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Don't Ask, Don't Tell: Is the Gay Ban Based on Military Necessity?

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Ten years ago, President Bill Clinton, the US Congress, and much of the nation were swept up in a monumental debate on whether or not acknowledged gays and lesbians would be allowed to serve in the US military. Having promised in his campaign to extend this civil right to gays and lesbians, Clinton faced a difficult challenge when he attempted to fulfill his pledge, opposed as he was by the Joint Chiefs of Staff and prominent members of Congress, like Senator Sam Nunn. In spite of their opposition, Clinton pressed on, and on 29 January 1993, he suspended the former policy that banned gay and lesbian personnel from service outright. Initiated by President Carter and implemented by President Reagan, this policy had been under attack by gay and lesbian military personnel since its inception as discriminatory,¹ and Clinton intended to formulate a new policy that would be more tolerant of sexual minorities in the US military and preserve military effectiveness.²

Over the next six months, Congress held numerous hearings on this issue and ultimately included a new policy on homosexual soldiers in the 1994 National Defense Authorization Act, commonly referred to as “Don’t Ask, Don’t Tell.”³ Billed by many as a compromise, “Don’t Ask, Don’t Tell” has been the subject of much criticism by both experts and activists, who view it as an imperfect solution to the problem it tried to solve ten years ago.⁴ In many ways, it was a politically expedient policy that pleased no one, and on its ten-year anniversary, perhaps it deserves to be revisited and evaluated in light of the impressive amount of evidence that scholars and experts have gathered about this issue in the interim.

According to “Don’t Ask, Don’t Tell,” known homosexuals are not allowed to serve in the US armed forces. Unlike the previous policy, “Don’t Ask, Don’t Tell” does not allow the military to ask enlistees if they are gay, but similar to its predecessor, it does stipulate that service members who disclose that they are homosexual are subject to dismissal. The official justification for the current policy is the unit cohesion rationale, which states that military performance would decline if known gay and lesbian soldiers were permitted to serve in uniform.⁵ While scholars and experts continue to disagree whether lifting the ban would undermine military performance in the United States, evidence from studies on foreign militaries on this question suggests that lifting bans on homosexual personnel does not threaten unit cohesion or undermine military effectiveness. As imperfect an analogy as these countries’ experience may be to the United States, they serve as the best possible vantage point from which to evaluate the viability and necessity of “Don’t Ask, Don’t Tell.”

Currently, 24 nations allow gays and lesbians to serve in their armed forces, and only a few NATO members continue to fire homosexual soldiers. Despite the growing number of countries that have decided to allow gays and lesbians to serve in uniform, however, there has been little in-depth analysis of whether the lifting of a gay ban influences military performance. Even the best and most recent case studies of foreign countries are based on little evidence. Most were written in the immediate aftermath of a decision to lift a gay ban without waiting for evidence on the effects of the new policy to accumulate.

The lack of in-depth analysis of foreign experiences in lifting bans on homosexual personnel prompted the Center for the Study of Sexual Minorities in the Military (CSSMM) to examine four cases in detail: Australia, Canada, Israel, and Britain.⁶ CSSMM researchers focused on these countries because all four lifted their gay bans despite opposition from the military services; because the United States, Australia, Canada, and Britain share important cultural traditions; because the Israel Defense Forces are among the most combat-tested militaries in the world; and because prior to lifting its ban, Britain’s policy was often cited as support for those opposed to allowing homosexual personnel to serve openly in the United States. To prepare the case studies, every identifiable pro-gay and anti-gay expert on the policy change in each country was interviewed, including officers and enlisted personnel, ministry representatives, academics, veterans, politicians, and nongovernmental observers. During each interview, experts were asked to recommend additional contacts, all of whom were contacted. By the end of our re-

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search, 104 experts were interviewed and 622 documents and articles were examined. Although it is possible that additional data exist, CSSMM believes that the findings reflect a comprehensive appraisal of all relevant evidence.

