service members, most of whom did nothing to violate the Don’t Ask, Don’t Tell policy in the first place. Witch hunts distract service personnel from their work, and Don’t Ask, Don’t Tell facilitates this distraction.

#### *Increased violence against women*

In 1999, a Veterans Administration study showed that twenty-three percent of women are targets of threatened or actual violence during their military careers. The Don’t Ask, Don’t Tell policy is responsible for a portion of that violence, and lifting the ban likely would lead to a decrease in violence against women. In 1992, for example,

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<sup>32</sup> Stacey Sobel and Kathi Westcott, *Conduct Unbecoming: The Sixth Annual Report on “Don’t Ask, Don’t Tell, Don’t Pursue, Don’t Harass,”* (New York: Servicemembers Legal Defense Network, 2000).

<sup>33</sup> *Ibid.*, 32.

Canada decided to lift its ban, and two seemingly unrelated disciplinary problems were curbed. After the ban was lifted, violence against homosexuals disappeared, but sexual harassment against women dropped dramatically, as well. Over the next three years, none of the 905 assaults in the Canadian Forces involved gay bashing or could be attributed to the sexual orientation of the victim. But more intriguing, sexual harassment against women declined by forty-six percent.<sup>34</sup>

To understand why and how the Don't Ask, Don't Tell policy causes violence against women, consider that the most prevalent form of sexual harassment that military women face may be the threat of being labeled a lesbian.<sup>35</sup> Perpetrators often threaten to accuse female victims of assault of homosexuality if they report assaults. As a result, many victims are deterred from reporting abuse, and perpetrators know they are unlikely to get caught. Because gossip and hearsay are legal forms of evidence of homosexuality under the Don't Ask, Don't Tell policy, perpetrators' threats to label victims as lesbians can be highly credible. By allowing perpetrators to deter victims from reporting violence, Don't Ask, Don't Tell serves as an important determinant of violence against women. This is why violence against women declined forty-six percent in Canada after the Canadians eliminated their gay ban.

### **What impact would lifting the ban have on military effectiveness?**

Professor Charles Moskos, a long-standing opponent of including gays and lesbians in the military, is a distinguished military sociologist who helped write the Don't

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<sup>34</sup> Belkin and McNichol, "Homosexual Personnel Policy of the Canadian Forces."

<sup>35</sup> Patricia J. Thomas and Marie D. Thomas, "Integration of Women in the Military; Parallels to the Progress of Homosexuals?" in *Out in Force*, ed. Gregory M. Herek, Jared B. Jobe, and Ralph M. Carney (Chicago, University of Chicago Press, 1996), 73.

Ask Don't Tell policy. In January 2003, Moskos told University of California researchers that any problem associated with lifting the gay ban "probably could be overcome."<sup>36</sup> While Moskos offered his remarks to support his argument that the gay ban should be rescinded if Congress re-instates the draft, one observer noted, "There is no principled distinction in how the military would have to respond if the ban were lifted now or tied to a draft; hence, Moskos is to some extent conceding that the military could 'overcome' any difficulties now."<sup>37</sup>

As noted above, the Don't Ask, Don't Tell policy is based on the unit cohesion rationale, the argument that if known gays and lesbians were allowed to serve, unit cohesion, performance, readiness, and morale would decline. According to the logic of the unit cohesion rationale, one would expect that lifting the gay ban should undermine combat effectiveness. In other words, if the unit cohesion rationale were logically sound, then one would reasonably expect that lifting the ban would undermine cohesion. If, on the other hand, the unit cohesion rationale were not a logically sound argument, then one would expect that lifting the gay ban would not undermine unit cohesion. Five factors that are discussed below cast doubt on the plausibility of the claim that lifting the ban would undermine combat performance.

### *Foreign militaries*

Twenty-four foreign militaries have lifted their gay bans and not a single one has reported any decrease in cohesion, morale, recruitment or retention. Even officials and

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<sup>36</sup> "Architect of "Don't Ask, Don't Tell" Favors Ending Gay Ban If Draft Returns," The Center for the Study of Sexual Minorities in the Military, 3 January 2003; available from [http://www.gaymilitary.ucsb.edu/PressCenter/press\\_rel\\_2003\\_0103P.htm](http://www.gaymilitary.ucsb.edu/PressCenter/press_rel_2003_0103P.htm).

<sup>37</sup> Email communication with C. Dixon Osburn, 6 January 2003.

experts who had predicted that the lifting of a gay ban would undermine cohesion report no problems in the aftermath of decisions to allow homosexuals to acknowledge their sexual orientation. Evidence from those countries that have been studied extensively, including Australia, Britain, Canada, and Israel, suggests that the lifting of a gay ban actually can serve to strengthen the armed forces by increasing the pool of talent from which the military can recruit. For example, in Britain, the lifting of the gay ban in January 2000 did not lead to any decrease in cohesion, morale, recruitment or retention. Once gays and lesbians were allowed to serve openly, military officials reported no disruption of unit cohesion or threats to military effectiveness.<sup>38</sup> And in contrast to the dire predictions expressed prior to the change in policy, the British Ministry of Defense conducted an extensive investigation that found the new policy to be “a solid achievement” characterized by a “marked lack of reaction.”<sup>39</sup> A Whitehall source with access to the original, unabridged version of the investigation elaborates on the official statement:

