

**This an excerpt of a book chapter by CMR President Elaine Donnelly titled “Defending the Culture of the Military,” published in May 2010 by the Air Force University Press as part of a book titled *Attitudes Are Not Free: Thinking Deeply about Diversity in the U.S. Armed Forces*. Footnotes are in sequence but different from the original text, which begins on page 249. The chapter is available at <http://books.google.com/books?id=5FnvJEclewC&lpg=PP1&pg=PA249#v=onepage&q&f=false>.**

### **Consequences of Repealing the 1993 Eligibility Law, Section 654, Title 10, U.S.C.**

Legislation to repeal the 1993 law, H.R.1283, was introduced in the 111th Congress by Rep. Ellen Tauscher (D-CA), who has been replaced as primary sponsor by Rep. Patrick Murphy (D-PA). The Murphy bill, which would apply retroactively, would forbid discrimination based on “homosexuality or bisexuality, whether the orientation is real or perceived.”

If Congress approves Congressman Murphy’s new lesbian, gay, bisexual, transgender (LGBT) law, commanders, mid-level career officers, and noncommissioned officers (NCOs) would be required to determine how the open-ended “real or perceived” legislative language would apply. Federal courts asked to interpret the new “nondiscrimination” paradigm are likely to extend it to all sexual minorities, including transgendered individuals perceiving themselves to be persons of the opposite sex.<sup>i</sup>

### **“Forced Intimacy” Unlike the Civilian World**

The new LGBT law would govern the lives of men and women in all military branches and communities, including Army and Marine infantry battalions, special operations forces, Navy SEALs, and submarines. Unlike civilians, in these communities military personnel do not return home at night after work. They must accept living conditions involving what the 1993 Eligibility Law describes as “forced intimacy,” offering little or no privacy.

A law mandating the inclusion of professed (not just discreet) homosexuals and bisexuals in this high-pressure environment, 24/7, would be tantamount to forcing female soldiers to share private living quarters with men. Such a situation would be unacceptable to the majority of military women even if actual assaults never occurred. Stated in gender-neutral terms, the military would require military *persons* to accept exposure to *persons* who may be sexually attracted to them.

We want and need women in our military, and personnel policies work best when they encourage discipline rather than indiscipline. This is why the military separates men from women in close quarters where there is little or no privacy, to the greatest extent possible. Sexual tension or misconduct of any kind is inherently disruptive whether it occurs on the romantic end of the behavioral spectrum or on the other end where harassment or sexual assaults occur.

The new nondiscrimination law requiring cohabitation with homosexuals or bisexuals, “whether the orientation is real or perceived,” would disregard what we know about men and women in the military. The imagined “gender-free” culture desired by theorists exists nowhere on Earth, except in Hollywood’s social science fiction movies.

Some advocates of gays in the military argue that modern military facilities provide more privacy than older ones, and even if people are exposed to sexual minorities in the field, younger people are used to it, and this is not a big deal.<sup>ii</sup>

But the armed forces are not a *Will & Grace* world, created by television sitcom writers for laughs. The issue involves sexuality and the normal human desire for personal privacy and modesty in sexual matters. Elitist arguments equating sexual differences with skin-deep, irrelevant racial differences stand in stark contrast with commonsense customs that are culturally routine.<sup>iii</sup>

Consider, for example, a typical family-oriented community recreation center that has separate locker rooms for men and women. Inside the entrance of the women’s locker room, a sign clearly states that boys of any age are not permitted. A similar sign regarding girls is posted in the men’s locker room.

The signs are there not as an affront to young boys (or girls). They are there because the community respects the desire for sexual modesty in conditions involving personal exposure to others using the same facility. This is so even though people using the recreation center visit for only an hour or two; they do not live and sleep there for months at a time.

Signs mandating racial segregation in the same community center would never be acceptable. Racial segregation has no rational basis; separation by gender does. Military volunteers deserve the same consideration.

