

**TESTIMONY OF
COMMANDER EUGENE T. GOMULKA, CHC, USN
DEPUTY CHAPLAIN, UNITED STATES MARINE CORPS**

**BEFORE THE
HOUSE ARMED SERVICES
SUBCOMMITTEE ON MILITARY PERSONNEL
UNITED STATES HOUSE OF REPRESENTATIVES**

REGARDING THE DEPARTMENT OF DEFENSE HOMOSEXUAL EXCLUSION POLICY

Thank you very much for the honor of being called to testify today on the Department of Defense (DOD) Homosexual Exclusion Policy. As an active duty Navy Chaplain currently serving Marines, I have been counseled to note that the views expressed in the course of this testimony are my own and do not necessarily reflect the official position of the United States Navy Chaplain Corps, the United States Marine Corps, or the Department of Defense.

Like all military chaplains, I am asked at times to provide advice to commanders about issues and policies that can impact the morale and welfare of military personnel and their family members. When asked for my opinion months ago about the DOD policy on homosexuality, I realized this would require some research in addition to my personal pastoral experience in working with heterosexuals and homosexuals in both the military and civilian sectors.

While I was not aware of the specific aspects of the DOD policy, my initial thoughts were that the policy may be discriminatory, outdated and in need of change. I was inclined to think this way mainly because of the way major media outlets were portraying this issue as one of unjust "discrimination." When I completed my investigation into this matter, I couldn't help but think of what President Lincoln was alleged to have said in a speech delivered in Clinton, Illinois in September of 1858: "You may fool all of the people some of the time, you can even fool some of the people all of the time, but you cannot fool all the people all the time."

Issue Misrepresented in the Media

In undertaking my research, two important facts emerged. The first fact was that the DOD policy does not address amorphous concepts of sexual tendencies, orientation, or preference. The DOD directive dealing with homosexuality is conduct based and is concerned primarily with *behavior*. According to DOD 1332.14, a homosexual is defined as "a person, regardless of sex, who engages in, desires to engage in, or intends to engage in homosexual acts." This finding contradicted the impression given by a number of media reports that portrayed the military as preoccupied essentially with a person's "sexual orientation."

In addition to discovering that the DOD homosexual policy was behaviorally based, a second fact became clear: the media often misrepresented the real reason behind why homosexuals are being discharged before completing their contracts or reaching retirement age. *Newsweek* magazine, for example, reported: "Gay men and lesbians expelled from U.S. military each year because of sexual *orientation*: 1,000."¹ Another publication, *The New Republic*, reported: "More

¹James D. Wilson, "Gays Under Fire," *Newsweek*, 14 September 1992, p. 39.

than 20 sailors... were court-martialed or discharged for homosexuality, although only two of them were found to have committed a homosexual act upon a ship."² After reading this, one is given the impression that some 18 homosexuals were separated merely because of their homosexual "orientation." However, when I read a very detailed report prepared by the Navy Assistant Judge Advocate General based on Naval Investigative Services (NIS) investigations into the actions of these homosexual sailors aboard USS BLUE RIDGE (LCC 19) homeported in Yokosuka, Japan, I was presented with a behavioral picture of multiple sexual liaisons graphically different from that suggested in *The New Republic* article.

Another example of media bias and one-sided reporting involves an incident in which Marines, returning from Myrtle Beach, South Carolina, stopped at a bar in Wilmington, North Carolina to allow a girl friend to use the ladies room. When they discovered that the establishment catered mainly to homosexuals, they attempted to leave only to be confronted by some of the patrons. In the course of an ensuing altercation, one of the homosexuals was struck by a Marine. The media portrayed this as an example of "gay bashing" and made little attempt to discover what in truth actually had happened. When the case went to trial and the Marines were ultimately acquitted of assault charges, many of the same media sources that provided "front page" coverage of this alleged injustice perpetrated against homosexuals failed to provide even "back page" coverage of the final outcome.