The assessment showed that there has been no impact at all. The report looked at all aspects, operational effectiveness, unit cohesion, and there has been no impact. At the end of the day, operational effectiveness is the critical matter, and there has been no effect at all. There haven't been any disciplinary problems. There have only been one or two minor incidents, and they have been handled individually. The whole thing has gone a lot better than the people had expected.<sup>40</sup>

High-ranking military leaders concurred with the Ministry's official statement. Rear-Admiral James Burnell-Nugent, the assistant chief of the Navy Staff, declared,

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<sup>38</sup> Belkin and Evans, “The Effects of Including Gay and Lesbian Soldiers in the British Armed Forces.”

<sup>39</sup> British Ministry of Defence, “A Review of the Armed Forces Policy on Homosexuality,” 31 October 2000, 2.

<sup>40</sup> Interview with author, cited in Belkin and Evans, “The Effects of Including Gay and Lesbian Soldiers in the British Armed Forces,” 38.

“Although some did not welcome the change of policy, it has not caused any great degree of difficulty.”<sup>41</sup> Not a single one of the more than 100 experts we interviewed in Australia, Britain, Canada, or Israel believed that the decisions to lift gay bans in these countries undermined military performance, readiness, or cohesion, led to increased difficulties in recruiting or retention, or increased the rate of HIV infection among the troops. Importantly, our list of interview subjects included *every* opponent of gays in the military we could find and *every* expert we could find who had predicted that the lifting of the gay ban would undermine military effectiveness.

In Australia, Commodore R.W. Gates, whose rank is equivalent to a one-star admiral, remarked that the lifting of the ban was “an absolute non-event.”<sup>42</sup> Professor Hugh Smith, a leading academic expert on homosexuality in the Australian military, told us that when the government ordered the military to lift the ban, some officers said: “Over my dead body, if this happens I’ll resign.” However, Smith says that there were no departures and that the change was accepted in “true military tradition.”<sup>43</sup> Bronwen Grey, an official in the Australian Defence Ministry told us that “there was no increase in complaints about gay people or by gay people. There was no known increase in fights, on a ship, or in Army units or something...The recruitment figures didn’t alter.”<sup>44</sup>

In Canada, Steve Leveque, a civilian official in the Department of National Defence, told us that including gays and lesbians in the Canadian Forces is “not that big a

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<sup>41</sup> Michael Patterson, “Gays in the Navy ‘Cause Fewer Waves Than Wrens,” *Daily Telegraph* (London), 1 September 2000.

<sup>42</sup> Interview with Commodore R.W. Gates, Royal Australian Navy, 13 September 2000.

<sup>43</sup> Interview with Hugh Smith, Associate Professor, School of Politics, University of New South Wales, Australian Defence Force Academy, Canberra, Australia, 20 August 2000.

<sup>44</sup> Interview with Bronwen Grey, Director, Defence Equity Organisation, Australian Ministry of Defence, 17 August 2000.

deal for us ... On a day-to-day basis, there probably hasn't been much of a change."<sup>45</sup> In 1995, we obtained an internal report from the Canadian government on the lifting of the ban that concludes, "Despite all the anxiety that existed through the late 80s into the early 90s about the change in policy, here's what the indicators show—no effect."<sup>46</sup> In Israel, Stuart Cohen, a Professor at the Center for Strategic Studies who is recognized as a leading expert on the Israel Defense Forces, told us, "As far as I have been able to tell, homosexuals do not constitute an issue [with respect to] unit cohesion in the IDF. In fact, the entire subject is very marginal indeed as far as this military is concerned."<sup>47</sup> Reuven Gal, the director of the Israeli Institute for Military Studies, has written, "According to military reports, [homosexuals'] presence, whether openly or clandestinely, has not impaired the morale, cohesion, readiness, or security of any unit."<sup>48</sup>

These reactions were typical of the comments we received during our interviews of more than 100 politicians, academic experts, non-profit observers, ministry officials, veterans, and heterosexual and homosexual active duty officers and soldiers. Even the leading opponents of allowing gays into the military told us that the lifting of the bans did not damage the armed forces. In Australia, for example, spokesmen for the Returned and Services League, the country's largest veterans' group, said that lifting the gay ban would jeopardize morale and military performance. Eight years after Australia's 1992 decision to lift its ban, however, the President of the Returned and Services League, Major General

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<sup>45</sup> Personal communication with Steve Leveque, Executive Directorate on Conflict Resolution, Canadian Forces, 4 February 2000.

<sup>46</sup> Personal communication with Karol Wenek, Directorate of Policy Analysis and Development, Canadian Forces, 20 January 2000.

<sup>47</sup> Personal communication with Stuart Cohen, Professor of Political Studies and Senior Research Fellow, Center for Strategic Studies, Bar-Ilan University, Israel, 10 April 2000.

<sup>48</sup> Reuven Gal, "Gays in the Military: Policy and Practice in the Israeli Defense Forces," in *Gays and Lesbians in the Military: Issues, Concerns, and Contrasts*, ed. W.J. Scott and S.C. Stanley (New York: Aldine de Gruyter: 1994), 188.