### **Predictable Sexual Misconduct**

If repeal of the law forces the military to disregard basic human psychology, risks of demoralizing misconduct will escalate to include male/male and female/female incidents, in addition to those that already occur. Predictable tensions ensuing from this unprecedented and provocative social experiment would constantly increase the stress of daily life and generate the full range of emotional turmoil, accusations, and legal jeopardy that undermines individual and unit morale.<sup>iv</sup>

Some advocates of repeal try to end objective debate by accusing anyone concerned about these issues of somehow insulting the troops. The attempt at intimidation fails due to logic. Various types of sexual misconduct occur in the military because men and women are human and therefore imperfect. It is not an affront to anyone to state a simple fact: Human beings are not perfect, and homosexuals are no more perfect than anyone else.

## Equality in Elevated Risks

Activists demanding repeal of the law dismiss concerns about sexual misconduct by claiming that existing regulations against heterosexual misconduct can and will be equally applied to misconduct involving openly gay personnel. This is an unrealistic, elitist argument, which was addressed in a House Armed Services Committee Report:

The committee . . . heard a recommendation that the department should, as a matter of policy, enforce the Uniform Code of Military Justice [UCMJ] equally on heterosexuals and homosexuals. . . . The committee believes that such an eventuality is neither conducive to justice nor discipline. Violations of the [UCMJ] ought to be prosecuted on their individual merits, without an effort to compel the department to equalize prosecutions among groups of people, offenses, or artificially comparative categories.<sup>v</sup>

Reliance on “equal” prosecutions after the fact of harassment or worse would be small comfort to personnel forced to live in conditions that encourage inappropriate, passive/aggressive behavior conveying an unwelcome sexual message. Many women, both civilian and military (including this author), have experienced such behaviors, which are disturbing but do not involve physical assault that would spark disciplinary intervention or prosecution.

Members of Congress who have investigated and expressed outrage about such behavior when it involves women in the military should be among the first to anticipate and try to prevent predictable problems. Despite constant professional training and “leadership,” unwelcome sexual tension occurs and causes division in groups that need to be cohesive in order to be effective.

Brian Maue, PhD, an Air Force major and instructor at the Air Force Academy, addressed this issue in the *New York Times*. Dr. Maue pointed out that a sexual preference-mixed atmosphere in the military would create conditions comparable to what feminists describe as a “hostile work environment”:

Consider that the U.S. military does not allow swimsuit calendars in its workplaces because they can negatively affect the morale of female military members. . . . For example, if a female soldier was sexually uncomfortable with the way a male soldier looked at her, she or anyone who witnessed the situation could file a complaint, even if the man thought that his glance was not done in a sexually aggressive manner. . . .

Thus, if the morale of a heterosexual female military member can be negatively affected by a swimsuit calendar or by the behavior of a male soldier with no sexual interest in her, could she lodge a similar “hostile environment” complaint if she was forced to share a bathroom, a locker room or a bedroom (say, in a tent or in the barracks) with a lesbian soldier who has no sexual interest in her?

The military has traditionally prevented unnecessary privacy violations and complaints by separating men and women wherever privacy issues could arise. . . .

. . . Combining sexual preferences (i.e., lesbians with heterosexual women) would challenge American military commanders with privacy violations and dignity infractions that would reduce unit effectiveness.<sup>vi</sup>

Any attempt to “equalize” regulations between heterosexuals and sexual minorities would lead to constant inconsistencies, persistent doubts about appropriate sexual expression, and an incremental erosion of personal discipline standards.

### **Equal Enforcement and the Lt Col Victor Fehrenbach Case**

It is significant to note that many of the most outspoken advocates of gays in the military also demand the repeal of what they call “antiquated” provisions of the UCMJ that impose higher standards of personal conduct than exist in the civilian world.<sup>vii</sup> The highly publicized case of Air Force Lt Col Victor Fehrenbach, an 18-year F-15 weapons systems officer,<sup>viii</sup> demonstrates how “equality” might work to erode and eventually lead to the repeal of personal conduct sections of the UCMJ.