Lessons from Australia, Canada, Israel, and Britain

Each of the four countries studied reversed its gay ban for different reasons. In Canada, federal courts forced the armed forces to lift the ban in October 1992, ruling that military policy violated Canada's Charter of Rights and Freedoms. In Australia, the liberal government of Prime Minister Paul Keating voted to lift the ban in November 1992 as the country was integrating a number of international human rights conventions into its domestic laws and codes. In Israel, the military lifted its ban in June 1993 after dramatic Knesset hearings prompted a public outcry against the armed forces' exclusion of gay and lesbian soldiers. And in Britain, in September 1999, the European Court of Human Rights ruled that Britain's gay ban violated the right to privacy guaranteed in the European Convention on Human Rights, and London reacted by lifting the ban in January 2000. Despite the different routes that led to the policy change in each country, the lessons drawn from each case were the same.

No Impact

Not a single one of the 104 experts interviewed believed that the Australian, Canadian, Israeli, or British decisions to lift their gay bans undermined military performance, readiness, or cohesion, led to increased difficulties in recruiting or retention, or increased the rate of HIV infection among the troops.

In a 1985 survey of 6,500 male soldiers, the Canadian Department of National Defence found that 62 percent of male service members would refuse to share showers, undress, or sleep in the same room as a gay soldier, and that 45 percent would refuse to work with gays. A 1996 survey of 13,500 British service members reported that more than two-thirds of male respondents would not willingly serve in the military if gays and lesbians were allowed to serve. Yet when Canada and Britain subsequently lifted their gay bans, these dire predictions were not confirmed.

In Australia, Commodore R. W. Gates, whose rank is equivalent to a one-star admiral, remarked that the lifting of the ban was "an absolute non-event."⁷ Professor Hugh Smith, a leading academic expert on homosexuality in the Australian military, observed that when the government ordered the military to lift the ban, some officers said, "Over my dead body; if this happens I'll resign." However, Smith said that there were no such departures and that the change was accepted in "true military tradition."⁸ Bronwen Grey, an official in the Australian Defence Ministry, reported, "There was no increase in complaints about gay people or by gay people. There was no known increase in fights, on a ship, or in Army units. . . . The recruitment figures didn't alter."⁹

In Canada, Steve Leveque, a civilian official in the Department of National Defence, commented that including gays and lesbians in the Canadian Forces is “not that big a deal for us. . . . On a day-to-day basis, there probably hasn’t been much of a change.”¹⁰ A 1995 internal report from the Canadian government on the lifting of the ban concluded, “Despite all the anxiety that existed through the late 80s into the early 90s about the change in policy, here’s what the indicators show—no effect.”¹¹

In Israel, Stuart Cohen, a professor at the Center for Strategic Studies who is recognized as a leading expert on the Israel Defense Forces, remarked, “As far as I have been able to tell, homosexuals do not constitute an issue [with respect to] unit cohesion in the IDF. In fact, the entire subject is very marginal indeed as far as this military is concerned.”¹² Reuven Gal, the director of the Israeli Institute for Military Studies, wrote, “According to military reports, [homosexuals’] presence, whether openly or clandestinely, has not impaired the morale, cohesion, readiness, or security of any unit.”¹³

An internal government report that appraised the British change in policy characterized it as a “solid achievement . . . with fewer problems than might have been expected.”¹⁴ The assistant chief of the navy staff, Rear-Admiral James Burnell-Nugent, concurred: “Although some did not welcome the change in policy, it has not caused any degree of difficulty.”¹⁵ Overall, the report suggests that “there has been a marked lack of reaction” to the issue of including homosexual personnel in the British armed services.¹⁶

These reactions were typical of the comments made during the interviews with politicians, academic experts, non-profit observers, ministry officials, veterans, active-duty officers, and enlisted soldiers. Even the leading opponents of allowing gays into the military concluded that the lifting of the bans did not damage the armed forces. In Australia, for example, spokesmen for the Returned and Services League, the country’s largest veterans’ group, had previously said that lifting the gay ban would jeopardize morale and military performance. Eight years after Australia’s 1992 decision to lift its ban, however, the President of the Returned and Services League, Major General Peter Philips, stated that gays in the military have “not been a significant public issue. The Defence Forces have not had a lot of difficulty in this area.”¹⁷ In addition, our review of 622 documents and articles revealed no evidence that the lifting of the gay bans undermined military performance, led to difficulties in recruiting or retention, or increased the rate of HIV infection.