Peter Philips, told us that gays in the military “not been a significant public issue. The Defence Forces have not had a lot of difficulty in this area.”<sup>49</sup>

A final lesson from foreign militaries is that military leaders of all four countries that we studied stressed their expectation of professional conduct from every service member regardless of sexual orientation or personal beliefs about homosexuality. And military leaders in each country issued regulations that held heterosexual and homosexual soldiers to the same standards. In Australia, for example, the 1992 Defence Instruction on Discrimination, Harassment, Sexual Offences, Fraternisation and other Unacceptable Behavior referred to unacceptable conduct without making a distinction between homosexuality and heterosexuality. Rather than define unacceptable conduct in terms of sexual orientation, the instruction prohibited any sexual behavior that undermined the group or took advantage of subordinates.<sup>50</sup> As one Australian official told us, “[O]ur focus is on the work people do, and the way they do the work, and that applies to heterosexuals, bisexuals, and homosexuals.”<sup>51</sup> In each case, we found that although many heterosexual soldiers continue to object to homosexuality, the military’s emphasis on conduct and equal standards was sufficient for encouraging service members to work together as a team. As one Canadian military official told us, homosexuality is “a deeply moral issue and that is a real complication ... But our experience did not justify such apprehension ... Even though some have found it difficult, loyal members changed their behavior when the institution changed.”<sup>52</sup>

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<sup>49</sup> Interview with Major General Peter Philips (ret’d), President, Returned and Services League, 8 August 2000.

<sup>50</sup> Hugh Smith, “The Dynamics of Social Change and the Australian Defence Force,” *Armed Forces and Society* 21 (1995): 531-551.

<sup>51</sup> Interview with Bronwen Grey, Australian Ministry of Defence.

<sup>52</sup> Personal communication with Captain D.S. MacKay, Directorate of Military Gender Integration and Employment Equity, Canadian Forces, 18 January and 28 February 2000.

While none of the four militaries we studied attempts to force its service members to accept homosexuality, all four insist that soldiers refrain from abuse and harassment. In each case, the emphasis on conduct and equal standards seems to work. In Australia, for example, twenty-five out of 1,642 phone calls (1.52%) received on the Defence Ministry's sexual harassment hotline between 1997 and 2000 involved homosexuality.<sup>53</sup> In Canada, as mentioned above, none of the 905 cases of sexual harassment that occurred in the three years after the ban was lifted involved "gay-bashing" or the sexual orientation of one of the victims.<sup>54</sup> In Israel, the twenty-nine experts, soldiers, and officers we interviewed were able to recall only a handful of cases involving harassment based on sexual orientation after the lifting of the gay ban.<sup>55</sup>

Some experts have responded to these success stories by claiming that foreign military experiences are irrelevant for determining what would happen if the U.S. military lifted its gay ban. According to this perspective, foreign military experiences are irrelevant for determining what would happen if the U.S. military lifted its ban because (1) no known gays serve in combat units of foreign militaries, (2) gays and lesbians are treated differently than their heterosexual peers in foreign militaries, and (3) cultural and organizational differences distinguish the U.S. military from other foreign forces that have lifted their gay bans.

According to a study of the Israel Defense Forces published recently in the prestigious journal *Armed Forces and Society*, however, these arguments may not have merit. According to the study, which was published in the official journal of the largest

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<sup>53</sup> Belkin and McNichol, "The Effects of Including Gay and Lesbian Soldiers in the Australian Defence Forces," 18.

<sup>54</sup> Belkin and McNichol, "Effects of the 1992 Lifting of Restrictions on Gay and Lesbian Service in the Canadian Forces," 23.

<sup>55</sup> Belkin and Levitt, "The Effects of Including Gay and Lesbian Soldiers in the Israeli Defense Forces," 3.

and most distinguished professional society of military experts in the country, survey data show that known gays do serve in combat units of the Israel Defense Forces and that gays and lesbians usually are treated just the same as their heterosexual peers. Finally, although every military and every society is unique, the study concludes that the fact that twenty - three foreign militaries have been able to lift their gay bans without suffering a decrease in cohesion shows that organizational and cultural differences do not influence whether a ban can be lifted successfully. In other words, gay bans have been lifted successfully by large (British) and small (Australian) militaries; by combat-prone (Israeli) and combat-avoidant (New Zealand) forces; by conscript-based (German) and voluntary (Canadian) forces; and by militaries that defend societies that are relatively tolerant toward homosexuality (the Netherlands) and those that are relatively intolerant (South Africa).<sup>56</sup>

#### *Integrated units and joint multinational operations*

In the current war on terror and in numerous other deployments under the auspices of NATO, NORAD, the United Nations, and other organizations, American service members have served with foreign military forces. Indeed, since the end of the Cold War, multinational force deployment has become an increasingly common and important strategy for international military and peacekeeping interventions.<sup>57</sup> Since the Persian Gulf War and up through mid-1999, Western militaries were involved in fifty-four military actions, including NATO mandated actions, UN peacekeeping operations, and a variety of domestic security and humanitarian activities. The roles they played range from the mobilization of U.S. Army reservists to fight fires in Washington State in

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<sup>56</sup> Belkin and Levitt, “Homosexuality and the Israel Defense Forces.”