Colonel Fehrenbach became a public figure when he protested an honorable discharge resulting from his admission of homosexual conduct, which had been revealed by someone else. An investigative report in the 23 August 2009 *Idaho Statesman* revealed a more distasteful story relevant to the national debate.<sup>ix</sup>

Prior to the *Statesman* report, supporters tried to generate sympathy for Fehrenbach because he had been “outed” by a third party. That person turned out to be Cameron Shaner, a criminal justice student who told the Boise police that he met Victor Fehrenbach through a gay Web site. Shaner reportedly went to the aviator’s home on 12 May 2008, after Fehrenbach invited him with a text message and “stud” photographs.

According to the *Statesman*, Shaner did not explain why he “got naked” with Fehrenbach in a hot tub, but at 3:00 a.m. he called Boise police to report a sexual assault. Fehrenbach asserted that the encounter was consensual and was cleared of the rape charge, but his admission of homosexual conduct triggered discharge proceedings. Under the 1993 Eligibility Law, persons who engage in homosexual conduct at any time, on- or off-base, are not eligible for military service.

Colonel Fehrenbach deserves respect for participating in the 2003 liberation of Baghdad. The fact remains that despite provisions of the UCMJ (Article 131) that impose higher standards for “officers and gentlemen,” Fehrenbach showed very poor judgment.

One of Fehrenbach’s lawyers claimed that if his accuser had been a woman, “he’d have gone back to work with no further issue.” Dozens of former naval aviators whose

careers were ruined by the 1991 Tailhook scandal, some even without evidence of misconduct, certainly would disagree.<sup>x</sup>

Consider what would happen if a military officer posted nude photographs of himself and used Craigslist to obtain sex from an unknown woman who subsequently accused him of rape. Even if assault never happened, under the UCMJ that man's career would be over. Fehrenbach and his allies are demanding special treatment just because his conduct was homosexual rather than heterosexual. "Equal" enforcement would lower standards, weaken discipline, and vitiate the culture of the military.

If Rep. Barney Frank (D-MA) and other homosexuals successfully repeal what they call "antiquated" rules governing personal sexual conduct and make the UCMJ consistent with the proposed LGBT law, a wide range of personal conduct regulations would become a thing of the past. Special treatment for Fehrenbach, effectively permitting admitted misconduct if it is consensual, would define discipline down.

Regulations do not allow unmarried heterosexuals to live and sleep with persons of the opposite sex in military close quarters. How would it work if gays and lesbians get to share close quarters with "significant others," but heterosexual colleagues are denied the same comforts? Unit cohesion weakens when people pair off in sexual relationships, causing others to wonder where their primary allegiance lies.

### **Personal Reluctance to Report Sexual Tension or Physical Abuse**

When a female soldier reports an incident of sexual harassment or abuse, she enjoys the presumption of truthfulness. But under the new LGBT law, if a male soldier reports an incident of homosexual harassment or abuse, he will face the suspicion, if not the presumption, of unacceptable attitudes toward fellow soldiers who are homosexual.

Both male and female heterosexuals whose sexual privacy and values are violated by the new LGBT law will hesitate to file complaints, lest they be suspected or accused of prejudiced attitudes that violate the new "zero tolerance" policy favoring homosexuals in the military. Having no recourse, many will leave the all-volunteer force.

When problems occur, commanders will face the thankless burden of trying to find out what happened and who was responsible for what. Regardless of the he-said or she-said details, in emotionally charged disputes such as this, the consequences would be the same, tearing individual units apart.

There are many personal reasons why women hesitate to file complaints when unwanted sexual approaches occur—embarrassment, intimidation by a superior, fear of not being believed, and so forth. Heterosexual men confronted with the same type of approaches from other men would face all of the factors that deter women, plus the additional concern that a complaint might lead to questions about their own sexuality. Among men, such insinuations are considered "fighting words."

