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## A DEATH KNELL FOR “DON’T ASK, DON’T TELL.”

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The U.S. military’s so-called “don’t ask, don’t tell” policy, which prohibits homosexual personnel from serving openly in the uniformed Services, is frequently mentioned when President Barack Obama’s Democratic base complains that he has not kept his campaign promises.<sup>1</sup> In his State of the Union address last week, President Obama vowed to “work with Congress and our military” to repeal the “don’t ask, don’t tell” law.<sup>2</sup> While no legislative action on the subject is expected anytime soon, the U.S. military—specifically the Joint Chiefs of Staff—will probably eventually be asked to testify before Congress about the impact of changing the law. If they believe the law should remain, they will have to offer compelling evidence of the deleterious effects repeal will have on the force or start preparing now for inevitable repeal. It would seem insufficient for the Joint Chiefs of Staff simply to contend that the current wartime footing argues against repeal at this time. That position might be right, but that contention will only delay repeal, not prevent it. If they state that there will be adverse effects on the force, but say they will nonetheless implement a change in policy and that the force will survive—which may be a reasonable view—they should expect to see the law repealed. The policy could remain in place, however, with objections on the grounds—if they can be proven—that integration of openly-homosexual individuals will break the fabric of the military and devastate its effectiveness as a fighting force.

Resistance to repeal of the policy during wartime is understandable. The U.S. military is already under significant stress; adding the integration of openly-homosexual personnel into that mix can be seen as unnecessarily adding to the military’s great responsibility of prosecuting two increasingly unpopular wars. The point about not taking such action in wartime, though, is weak and not supported by historical precedent. Armies regularly transform during wartime, even with social actions. One example might be how the role of women in the military expanded significantly during World War II, but the classic example in this regard is probably desegregation of the U.S. military during the Korean War. President Harry Truman signed Executive Order 9981 in 1948, officially desegregating the U.S. military forces. The order was issued in peacetime—just a few years after the end of World War II—but was not thoroughly implemented until the Korean War began making significant personnel demands on a still-segregated Army. Truman was responsible for some of the

delay because he did not establish a timeline for implementation; instead, he directed that the policy would be implemented “as rapidly as possible . . . without impairing efficiency or morale.”<sup>3</sup> The Army and the other Services were reluctant to implement the President’s policy until the manpower demands of the Korean War forced their hands.

Some will claim that the differences between race, gender, and sexual orientation are too dramatic for this example to be used to support this latest round of integration. However, what is important is the social phenomenon of integration. The Joint Chiefs of Staff might argue that the integration task is too difficult. The factors—race, gender, or sexual orientation—are somewhat secondary to that argument. A contemporary argument that the stress placed on the Services by the current wars is too demanding to allow for the integration of openly-homosexual Service members does not hold water any better than past arguments against racial or gender integration.

If the Joint Chiefs state that the change can be made without destroying the morale of the force, they would effectively be saying that they will support—perhaps reluctantly—the change in the policy. The Congress could then decide that the time is right to repeal the 1993 legislation, and the President could expect that there would be no exodus of senior military leaders because of it.

The Military Readiness Enhancement Act would replace “don’t ask, don’t tell” with a policy forbidding discrimination on the basis of sexual orientation. That proposed legislation, led by Iraq war veteran Representative Patrick Murphy (R-PA), already has 186 co-sponsors in the House of Representatives.<sup>4</sup> While legislative action is probably not imminent—and unilateral executive action is proscribed by the law—the handwriting appears to be on the wall. The military leadership—as well as their civilian leaders—should take a firm and convincing stand on whether military service is incompatible with homosexuality. Regardless of the position taken, it would be prudent to start preparing now to implement a policy that allows openly-homosexual persons to serve.

There are significant issues associated with the integration of openly-homosexual people into the force. Examples include what to do about housing, applying benefits to homosexual partners and even the dissonance created in the force when, for example, chaplains—as a matter of ecclesiastical requirements—preach about the spiritual and moral dangers of a behavior that is protected. These issues need some prompt attention if homosexual integration is to proceed more quickly and more smoothly than did the integration of women and black men into the force. The foot-dragging during the years after President Truman issued his desegregation order was shameful; the principle of civilian control of the military—or simply the principle of following lawful orders—mandates prompt obedience, even to distasteful policies.

If the nation’s senior military leaders truly believe that homosexuality is incompatible with military service, they should act now to marshal any facts that would support that position. An examination of the perceptions of the morality of the homosexual lifestyle and how those perceptions might play out within the Armed Forces might be appropriate areas of inquiry and analysis. However, the necessary factual basis may not

exist in enough substance to prevent repeal. As suggested above, even if the leaders believe that homosexuality is incompatible with military service, they should still act now to prepare the force to follow the guidance of the civilian leaders who properly make these decisions.

## ENDNOTES

1. Examples of complaints about President Obama not living up to his campaign promises on health care, ending the war in Iraq and Afghanistan, and the repeal of "don't ask, don't tell" are abundant. One of the latest examples is Paul Harris, "Barack Obama attacked by Democrat rebel over US healthcare reforms," *The Observer*, January 10, 2010, p. 36, available from [www.guardian.co.uk/world/2010/jan/10/obama-attack-democrats](http://www.guardian.co.uk/world/2010/jan/10/obama-attack-democrats). "Don't ask, don't tell" is simply the popular name of the legislation. Timothy A. Clark, "Revisiting 'Don't Ask, Don't Tell,'" *Time.com*, July 23, 2008, available from [www.time.com/time/nation/article/0,8599,1825801,00.html](http://www.time.com/time/nation/article/0,8599,1825801,00.html). The actual policy is entitled "Policy Concerning Homosexuality in the Armed Forces" and is part of the National Defense Authorization Act for Fiscal Year 1994, available from [thomas.loc.gov/cgi-bin/query/F?c103:1.:/temp/~c103dhciPx:e828](http://thomas.loc.gov/cgi-bin/query/F?c103:1.:/temp/~c103dhciPx:e828).

2. President Obama said, "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." "Text: Obama's State of the Union Address," *New York Times*, January 27, 2010.

3. Executive Order 9981, July 26, 1948, "Establishing the President's Committee on Equality of Treatment and Opportunity in the Armed Services," Harry S Truman Library & Museum, available from [www.trumanlibrary.org/9981.htm](http://www.trumanlibrary.org/9981.htm). In 1948, President Truman also signed into law the Women's Armed Services Integration Act, increasing the opportunities for women to serve in the Armed Forces outside of wartime. Bettie J. Morden, "The Women's Army Corps, 1945-1978," Army Historical Series, Washington, DC: Center of Military History, 2000, p. 55.

4. H.R. 1283, "Military Readiness Enhancement Act," a copy of which may be found at Representative Murphy's website, [www.patrickmurphy.house.gov/](http://www.patrickmurphy.house.gov/).

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