<sup>57</sup> Roger H. Palin, *Multinational Military Forces: Problems and Prospects* (Oxford: Oxford University Press, 1995).

July 1994 to the U.S., British, and French air strikes against Serbs in Croatia, the largest NATO military action during this period, in November of the same year. The United States participated in forty of these actions, and nineteen of them involved U.S. forces deploying in some fashion with military personnel from other nations.<sup>58</sup>

A recent University of California study found that American service members have served in integrated units with openly gay personnel from foreign militaries, and that the performance, cohesion, and morale of these units has not suffered as a result of the presence of open gays.<sup>59</sup> In other words, the presence of open gay or lesbian personnel in multinational units has not had a negative impact upon unit cohesion. Perhaps more importantly, it is an issue that has generated little attention. As one official with the United Nations observed, “[I am] just not aware of any instances of sexual orientation becoming an issue in the field.”<sup>60</sup> Experts from NATO, NORAD, the UN, and scholars who have studied these organizations, all express similar observations. Not a single informant consulted for the study could think of an instance in which an open gay or lesbian service member caused problems for a mission or disrupted the unit in which he or she worked.

### *Paramilitary organizations*

Paramilitary organizations have not reported harmful results after allowing gays and lesbians to acknowledge their sexual orientation. The FBI, CIA, NSA, Secret

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<sup>58</sup> Charles C. Moskos, John Allen Williams, and David R. Segal, eds., *The Postmodern Military: Armed Forces after the Cold War* (Oxford, Oxford University Press, 2000), 279-82.

<sup>59</sup> Geoffrey Bateman, “Multination Units and Homosexual Personnel,” (Santa Barbara, CA: The Center for the Study of Sexual Minorities in the Military, forthcoming).

<sup>60</sup> Personal communication with Corinna Kuhl, Department of Peacekeeping Operations, United Nations, 10 September 2002.

Service, and many police and fire departments have lifted their gay bans, and none have reported a decrease in cohesion, morale, recruitment, or retention. A study published recently by the prestigious journal *Police Quarterly*, the official journal of the Police Executive Research Forum and the Police Section of the Academy of Criminal Justice Sciences, examined the San Diego Police Department's ten-year record of integrating gay and lesbian personnel and found no evidence to suggest that the department's decision to lift its gay ban had compromised the force in any way.<sup>61</sup> According to the former Chief of Police Jerry Sanders, in "detective units where there was a lesbian detective—these are tough units—we've had zero problems."<sup>62</sup> Representatives at all levels of the department report that the lifting of the ban has promoted better relations among personnel, straight and gay. One commander observed that the general working environment "is less guarded because I do see improved communication between the two groups and I do see more acceptance and better ... 'We are all a part of the same team' atmosphere."<sup>63</sup>

### *Wartime behavior*

A University of California study has analyzed the gay ban in the context of war and found that the number of discharges of gay and lesbian personnel decreases dramatically when the nation is at war.<sup>64</sup> Professor Michael Desch, Associate Director of the Patterson School of Diplomacy at the University of Kentucky, says that scholarship

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<sup>61</sup> Aaron Belkin and Jason McNichol, "Pink and Blue: Outcomes Associated with the Integration of Open Gay and Lesbian Personnel in the San Diego Police Department," *Police Quarterly* 5 (2002): 63-95.

<sup>62</sup> Belkin and McNichol, "Pink and Blue."

<sup>63</sup> Captain Mike McCulloch, quoted in Belkin and McNichol, "Pink and Blue."

<sup>64</sup> Evans, "U.S. Military Policies Concerning Homosexuals."

shows “that during wartime, open homosexuality has been relatively well tolerated.”<sup>65</sup>

The fact that discharges of gay and lesbian personnel decrease dramatically during wartime, when cohesion matters most, seems to indicate that even the Pentagon is aware that lifting the gay ban would not undermine combat effectiveness. According to a *New York Times* op-ed published by Coit Blacker, who served on the National Security Council under President Clinton, and Lawrence Korb, who served in the Defense Department under President Reagan,

Opponents of lifting the ban say that the Pentagon reduces gay discharges during wars to prevent heterosexuals from escaping military service by pretending to be gay. However, if there really were a problem with the functioning of combat units, it is likely that concern over their survival would prevail over the administrative problems of dealing with heterosexuals trying to get away under false pretenses.<sup>66</sup>

#### *Dislike and organizational performance*

The unit cohesion rationale and the related claim that lifting the gay ban would undermine cohesion are premised on the assumption that dislike undermines organizational performance. Because heterosexual service members do not like gays and lesbians, in other words, they cannot form bonds of trust that are necessary for units to function in battle. In fact, the consensus from the social science literature is that whether members of a group like each other or not has no bearing on the group’s performance. What matters is whether group members are committed to the same goals. A 1998 study published in the Harvard University journal *International Security* summarized hundreds of studies that conclude that whether members of a unit like one another has no impact on

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<sup>65</sup> “Suspending the Gay Ban Would Have Historical Precedent,” The Center for the Study of Sexual Minorities in the Military, 20 September 2001; available from [http://www.gaymilitary.ucsb.edu/PressCenter/press\\_rel13P.htm](http://www.gaymilitary.ucsb.edu/PressCenter/press_rel13P.htm).