A March 2008 story in *Clinical Psychiatry News*, quoting speakers at an annual meeting of the International Society for Traumatic Stress Studies, reported that “male veterans who have a history of military sexual trauma often fail to disclose their condition until well into treatment for post-traumatic stress disorder, and have many motivations for covering up their problems.”<sup>xi</sup>

According to a special report in the *Florida Times* quoting Veterans Affairs psychologists, a unique program designed to counsel veterans, particularly men who were raped or sexually assaulted in the military, found that men are even more reluctant to report such incidents and subsequent problems than women are. “Military men do not report the attacks because they fear no one will believe them, their careers will be damaged, they will be labeled homosexuals or they will suffer retribution from the attackers or their commanders.”<sup>xii</sup>

In an article about male military sexual trauma (MST), Harvard Medical School psychology instructor Jim Hopper commented, “When they get assaulted, they’re unprepared to deal with their vulnerable emotions. They resist seeking help. They believe that their hard-earned soldier-based masculinity has been shattered.” Gay activists writing on favorite Web sites frequently deride or ridicule such concerns about personal privacy, berating anyone who even mentions the subject.<sup>xiii</sup>

## **Institutional Barriers to Full Disclosure of Problems**

A *Navy Times* editorial reported that incidents of male sexual assault often are underreported and may be more prevalent in the military than in other parts of society. *Navy Times* further reported that unlike the civilian judicial system, military courts do not offer a publicly accessible docket of pending court-martial cases. As a result, “military commanders release that information at will, giving them unmatched control over information that should be out in the open.”<sup>xiv</sup>

Two cases summarized below demonstrate the risks of sexual abuse that could occur, with little or no public notice, if the 1993 Eligibility Law is repealed.

**Navy Lt Cmdr John Thomas Lee.** Lt Cmdr J. T. Lee, a 42-year-old Catholic priest, was a Navy chaplain who tested positive for HIV, an indicator of AIDS, in 2005. Between 2003 and 2007, Chaplain Lee was assigned to counsel midshipmen at the US Naval Academy and Marines at Quantico, VA. According to court testimony and factual stipulations signed by Lee and Navy prosecutors, Lee committed numerous sexual offenses with a young midshipman, an Air Force lieutenant colonel, and a Marine corporal. His conduct was all the more reprehensible due to his undisclosed HIV-positive status and the betrayal of trust associated with his role as a priest and chaplain.<sup>xv</sup>

The *Washington Post* reported on 7 December 2007 that Lieutenant Commander Lee pleaded guilty to several serious charges, but nevertheless got off with a 12-year prison sentence reduced to two, with only 18 months to be served. The plea bargain effectively swept the case under the rug with little public awareness that the scandal even happened.

A surprisingly candid article in *Newsweek* stated that according to a 2007 report, up to 60 military chaplains were convicted or strongly suspected of committing sexual abuse over the past four decades, sometimes against the children of military personnel.<sup>xvi</sup> Studies suggest that sexual assault among military men is most prevalent among junior enlisted ranks.<sup>xvii</sup>

According to a recent *Navy Times* article about sexual misconduct, a Navy Department online survey of about 85,000 sailors and Marines found that reports of male-on-male sexual assaults have increased sharply, up to about 7 percent from 4 percent in 2004. Navy official Jill Loftus indicated that reasons for the increased reports were unclear, but resources for men experiencing sexual assault are few in comparison to those available to women. She added that some commanders of all-male units told Navy officials that they didn't need sexual assault training or coordinators because they assumed they were not needed with only men in their units. The required inclusion of openly gay and bisexual personnel in all-male and mixed gender units would worsen the underlying problem, not improve it. )<sup>xviii</sup> Chief of Naval Operations Adm Gary Roughead, who had previously dismissed such reports as "anecdotal," should order a full investigation and a detailed report on all alleged male-on-male assaults. Absent such a review, claims that there have been no problems with discreet gays in the military should not be considered reliable.