Equal Standards and an Emphasis on Conduct

Military leaders of all four countries stressed their expectation of professional conduct from every service member regardless of sexual orientation or personal beliefs about homosexuality. And in each country military leaders issued regulations that held heterosexual and homosexual soldiers to the same standards. In Australia, for example, the 1992 Defence Instruction on Discrimi-

nation, Harassment, Sexual Offences, Fraternisation and other Unacceptable Behavior referred to unacceptable conduct without making a distinction between homosexuality and heterosexuality. Rather than define unacceptable conduct in terms of sexual orientation, the instruction prohibited any sexual behavior that undermined the group or took advantage of subordinates.¹⁸ As one Australian official said, “Our focus is on the work people do, and the way they do the work, and that applies to heterosexuals, bisexuals, and homosexuals.”¹⁹ In each case, although many heterosexual soldiers continue to object to homosexuality, the military’s emphasis on conduct and equal standards was sufficient for encouraging service members to work together as a team. As one Canadian military official reported, homosexuality is “a deeply moral issue and that is a real complication. . . . But our experience did not justify such apprehension. . . . Even though some have found it difficult, loyal members changed their behavior when the institution changed.”²⁰

While none of the four militaries studied attempts to force its service members to accept homosexuality, all four insist that soldiers refrain from abuse and harassment. In each case, the emphasis on conduct and equal standards seems to work. In Australia, for example, 25 out of 1,642 phone calls (1.52 percent) received on the Defence Ministry’s sexual harassment hotline between 1997 and 2000 involved homosexuality.²¹ In Canada, none of the 905 cases of sexual harassment that occurred in the three years after the ban was lifted involved “gay-bashing” or the sexual orientation of one of the victims.²² In Israel, the 35 experts, soldiers, and officers we interviewed were able to recall only a handful of cases involving harassment based on sexual orientation after the lifting of the gay ban.²³ In Britain, no military officials who were interviewed could think of a single case of gay-bashing or assault related to sexual orientation.²⁴

No Mass “Coming Out of the Closet”

In each of the four cases, most homosexual soldiers did not reveal their sexual orientation to their peers after the lifting of the gay ban. Before the lifting of the ban, some gay and lesbian soldiers already were known by their peers to be homosexual. Immediately after the policy change, more revealed their sexual orientation, yet the vast majority chose not to do so. As time passed, small numbers of gay and lesbian soldiers disclosed their sexual orientation; even so, most still refrain from acknowledging their homosexuality.

In Australia, for example, a 1996 report noted that three years after the lifting of the ban, only 33 homosexual soldiers were willing to identify themselves to the authors of the study.²⁵ In Canada, the Department of National Defence received only 17 claims for medical, dental, and relocation benefits for homosexual partners in 1998, six years after Canada lifted its ban.²⁶ Given the military’s own estimate that 3.5 percent of its personnel are gay or lesbian, the low figure suggests that service members may hesitate to out themselves by requesting benefits. The nine gay and lesbian service members from Canada who

were interviewed all described their professional personas as relatively private and discrete. While many confide in their close friends and invite their partners to military functions, they nonetheless do not feel the need to out themselves in any formal way. One lesbian soldier said that in the Canadian military, "Gay people have never screamed to be really, really out. They just want to be really safe from not being fired."²⁷ That being said, most of the currently serving members we spoke with believe that at least some members of their units know of their status as sexual minorities.

