

AIR WAR COLLEGE

AIR UNIVERSITY

**READY OR NOT?**

**REPEAL OF “DON’T ASK, DON’T TELL”**

by

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## **Biography**

Lieutenant Colonel Julie C. Boit entered active duty in May 1991 after graduating from the United States Air Force Academy in Colorado Springs, Colorado. As a career personnel officer, she has served in a variety of stateside and overseas assignments, including base-level tours at Kelly Air Force Base, Texas; Kunsan Air Base, Republic of Korea; and Royal Air Force Mildenhall, United Kingdom. She has also served in headquarters-level personnel assignments, including Headquarters Air Force Personnel Center, Randolph Air Force Base, Texas, and a joint assignment at Headquarters European Command, Stuttgart, Germany, prior to attending Air War College. Additionally, Lieutenant Colonel Boit has commanded at the flight, detachment, and squadron levels, including at Royal Air Force Lakenheath, United Kingdom; Detachment 2, United States Air Forces in Europe Mission Support Squadron, Naples, Italy; and 437th Mission Support Squadron, Charleston Air Force Base, South Carolina, respectively. She earned a Masters in Business Administration from St. Mary's University, San Antonio, Texas, in 1993, and a Masters in National Security and Strategic Studies, Naval War College, Newport, Rhode Island, in 2006. Lieutenant Colonel Boit is married with two young sons.

## Introduction

*I will end 'don't ask, don't tell.'*  
-- President Barack Obama<sup>1</sup>

Throughout his presidential campaign, and again as recently as the 2010 State of the Union address<sup>2</sup>, President Obama reinforced his commitment to lift the ban on homosexuals serving openly in the U.S. military. Although he cannot lift the ban on his own—only the legislative branch has the authority—the President’s clear stance and the Democratic Party’s majority in Congress point to repeal of the “Don’t Ask, Don’t Tell” (DADT) policy in the nearer term. In fact, a bill has already been introduced and some Democrats in Congress are posturing to include a repeal in their versions of the defense authorization bill this year.<sup>3</sup> Moreover, in Congressional testimony, Admiral Mullen, chairman of the Joint Chiefs of Staff, stated it was his “personal belief that allowing gays and lesbians to serve openly would be the right thing to do.”<sup>4</sup> These conditions make repeal of DADT more likely than not—and therefore the Department of Defense (DoD) should begin preparing now to manage prospective impacts to its forces.

The U.S., with its ban on open homosexuals, stands with 11 other countries, but this list does not include countries where homosexuality is “banned outright, such as Iran, Saudi Arabia, and several other nations in the Middle East.”<sup>5</sup> However, other key allies, such as the United Kingdom, Canada, Australia, and Israel, have already lifted the ban on homosexuals serving in

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<sup>1</sup> Sheryl Gay Stolberg, “Obama Pledges Again to End ‘Don’t Ask, Don’t Tell.’” *New York Times*, 10 October 2009, <http://www.nytimes.com/2009/10/11/us/politics/11speech.html> (accessed 15 October 2009).

<sup>2</sup> President Obama stated: “This year, I will work with Congress and our military to finally repeal the law that denies gay Americans the right to serve the country they love because of who they are.” State of the Union address, <http://stateoftheunionaddress.org/> (accessed 28 January 2010).

<sup>3</sup> Ed O’Keefe and Paul Kane, “Congressman Vows Repeal Effort in 2010.” *Washington Post*, 12 November 2009, p. 6.

<sup>4</sup> “Testimony Regarding DoD ‘Don’t Ask, Don’t Tell’ Policy” as delivered by Secretary of Defense Robert M. Gates and Admiral Mike Mullen, chairman of the Joint Chiefs of Staff, 2 February 2010, <http://www.jcs.mil/speech.aspx?id=1322> (accessed 8 February 2010).

<sup>5</sup> Other countries with homosexual bans include Argentina, Belarus, Brazil, Croatia, Greece, Poland, Peru, Portugal, Russia, Turkey, and Venezuela. Nathaniel Frank, *Unfriendly Fire: How the Gay Ban Undermines the Military and Weakens America*. New York: St. Martin’s Press, 2009, p. 137.

their militaries. In fact, 24 foreign militaries now have no ban on gay service members, and many of these allies provide critical support to North Atlantic Treaty Organization (NATO) International Security Assistance Force in Afghanistan.<sup>6</sup> These “combat-tested fighting forces” are “critical partners in the American defense strategy”<sup>7</sup> and can provide insight to the U.S. as it prepares for its own policy change regarding homosexuals.

This paper briefly discusses the history and current policy under DADT, and outlines proposed legislation currently in the U.S. House of Representatives. Given the likelihood of repeal sooner rather than later, this paper then focuses on specific policy implementation recommendations for the DoD—and who should be involved. This paper will not argue the “rightness” or “wrongness” of any alteration to DADT. It will, however, show that to successfully execute the potential new law in the U.S. military work environment, DoD must involve key stakeholders and take multiple actions *now* to mitigate potential impacts. Such steps include being proactive, emphasizing professional conduct, top-down implementation, training and education, and consideration of manpower, facility, and other internal policy issues.

### **Recent History and the Current Law**

Those serving in the U.S. military in the early 1990s remember the charged political debates and Presidential campaign promises of then governor Bill Clinton which eventually led to Title 10, United States Code, Section 654, *Policy Concerning Homosexuality in the Armed Forces*, commonly known as DADT. While Clinton promised to lift the ban entirely, §654, enacted in 1993, was essentially a compromise based on fierce resistance by influential

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<sup>6</sup>Ibid., p. 137 and 158. Other countries without homosexual bans include: Australia, Austria, Bahamas, Belgium, Britain, Canada, Czech Republic, Denmark, Estonia, Finland, France, Ireland, Israel, Italy, Lithuania, Luxembourg, Netherlands, New Zealand, Norway, Slovenia, South Africa, Spain, Sweden, and Switzerland.

