

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>.

Road Map or Railroad?

“Stop-Loss” Authority for National Security Only

In May 2009 the Palm Center issued a 29-page Road Map Report claiming that President Obama can and should suspend enforcement of Section 654, Title 10 by signing an executive order.ⁱ

Under the terms of 10 U.S.C. 12305 the president may suspend any law regarding “separation” of military personnel in time of a declared national emergency—defined as a period when reservists are serving on involuntary active duty, as they are now. But according to law professor William A. Woodruff, the purpose of the stop loss authority is to benefit national security, not to achieve political objectives:

The authority under the stop loss law (10 USC 12305) is quite broad, but the real issue is whether permitting homosexuals to serve is vital to national security. This is where the Palm Center takes things off track. They are urging the President to use his national emergency authority to create an environment that will eventually lead to the repeal of 10 USC 654. However, Congress passed the law, 10 USC 12305, to allow the President flexibility to respond to national emergencies, not to give him political cover to socially engineer the military.

If, as the Palm Center apparently believes, service by homosexuals is beneficial and not detrimental to national security, with no adverse impact on unit cohesion and combat effectiveness, the issue should be debated on that basis and not by using statutory authority enacted for other purposes.

Even though President Obama has promised to work to repeal 10 USC 654, he seems to understand and appreciate that such unilateral political decisions in an area the Constitution specifically vests in the Congress would show profound disrespect for a coordinate branch of government. The situation is very similar to the deference the courts show the Executive and Legislative branches in areas the Constitution assigns to the political branches. Likewise, the political branches must be sensitive to their respective areas of constitutional authority and not try to usurp each others’ legitimate areas of responsibility.

If President Obama yields to gay activist pressure and unilaterally suspends or stops enforcement of the law, the troops would perceive that action as an evasion of his oath to “faithfully execute the office of the President of the United States.” Even the *Washington Post*, a strong proponent of gays in the military, questioned the Palm Center’s plan to “get around existing policy.”ⁱⁱ

Preempting the Joint Chiefs

Palm Center reports have twice suggested strategies to coerce senior members of the military to go along with their agenda. The May Road Map Report set the tone by suggesting that “the President should not ask military leaders if they support lifting the ban. . . . Any consultation with uniformed leaders should take the form of a clear mandate to give the President input about how, not whether, to make this transition.”ⁱⁱⁱ

In a subsequent report, the Palm Center went even further in advocating a strategy that would short-circuit the political system. The document confirmed insufficient votes to repeal the law and criticized fellow activists for not having a plan to overcome the resistance of reluctant members of Congress, including Democrats from fairly conservative districts.^{iv} Claiming that military leaders consider repeal of the 1993 law to be inevitable, Palm disrespected military leaders with this: “In terms of their capacity to make trouble, it is the legislative process that would open a can of worms by allowing military leaders to testify at hearings and forge alliances with opponents on the Hill. *A swift executive order would eliminate opportunities for them to resist*” (emphasis added).^v

This two-step plan to box in members of the Joint Chiefs of Staff with a presidential executive order reveals an attitude of arrogance and elitism that should not be allowed to prevail.

ⁱ. Palm Road Map Report, 11–12.

ⁱⁱ. “Do Tell,” editorial, *Washington Post*, 27 June 2009.

ⁱⁱⁱ. Palm Road Map Report, 4–5.

^{iv}. Aaron Belkin, [“Self-Inflicted Wound: How and Why Gays Give the White House a Free Pass on ‘Don’t Ask, Don’t Tell,’”](#) Michael D. Palm Center, 27 July 2009, 4–5.

^v. *Ibid.*, 11.