In Britain, military experts have observed a similar phenomenon in the British armed services. Since the lifting of the ban, most gay and lesbian soldiers have refrained from acknowledging their sexual orientation, reflecting their keen awareness of appropriate behavior in the military. As Professor Christopher Dandeker, Chair of the War Department at King's College, observed, "Most expect gay personnel to continue to be extremely discreet until attitudes within the services change further."²⁸

In Israel, most gay and lesbian soldiers kept their sexual orientation private before the lifting of the ban due to fears of official sanctions as well as ostracism from fellow soldiers. In 1993, Rafi Niv, a journalist who writes on gay issues, confirmed that "most gay soldiers I know are in the closet."²⁹ As more gay Israelis have grown comfortable about expressing their orientation in recent years, however, greater openness has been found in the military as well. Danny Kaplan and Eyal Ben-Ari, for example, conducted in-depth interviews with 21 gay IDF combat soldiers and found that five were known to be homosexual by at least one other member in their combat unit.³⁰ In 1999, one tank corps soldier reported, "In my basic training, people knew that I was gay and . . . there was one homophobe in my unit. . . . After that, I had nothing to be afraid of."³¹ While no official statistics exist on the number of known gay and lesbian soldiers in the IDF today, most of the experts we interviewed indicated that some gay and lesbians soldiers are known by their peers to be homosexual, that the majority remain in the closet, and that there has been a growing openness in the military in recent years.

The Relevance of Foreign Militaries for the United States

Are the experiences of foreign militaries that lifted their gay bans relevant for American policymakers? Experts who support the exclusion of homosexual soldiers from the US armed forces often claim that foreign military experiences are not applicable to the American case. They claim that homosexual soldiers receive special treatment in foreign militaries, that cultural differences distinguish the United States from foreign countries, and that no known gay and lesbian soldiers serve in foreign combat units. These claims are only partially accurate, and they do not invalidate the relevance of foreign experiences for US policymakers.

Advocates of the ban claim that although many nations allow homosexuals to serve in the armed forces, gay and lesbian soldiers receive special treatment in foreign countries. They suggest that even if the decision to allow known

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homosexuals to serve does not harm the military, the special treatment that gays and lesbians receive can undermine cohesion, performance, readiness, and morale. During a program on National Public Radio, Professor Charles Moskos said, “All countries have some kind of de facto and many actually legal restrictions on homosexuals. . . . Even [in] the Netherlands, the most liberal you might say of all western societies, when they had conscription, if a gay said he could not serve because it would not make him feel comfortable living so closely with men, he was excluded from the draft.”³²

None of the four militaries studied treats homosexuals and heterosexuals perfectly equally. Despite the lack of perfectly equal treatment, however, unequal treatment is rare, and most gay and lesbian soldiers are treated the same as their heterosexual peers most of the time. Most cases of unequal treatment consisted of local attempts to resolve problems flexibly. For example, some *heterosexual* soldiers in Israel are allowed to live off base or to change units if they are having trouble with their group, and some commanders allow heterosexual soldiers to shower privately. In other cases, unequal treatment consists of minor privileges accorded to heterosexuals, not special rights for gay and lesbian soldiers. Homosexual soldiers in the Australian and British militaries, for example, are not entitled to the same domestic partner benefits that heterosexuals receive.³³ In Israel, the military offered survivor benefits to a same-sex partner for the first time in 1997, but the same-sex survivor received less compensation than heterosexual widows and widowers.³⁴

Most important, there is no evidence to show that differential treatment undermined performance, cohesion, readiness, or morale. Indeed, most of the 104 experts who confirmed that the decisions of Australia, Canada, Israel, and Britain to lift their gay bans did not undermine performance also confirmed that the treatment of gays and lesbians has not been perfectly equitable in all cases. Despite their awareness that treatment has not been perfectly equitable at all times, however, all the experts agreed that lifting the gay bans did not undermine military effectiveness.