<sup>7</sup>Ibid., p. 158.

Congressional members and senior U.S. military officers.<sup>8</sup> In the law, Congress reasserted its unique discretion to “establish qualifications for and conditions of service in the Armed Forces,” reaffirmed the “prohibition against homosexual conduct,” and reemphasized its authority to “regulate a [service] member’s life for 24 hours each day.”<sup>9</sup>

Basically, the law allows a homosexual to serve in the Armed Forces, as long as that person does not engage (or intend to engage) in homosexual conduct, which includes homosexual acts, statements, marriage (or attempted marriage) to a person known to be of the same biological sex.<sup>10</sup> Since implementation, from fiscal years 1994 through 2009, a total of 13,167 service members have been discharged from the U.S. military under §654.<sup>11</sup> In this paper, use of “DADT” and the general term “policy” refers to restrictions against open homosexuals in accordance with the 1993 statute, as well as the accompanying U.S. government policy and implementing directives.

### **Proposed Legislation**

The *Military Readiness Enhancement Act of 2009*, introduced in the U.S. House of Representatives and in subcommittee as of March 2009, proposes to repeal the current law and DoD policy concerning homosexuality. As written, it “prohibits the Secretary of Defense, and Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, from discriminating on the basis of sexual orientation against any member

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<sup>8</sup>Statements presented by members of Congress indicated resistance (US House. Committee on Armed Services, *Policy Implications of lifting the ban on homosexuals in the military*. 103<sup>rd</sup> Congress, First Session, May 1993); resistance from the Joint Chiefs of Staff recounted in Colin Powell’s *My American Journey*, p. 556-57.

<sup>9</sup>Policy Concerning Homosexuality in the Armed Forces. *US Code*. Title 10, sec. 654.

<sup>10</sup>Ibid.

<sup>11</sup>“Testimony Regarding DoD 'Don’t Ask, Don’t Tell' Policy” as delivered by Secretary of Defense Robert M. Gates and Admiral Mike Mullen, chairman of the Joint Chiefs of Staff , 2 February 2010, <http://www.jcs.mil/speech.aspx?id=1322> (accessed 8 February 2010), with supplemental data provided by Lieutenant Colonel Greg A. Brown, U.S. Air Force, from Office of Secretary of Defense Personnel & Readiness, Interview by the author, 13 October 2009.

of the Armed Forces or any person seeking to become a member.”<sup>12</sup> The proposed legislation also “authorizes the re-accession into the Armed Forces of otherwise qualified individuals previously separated for homosexuality, bisexuality, or homosexual conduct.”<sup>13</sup> The secretaries may also “not establish, implement, or apply any personnel or administrative policy, or take any personnel or administrative action (including any policy or action relating to promotions, demotions, evaluations, selections for awards, selections for duty assignments, transfers, or separations) in whole or in part on the basis of sexual orientation.”<sup>14</sup>

Importantly, since repeal could affect family member benefits, Section 5 of the proposed legislation states “[n]othing in this act...shall be construed to require the furnishing of dependent benefits in violation of section 7 of title 1, U.S. Code (relating to the definitions of ‘marriage’ and ‘spouse’ and referred to as the ‘Defense of Marriage Act’).”<sup>15</sup> Unless changed, the Federal definition of ‘marriage’ will continue to be a “legal union between a man and a woman” and a ‘spouse’ “refers only to a person of the opposite sex who is a husband or a wife.”<sup>16</sup> In other words, unless the Defense of Marriage Act is altered, or the proposed DADT repeal legislation is amended, spousal and dependent benefits should not be an *immediate* issue for the DoD.

### **Working the Interfaces—Who Should Be Involved?**

*Having people from all levels involved brings in multiple perspectives, identifies unexpected problems, and can generate innovative ideas and solutions.*<sup>17</sup>—Wayne Turk

If the DADT law is repealed, a change of this magnitude must involve numerous

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<sup>12</sup>US House. *Military Readiness Enhancement Act of 2009*. 111<sup>th</sup> Cong., 1<sup>st</sup> sess., H.R. 1283. *Congressional Record*, 3 March 2009.

<sup>13</sup>Ibid.

