

UNITED STATES NAVY
NORFOLK NAVAL BASE
NORFOLK, VIRGINIA

JULY 1994 BOARD OF INQUIRY
REGARDING LT.J.G. RICHARD DIRK SELLAND

DECLARATION OF
DR. LAWRENCE J. KORB

DR. LAWRENCE J. KORB hereby declares:

1. I am currently Director of the Center for Public Policy Education and Senior Fellow in the Foreign Policy Studies Program at the Brookings Institution. From 1981 to 1985, I served as Assistant Secretary of Defense (Manpower, Reserve Affairs, Installations and Logistics). In that position, I administered approximately 70 percent of the defense budget. My responsibilities included recruiting and training the five-million active duty reserve and civilian employees of the Department of Defense; maintaining the U.S. worldwide military base structure; and establishing supply, maintenance, and transportation policies for the land, sea, and air forces of the United States. I was awarded the Department of Defense's Medal for Distinguished Public Service.

2. I am also a retired Captain in the United States Navy Reserve, having served on active duty for four years as a Naval Flight Officer and 19 years in the Ready Reserve. In addition, I have held several academic positions, including Professor of Management at the U.S. Naval War College (1975-80) and Associate Professor of Government at the U.S. Coast Guard Academy (1971-75).

3. Prior to 1981, the policy of the U.S. armed forces relating to homosexuals permitted the discretionary retention of gay and lesbian servicemembers under some circumstances. In 1982, while I served as Assistant Secretary of Defense (Manpower, Reserve Affairs, Installations and Logistics), the first formal policy of the U.S. armed forces relating to homosexuals was codified.

4. As Assistant Secretary of Defense (Manpower, Reserve Affairs, Installations and Logistics) from 1981 to 1985, I am the author of the military's first written policy regarding gay servicemembers. I signed the January 1982 directive on Enlisted Administrative separations (discharges), Directive No. 1332.14, that established the previous DoD policy for enlisted administrative separations and, in my view, the basis for the current policy concerning homosexual military service. This directive constitutes the basis for, and is strikingly similar to, the current so-called "Don't Ask, Don't Tell" policy. As the author of the original policy, I am intimately familiar with its purpose. The policy was intended to enable the military to act consistently when dealing with gay servicemembers and to deal with this issue in a rational and consistent manner that would further the military mission.

As that policy clearly stated, the purpose was to authorize the military to discharge gay servicemembers who engaged in homosexual conduct, or had the propensity to engage in homosexual conduct which interfered with the military mission. The policy was never intended to authorize the military to

discharge someone simply based on his or her status or orientation -- absent clear evidence of relevant conduct. To the contrary, conduct was the real focus of the policy.

A servicemember's own admission of being gay -- absent any indication of his propensity to engage in homosexual conduct that interferes with the military mission -- is simply not sufficient grounds for discharging him or her under the previous policy. Discharging someone based on his or her status is irrational and has no basis in furthering the military mission. The policy I authored -- and any subsequent policy based thereon -- should not be construed as authorizing such an irrational outcome.

5. Based on my experience in the Pentagon, as a long-time student of national defense policy, and as a retired Navy Captain, I am of the opinion that there is no longer any justification for the armed services' ban on homosexuals serving in the military. As detailed below, each of the justifications offered in support of this policy is without factual foundation. Moreover, there is substantial evidence that gays and lesbians have served and continue to serve their country (albeit discreetly) as ably as heterosexuals. Sexual orientation simply does not provide a rational basis upon which to exclude a person from military service. On the other hand, to the extent that sexual misconduct threatens to undermine the discipline, good order, and morale that is critical to the accomplishment of the military mission, such misconduct can be and is adequately

addressed through existing regulations which prohibit such misconduct whether committed by homosexuals or heterosexuals.

6. The traditional reasons for the current, as well as previous policy do not hold any weight. Each of these asserted rationales for the policy is without justification:

a. Breaches of Security. While it was once fashionable to argue that homosexuals should not be permitted in the military because they posed "security risks" -- specifically, that they were susceptible to blackmail by foreign agents who would threaten to expose them -- this is a thoroughly discredited justification. On this point, I agree with Secretary of Defense Cheney who, on July 31, 1991, acknowledged that excluding homosexuals from military service on security grounds "is a bit of an old chestnut." Indeed, as long ago as 1957, in the Navy Department's so-called "Crittenden Report," the Navy admitted that there was no statistical correlation between security risks and homosexuality. This was confirmed again more recently by the 1988 Report issued by the Defense Personnel Security Research and Education Center (PERSEREC), which concluded that "[i]t is invalid to generalize from sexual orientation to trustworthiness."

Thus, even under the present rules stigmatizing homosexual orientation, there is no evidence that homosexuals present greater security risks than anyone else. The argument that homosexuals are susceptible to blackmail would become logically inconsistent if their sexual orientation did not have

to be concealed because of stigmatizing rules like the ban on military service by homosexuals.

b. Public Acceptability. The notion that the public will not "accept" gays and lesbians in the military is similarly outdated. While it may once have been true that society was largely intolerant of homosexuals in the military and in other segments of our society, recent public opinion polls show just the opposite to be true today. For example, an April 1991 study, conducted by Penn & Schoen Associates, Inc., found that 65% of Americans favor admission of homosexuals into the armed forces and that 81% oppose discharging a homosexual who is otherwise performing ably simply on the basis of sexual orientation. Similarly, the vast majority of major American newspapers have taken editorial positions in opposition to the ban, and most institutions of higher learning have also expressed public opposition to the policy. In short, there is no substance to the suggestion that the public is not ready to accept homosexuals in the military.