Some US experts who support the gay ban claim that important cultural differences distinguish the United States from other countries that allow known

homosexuals to serve. More specifically, they argue that unlike most other countries, the United States is home to powerful gay rights groups as well as large and highly organized conservative organizations. While no two societies are the same, the United States, Australia, Canada, and Britain share many cultural traditions, and gay rights issues are highly polarized in all four countries. In addition, Australian, Canadian, Israeli, and British cultures are rather homophobic, even though all four countries offer more legal protections to gays and lesbians than the United States. Just as Australian, Canadian, Israeli, and British cultures are not overwhelmingly tolerant of gays and lesbians, American culture is not completely intolerant. For example, recent Gallup polls show that 72 percent of Americans believe that gays should be allowed to serve in the military and that 56 percent of Americans believe that open gays should be allowed to serve.³⁵ Advocates of the gay ban who use cultural arguments to justify their position should do a better job of explaining why the cultural factors that distinguish the United States from the 24 nations that allow homosexuals to serve render our military uniquely incapable of integration.

More significantly, tolerant national climates are not necessary for maintaining cohesion, readiness, morale, and performance after the integration of a minority group into the military. It would not be possible for the numerous American police and fire departments that include known homosexuals to continue to function smoothly if a fully tolerant national climate were necessary for the maintenance of organizational effectiveness. When President Harry Truman ordered the US military to allow African American soldiers to serve on an equal basis, 63 percent of the American public opposed integration.³⁶ Without equating the experiences of sexual and racial minorities, the racial example shows that tolerant cultural climates are not necessary for maintaining combat effectiveness when minority groups are integrated into the armed forces.

Finally, supporters of the gay ban claim that no known gay and lesbian soldiers serve in foreign combat units, yet the findings from the CSSMM studies suggest that this argument is incorrect. Although the vast majority of gay combat soldiers in Australia, Canada, Israel, and Britain do not acknowledge their sexual orientation to peers, some known gays serve in combat units. In Australia, for example, an openly gay squadron leader, Michael Seah, said that he served actively in what is widely considered to be one of Australia's most combat-like and successful deployments in recent years—the United Nations peacekeeping operation in East Timor.³⁷ Another gay soldier commented, “Looking at the current operation in East Timor, I’ve got a number of gay and lesbian friends in an operational situation. I have served in Bougainville, and there is no problem.”³⁸

In 2000, a colleague and I administered a survey to 194 combat soldiers in the Israel Defense Forces that included the following question: “Do you know (or have known in the past) a homosexual or lesbian soldier in your unit?”³⁹ We found that 21.6 percent of respondents knew a gay peer in their unit, and an additional 19.6 percent indicated they may have known a gay peer in their unit. The

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important point is that even in combat units with known gay soldiers, we found no evidence of deterioration in cohesion, performance, readiness, or morale. Generals, ministry officials, scholars, and NGO observers all have said that their presence has not eroded military effectiveness.

Experts who use the low number of open gay combat troops in overseas militaries to underscore the irrelevance of foreign experiences believe that if the American ban is lifted, many gays and lesbians will reveal their sexual orientation. This belief is premised on the flawed assumption that culture and identity politics are the driving forces behind gay soldiers’ decisions to disclose their homosexuality. What the evidence shows is that personal safety plays a much more powerful role than culture in the decision of whether or not to reveal sexual orientation. For example, a University of Chicago study of American police departments that allow open homosexuals to serve identified seven known gays in the Chicago Police Department and approximately one hundred in the New York Police Department.⁴⁰ If American culture and identity politics were the driving forces behind decisions to reveal homosexuality, then there would be a large number of open gays in all American police and fire departments that allow homosexuals to serve. As Dr. Paul Koegel of the RAND Corporation explains, however, “Perhaps one of the most salient factors that influences whether homosexual police officers or fire-fighters make their sexual orientation known to their departments is their perception of the climate. . . . [T]he more hostile the environment, the less likely it was that people publicly acknowledged their homosexuality.”⁴¹

Since safety varies from organization to organization depending on whether or not leaders express clear support for integration, the number of open gays varies as well. As a result, Dr. Laura Miller, previously on the faculty of the UCLA Sociology Department and now with the RAND Corporation, argues that similar to the experiences of foreign militaries that lifted their bans, most homosexual American soldiers will not disclose their sexual orientation if the United States changes its policy unless and until it is safe to do so.⁴²

Base Policy on Evidence, Not Anecdotes

Defenders of “Don’t Ask, Don’t Tell” commonly offer two types of evidence to show that known gays and lesbians undermine military performance.