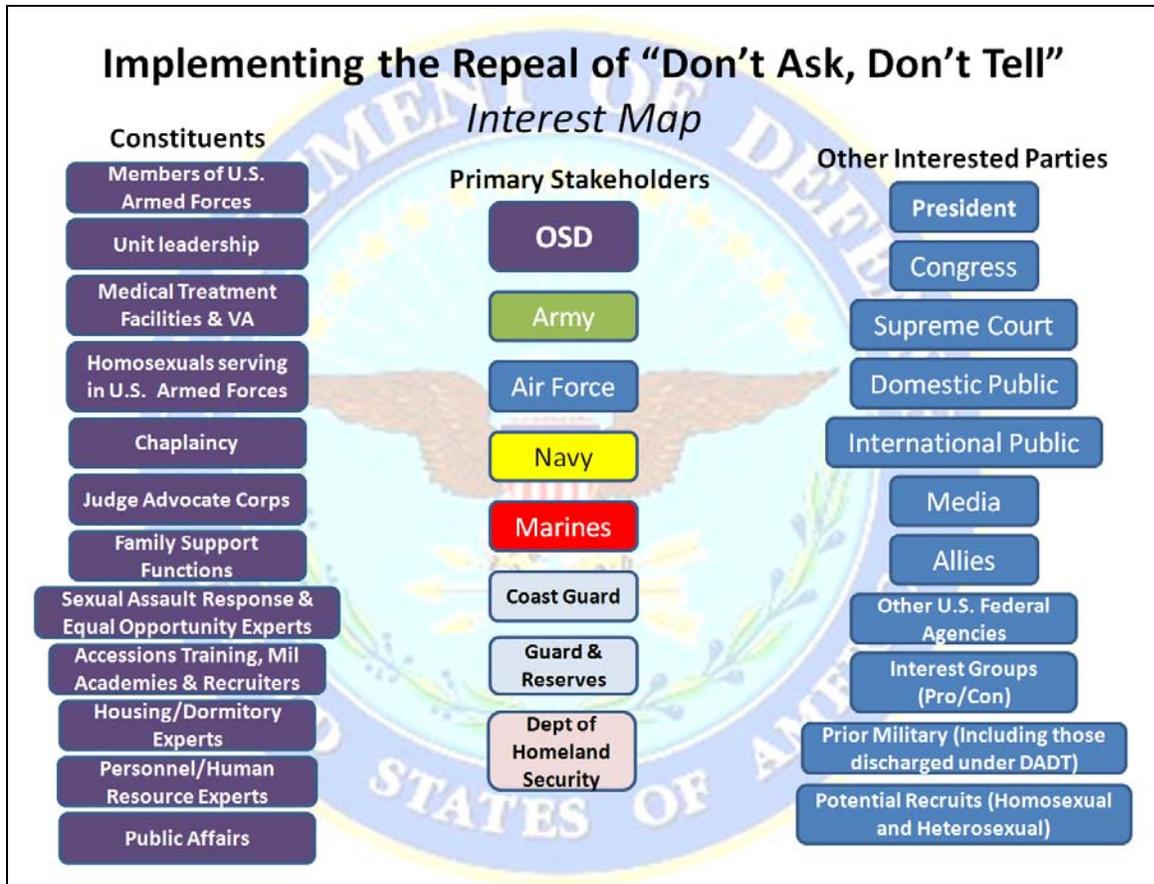
<sup>14</sup>Ibid.

<sup>15</sup>Ibid.

<sup>16</sup>*Defense of Marriage Act*, Definition of marriage and spouse. *US Code*. Title 1, Chapter 1, Sec. 7, 104<sup>th</sup> Congress, 2<sup>nd</sup> sess., 3 January 1996.

<sup>17</sup>Wayne Turk, “Be willing to make changes: but not change for change’s sake.” *Defense AT & L* (1 May 2009). <http://www.thefreelibrary.com/. /print/PrintArticle.aspx?id=201622652>, p. 2.

stakeholders to ensure effective implementation and full consideration of unintended consequences. Participative involvement from all levels can also create buy-in and help “overcome resistance and make changes succeed.”<sup>18</sup> In an initial effort to determine who should be involved, **Figure 1** provides a proposed “Interest Map” for DoD’s use as it prepares for repeal:



**Figure 1. Implementing the Repeal of “Don’t Ask, Don’t Tell” Interest Map**

Steven Cohen’s Interest Map concept<sup>19</sup> can be useful to visualize the different agencies with an interest in the implementation outcome. For example, the primary stakeholders clearly have an interest if DADT is repealed, as they will be the change’s primary implementers. The

<sup>18</sup>Ibid., p 2.

<sup>19</sup>Discussed in detail by Steven P. Cohen in *Negotiating Skills for Managers and Everyone Else*. New York: McGraw-Hill Co., Inc., 2002, Chapter 5.

constituents, such as military members and agencies within the DoD, have a direct relationship and will be consequently directly affected by the implementation plan approved by the department. Other interested parties (OIP) may or may not have a direct relationship with the DoD, but certainly have interests in the outcome—and might make decisions or take action based on that outcome. As Cohen suggests, these stakeholders’ interests may appear “remote.” However, “if we ignore them...they may come back to haunt us when we are least expecting it.”<sup>20</sup> Moreover, it is important to note there are overlapping interests and multiple ties and connections among *all* of the parties on the map, even though these connections are not shown in the graphic above.

To illustrate the recommended thought process, note that OIPs include the American public, media, and U.S. allies. Making a concerted effort to reach out and communicate strategically with the American public via the media before, during, and after implementation can go a long way towards ensuring transparency and maintaining public trust. Strategic communication should also target U.S. allies, many of which no longer have a ban on openly serving homosexuals. It is imperative our coalition partners understand the change and DoD’s efforts to smoothly implement the repeal. In fact, many allies can offer potential “lessons learned” from their personnel policies, as will be discussed later. The key is to engage the right internal *and* external organizations from the start, and to realize others outside the U.S. military are also impacted by DADT’s repeal.

### **Policy Implementation Recommendations**

If elected officials change the military’s homosexual policy, it will be up to the DoD to appropriately implement and adhere to the new law in a manner that minimizes negative impacts to

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<sup>20</sup>Steven P. Cohen, *Negotiating Skills for Managers and Everyone Else*. New York: McGraw-Hill Co., Inc., 2002, p. 71.

its forces. Armed with the background and proposed legislation above, there are several recommendations that should assist DoD in executing the new law’s details. These suggestions, shown in **Figure 2**, will be discussed next.