<sup>66</sup> Coit Blacker and Lawrence J. Korb, “Military Tolerance Works,” *New York Times*, 13 January 1999.

the group's effectiveness.<sup>67</sup> As long as members of a group care about doing a good job, the group functions effectively regardless of whether group members like one another.

For all five reasons presented above, it seems highly unlikely that lifting the gay ban would undermine the combat effectiveness of the U.S. armed forces.

### **The Shower Argument—What impact would lifting the ban have on heterosexual privacy?**

Some experts on gays in the military have turned increasingly to an emphasis on privacy to justify the Don't Ask, Don't Tell policy.<sup>68</sup> They claim that the ban is necessary for preserving the modesty rights of heterosexual service members who would be exposed in showers and living quarters if open gays and lesbians were allowed to serve in the armed forces.<sup>69</sup> As one proponent explained, "I should not be forced to shower with a woman. I shouldn't be forced to shower with an open gay ... I would not want to fight for a country in which privacy issues are so trampled upon."<sup>70</sup>

The privacy rationale depends on two premises.<sup>71</sup> One is that service members deserve to maintain at least partial control over the exposure of their bodies and intimate bodily functions. Service in the military entails numerous personal sacrifices and

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<sup>67</sup> Elizabeth Kier, "Homosexuals in the U.S. Military: Open Integration and Combat Effectiveness," *International Security* 23 (1998): 5-39.

<sup>68</sup> Nathaniel Frank, "What's Love Got to Do with It? The Real Story of Military Sociology and 'Don't Ask, Don't Tell,'" *Lingua Franca*, October 2000, 71-81.

<sup>69</sup> Charles Moskos, "From Citizens' Army to Social Laboratory," *Washington Quarterly* 17 (1993): 83-94; Melissa Wells-Petry, *Exclusion: Homosexuals and the Right to Serve* (Washington, D.C.: Regnery Gateway, 1993), 127-130; R.D. Ray, *Military Necessity and Homosexuality* (Washington, D.C.: Brassey's, 1993), 64; David Ari Bianco, "Echoes of Prejudice: The Debates Over Race and Sexuality in the Armed Forces," in *Gay Rights, Military Wrongs: Political Perspectives on Lesbians and Gays in the Military*, Craig A. Rimmerman, ed., (New York: Garland, 1996), 58-59.

<sup>70</sup> Charles Moskos, quoted in Frank, "What's Love Got to Do with It?" 76; see also Lois Shawver, *And the Flag Was Still There: Straight People, Gay People, and Sexuality in the U.S. Military* (New York: Harrington Park Press, 1995), 158.

<sup>71</sup> This section is based on Belkin and Embser-Herbert, "A Modest Proposal."

responsibilities that restrict speech, appearance, and behavior. Although members of the armed forces are not entitled to many prerogatives of civilian life, at least they deserve a degree of control over who sees their naked bodies. Second, the privacy rationale assumes that observation of same-sex nudity arouses sexual desire when the observer is homosexual, and only when the observer is homosexual. According to Melissa Wells-Petry of the Family Research Council, the exposure of bodies and intimate bodily functions does not violate privacy rights when heterosexuals are segregated in all-male or all-female settings. When homosexuals observe naked bodies or intimate bodily functions, however, they violate the privacy as well as the civil rights of heterosexuals. Wells-Petry says that the homosexual gaze expresses sexual yearning and that heterosexuals do not want to be the objects of homosexuals' sexual desire.<sup>72</sup> She concludes that soldiers should not be “stripped unwittingly of their right to choose to whom they reveal themselves in a sexual context. Once this happens, the harm is done. As a matter of law, the privacy violation does not depend on any acting out of sexual attraction toward others. It is complete the moment privacy is breached.”<sup>73</sup> In other words, the injury takes place the moment that an open homosexual sees the naked body of a heterosexual peer.

The privacy rationale appears frequently in official debates and regulations. In 1991, D.C. Circuit Justice Oliver Gasch invoked the privacy rationale to justify his unwillingness to reinstate a gay sailor, Joseph Steffan, who had been discharged from the military after acknowledging his homosexuality. Gasch said that “with no one present who has a homosexual orientation, men and women alike can undress, sleep, bathe, and

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<sup>72</sup> Wells-Petry, 128.

