

What the Military Would Look Like Without “Don’t Ask, Don’t Tell:” The Veterans’ Perspective

Introduction

During his campaign, Candidate Obama stated, without qualification, that the law commonly referred to as “Don’t Ask, Don’t Tell” (DADT) needed to be repealed and replaced with a law allowing all qualified Americans to serve regardless of sexual orientation. In view of the increasing momentum to fulfill the President's campaign promise, a group of veterans identified critical questions regarding implementation issues which were asked but left unanswered during the 1993 Congressional hearings. These questions need to be addressed now. Additional questions were formulated based upon issues raised since passage of the DADT law.

In preparing these responses we were mindful of the primary mission of the Armed Forces to support and defend the Constitution of the United States. We consulted with fellow Chaplains as well as veterans representing all the Services in all ranks and ratings from E-1 through O-8. We also spoke with numerous combat veterans including those who recently returned from Iraq and Afghanistan. The attached document provides practical responses for those tasked with implementation.

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Unit Cohesion

1. What would be the impact of changing the current law on unit cohesion and morale?

The 2009 Joint Forces Quarterly article states clearly, “After a careful examination, there is no scientific evidence to support the claim that unit cohesion will be negatively affected if homosexuals serve openly.” A 1993 RAND Corp. report concludes the same, as do several other military-commissioned reports. In addition, 68 percent of Iraq and Afghanistan troops said, according to a 2006 Zogby poll, they either knew for certain (23%) or suspected (45%) there were gays¹ in their own unit. That means there are tens of thousands of known gay service members currently working and fighting alongside their straight peers, and there is no demonstrable negative impact on unit morale, cohesion or combat readiness. In fact, 73% of troops in the poll said they were “comfortable” in the presence of gay peers.

History shows that most service members are very selective about revealing their sexual orientation. There may be many reasons for this. They include (1) recognition that military culture is conservative; (2) concern that advancement or promotion might be adversely affected by disclosure; and (3) fear for personal safety because of perceived or stated bigotry in a unit, among others. Neither the proposed change in the law nor future regulations would mandate disclosure of a service member’s sexual orientation. Unless the service member reveals this private matter the status quo will be maintained.

Polling data from current U.S. troops combined with the experience of our foreign military allies demonstrate that known gays in a unit do not degrade morale, cohesion or operational readiness.

2. What would be the impact of changing the current law on mission accomplishment?

The experience of our foreign military allies is unequivocal proof that the presence of known gays in the military has no negative effect on combat readiness. Our British, Canadian and Australian allies, currently fighting with us in Iraq and Afghanistan, allow gays to serve without restriction. They report no negative impact on military effectiveness. Furthermore, the Israeli Defense

¹ The use of the term “gay” in the following questions refers to lesbian, gay and bisexual service members.

Forces, charged with defending a country that is constantly threatened by its neighbors and virtually always in a state of war, have long allowed known gays to serve. Each of these allies has reported that when they lifted their bans on gay military service, contrary to the fears of negative impact on good order and discipline of some in the military and their supporters in the public, the result was a "non-event." Most importantly, the U.S. military clearly has the leadership and professionalism to manage this issue, as it did when African Americans were fully integrated into the military and as it did when the roles of women in the military were expanded.

Leadership and discipline

3. What would be the impact of changing the current law on good order and discipline?

See response to 1.

During the first Gulf War the President issued a "stop loss" order and for the duration of that conflict, no gays were discharged. There was no evidence that their presence had any adverse impact on good order and discipline.

4.. Should there be restrictions on gay sexual relations with other military personnel?

All restrictions which are presently in effect should and already do apply equally to all service members, regardless of sexual orientation.

5. Should there be restrictions on gay sexual relations with civilians?

See response to 4.

6. Should there be restrictions on gay sexual relations on base, ship or station?

See response to 4.

7. Should there be restrictions on gay sexual relations off base?

See response to 4.

8. What restrictions, if any, should be placed on conduct between members of the same sex?

See response to 4.

9. Should such restrictions apply in circumstances in which conduct would not be prohibited if engaged in between members of the opposite sex?

See response to 4.

10. What about displays of affection between members of the same sex while they're out of uniform?

See response to 4.

11. What about displays of affection that are otherwise permissible, while in uniform, such as dancing at a formal event?

See response to 4.

12. What actions does a commander take when a service member refuses to follow the legal orders of a gay superior based upon moral or religious grounds?

Presently, service members are duty bound to follow the legal orders of all superiors. There are no exceptions to this rule which is the core of good order and discipline. The Uniform Code of Military Justice has appropriate articles to deal with such misconduct.

13. What does a commander do about the perception that a gay leader is showing favoritism to a gay subordinate?

The commander would take exactly the same action that would be taken if the situation involved members of different genders.

14. How do commanders square Article 125 of the UCMJ with permitted gay sexual relations under the new law?

Article 125 applies equally to gay and straight service members. In fact, under the Marcum case decided by the U.S. Court of Appeals for the Armed Forces, most acts, including private, adult, consensual acts are Constitutionally protected, unless they involve factors solely relevant to the military context, like fraternization. Today, the majority of people prosecuted under Article 125 are straight. The Cox Commission has recommended that Congress modernize Article 125.