Implementing Repeal of “Don’t Ask, Don’t Tell”	
Recommendations for DoD	
<b>1. Be Proactive</b>	<ul style="list-style-type: none"> <li>- Consult Foreign Militaries</li> <li>- Review prior DoD integration efforts</li> </ul>
<b>2. Emphasize Professional Conduct</b>	<ul style="list-style-type: none"> <li>- Create “code of professional conduct”</li> </ul>
<b>3. Top-Down Implementation</b>	<ul style="list-style-type: none"> <li>- Message must come from DoD senior leadership</li> </ul>
<b>4. Training &amp; Education</b>	<ul style="list-style-type: none"> <li>- Not sensitivity training, but education on new law/standards</li> </ul>
<b>5. Manpower Considerations</b>	<ul style="list-style-type: none"> <li>- Temporary augmentation of Equal Opportunity (EO), Sexual Assault Response Coordinators (SARC), Chaplaincy, &amp; Medical Corps</li> <li>- Posture for reinstatement of formerly discharged members</li> <li>- Prepare for potential “mass exodus” (senior officer/NCO leaders)</li> </ul>
<b>6. Facility Issues</b>	<ul style="list-style-type: none"> <li>- Consider, but be wary of special treatment/benefits</li> </ul>
<b>7. Other Internal Policy Considerations</b>	<ul style="list-style-type: none"> <li>- Revision of directives, regulations, UCMJ, and personnel policies</li> <li>- Posture for potential litigation</li> </ul>
<b>8. Immediate Implementation (versus Gradual Change)</b>	

**Figure 2. Implementing Repeal of DADT - Recommendations for DoD**

### **Be Proactive**

DoD must be proactive and ahead of the change, acting now to involve key players such as those recommended in **Figure 1**. The initial intent is to begin the dialogue among the stakeholders to determine what *they* think the issues will be, followed by establishment of specific action plans to deal with those issues. While DoD may be concerned “leaning too far forward” would signal acceptance or desire for the change, waiting until the change occurs risks failure—and it is inconsistent with the military culture of planning ahead.

Part of a proactive approach includes consultations with allies who have lifted their bans to garner lessons learned. While nations such as Canada, Israel, Britain, and Australia did not experience the difficulties initially anticipated<sup>21</sup>—and for Britain and Australia, lifting the ban was an “absolute non-event”<sup>22</sup>—there are still insights to be gained. Perhaps by consulting with Britain, for example, the U.S. can ascertain how none of the fears about “harassment, discord, blackmail, bullying or an erosion of unit cohesion or military effectiveness”<sup>23</sup> came to pass for its all-volunteer force. Despite size and cultural differences, there is an opportunity to extrapolate from allied experiences what might happen for the U.S.

Regardless of these insights, the American military should still expect internal resistance; attitudes, social norms, and religious beliefs are different in this country. For instance, U.S. military concerns regarding service of open homosexuals include: undermining of unit cohesion; violence or abuse towards gays; violation of religious and moral beliefs; lack of respect for homosexual leaders; and sharing of close quarters (such as foxholes, latrines, operational spaces) between heterosexuals and open homosexuals.<sup>24</sup>

A 2009 survey of Iraq and Afghanistan war veterans with specific questions about the concerns above suggests “the strong support for the policy when it was created [in 1993] has shifted somewhat toward the direction of uncertainty or opposition,” which indicates *less* internal

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<sup>21</sup>Nathaniel Frank, *Unfriendly Fire*, p. 147.

<sup>22</sup>Aaron Belkin “Don’t Ask, Don’t Tell: Is the Gay Ban Based on Military Necessity?” *Parameters* 33, no. 2 (Summer 2003), p. 110 and as quoted by Group Captain Raymond Goodall, Royal Air Force, Air War College instructor. Interview by the author, 14 October 2009. Also supported by Nathaniel Frank, *Unfriendly Fire*, p. 147; Sarah Lyall, “Gay Britons Serve in Military with Little Fuss, as Predicted Discord Does Not Occur,” *New York Times*, 21 May 2007; Craig Jones, Lieutenant Commander, Royal Navy (retired), Interview with author, 19 January 2010; and “Gays in the military: The UK and US compared.” *BBC News*, <http://news.bbc.co.uk/2/hi/americas/8493888.stm> (accessed 14 February 2010).

<sup>23</sup>Sarah Lyall, “Gay Britons Serve in Military with Little Fuss, as Predicted Discord Does Not Occur,” *New York Times*, 21 May 2007, [http://www.nytimes.com/2007/05/21/world/europe/21britain.html?\\_r=1](http://www.nytimes.com/2007/05/21/world/europe/21britain.html?_r=1) (accessed 16 October 2009).

<sup>24</sup>Bonnie Moradi and Laura Miller, “Attitudes of Iraq and Afghanistan War Veterans towards Gay and Lesbian Service Members,” *Armed Forces & Society*, published on-line 29 October 2009, <http://afs.sagepub.com/cgi/rapidpdf/0095327X09352960v1> (accessed 13 December 2009).

resistance to a repeal.<sup>25</sup> Furthermore, the ratings indicated quality of leaders, equipment, and training are the critical factors associated with unit cohesion and readiness.<sup>26</sup> This is relevant since concerns about unit cohesion and readiness are the most cited reasons for opposition to any repeal of the gay ban.<sup>27</sup> Despite this, any change to the current policy could be viewed by some current military members as “coercive interference in their way of life,”<sup>28</sup> so the U.S. must prepare for this if the law changes.

Finally, while this change may not exactly mirror previous integration efforts in the U.S. military, the DoD should still consult lessons learned surrounding integration of African Americans and women for use during this effort. Consulting historical lessons can provide an essential base of knowledge leading to a successful transition. At a minimum, these experiences can provide insights into the military’s adaptability to change. As RAND stated, “experience shows that it is possible to change how troops behave towards previously excluded (and despised) minority groups, even if underlying attitudes towards these groups change very little.”<sup>29</sup>

### **Emphasis on Professional Conduct**

*Gay service personnel know that they have the code of conduct to back them up in the event of harassment or bullying. And all servicemembers know that they have recourse to complain if they witness inappropriate comments or actions.*<sup>30</sup>

One of the successful implementation strategies used in the United Kingdom’s transition in 2000 was their establishment of a “Code of Social Conduct,” modeled after the Australian

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<sup>25</sup>Ibid., p. 19.