Rather than reporting documented problems in the military associated with homosexual conduct, it seems that some members of the media have unjustly portrayed the military as involved in wide-ranging "witch hunts" for closeted homosexuals and preoccupied with a person's "sexual orientation" rather than problems associated with the conduct. For example, after receiving several complaints that it was not safe to use a particular men's room at Fort Hood, Texas, doors of the stalls were removed. However, when complaints continued to be registered after this action was undertaken, a surveillance camera was installed in the ceiling which was run intermittently over a period of seven days (7-14 May 1992). During that time, several homosexuals were observed engaging in oral sex, anal sodomy, mutual masturbation, and other homosexual acts. All of those who took part engaged in "unprotected sex." Thirty of some sixty homosexuals were ultimately identified. These included 14 soldiers and 16 civilians. Two homosexuals were HIV positive and one had full blown AIDS. All of the soldiers were discharged. The same media outlets that never said a word about what happened at Fort Hood are the same sources that talk about how many gay personnel are being unjustly discharged, assuming of course that those who are not discharged will not become HIV positive or die of AIDS before becoming eligible for retirement.

An honest and critical review of investigations regarding the discharge of homosexuals from the military reveals that many of those who are separated for violating DOD 1332.14 are very sexually active. When I read studies that indicated that homosexual men averaged 70 different sex partners a year before the AIDS epidemic, but now average 50 different partners a year, I thought that surely these figures were exaggerated. However, when I examined NIS reports involving discharged homosexual personnel that documented their various sexual relationships, I discovered that such numbers are not uncommon among gays in the military.

While it is discriminatory to judge people for what they are (e.g., female or African American),

² Article in *The New Republic* quoted by William F. Buckley, Jr., "Answers locked in the military closet," *The Washington Times*, 1 December 1992, p. F-1.

it is neither unjust nor a violation of one's civil rights to judge others for what they do (e.g., homosexual behavior or adultery). When Lawrence J. Korb testified before the Senate Armed Services Committee in support of lifting the homosexual ban, he was asked about the double standard that would exist if homosexuals were allowed to engage in homosexual acts off base while consenting adulterous heterosexuals were liable for prosecution under Article 134 of the Uniform Code of Military Justice (UCMJ). He admitted to the contradiction of retaining the traditional moral judgment on adultery while rejecting the traditional moral judgment on homosexual conduct. Consequently, he recommended that Article 125 (re: sodomy) and Article 134 (re: adultery) of the UCMJ both be repealed.

While there was a certain logic to Mr. Korb's recommendation of not discriminating in favor of homosexuals engaged in sodomy while prosecuting heterosexuals engaged in adultery, I couldn't help but recall an incident at Marine Corps Base, Camp Lejeune, North Carolina where I took a 45 caliber automatic away from a Marine who was on his way home with the intent of shooting his wife and a fellow Marine whom he learned was having sex with her at the time. Before changing laws involving penalties associated with homosexual and adulterous behavior, lawmakers need to consider the effect such changes will have on military personnel, their family members, and commanders tasked with maintaining good order and discipline in order to sustain an effective fighting force capable of defending our nation.

Admission and Behavior Link

While it is the height of bigotry to assume that individuals will engage in conduct merely because they are members of a particular racial group, the courts have upheld that the DOD policy does not classify homosexuals based merely upon their "status," but upon "reasonable inferences" about their "probable conduct in the past and in the future."³ A classic judicial case involving admission of homosexuality deals with former midshipman Joseph Steffan who was separated from the Naval Academy shortly before graduation. After his dismissal, he appealed his case arguing that he was dismissed merely because he admitted to being a "homosexual," and not because of any conduct violations. However, when the judge asked him if he ever engaged in homosexual acts while at the Academy, he refused to answer on the grounds that his response might prove self-incriminating. Had he denied that he "engaged in, desired to engage in, or intended to engage in homosexual acts," he would have been reinstated in so far as would not have met the behavioral DOD definition of a "homosexual." However, because of his public acknowledgement of homosexuality coupled with his failure to deny homosexual activity, one could only conclude that his dismissal was based on "reasonable inferences" about probable homosexual conduct and not because of a non-behavioral "orientation" or innate characteristic.

Consequences of a Policy Change

Based on the way the media has managed the news involving homosexuals in the military instead of reporting the facts regarding their behavior at bases like Fort Hood and ships like USS BLUE RIDGE (LCC 19), it is understandable why a number of Americans are in favor of allowing gays to serve in the Armed Services. Also, as more service members, particularly in the U.S. Air Force, are provided housing in which they are not forced to share a room or a shower with another roommate, one can expect fewer objections from military personnel themselves about a change in

³ *BenShalom v. Marsh*, 881 F.2d 454, 464 (7th Cir. 1989).

the DOD homosexual exclusion policy.