15. What should be the response of the command to a Chaplain who, because of denominational doctrine or faith tradition, refuses to provide pastoral ministries to LGB service members?

Chaplains have dual accountability. They are accountable to the religious bodies that endorse them and to their military service branch.

Chaplains are expected to faithfully adhere to the beliefs and practices of the faith groups they represent. Chaplains cannot perform ministries or other duties which violate their faith group's teachings or their personal conscience. Faith groups recognized by the Department of Defense as endorsing organizations hold this right to be inviolable.

Chaplains are also subject to their chain of command and military regulations. As staff officers responsible for carrying out their Commanders' religious programs, chaplains are expected to perform or provide pastoral services for everyone in the command without discrimination. If a chaplain's theological or ecclesiastical views preclude performing pastoral ministries to which a service member is entitled, the chaplain remains duty bound to provide assistance to the service member through appropriate referral to another chaplain who can and will perform the requested services. To refuse to do so would be a breach of duty requiring appropriate command action.

Personnel

16. What would be the impact of changing the current law on recruiting and retention?

Repealing "don't ask, don't tell" would help recruiting and retention. The recent issue of *Joint Forces Quarterly*, an article—reportedly signed off on by the Chairman of the Joint Chiefs of Staff Mike Mullen—convincingly makes the case that current law has been "costly both in personnel and treasure," referring to the cost of discharging service members and recruiting replacements, including those with language or other specialized skills. Approximately two service members are discharged each day under DADT. This number includes linguists, physicians, pilots and others highly trained personnel in mission critical specialties. Costs for the training of replacements are in the hundreds of millions. According to the UCLA's Williams Institute, an estimated 2500-3000 service members either leave the service, or choose not to re-enlist, because of the law. When the number of involuntary discharges under "don't ask, don't tell" is combined with the voluntary attrition because of this law, the result is an annual loss of 4000 trained, experienced and often combat tested troops. Replacing

these veterans with recent graduates of recruit training or newly commissioned officers would naturally reduce unit readiness.

17. Will there be a related requirement for affirmative action in recruiting, retention and promotion to compensate for past discrimination?

No. The Military Readiness Enhancement Act (“MREA”) presently pending in Congress does not mandate affirmative action nor provide for compensation for past discrimination.

Training

18. When the law is changed, will there be a need for extensive training for members of the armed forces?

Training service members on the issue of gay service members can simply be added to already existing training courses for harassment, discrimination and diversity. Sexual orientation would simply be discussed alongside issues of gender, religion, ethnicity, etc. The U.S. military could adopt and modify training curricula developed by our British, Australian and Canadian allies when they removed their bans on gays serving in the military.

19. Will unit commanders need to be trained on the new law?

The British experience shows that leadership is the key to the success of the change in the law. Commanders will need to understand their roles and responsibilities and this can only be accomplished through service wide training.

20. If so, at what level of command will the training be given?

All unit commanders and senior enlisted will need to be trained.

21. Who will carry out this training and how will it be paid for?

Training should be carried out by the same resources currently providing educational schooling on issues such as diversity, harassment and discrimination and should be part of the Defense budget.

Privacy

22. What about group showers? How do we protect the privacy of straight service members?

Modern billeting in all the services provides for individual showers in nearly all circumstances. On board most naval vessels there are individual showers. In areas overseas, including Iraq and Afghanistan, there are almost always individual showers. Even forward deployed troops, when they are fortunate enough to be able to have showers, are usually provided individual showers.

A 2006 poll of Iraq/Afghanistan veterans found that only 8 percent of the troops said they usually or always showered in a group facility. It is clear that as newer facilities are constructed, open showers will be completely eliminated in the all-volunteer force. In the interim, those service members who might be uncomfortable could avoid showering with gay troops only if they knew the sexual orientation of those in their unit.

23. Should there be separate quarters for gay troops on base and separate berthing on board ships for gay sailors?

Known gay service members are already integrated in every branch of the military and are currently sharing barracks and berthing areas with their straight peers, including submarines, without reported problems. Segregation of housing facilities based on sexual orientation is historically unprecedented in our society, as is the requirement to declare one's sexual orientation, in order to implement segregation. Furthermore, both gay and straight troops are professional enough to share barracks and berthing areas. Since there are no reported problems with known gay troops serving alongside their straight counterparts, segregation in barracks and in shipboard berthing is unnecessary.

24. Should single service members be allowed to reject a gay roommate on base because of moral or religious reasons?

It is not uncommon for service members to ask to change roommates on base for a variety of reasons. The same procedures and standards presently in place should apply in every case.

Benefits

25. Should gay couples who are in state-recognized civil unions or domestic partnerships receive the same benefits as legally married straight couples, including but not limited to base housing, medical benefits for dependents, retirement etc?

The law known as the Defense of Marriage Act ("DOMA") would not permit such benefits.

26. How will the military handle potential demands for back pay, reinstatement, promotions, and similar forms of relief?

MREA does not provide for such relief. All former service members who contend they were wrongfully discharged, for whatever reason, could still seek relief through Board of Corrections of Military Records.

27. Should legally married gay couples receive the same benefits as legally married straight couples?

See response to 25.

28. If gay couples in civil unions or domestic partnership are given such benefits, will they also have to be granted to unmarried straight couples?

See response to 25.