<sup>26</sup>Ibid., p. 1 (abstract)

<sup>27</sup>Rowan Scarborough, “Marine Leads ‘Don’t Ask, Don’t Tell’ Fight,” *Washington Times*, 2 November 2009, p. 1

<sup>28</sup>Nathaniel Frank, *Unfriendly Fire*, p. 143.

<sup>29</sup>Changing the Policy Toward Homosexuals in the U.S. Military.” RAND (name derived from contraction of *research and development*) Research Brief, RB-7537 (2000), [http://www.rand.org/pubs/research\\_briefs/RB7537/index1.html](http://www.rand.org/pubs/research_briefs/RB7537/index1.html).

<sup>30</sup>Aaron Belkin and R.L. Evans. *The Effects of Including Gay and Lesbian Soldiers in the British Armed Forces: Appraising the Evidence*. The Center for the Study of Sexual Minorities in the Military, University of California at Santa Barbara, November 2000, p. 34.

armed forces.<sup>31</sup> The Code, referenced in the quote above, places the focus on professional conduct and behavior for *all*, regardless of sexual orientation. Homosexuals and heterosexuals are “prohibited from engaging in social behavior that undermines, or may potentially undermine the trust, cohesion, and therefore the operational effectiveness, of the Services.”<sup>32</sup> Existing policies such as “zero tolerance for harassment, discrimination and bullying” complemented the Code, which enumerated inappropriate behavior such as unwelcome physical or verbal sexual attention, displays of affection which might cause offense to others, and taking sexual advantage of subordinates.<sup>33</sup> The key was the Code avoided dealing with attitudes and beliefs, which are often difficult to change. Instead, it addressed behavior, which can be more directly influenced.

Using such a code tailored for the U.S. may work. If the DoD adopts this approach, the first step would be to create a “guiding coalition” of senior leadership across the DoD with enough power and vision to lead the change,<sup>34</sup> then involve key stakeholders such as those in **Figure 1** to create a similar code that would apply to all U.S. service members. The new conduct code should also be as *simple* as possible to enhance understanding. Additionally, the stakeholder team should specifically address public displays of affection (PDA), since challenges in implementation may occur if heterosexuals and homosexuals have different standards in this regard. The team developing the code must remain cognizant that if PDA for a heterosexual couple is acceptable, the same standard should apply to homosexuals. In sum, an emphasis on professional conduct will be critical to successful implementation—and long-term adherence to the proposed law.

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<sup>31</sup>Ibid., p. 27 and 33.

<sup>32</sup>Ibid., p. 26.

<sup>33</sup>Ibid., p. 26.

<sup>34</sup>John P. Kotter, *Leading Change*, Harvard Business School Press, Boston, Massachusetts, 1996, p. 21.

## **Top-Down Implementation**

*It must be clear to the troops that behavioral dissent from the policy will not be tolerated.*<sup>35</sup>

To effectively implement the DADT repeal, a consistent message must come from the top. DoD-wide talking points and senior leadership support and training must be a critical aspect of this policy conversion. In addition to the message within the quote above, guidance should include reminders that the U.S. military is subject to civilian authority and it is up to the DoD to make the change successful.

At all levels, *commanders* and their senior enlisted leaders must be the messengers, leading from the front rather than using offices such as Equal Opportunity (EO) or Sexual Assault Response Coordinators (SARC) to deliver the news. Because the military is already under significant stress in Iraq and Afghanistan, leaders must also send “messages of reassurance” to the force, “conveying that this policy is not a challenge to traditional military values.”<sup>36</sup> While potentially difficult to execute (depending on the personal views of each leader<sup>37</sup>), hearing a consistent message directly from senior levels can set the tone for a positive transition across the Services.

## **Training and Education**

Any enterprise-wide change requires an element of training and education to ensure the initial roll-out is implemented appropriately, and to ensure the message is reinforced as new members enter. This change will be no exception. Using the code of conduct and talking points described in the sections above are a great start. However, the training should *not* resemble

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<sup>35</sup>RAND Research Brief, p. 6.

<sup>36</sup>RAND Research Brief, p. 6.

<sup>37</sup>Some leaders may view homosexuality as wrong—for example, former Chairman of the Joint Chiefs, General Peter Pace, “believe[d] that homosexual acts are immoral.” Quoted in “Top general: Remarks on gays were ‘personal moral views,’” CNN.com, 14 March 2007, <http://www.cnn.com/2007/US/03/13/gays.military/index.html> (accessed 14 December 2009).

anything like “sensitivity training,” as has been suggested by other recent articles.<sup>38</sup> As RAND advises, “[e]mphasis should be placed on conduct, not on teaching tolerance or sensitivity. For those who believe that homosexuality is primarily a moral issue, efforts to teach tolerance would simply breed more resentment.”<sup>39</sup>

Instead, the focus should be on establishing “clear norms that sexual orientation is irrelevant to performing one’s duty and that everyone should be judged on his or her own merits.”<sup>40</sup> Moreover, training should emphasize “all sexual harassment is unacceptable regardless of the genders or sexual orientations of the individuals involved.”<sup>41</sup> Furthermore, training should include other specific guidelines—such as Britain’s implementation guidance which advised “a person’s sexual orientation is to be considered a private matter, and every servicemember has a right to personal privacy,” reminding personnel to “[r]espect that right, and do not try to make their private business your concern.”<sup>42</sup> Educational efforts should also include clear direction, such as a focus on professional conduct by all, as already discussed. Finally, in anticipation of potential violence against known homosexuals in the military, training should emphasize that perpetrators of violence of any kind will be punished quickly and appropriately. In sum, training and education must clearly (and simply) communicate the new policy’s expectations and what it means to each military member, focusing on characteristics that *unite*, rather than what separates.