First, advocates of the ban point to anecdotes that involve gay misconduct. During his testimony before the Senate Armed Services Committee in 1993, for example, General Norman Schwarzkopf said, "I am aware of instances where heterosexuals have been solicited to commit homosexual acts, and, even more traumatic emotionally, physically coerced to engage in such acts."⁴³ Second, supporters of the ban point to numerous statistical surveys showing that heterosexual soldiers do not like gay soldiers. When asked during a debate on National Public Radio to provide hard evidence showing that open gays and lesbians disrupt the military, Professor Moskos said, "If you want data, we have survey data on this question and there is . . . a vehement opposition by the majority of the men. If that isn't data, I don't know what is."⁴⁴

Neither type of evidence shows that gays and lesbians undermine military performance. Anecdotal evidence can be used to prove almost any point by selecting stories that support a particular point of view. For example, it would be easy to blame left-handed people for undermining military performance by presenting ten anecdotes in which left-handed service members engaged in misconduct. Indeed, this stacking of the deck is precisely the strategy that former Senate Armed Services Committee Chairman Sam Nunn used during the 1993 hearings on gays in the military. When Nunn learned that the testimony of retired Army Colonel Lucian K. Truscott III would include accounts of open gay soldiers who had served with distinction, Nunn deleted Truscott from the witness list.⁴⁵ Anecdotes do not serve as evidence if they are chosen to reflect only one side of the story.

Just as anecdotal evidence does not prove that gay and lesbian soldiers undermine military performance, survey results are equally unconvincing. While surveys certainly show that heterosexual soldiers do not like gays and lesbians, dislike has no necessary impact on organizational performance. Hundreds of studies of military units, sports teams, and corporate organizations, summarized by Professor Elizabeth Kier in the journal *International Security*, indicate that whether group members like each other has no bearing on how well organizations perform. The overwhelming scholarly consensus is that the quality of group performance depends on whether group members are committed to the same goals, not whether they like each other.⁴⁶ In the 29 years since the Dutch military lifted its gay ban in 1974, no study has shown that any of the 24 nations that allow homosexual soldiers to serve in uniform has suffered a decline in performance.

For many years, advocates of the Pentagon's policy cited British arguments for excluding homosexual soldiers to justify their own position. Numerous British officers and Defence Ministry representatives claimed in public that the military would suffer if Britain lifted its ban. Yet as discussed above, when Britain ended its ban in 2000, the change in policy generated few difficulties and has continued to pose little problem. Given the US military's use of the British example to support its opposition to allowing gays and lesbians to serve openly, the military undermines its credibility by ceasing to cite Britain when the anecdote no longer conforms to the argument the United States wishes to make.

While no single case is decisive, the combined evidence from the 24 countries that allow gays and lesbians to serve shows that if the United States lifts its ban, American military performance will not decline. As was the case in Australia, Canada, Israel, and Britain, American military leaders can preserve military effectiveness after they lift the ban by holding all soldiers to the same professional standards and by insisting that regardless of personal beliefs about homosexuality, they expect professional conduct from all service members. As Dr. Nathaniel Frank wrote in *The Washington Post*, "Certainly the United States has more international obligations than other countries do. But the question is not how similar our missions are to those of other nations but whether the United States is any less capable than other nations of integrating gays into its military."⁴⁷

Perhaps it is time for the Administration, the Congress, and the Pentagon to reconsider the evidence that is used to justify the gay ban. Or, if political and military leaders remain unwilling to join most of the rest of NATO, they should at least have the integrity to admit that current American policy is based on prejudice, not on military necessity.

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9. Interview with Bronwen Grey, Director, Defence Equity Organisation, 17 August 2000.

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