<sup>73</sup> *Ibid.*, 129-130.

use the bathroom without fear or embarrassment that they are being viewed as sexual objects.”<sup>74</sup> Indeed, the congressional statute that codifies the ban on gays and lesbians reflects a concern for heterosexual privacy in noting that “members of the armed forces [often must] involuntarily ... accept living conditions and working conditions that are often spartan, primitive, and characterized by forced intimacy with little or no privacy.”<sup>75</sup> Former Chairman of the Joint Chiefs of Staff Colin Powell argued in 1992 that “to introduce a group of individuals who—proud, brave, loyal, good Americans—but who favor a homosexual life-style, and put them in with heterosexuals who would prefer not to have somebody of the same sex find them sexually attractive, put them in close proximity, ask them to share the most private of their facilities together, the bedroom, the barracks, latrines, the showers, I think that’s a very difficult problem to give the military.”<sup>76</sup> At the time of Powell’s remarks, sixty-three percent of service members who opposed lifting the gay ban explained their position in terms of not wanting to share facilities and quarters with homosexuals.<sup>77</sup>

Despite the prominence of the privacy rationale, a new military housing construction program should dispel concerns. By the end of the decade most junior enlisted personnel who live on Air Force, Army, and Navy bases will be provided with their own bedrooms as well as bathrooms to share with one other individual.<sup>78</sup> As the *Army Times* reported recently, the “Army is spending billions of dollars on a barracks

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<sup>74</sup> Cited in Shawver, 158.

<sup>75</sup> U.S. Code 654, Public Law 103-160 – Nov. 30, 1993, 107 Stat. 1671.

<sup>76</sup> Cited in Shawver, 25.

<sup>77</sup> Melissa Healy, “The Times Poll: 74% of Military Enlistees Oppose Lifting Gay Ban,” *Los Angeles Times*, 28 February 1993, A1.

<sup>78</sup> General Accounting Office, *Military Housing: Costs of Separate Barracks for Male and Female Recruits in Basic Training* (Washington, D.C.: General Accounting Office, 1999), 5-6. As of the late 1990s, the Marine Corps had initiated a barracks renovation program to house personnel in pay grades E-1 to E-3 in two-person rooms and to provide private rooms for higher grades.

face-lift plan that's giving more and more soldiers their own rooms and making the 'gang latrine' a thing of the past."<sup>79</sup> One soldier remarked, "[T]he privacy is great. [You] have your own personal bathroom you get to share with one person instead of 60 to 80 people."<sup>80</sup> Service members will have to sacrifice their privacy during basic training and in some field and combat situations, but most enlisted personnel will soon have access to private bedrooms and showers most of the time. In addition, there are several other reasons why the ban on gays and lesbians in the military does not preserve heterosexual privacy in the showers and the barracks and why lifting the ban would not undermine heterosexual privacy.

#### *Heterosexuals Already Shower With Known Homosexuals*

The privacy rationale is premised on the assumption that known gays and lesbians do not already serve in the U.S. armed forces. This assumption is an important premise of the privacy rationale because if known homosexuals already serve in the U.S. armed forces, then lifting the ban will not decrease heterosexual privacy (unless numerous gays and lesbians come out of the closet after they are allowed to do so). As discussed above, however, anecdotal and statistical data suggest that known gays and lesbians do serve in the U.S. armed forces. Because surveys indicate that approximately twenty percent of service members know a gay or lesbian peer, the Don't Ask, Don't Tell policy is not doing a good job of preserving heterosexual privacy in the barracks and showers.

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<sup>79</sup> Matthew Cox, "Breathing Room: A \$9 Billion Barracks Face Lift Includes Private Bedroom and Eliminates 'Gang Latrines,'" *Army Times*, 29 July 2002, 15.

<sup>80</sup> *Ibid.*

*Lifting The Ban Will Not Significantly Increase The Number Of Open Gays And Lesbians*

The privacy rationale is based in part on the mistaken premise that numerous gays and lesbians will reveal their sexual orientation after the lifting of the gay ban. If, however, few gays and lesbians reveal their sexual orientation after they are allowed to do so, then the privacy rationale is flawed because little if anything will change in the shower and the barracks after the lifting of the ban. As discussed above, even though many known gays and lesbians already serve in the U.S. armed forces, the data indicate that few additional homosexuals will reveal their sexual orientation after the lifting of the ban. In other words, nothing will change in the showers or the barracks after the lifting of the ban.

*Few Heterosexual Service Members Are Extremely Uncomfortable Around Gays*

Proponents of the privacy rationale mistakenly assume that the vast majority of heterosexual service members are extremely uncomfortable around gays and lesbians and that they will remain so after the lifting of the ban. Although statistical surveys indicate that most U.S. service members oppose showering with homosexuals and lifting the ban, studies indicate that discomfort has diminished considerably and that heterosexual dislike of gays and lesbians is less extreme than advocates of the privacy rationale assume. For example, between 1992 and 1998, the percentage of U.S. Army men who strongly opposed allowing gays and lesbians in the military dropped from sixty-seven percent to thirty-six percent, while the percentage of army women strongly opposed dropped from

thirty-two percent to sixteen percent.<sup>81</sup> Seventy-one percent of naval officers in a recent survey agreed or strongly agreed that “compared with my peers, I consider myself more tolerant on the issue of homosexuals in the military,” and sixty-four percent disagreed or strongly disagreed that they “feel uncomfortable in the presence of homosexuals and have difficulty interacting normally with them.”<sup>82</sup> Armando Estrada, a psychologist at the Naval Postgraduate School, measured male marines’ attitudes toward homosexuals in a 1999 study and found that on a scale of 0 to 100, the marines’ average score was 47.52.<sup>83</sup> The specific number is less meaningful than the fact that the average score fell roughly in the middle of the scale, thus indicating mild dislike rather than widespread hatred. Although some people in the military may hate gays and lesbians or be extremely uncomfortable around them, on average one seems to find mild dislike.