### **Manpower Considerations**

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<sup>38</sup>Recent articles include Om Prakash’s “The Efficacy of Don’t Ask, Don’t Tell” published in *Joint Forces Quarterly*.

<sup>39</sup>RAND Research Brief, p. 6.

<sup>40</sup>House of Representatives Committee on Armed Services, “Policy Implications of lifting the ban on homosexuals in the military.” 103<sup>rd</sup> Congress, First Session, May 1993, p. 247.

<sup>41</sup>*Ibid*, p. 247.

<sup>42</sup>Aaron Belkin and R.L. Evans. *The Effects of Including Gay and Lesbian Soldiers in the British Armed Forces: Appraising the Evidence*. The Center for the Study of Sexual Minorities in the Military, University of California at Santa Barbara, November 2000, p. 27.

Although our allies did not experience great difficulties within their militaries, and data from a 2006 survey of U.S Iraq and Afghanistan war veterans shows “declining support” for the homosexual ban,<sup>43</sup> it is still prudent to plan for internal resistance. To this end, there are several resource issues that should be considered. For example, the DoD’s EO and SARC programs may require augmentation to deal with the potential increase in sexual harassment and EO-related complaints resulting from homosexuals serving openly. While homosexual-related complaints occur now, it is realistic to anticipate a temporary increase once the threat of involuntary discharge is lifted. As an integral part of change implementation, these organizations can appropriately deal with any lapses in performance by service members (both homosexual and heterosexual) and these functions can also provide critical commander support if adequately staffed.

Furthermore, support agencies such as the chaplaincy and medical community could require help depending on the reaction of the force. Although the DoD approach should emphasize behavioral issues, this topic has spiritual and moral belief implications that need consideration. In terms of religious counseling, even though a chaplain “would not be required to preach something that he did not believe as a part of remaining in the chaplaincy,”<sup>44</sup> this community could face significant challenges as it seeks to minister to all members of the force. Additionally, frequency of homosexual-related medical issues may cause an uptick in readiness challenges if homosexual conduct is no longer prohibited. While HIV testing is already a part of medical screening for all service members, a new non-discriminatory homosexual policy could still have a negative impact. In response, additional screening, targeted medical care, and

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<sup>43</sup>Bonnie Moradi and Laura Miller, “Attitudes of Iraq and Afghanistan War Veterans towards Gay and Lesbian Service Members,” *Armed Forces and Society*, October 2009.

<sup>44</sup>House of Representatives Committee on Armed Services, “Policy Implications of lifting the ban on homosexuals in the military.” 103<sup>rd</sup> Congress, First Session, May 1993, p. 170.

additional HIV medications may be required—and the medical community should be manned accordingly.

Another important issue deals with reinstatement of individuals previously discharged under the current DADT law, particularly since the proposed House bill calls for “re-accession of otherwise qualified persons.”<sup>45</sup> Given this, the Services should examine homosexual discharge cases since 1993 and begin determining personnel procedures for reinstatement now. The Services should also collect data regarding career fields in which these individuals served, and begin formulating where and how they can be utilized in a way that benefits both the Service and the returning service member. DoD should note Britain successfully invited, integrated, and re-accessed previously-separated members. After ensuring the individual’s qualifications, security clearance, and fitness for duty, the candidate was then reinstated in fields where military personnel were needed, and on-the-job or other training programs were used to establish job currency.<sup>46</sup>

Finally, DoD cannot ignore the possibility of a “mass exodus”—or at least a significant number of currently serving personnel deciding to separate or retire early because of the policy change. Other foreign militaries expected it based on vocal resistance prior to implementation, and even though it did not materialize, the U.S. could certainly be different, particularly in the higher ranks of its military. In fact, 1,152 retired flag and general officers have communicated concerns regarding DADT repeal,<sup>47</sup> which could indicate significant resistance in *current*

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<sup>45</sup>US House. *Military Readiness Enhancement Act of 2009*. 111<sup>th</sup> Cong., 1<sup>st</sup> sess., H.R. 1283. *Congressional Record*, 3 March 2009, Section 4e.

<sup>46</sup>Craig Jones, Lieutenant Commander, Royal Navy (retired), Member of the Order of the British Empire, Interview with author, 19 January 2010.

<sup>47</sup>“Flag and General Officers for the Military: Supporting the 1993 law that Protects Morale and Readiness,” <http://www.flagandgeneralofficersformilitary.com/> (accessed 8 February 2010).

leadership as well.<sup>48</sup> To manage this risk, DoD leaders must communicate with the entire force early and often, as well as reiterate themes such as fair and equitable standards for all, and DoD-wide expectations for professional conduct. Focusing on leadership support at the intermediate level and what it means to them professionally is also important: the “next layer of leaders, those who actually must implement the new rules, [must] come to identify their enforcement of the new policy *with their own self-interest* as institutional leaders.”<sup>49</sup>

Interestingly, in addition to a concerted effort by military leadership to prevent any mass exodus, the presently weakened economy may actually be an asset in dealing with the repeal of DADT. Even though RAND warned of negative impacts on recruiting and retention, it is realistic to predict current economic concerns could mitigate those effects, not to mention those that *do* resign or choose not to reenlist are more easily replaced in an era of record enlistment resulting from the new Post 9/11 G.I. Bill, a steady paycheck, training, and other benefits.<sup>50</sup> Moreover, those retained will likely adhere to the new rules rather than risk discharge or disciplinary action, particularly given fear of unemployment in the currently challenging job market.