Even if polls were to indicate support among the American public and service members for a change in the policy, there would still be consequences that military commanders in particular would have to face if Congress were to decide to change the Uniform Code of Military Justice and allow avowed homosexuals to serve in the military.⁴ Three in particular are worth mentioning.

1) An increase in the number of homosexuals discharged from the military

Supporters for a change in the homosexual exclusion policy like to argue that the military is loosing a lot of money and talent in training homosexuals only later to discharge them once it becomes known that they are gay. Such an argument is based on the false premise that their discharges are due to “revelations” about their “orientation.” This is rarely the case.

In addition to being caught in homosexual acts at commands like Fort Hood and USS BLUE RIDGE (LCC 19), gays are often separated after coming on to a heterosexual service member who reports the incident to his or her command. Because the heterosexual service member would prefer that the incident not be made public, and because the homosexual service member would prefer not being prosecuted for his or her actions (particularly if it involves a gay officer who could be prosecuted under Article 133 of the UCMJ for conduct unbecoming an officer), the command in most instances separates the gay service member without calling attention to what actions precipitated the discharge.

A change in the policy could also result in an increase in the discharge of heterosexuals as is illustrated in the case of a homosexual Catholic Chaplain who was sent for his first tour of duty to a Marine Corps command in Okinawa. Not long after reporting aboard, the priest invited a Marine to his quarters one Sunday afternoon. When the Marine indicated that he was tired, the chaplain invited him to nap in his bedroom. Later, when the Marine awoke, he discovered the priest “going down on him.” The young Marine did not object, but rather later told his buddies who to see if they were looking for oral sex.

When the chaplain’s commanding officer heard rumors that the priest was offering sexual favors to the Marines, he confronted the priest who admitted to what he had done. The chaplain was given an “other than honorable” discharge without facing any brig time. The heterosexual Marine, for not having stopped or reported the priest, was given an administrative discharge. Had the chaplain simply offered the young Marine hospitality instead of taking advantage of him sexually, that heterosexual Marine might still be on active duty today.

If Congress were to change the law and allow avowed homosexuals to serve in the military, it would increase the number of homosexuals in the armed services. In light of the real behavioral reasons behind gay discharges that are not reported in the media, an increase in gay personnel would result in more disciplinary problems that would lead to more homosexual discharges, and in

⁴ In 1951, Congress passed the Uniform Code of Military Justice (UCMJ) to establish and regulate the criminal justice system in the military. While article 36 of the UCMJ gives the president, as commander-in-chief, the authority to prescribe rules of procedure for courts-martial, it specifically limits his authority and declares that he may not do anything contrary or inconsistent with the UCMJ. In short, only Congress, and not the President, has the authority to change sodomy, a criminal act, into a non-criminal act.

some cases, result in heterosexual discharges as well.

2) A decrease in the recruitment and retention of heterosexuals owing to a lack of sexual privacy and objections from those who do not equate homosexual relationships with a family consisting of mother, father and children as the natural place for the healthy development of children into well adjusted and productive citizens

Acceptance of homosexuals among service members is higher in those branches of the military that provide a greater degree of sexual privacy in berthing and bathing arrangements. Objections to a change in the current homosexual exclusion policy are higher among military personnel who would be forced to room and shower with avowed homosexuals for extended periods of time without recourse to other berthing or showering arrangements. Opponents of the ban dismiss this concern of military personnel for privacy by drawing invalid comparisons with other foreign militaries and police and fire departments whose members do not live away from loved ones in the most intimate of living conditions for six or more months at a time. Unlike full-time active duty U.S. forces, many foreign militaries function more like our reserve units. In Israel, for example, homosexuals are not allowed in combat units or forward base areas, but are assigned to "open" bases, i.e. bases where soldiers commute to their homes at night.⁵

Our own courts recognize how a change in the DOD homosexual exclusion policy could pose a threat to the sexual privacy rights of heterosexuals. In *Steffan v. Cheney*, the United States District Court for the District of Columbia ruled on December 19, 1991 in favor of the Secretary of Defense. The judge noted that "In the Military Establishment . . . the policy of separating men and women when sleeping, bathing, and 'using the bathroom' seeks to maintain the privacy of officers and the enlisted while in certain cases of undress. The embarrassment of being naked as between the sexes is prevalent because sometimes the other is considered to be a sexual object. The quite rational assumption in the Navy is that with no one present who has a homosexual orientation, men and women alike can undress, sleep, bathe, and use the bathroom without fear or embarrassment that they are being viewed as sexual objects."