Relatedly, the privacy rationale is premised on the assumption that heterosexual service members who are extremely uncomfortable around gays and lesbians will remain so after the lifting of the ban. According to the contact hypothesis, however, this assumption may not be valid. The contact hypothesis, a robust finding that has been confirmed in numerous social scientific experiments, posits that discomfort “can be reduced by personal contact between majority and minority groups in pursuit of common goals.”<sup>84</sup> The consensus in the literature is that heterosexual discomfort toward gays and

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<sup>81</sup> Laura L. Miller, “Fighting for a Just Cause: Soldiers’ Attitudes on Gays in the Military,” in *Gays and Lesbians in the Military*, 69-85; and Elizabeth Kier, “Rights and Fights: Sexual Orientation and Military Effectiveness,” *International Security* 24 (1999): 194-201.

<sup>82</sup> Bicknell, 170, 173.

<sup>83</sup> Armando X. Estrada and David J. Weiss, “Attitudes of Military Personnel Toward Homosexuals,” *Journal of Homosexuality* 37 (1999): 83-97. A score of 0 indicated complete lack of acceptance of homosexuality and a score of 100 indicated full acceptance.

<sup>84</sup> Gregory Herek, “Why Tell If You’re Not Asked? Self-Disclosure, Intergroup Contact, and Heterosexuals’ Attitudes toward Lesbians and Gay Men,” in *Out in Force*, 213.

lesbians tends to diminish after personal interaction with homosexual individuals.<sup>85</sup>

Evidence from foreign militaries seems to indicate that heterosexual discomfort does tend to diminish after the lifting of a gay ban. In 1995, for example, the British Ministry of Defence surveyed 13,500 service members and found that sixty-six percent would not willingly serve if the ban were lifted.<sup>86</sup> In Canada, a 1985 survey of 6,580 male service members found that sixty-two percent would refuse to share showers, undress, or sleep in the same room as a gay soldier.<sup>87</sup> Despite these findings, only three service members resigned after Britain lifted its gay ban in 2000. An official from the British Ministry of Defence noted that the “media likes scare stories—about showers and what have you. A lot of people were worried that they would have to share body heat in close quarters or see two men being affectionate, and they would feel uncomfortable. But it has proved at first look that it’s not an issue.”<sup>88</sup> In Canada, a survey of 3,202 service members that followed the lifting of the gay ban in 1992 found that 67.7 percent of respondents were neutral or satisfied about the policy change.<sup>89</sup> Lessons from foreign forces that lifted their bans seem to cast some doubt on the assumption that the minority of heterosexual U.S. service members who are extremely uncomfortable around gays and lesbians will remain so after the lifting of the ban.

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<sup>85</sup> Gregory Herek and John P. Capitanio. “‘Some of My Best Friends’: Intergroup Contact, Concealable Stigma, and Heterosexuals’ Attitudes toward Gay Men and Lesbians,” *Personality and Social Psychology Bulletin* 22 (1996): 412-424.

<sup>86</sup> British Ministry of Defense, “Report of the Homosexual Policy Assessment Team,” 1996.

<sup>87</sup> R.A. Zuliani, “Canadian Forces Survey on Homosexual Issues,” Charter Task Force, Department of National Defence, Ottawa, 1986.

<sup>88</sup> Belkin and Evans, 41-42.

<sup>89</sup> Belkin and McNichol, “Homosexual Personnel Policy of the Canadian Forces.”

*A Flawed Analogy: Men And Women In The Shower*

Privacy rationale advocates often claim that just as the military does not require men and women to shower together, heterosexuals should not have to shower with open gays. According to this perspective, the presumption that every service member in the shower is heterosexual is a useful fiction.

Although men and women use the same facilities in some field environments, the armed forces do maintain separate quarters for them in most settings.<sup>90</sup> In permanent deployments including assignments at sea, for example, men and women typically do not share living quarters or facilities. Moreover, in 1998 Congress required the Defense Department to “provide separate and secure housing for male and female recruits with separate entrances and with sleeping and latrine areas separated by permanent walls.”<sup>91</sup>

Despite the military’s efforts to maintain separate facilities for the sexes, however, the analogy fails to capture that heterosexuals showering with open gays is much less of a departure from the norms of civilian society than men showering with women. If men and women showered together in prisons, gyms, summer camps, university dorms, high school and college locker rooms, and professional changing areas in hospitals, courthouses, and fire and police stations, then perhaps it would seem reasonable for men and women to shower together in the military. Men and women do not, however, shower together in any of these civilian settings. Open gays and heterosexuals, by contrast, shower together in all of these settings. In addition, the analogy is premised on the flawed assumption that communal showers typify military

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<sup>90</sup> For an account of a combat-support unit in which women said that they wanted to sleep in a tent with their male unit-mates, see Charles Moskos, “Army women,” *Atlantic Monthly*, August 1990, 71-78.