c. Recruitment. Much of my responsibilities as Assistant Secretary of Defense focused on the recruitment and retention of qualified military personnel. In my opinion, there is no evidence to support the suggestion that permitting homosexuals in the armed services would adversely affect recruitment and retention efforts. As noted above, social attitudes towards gays and lesbians are much more tolerant than they once were. Indeed, recent experience indicates that recruitment efforts are, in fact, hurt by the present

discriminatory policy -- for example, numerous colleges and universities now prohibit or restrict on-campus interviewing by military recruiters because of the military's present policy of excluding persons from service on the basis of sexual orientation. And while it may be true that there are some persons, both inside and outside the military, who feel "uncomfortable" around homosexuals, that is a problem that should and can be addressed through education, much as issues relating to the integration of women into the services has been and is continuing to be addressed through such channels.

d. Privacy. A more recently emphasized justification for the ban is that the presence of homosexuals in the military would infringe upon the privacy interests of heterosexuals who may be compelled to live in close proximity to, and share latrine and shower facilities with, homosexual servicemembers. Again, however, such so-called privacy concerns can be adequately addressed through existing regulations addressing sexual misconduct. While it is unfortunately true that sexual harassment and the phenomenon of unwelcome sexual advances is a recurring problem in both military and civilian life, it is certainly not a problem that is unique to homosexuals. Just as the existence of sexual misconduct and harassment provides no reason to exclude women from serving with men, so too is it an insufficient justification for excluding homosexuals.

Moreover, the "privacy" concern is based on false stereotypes about the sexuality of those who have a homosexual

orientation. It is, for example, based on misconceptions and stereotypes about the significance of same-sex nudity, about the supposed hyper-sexual and predatory nature of homosexuals, and about the supposed inability of homosexuals to control their sexual urges or otherwise conform their conduct to institutional requirements. The military should address these misconceptions with information, not an irrational ban on service. Experience has demonstrated that where, as in many cases during World War II, the homosexuality of servicemen has become known within their units, it has not created "privacy" problems.

e. The Integrity of the System of Rank and Command. It is said by some that homosexuals should not be permitted in the military because they could not command the respect of peers and subordinates. There is no empirical basis for this claim. Indeed, the experience of many other countries that permit homosexuals to serve in the military indicates that there is no adverse effect on "the integrity of the system of rank and command." The irony in this point, of course, is that just such an argument was made several decades ago as a justification for excluding blacks from serving in the military; yet, today, there clearly is no question about the ability of black officers to serve in the very highest command positions.

Leadership is not constrained by sexual orientation or race or gender -- unless these characteristics are artificially stigmatized as connoting lack of the attributes which make up leadership. Loyalty, courage, integrity, devotion to duty, energy, enthusiasm, professional knowledge, and competence -- the

attributes of leadership -- are as common to the homosexual population as to the heterosexual population. Servicemen do and will, in the future, respond to those characteristics in persons with a homosexual orientation the same way they respond to those characteristics in persons with a heterosexual orientation. Moreover, to the extent that there are some persons who would have difficulties taking orders from homosexuals because of their own prejudices or misconceptions, this is, again, a problem that should be addressed through education and leadership, and certainly not by simply excluding an entire class of people from service.

f. Trust and Confidence. As noted above, and as confirmed by the Defense Department's own studies, there is no correlation between sexual orientation and trustworthiness.

g. Discipline, Good Order, and Morale. As with the other asserted justifications, this "catchall" justification does not withstand scrutiny. There is no evidence that homosexuals cannot perform as ably, as courageously, or as effectively as their heterosexual counterparts; nor are homosexuals any less "disciplined." For example, there is no evidence that the fighting effectiveness of the military forces of those countries that do not discriminate based on sexual orientation has in any way been compromised as the result of admitting homosexuals into their forces. An in this country too, although homosexuals cannot serve openly, it is widely known that many gays and lesbians have served and continue to serve this country quite effectively, if secretly.

Discipline, good order, and morals are maintained by consistency in applying rules and enforcing orders, by recognizing and rewarding performance, by not abusing authority, and by leadership, instruction, communication, and feedback with respect to performance expectations and results. They are not impaired by the sexual orientation of the military authority exercising those skills. As for "morale" problems that may be created by permitting homosexuals in the service, these are best addressed through education, not exclusion.

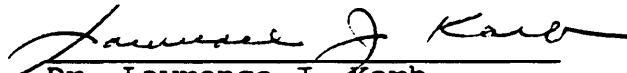
7. Quite apart from the lack of justifications for the military's bans excluding homosexuals, the cost to the Pentagon of enforcing these bans is substantial, as the most recent report issued by the General Accounting Office confirms. The Report states that, during fiscal year 1990, the cost of replacing troops discharged because of homosexuality was at least \$27 million -- \$120,772 for each officer discharged, and \$28,226 to recruit and train replacements for each enlisted person. The real cost of these policies is probably significantly higher, since these figures do not include such things as the cost of out-processing, the cost of defending court actions, or the overhead expenses of the investigative services of the Department of Defense.

8. In sum, in my opinion, there is no longer any rational basis underlying the military's policy that homosexuality is incompatible with military service. Enforcing the policy has not only needlessly ruined many lives and deprived

the armed services of capable men and women, but it has done so at great expense to the American taxpayer.

9. I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed by me this 7 day of July, 1994, at
Washington, D.C.



Dr. Lawrence J. Korb