While the majority of Americans who do not serve or have not serve in the military may not be concerned about the sexual orientation or conduct of military personnel, active duty personnel who do not have a choice of roommates in barracks or on board ships for extended periods of time are far more concerned about their roommates' sexual preferences and conduct. A San Diego based sailor expressed concerns that I have heard other service members raise when he wrote the following to *Navy Times*: "What gives someone the right to say I have to sleep and shower with a gay person, when it is common knowledge that a gay man has a sexual preference for me (a man)? If you tell me that a gay person can sleep with a person of the same sex without any sexual thoughts, then I will tell you that I can sleep with a heterosexual woman without any sexual thoughts."⁶

Most of the 230 religious bodies recognized by the Department of Defense, while they do not pass judgment one's sexual orientation, do not accept homosexual conduct. Those few faith groups

⁵ Charles Moskos, "Homosexuals in the Israeli and German Armed Forces," letter to General Gordon R. Sullivan, 7 December 1992.

⁶ David Zinkgraf, GMM1, USN, "Mr. Clinton, we don't want gays!", *Navy Times*, 7 December 1992, p. 36.

that accept homosexual conduct are generally under represented in the military. For example, the United Church of Christ recently recommended that the ban be lifted. This recommendation stands in stark contrast with a letter to the President from the Roman Catholic Archbishop for the Military Services who strongly opposes such a change. While members of the United Church of Christ constitute 1/20th of 1 percent of active duty Marines, Roman Catholics make up 30.7% of the Marine Corps.

While Chaplains in the past for moral reasons were in the forefront of supporting the complete integration of African Americans into the military, chaplains today for moral reasons generally oppose the acceptance of avowed homosexuals into that same military. For example, all 26 chaplains assigned to the Second Marine Division based in Camp Lejeune, North Carolina, representing 17 different faith groups, signed a statement in support of the current DOD policy. Baptists, Methodists, Catholics, and most military personnel grow up in homes where they are taught that heterosexual love is responsible for them coming into this world and cannot be equated with homosexual relations. Consequently, most would have a very difficult time accepting training from a United Church of Christ chaplain who would attempt to teach them to be "open and affirming" to fellow service members who engage in acts they find to be unnatural and unhealthy.

Faith groups that have changed their accession policies by accepting unavowed homosexual candidates for the priesthood or ministry, as well as denominations that have voted to accept avowed homosexuals, are experiencing serious divisions and a loss of laity and heterosexual clergy. Is this the same route political leaders wish to impose on the military in order to fulfill campaign promises or meet the demands of special interest groups? If the President or Vice President had a relative or friend who had a weight problem, would this justify an attempt to have the military change its weight standards that impact military recruitment and retention far more than the homosexual exclusion policy? Is our all-volunteer force sufficiently manned that it can afford to suffer recruitment and retention losses among heterosexuals only to recruit a relatively small number of homosexuals, many of whom, like current unavowed homosexuals, will never reach retirement age because of behavioral or health problems?

3) Additional financial and personnel burdens on military medicine as the result of the accession of more homosexuals whose sexual practices and documented higher rates of sexual partnering place them at a very high risk of contracting sexually transmitted diseases, becoming HIV positive, and dying of AIDS

Statistics give evidence of widespread sexual compulsion among homosexual men. A recent University of Chicago survey revealed that for the U.S. population as a whole, the estimated number of sex partners since age 18 is 7.15 (8.67 for those never married).⁷ These numbers stand in striking contrast to the results of a major study by the Kinsey Institute which revealed that 43% of the homosexual men surveyed estimated that they had sex with 500 or more partners; 28% with 1,000 or more partners.⁸ In the same study, 79% of the white male homosexuals surveyed said that more than half of their partners were strangers.

⁷Tom W. Smith, *Adult Sexual Behavior in 1989: Number of Partners, Frequency and Risk*, presented to the American Association for the Advancement of Science, February, 1990, published by NORC, University of Chicago.

⁸Alan P. Bell and Martin S. Weinberg, *Homosexualities: A Study of Diversity Among Men and Women*, (New York, Simon and Schuster, 1978), p. 308.