**Pfc Johnny Lamar Dalton.** In 2007 Pfc Johnny Lamar Dalton, 25, was charged with assault with a deadly weapon—the HIV virus.<sup>xix</sup> Dalton reportedly disobeyed orders by having unprotected, consensual sex with an 18-year-old, who became HIV-positive shortly after the encounter with Dalton. The Associated Press reported that Dalton pleaded guilty to assault for unprotected sex and was sentenced to 40 months in prison, reduction in rank, and a dishonorable discharge.<sup>xx</sup>

In answer to an inquiry from the Center for Military Readiness (CMR), an Army spokesman confirmed that Dalton's records would show only his criminal violations, not the lesser offense of homosexual conduct. This is standard practice, especially when authorities are mindful of the impact of charges on innocent family members.<sup>xxi</sup> For this reason, discharges that involve homosexual conduct may not be reported to the public or to members of Congress—now or in the future if Congress votes to repeal the 1993 law.

### **Nondeployability of HIV-Positive Personnel**

Advocates of gays in the military consider concerns about the nondeployability of HIV-positive personnel to be a taboo subject.<sup>xxii</sup> Nevertheless, as this author stated in testimony before the House Armed Services Personnel Subcommittee, responsible officials who make policy for the military should give serious consideration to all consequences of repealing the 1993 law.<sup>xxiii</sup>

To the greatest extent possible, the armed forces try to reduce or eliminate any behavior, or the propensity for behavior, which elevates risks of survival for any service member. Congress has recognized that all personnel fighting in a close combat

environment may be exposed to the blood of their colleagues, and all are potential blood donors for each other. Persons found to be HIV-positive, therefore, are not eligible for induction into the military.

If serving members are diagnosed as HIV-positive, regulations require that they be retained for as long as they are physically able. The military provides appropriate medical care, but HIV-positive personnel are not eligible for deployment overseas.<sup>xxiv</sup>

An examination of military HIV nondeployability cases shows that since the passage of Section 654, Title 10, the incidence of HIV servicewide has trended downward.<sup>xxv</sup> Reasons for the trend are not clear, but it is reasonable to expect that if the law is repealed and great numbers of men having sex with men are inducted into the military,<sup>xxvi</sup> the line indicating nondeployable personnel who are HIV-positive probably would trend upward.

Given the officially recognized correlation between homosexual conduct and HIV infection, it is reasonable to expect that repeal of the law could increase the number of troops who require medical benefits for many years but cannot be deployed. At a time when multiple deployments are putting great stress on the volunteer force, Congress should not make a major change in policy that could increase the number of nondeployable personnel.

## **Military Families and Children**

In Britain, one of the countries hailed as a role model for homosexual equality, same-sex couples live in military family housing.<sup>xxvii</sup> Before voting to repeal the 1993 Eligibility Law, members of Congress should consider whether a similar “nondiscriminatory” housing policy would have negative effects on family retention in our military.

The British Ministry of Defence also meets regularly with LGBT activist groups to promote “anti-gay-bullying” programs, similar to controversial programs adopted in some American public school systems.<sup>xxviii</sup>

Our military is likely to follow these examples, mandating programs to teach everyone how to get along with incoming homosexuals of all ages. If military parents are unable to opt out or change their children’s schools, how would they react? No one should expect public protests against official intolerance in the name of “tolerance.” Because our military is an all-volunteer force, families will simply leave.

Since the Department of Defense runs the largest school and childcare systems in the world, this would be a huge victory for homosexuals who want the military to become the cutting edge of radical cultural change. New, unprecedented practices ultimately would affect all institutions of American life, far beyond what is already happening today.



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<sup>i</sup>. According to its own *LGBT News* Web site and newsletters, the British Ministry of Defence meets regularly with LGBT groups advocating transgender rights. See [www.lgbt.mod.uk](http://www.lgbt.mod.uk). The Behavioral Sciences and Leadership Department at the US Military Academy at West Point invited a formerly male graduate and transgender activist to address classes on 4 November 2008. The Michael D. Palm Center, formerly the Center for the Study of Sexual Minorities in the Military, has posted on its Web site an article titled "Transgender People in the U.S. Military." In another July 2009 article titled "Self-Inflicted Wound," the Palm Center complains that proposed legislation, H. R. 1283, would "do nothing for transgender service members," signaling an intent to expand that agenda during or after the current legislative process (27 July 2009, p. 6). The list of expectations from the transgender faction would include military housing access and medical coverage for pre- and post-gender reassignment surgery.