However, a potential still exists that members may depart because their belief system will not allow them to adjust to the new policy, or to make a statement. DoD should be prepared for this possibility, but such departures should not change an approach which incorporates an emphasis on professional conduct.

### **Facility Considerations**

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<sup>48</sup>For example, current Marine Corps commandant, General James T. Conway, has been the “most outspoken opponent” of repeal. Rowan Scarborough, “Marine Leads ‘Don’t Ask, Don’t Tell’ Fight,” *Washington Times*, 2 November 2009.

<sup>49</sup>Nathaniel Frank, *Unfriendly Fire*, p. 166 [emphasis added].

<sup>50</sup>Lizette Alvarez, “More Americans Joining Military as Jobs Dwindle,” *New York Times*, 18 January 2009, <http://www.nytimes.com/2009/01/19/us/19recruits.html> (accessed 14 December 2009).

Another resource consideration mentioned in other literature stated “dorm and facility upgrades would be needed.”<sup>51</sup> While such upgrades would certainly be worth *considering* since the most common concern for heterosexuals is related to sharing accommodations (such as showers, bathrooms, and dormitories) with homosexuals,<sup>52</sup> the significant monetary costs and potential fairness concerns make it critical to look carefully at all sides. For example, DoD should note the United Kingdom chose *not* to make any facility adaptations to accommodate homosexuals and the negative reaction was only short-term.<sup>53</sup> Additionally, in Israel, rather than alter facilities, “gay soldiers are assigned to open bases, allowing them to commute to and from home and sleep at their own homes rather than in barracks.”<sup>54</sup>

In this regard, the U.S. military must be particularly wary of special treatment—if homosexuals receive better facilities or special accommodations it would only exacerbate potentially contentious integration issues and undermine cohesion and morale. Moreover, creating separate facilities or special quarters policies for homosexuals would theoretically require homosexuals to declare their orientation—a concept directly contrary to the proposed law’s intent. In addition to cautions about special treatment, one could argue current U.S. military facilities are already adequate—with the exception of Navy ships and some Marine Corps bases, most enlisted dormitories are at (or projected for) at least the “1+1 standard” which includes separate living quarters with a shared bathroom and kitchen.<sup>55</sup> Also, most locations,

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<sup>51</sup>Reference Om Prakash’s “The Efficacy of Don’t Ask, Don’t Tell” published in *Joint Forces Quarterly*.

<sup>52</sup>Aaron Belkin and R.L. Evans. *The Effects of Including Gay and Lesbian Soldiers in the British Armed Forces: Appraising the Evidence*. The Center for the Study of Sexual Minorities in the Military, University of California at Santa Barbara, November 2000, p. 38.

<sup>53</sup>*Ibid.*, p. 39.

<sup>54</sup>Aaron Belkin and Melissa Levitt. “Homosexuality and the Israel Defense Forces: Did Lifting the Gay Ban Undermine Military Performance?” *Armed Forces & Society* 27, no. 4 (Summer 2001), p. 553.

<sup>55</sup>“Base housing: Barracks and dormitories,” Army Times.com, [http://www.armytimes.com/benefits/housing/online\\_hbml08\\_housing\\_barracks/](http://www.armytimes.com/benefits/housing/online_hbml08_housing_barracks/) (accessed 14 February 2010).

even in Iraq and Afghanistan, already use privacy measures such as stalls separating common-use showers and bathrooms.

Lastly, it is accepted as fact that *homosexuals already serve in today's Armed Forces* and there are no issues with the facilities currently available. Nor is there “valid scientific evidence to indicate that gay men and lesbians are less able than heterosexuals to control their sexual or romantic urges”<sup>56</sup> and “[a]cknowledged homosexuals very seldom challenge the norms and customs of their organizations.”<sup>57</sup> Given this, if facilities are not an issue now, they should not be after the ban is lifted. Now, if just *knowing* someone is homosexual, or if the real issue is that heterosexuals simply do not like or are threatened by homosexuals, perhaps the right way to deal with such discomfort or any resulting inappropriate behavior is via sexual harassment or educational channels and the chain of command. Within such channels, it remains an issue of professional behavior, not special accommodation.

In summary, good order and discipline, ensured through leadership, is what will make the transition work—much more than “walls and stalls.” Consequently, repeal of DADT should not necessarily require special facilities accommodations—particularly given the enormous costs—but DoD should look closely *now* to consider all sides of the argument.

### **Internal Process Changes & Other Policy Considerations**

Upon the ban's repeal, DoD's most obvious internal tasks are to rewrite or adjust directives, instructions, and regulations, and task subordinate Services to do the same. In fact, proposed legislation already includes a blanket statement to this effect: “[n]ot later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall revise Department of Defense regulations” and each military department must revise their regulations “not later than

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<sup>56</sup>House of Representatives Committee on Armed Services, “Policy Implications of lifting the ban on homosexuals in the military.” 103<sup>rd</sup> Congress, First Session, May 1993, p. 245.

<sup>57</sup>RAND Research Brief, p. 2.

180 days after the date of enactment.”<sup>58</sup> This relatively short timeline makes it prudent for DoD to take stock of documents requiring edits now—while the repeal is being debated. It is an easy step and enables a timely plan of action.

It is important to note the proposed bill does *not* address revision of the punitive articles of the Uniform Code of Military Justice (UCMJ). The UCMJ is a federal law, enacted by Congress, and the law requires the Commander-in-Chief to implement the provisions of the UCMJ. The president does this via an executive order known as the Manual for Courts Martial. If the DADT repeal bill becomes law, it follows that Article 125 (Sodomy), Article 133 (Conduct Unbecoming an officer and gentleman) and Article 134-4 (General Article--Assault) would need to be aligned with the new law, since arguably these articles could no longer be legitimately enforced under a homosexual anti-discrimination policy.