Since the onset of AIDS, there does not appear to be a significant decrease in homosexual behavior. In one study, the number of different partners fell from 70 to 50 per year; in another study, the number was reduced from 76 to 47 per year.⁹ According to a recent survey, despite the threat of AIDS, 46% of male homosexuals between 18 and 25 [military age], within a month of the survey, engaged in anal intercourse without a condom.¹⁰

In his recently published book, *Military Necessity and Homosexuality*, Colonel Ronald D. Ray, USMCR reported that "According to an Army survey, 80 percent of soldiers who tested positive for the HIV virus *admitted* to contracting the virus through homosexual contact." The military survey data provided by Colonel Ray is supported by civilian studies which show that: 1) Two-thirds of all AIDS cases are directly attributable to homosexual conduct (Centers for Disease Control, 1992); 2) Homosexuals are 23 times more likely to have a sexually transmitted disease (or multiple STDs) in the 18-25 year old range (American Medical Association, 1990); and 3) Homosexuals have a 40 - 56 percent higher incidence of Hepatitis B (American Medical Association, 1986).

Homosexual activists are calling for an end to mandatory pre-induction and in-service testing for the AIDS virus in the military. The Navy estimates that "it costs \$246,000 to care for a sailor stricken with AIDS until he or she dies, generally about a decade after the HIV infection is detected."¹¹ Military personnel found to be HIV-positive may remain on active duty as long as they can perform their functions. Once a person is determined to be 30 percent disabled from his condition, he qualifies for medical retirement with benefits.

High rates of dangerous sexual behavior have contributed to the reduced life expectancy of homosexual men. According to a recent study of 5,246 obituaries in homosexual newspapers from coast to coast, the average age of men dying from AIDS is 39.¹² The average age of homosexuals dying from all other causes is 41. Less than three percent of homosexuals surveyed are over the age of 55.¹³

If the ban were lifted and the only homosexuals separated were those who were caught engaged in homosexual acts while on duty, given the documented high degree of sexual partnering on the part of male homosexuals, one might question how many more AIDS cases the military will have to care for in the future that today only develop after homosexuals are discharged? While some have argued that millions of dollars have been wasted by training and then discharging homosexuals, these same critics are reluctant to question how many of the 16,000 homosexuals discharged over the past ten years from the military are today HIV positive or deceased.

⁹ L. McKusick et al., "AIDS and Sexual Behavior," *American Journal of Public Health*, 1985, pp. 493-496.

¹⁰ Dick Thompson, "A Losing Battle with Aids," *Time*, 2 July 1990, p. 43.

¹¹ Mark Thompson, "Gay advocates reject fears about gays in military service," *The Philadelphia Inquirer*, 17 March 1993, p. 10.

¹² Paul Cameron, William I. Playfair, and Stephen Wellum, "The Homosexual Lifespan," Family Research Institute, Inc., Washington, DC, 1992.

¹³ Gary L. Bauer, "Sexual Disorientation," *Family Policy*, June 1992, p. 6.

Conclusions

The DOD homosexual exclusion policy is designed to preserve, promote, and protect legitimate military interests, which include the personal privacy rights of service members. Just as universities do not require women to share rooms and showers with men in college dormitories, heterosexual military personnel should not be forced to interact with homosexuals without recourse to other living arrangements available to most civilians.

Just as the military excludes persons because of age, weight or physical handicaps for the good of the individuals themselves and those with whom they would serve, so too is the military justified in excluding homosexuals from its ranks. Political and military leaders should not attempt to engage in social engineering or compromise military recruitment and retention standards for political reasons, particularly when the vast majority of active duty, reserve and retired military leaders oppose a change in the current policy.

If it is true that that “you cannot fool all the people all of the time,” then I hope that you, unlike many of my fellow Americans, will not be swayed by misleading media reports that fail to address behavioral and medical problems involved in this issue that are all too real to the commanders, lawyers, investigators and medical professionals that have helped me reach the conclusions contained within my testimony.

The consequences that can occur as a result of changing the current DOD policy, three of which I specifically addressed, cannot only affect the lives of military personnel, but can also impact military readiness. Having served aboard the battleship USS WISCONSIN (BB 64) that engaged Iraqi forces that invaded Kuwait, I am deeply aware of the importance of discipline, good morale, and strong bonds among crew members. Could we have completed our mission better had our crew included avowed homosexuals? If I thought we could have, I would not be testifying here today. I leave it to you to decide if changing the current policy in question will result in a more effective military force capable of defending our country and achieving in our time and for all time the ancient vision of “peace on earth, good will toward men.”

Thank you again for the honor of coming before you and sharing the results of my research and lessons learned from my pastoral and military experience. I would be pleased to respond to any questions you might have at this time.