<sup>ii</sup>. Aaron Belkin and Melissa Sheridan Embser-Herbert, "A Modest Proposal," *International Security* 27 (Fall 2002): 178.

<sup>iii</sup>. In a presentation opposite Nathaniel Frank, PhD, of the Palm Center, in Chicago on 17 June 2009, Air Force Academy instructor Brian Maue, PhD, speaking for himself only, noted that in the Air Force, body-touching measurements to determine waist size and personal fitness are done only by persons of the same sex. Respect for sexual privacy also is apparent at every commercial airport, where female security workers perform more extensive body searches of women. Fleeting risks of dignity discomforts are minimized by reasonable practices that respect sexual differences and sensitivities. Maue added that men and women in the military, who must share close quarters on a constant basis, deserve the same respect.

<sup>iv</sup>. Andrew Tilgham, *Navy Times*, "Why So Many Skippers Get Fired," 14 September 2009, 18. The article reports that "personal misconduct is by far the most significant cause of CO firings. Some 45, or 35 percent of the firings during the past 10 years, were due to misbehavior rather than a significant mishap, command performance, or a troubled command climate."

<sup>v</sup>. See House Report 103-200, 103rd Cong., 1st sess., NDAA for FY 1994, Report of the Committee on Armed Services on H.R. 2401, 30 July 1993, 290.

<sup>vi</sup>. Brian E. A. Maue, PhD, "The Locker Room Issue," in "In the Barracks, Out of the Closet," Room for Debate, *New York Times*, 3 May 2009. Dr. Maue's opinions were identified as his own.

<sup>vii</sup>. William H. McMichael, "Report: Outdated Sodomy Law Should be Repealed," *Navy Times*, 16 November, 2009, 12. Previous reports by this private commission, headed by retired military judge Walter T. Cox III and by a 1998 Task Force on Good Order and Discipline that was appointed by then-Defense Secretary William S. Cohen in 1997, have issued several proposals for revising manuals for courts-martial on several sexual offenses, including adultery.

<sup>viii</sup>. Some reports described Lt Col Fehrenbach, a WSO, as an F-15 pilot whose training cost \$25 million. DOD figures provided to the 1992 Presidential Commission on the Assignment of Women in the Armed Forces estimated training costs for fighter or bomber pilots to be \$3.1 million. See Commission Report, Finding #2.6.1GH, p. C-93.

<sup>ix</sup>. Dan Popkey, "Gay Boise Air Force Pilot 'Outed' by False Accusation," *Idaho Statesman*, 23 August 2009. SLDN lawyers representing Fehrenbach did not contest the Boise Police Report, DR#813-786.

<sup>x</sup>. Col W. Hays Parks. "Tailhook: What Happened, Why, and What's to be Learned," US Naval Institute *Proceedings*, September 1994, 89-102.

<sup>xi</sup>. Jeff Evans, "Men with Military Sexual Trauma Often Resist Disclosure," *Adult Psychiatry*, March 2008, 21.

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xii. Alan Snel. "Male (and Female) Rape in the Military," *Florida Times Special Report*, 17 January 2003. This article included graphic descriptions of some of the assaults suffered by men seeking treatment for military sexual trauma.

xiii. Bill Sizemore, "Military Men Are Silent Victims of Sexual Assault," *Virginian Pilot*, PilotOnline.com, 5 October 2009.

xiv. Editorial. "Corps Puts Spin Control Ahead of Victims' Health," *Navy Times*, 17 December 2007, 44.

xv. Ernesto Londono, "Navy Chaplain Pleads Guilty: HIV-Positive Priest Is Sentenced in Sex Case," *Washington Post*, 7 December 2007, B-1. In one of the pornographic photos obtained by the *Post*, Lieutenant Commander Lee was sitting nude on a sofa in his office flanked by an image of the Virgin Mary and a framed photo of Marine Gen Peter Pace, former chairman of the Joint Chiefs of Staff.