<sup>91</sup> General Accounting Office, *Military Housing*, 1-2.

practice. As noted above, by the end of the decade most junior enlisted personnel will be housed in private bedrooms with a bathroom to share with one other individual.

Relatedly, advocates of the privacy rationale argue that some colleges do not force heterosexual students to share dormitory rooms with homosexuals, and that the military should not be compelled to follow residential procedures that are more liberal than policies in the civilian sector. Although some colleges do allow heterosexuals to switch dorm rooms if they are uncomfortable with homosexual roommates, three qualifications deserve consideration. First, in contrast to military policy, some colleges allow students to switch dorm rooms for any reason, such as discomfort with the politics, race, or religion of a roommate. Second, colleges allow numerous privileges concerning dress, speech, and behavior that are not available to military personnel. Hence it seems questionable to cite the civilian sector as precedent for determining privileges that the military should accord. Third, colleges are not universally willing to allow heterosexuals to switch dorm rooms if they are uncomfortable with gay and lesbian roommates.<sup>92</sup>

## **Conclusion**

This report is intended to examine the ten-year history of the Don't Ask, Don't Tell policy in the context of whether the ban enhances organizational effectiveness. Statistical and anecdotal data suggest that the Don't Ask, Don't Tell policy does not preserve or enhance unit cohesion, and that the policy imposes five different types of costs on the armed forces including talent-loss, financial costs, increased violence against women, undermining the work environment and unit cohesion, and undermining the

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<sup>92</sup> These claims are based on a survey of residential dorm policies at fifty-one randomly selected colleges and universities. For complete results of the survey, contact the author at [belkin@polsci.ucsb.edu](mailto:belkin@polsci.ucsb.edu). See also David Segal as cited in Belkin and Bateman, *Don't Ask, Don't Tell*.

military's reputation. Five factors suggest that lifting the ban would not undermine combat performance. For example, domestic organizations such as the FBI, CIA, Secret Service, as well as twenty-four foreign militaries, have lifted their bans without suffering a decrease in performance. And Americans have worked successfully with openly gay foreigners in integrated units in NATO, NORAD, and the United Nations. Finally, statistical and anecdotal data show that lifting the gay ban would not undermine heterosexual privacy in military barracks or showers. A new barracks design standard is providing almost all service members with their own bedrooms and a bathroom to share with just one other individual, and the 'gang latrine' will soon be a relic of the past.

In concluding this report, it is worthwhile to consider the words of Keith Taylor, a 72-year old heterosexual father of five and grandfather of eight. Taylor, who has been married to his wife for fifty years, retired as a lieutenant from the Navy in June, 1970 after twenty-three years of service to his country. He now works as a freelance journalist in San Diego, and he published a recent article in the December 16, 2002 issue of *The Navy Times*. Here is what Taylor wrote:

*Military Policy on Gays Wastes Valuable Talent*

Before long, Congress or the commander in chief will find a way to do away with one of the dumbest military ideas of modern times.

The ridiculous "don't ask, don't tell" policy will go.

Then, any further resistance to gays serving openly in the military will fall by the wayside.

If it's up to the current president, it'll be done quietly. He'll have to dance adroitly around the problem to avoid offending many of the people who spent so much time and money putting him in the office in the first place. And just wait until you see him try to sell the idea to the brass hats at the top of the military masthead.

But either our resolve to win the war on terrorism or our aversion to gays serving their own country has got to give.

Our president tells us he will do anything to prevail in our war on terrorism. If he means it, he'd better ask the functionaries at the Defense Language Institute in Monterey, Calif., to stop kicking out some of our most promising translators.

That's what happened recently when the Army discharged several gay linguists. They were not just any linguists - they were studying the critical languages of Arabic and Korean.

But they got caught or confessed to being gay, violating the latest understanding of the 9-year-old "don't ask" rule.

Out they went and, one presumes, thousands more intercepted conversations will be added to the thousands waiting to be read.

If only we could get the terrorists to wait a while, we could counter their next move.

If we want to learn about our enemies, we have to use folks who can learn the language, regardless of their sexual orientation.

Why not just bring them into the tent long enough to solve the problem, then ease them out? After all, we're told that their presence is prejudicial to good morale and good order, at least when they aren't needed.

Believe it or not, that's exactly what has been happening. About 10 years ago, Randy Shilts wrote "Conduct Unbecoming," a book about gays in the military.

According to Shilts, the National Security Agency fired two gay Arab linguists.

Then, at the onset of Operation Desert Storm, the agency pleaded with them to return. They refused.

Let me suggest that the current Republican president take a cue from a former Republican president, but one considered every bit as conservative. Speaking in October 2001, Gerald Ford supported a new federal law banning workplace discrimination against gays.

"That is a step in the right direction. I have a long-standing record in favor of legislation to do away with discrimination," he said.

The government must decide that it cannot have it both ways. It also must rid itself of the notion that one's sexual preference is a reflection of one's courage.

Baron Friedrich Von Steuben, hero of the American Revolution, was gay, according to Shilts' book.

So was Mark Bingham, the rugby player who, on Sept. 11, 2001, helped overpower the terrorists aboard United Flight 93 and crashed the airliner into the Pennsylvania countryside.

That flight was headed back toward Washington and, possibly, the White House.