Another internal consideration is to prepare for possible lawsuits from previously-separated homosexual service members. It is realistic to anticipate an increase in litigation, particularly if the DoD continues to discharge military members while the DADT policy is under review. Interestingly, the British Ministry of Defence discharged their last homosexual three days prior to lifting of their ban in 2000, resulting in additional negative press and litigation.<sup>59</sup> So, the U.S. should consider *now* whether or not to place current discharge cases on hold to preclude issues after repeal.

In addition to the considerations above, a broad range of personnel policies must be reviewed in the wake of DADT repeal to determine if any policies include discriminatory language. For example, Service fraternization policies appear to remain relevant in any post-

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<sup>58</sup>US House. *Military Readiness Enhancement Act of 2009*. 111<sup>th</sup> Cong., 1<sup>st</sup> sess., H.R. 1283. *Congressional Record*, 3 March 2009, Section 7.

<sup>59</sup>Interview with Lieutenant Colonel Greg A. Brown, U.S. Air Force, Office of Secretary of Defense Personnel & Readiness. Interview by author, 13 October 2009.

DADT world, with the exception of those paragraphs specifically addressing the current homosexual policy.<sup>60</sup> However, with regards to assignment policies, while military members could argue that homosexuals should be restricted from serving in certain career fields more likely to experience austere or close-knit living conditions (such as infantry, Ranger or Marine units), the proposed bill specifically prohibits any personnel policy, including selections for duty assignments, on the basis of sexual orientation in whole or in part.<sup>61</sup>

Finally, if the proposed bill is altered to include dependent benefits, given that some states allow same-sex marriages,<sup>62</sup> several other recommendations will need to be considered at some point, such as medical benefits, insurance, and survivor benefits, to name a few. Even though the federal government is not held to such state laws, repeal could just be a “foot in the door” and lead to dependent benefits as the next step of legislation. Either way, DoD should at least think about this possibility, since the monetary and policy impacts would be significant. In sum, the DoD must embark on an enterprise-wide review of its policies to ensure they meet the new law’s intent—and consider possible future challenges.

### **Implementation Timeline**

*I think it’s important, as we look to this change, that it be done in a way that doesn’t disrupt the force at a time where it’s under a lot of stress. And that, to me, means in a measured, deliberate way, over some time – to be determined. – Admiral Mullen, chairman, Joint Chiefs of Staff<sup>63</sup>*

While some could argue a gradual change may be more palatable because of current operations tempo (as the Chairman states above), or because military culture does not change quickly and its customs are formed over generations, it is important to note it has already been

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<sup>60</sup>Ibid.

<sup>61</sup>US House. *Military Readiness Enhancement Act of 2009*.

<sup>62</sup>Massachusetts, Connecticut, California, Iowa, Vermont, and New Hampshire issue marriage licenses to same-sex couples; Rhode Island, New York, District of Columbia recognize same-sex marriages from other states; New Jersey allows civil unions. National Conference of State Legislatures website, Same Sex Marriage, Civil Unions and Domestic Partnerships, <http://www.ncsl.org/IssuesResearch/HumanServices/SameSexMarriage/tabid/16430/Default.aspx> (accessed 8 February 2010).

<sup>63</sup>Rowan Scarborough, “Marine Leads ‘Don’t Ask, Don’t Tell’ Fight,” *Washington Times*, 2 November 2009, p. 1

more than 16 years since DADT was implemented. In other words, in a way, it has already *been* a gradual change.

Regardless, if the homosexual ban is lifted by passage of a law, the DoD may not have a choice in its timeline. The law may be directive and specific—the proposed bill’s regulation rewrite timelines are a case in point. But even if there is a choice, most change experts recommend establishing a “sense of urgency” as the organization embarks on change and puts together its vision and strategy for implementation.<sup>64</sup> RAND also recommended immediate rather than gradual implementation as “[a]ny sense of experimentation or uncertainty invites those opposed to change to continue to resist it.”<sup>65</sup> Since military members may feel like their “turf” is being invaded, leaders at all levels need to understand these concerns and communicate the policy change benefits heterosexuals too, because it hinges on professional standard of conduct for all. Still, leaders should *not* expect fundamental attitude changes towards homosexuals (or homosexuality) regardless of timeline, even well after the change is implemented—but they must insist on adherence to the new rules and professional behavior from all service members.

Lastly, to ensure implementation is progressing as planned, the DoD must solicit feedback via hotlines, climate surveys, unit assessments, and possibly DoD-hosted conferences to identify and address issues during implementation. The DoD must also closely monitor retention and recruiting trends to determine the policy change’s impact, if any.

## **Conclusion**

*Today’s integrated force is the product of many years of effort, constant monitoring, and the sustained commitment of civilian and military leaders.*<sup>66</sup>

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<sup>64</sup>John P. Kotter, *Leading Change*, Harvard Business School Press, Boston, Massachusetts, 1996, p. 21.

<sup>65</sup>RAND Research Brief, p. 6.

<sup>66</sup>RAND Research Brief, p. 3.

The U.S. military is the strongest in the world, and if required by law, it is capable of integrating homosexuals as other countries have successfully done. The key in implementing a DADT repeal will be for the DoD to plan now and smartly implement any change to the existing policy, by being proactive, emphasizing professional conduct, implementing the change with visible support from senior leaders, utilizing robust training and education programs, considering manpower and facility ramifications, and leaning forward to make policy and regulatory changes required by the new law. Doing these things, particularly with a sustained leadership commitment mentioned in the quote above, can help ensure U.S. military readiness and cohesion remains intact in the midst of such a significant change. With a repeal of DADT likely in the not-too-distant future, the DoD must be *more* ready than not—the American people and its government expects and deserves nothing less.

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