xvi. Dan Efron, "Questionable Conduct," *Newsweek*, 15 December 2007.

xvii. Andrew Tilghman, "Military among Settings in Which Assault 'Most Likely,'" *Navy Times*, 17 December 2007, 9. This article quotes Mic Hunter, a psychologist and author of *Honor Betrayed: Sexual Abuse in America's Military*: "The military, boarding schools, sports teams and prison—these are the settings where a male is most likely to be assaulted."

xviii. Philip Ewing, *Navy Times*, "Male-on-Male Sex Assaults Increase," *Navy Times*, 7 December 2009, 22.

xix. Michael Moore, "Soldier at Bragg Charged with HIV Assault," *Raleigh News & Observer*, 18 July 2007.

xx. Associated Press (AP), "US: HIV-Positive Paratrooper Pleads Guilty to Assault for Unprotected Sex," *Washington Post*, 1 November 2007.

xxi. Maj Thomas Earnhardt, US Army Forces Command (FORSCOM), to the author, e-mail, 28 January 2008. Major Earnhardt wrote that Private First Class Dalton was not charged with homosexual conduct because "it's not in the Army's interest to pursue an additional charge that imposes no criminal penalty."

xxii. Rep. Vic Snyder (D-AR) nearly went "bonkers" (quoting his word) in protest against a mention of this subject by this author as part of her 23 July 2008 testimony. Snyder's intemperate language betrayed an apparent inability to comprehend or discuss a serious subject affecting the health and readiness of deployable units.

xxiii. See testimony of Elaine Donnelly, House Armed Services Personnel Subcommittee, 23 July 2008, available at [http://armedservices.house.gov/pdfs/MilPers072308/Donnelly\\_Testimony072308.pdf](http://armedservices.house.gov/pdfs/MilPers072308/Donnelly_Testimony072308.pdf), 15–16.

xxiv. DOD Instruction 6485.01, 17 October 2006, Subject: Human Immunodeficiency Virus.

xxv. See analysis and graph prepared and posted by the Center for Military Readiness at [http://cmrlink.org/cmrrnotes/HIV\\_Statistics100107.pdf](http://cmrlink.org/cmrrnotes/HIV_Statistics100107.pdf). The Army and Air Force have not provided updated data, but a recent report indicated that the Navy's HIV infection rate has been rising for a decade. In 2008, the Navy discovered 36 HIV cases for every 100,000 sailors tested – more than double its 1999 numbers. Reasons for the increase are not clear. Kate Wilttrout, "With Highest Rate of Cases, Navy Sees HIV Infections Rise," *Norfolk Virginian-Pilot* November 2, 2009. <http://hamptonroads.com/node/529218>

xxvi. See Centers for Disease Control HIV/AIDS Fact Sheet, "[HIV/AIDS Among Men Who Have Sex with Men](#)," June 2007. "In the United States, HIV infection and AIDS have had a tremendous effect on men who have sex with men (MSM). MSM accounted for 71 percent of all HIV infections among male adults and

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adolescents in 2005”; and Sarah Kershaw, [“New H.I.V. Cases Drop but Rise in Young Gay Men,”](#) *New York Times*, 2 January 2008.

<sup>xxvii</sup>. Chris Johnston, [“Navy to Advertise for Homosexual Sailors,”](#) *London Times Online*, 21 February 2005.

<sup>xxviii</sup>. In May 2009, an Alameda County, CA, school district mandated an LGBT curriculum for all students that denied parents the right to opt out. One activist reportedly said that the children of parents who would opt-out of such education were the ones who need it most. “Gay Curriculum Proposal Riles Elementary School Parents,” *Fox News*, 22 May 2009; and “Compulsory LGBT Curriculum Pushes ‘Political Agenda’ on Schoolkids, California Parents Charge,” *Catholic News Agency*, 24 May 2009.