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CLINTON'S POLICY RELATING TO GAYS IN THE MILITARY: A
LESSON IN POLITICS AT THE NATIONAL LEVEL

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President Clinton's political agenda was temporarily derailed even before he was administered the oath of office in January 1993. Upon taking office, he was unable to expend the bulk of his time and energy on domestic issues such as the economy and health care. Instead, President Clinton was embattled in a bitter fight with the Congress, the military, a myriad of activist groups, and average citizens about his campaign promise to *rescind the existing policy pertaining to gays in the military*. The debate that followed on this divisive issue lasted for six months, resulting in a new Department of Defense Policy on gays in the military, and left most people with a certain sense of dissatisfaction or, in the case of many in the gay community, a sense of betrayal.

The purpose of this research paper is to briefly define the issues associated with President Clinton's intent to rescind the Department of Defense Policy on gays in the military, to highlight the major events that occurred during the policy process, to identify the key actors and the roles they played in the policy development, and to discuss what happened in the debates that resolved the issue and produced a new Department of Defense policy pertaining to gays in the military.

The chronology of events relating to the debate on gays in the military, the compromise policy between President Clinton and the Congress, and the eventual codification into law began with a speech at Harvard University's John F. Kennedy School of Government. On October 28, 1991 at a forum at Harvard University, a student asked presidential candidate Bill Clinton whether he would

issue an executive order to rescind the ban on homosexuals in the military. Clinton responded "Yes," and explained further: " I think people who are gay should be expected to work, and should be given the opportunity to serve their country. " He continued with that pledge throughout the 1992 presidential campaign.¹ Clinton's comments and seemingly staunch position on this issue created a furor within the Department of Defense, angered a powerful bipartisan coalition on Capital Hill, and awakened other "stakeholders" on both sides of the issue.

At his January 7, 1993 confirmation hearing, Defense Secretary-designate Les Aspin made a statement indicating that Clinton's pledge to lift the ban should be implemented very carefully and not in a vacuum. On January 21, 1993, the day after Clinton's inauguration, a spokesman reiterated the President's plan to end discrimination against homosexuals in the military *within the first two weeks* of his presidency, via executive order. However, President Clinton's underestimation of the backlash from both the Congress and Pentagon Leadership resulted in a change of strategy. During the period from January 21-29, 1993, President Clinton met with his new Secretary of Defense, key members of Congress and the Joint Chiefs of Staff to discuss the issue. On January 29, 1993, he and Senator Sam Nunn held news conferences and the President announced that military life is fundamentally different from civilian society. He directed the Secretary of Defense to conduct a review of the current policy and to provide him with a draft executive order by July 15, after full consultation with

¹ Craig A. Rimmerman, *Gay Rights, Military Wrongs* (New York: Garland Publishing, Inc., 1996), 113

military and Congressional leaders and other concerned citizens outside of the Government. The intent of the July 15 executive order was to produce a document that would end the present policy that excluded homosexuals from military service solely on the basis of sexual orientation, and at the same time, establish rigorous standards regarding sexual conduct to be applied to all military personnel. Over the next six months, hearings were held in both the House and Senate, RAND's National Defense Research Institute conducted a study entitled *Sexual Orientation and U.S. Military Personnel Policy: Options and Assessment*, and the Department of Defense convened a working group of flag officers to provide the Secretary of Defense with recommendations and advice on the issue. Finally, on July 19, 1993 President Clinton announced the new "compromise" policy **Don't Ask, Don't Tell, Don't Pursue**. After considerable debate and revision Congress incorporated the new policy into the Defense Authorization Act of 1994, which Clinton signed on September 30, 1994.

President Clinton's campaign promise to lift the Pentagon's gay ban elicited strong feelings on both sides of the issue. Advocates for removing the policy viewed the existing ban as a violation of civil rights and fair treatment. They contended that it was unfair to separate individuals from the armed services merely as a result of their "sexual orientation". Proponents of the policy cited the need to maintain cohesion, discipline and morale within the working and living conditions imposed as a result of military service. They contended that allowing homosexuals into the service would prove disruptive to unit

cohesion and, ultimately, to military readiness.² The *question confronting policy makers remained, "To what extent, if any, would open homosexuality be disruptive to morale, cohesion, and readiness in the ranks, and to what extent does any disruption justify discrimination?"*³

There were certain key actors and organizations that actively participated in the debates and contributed significantly to the policymaking process. Additionally, several ancillary participants were active in the process that I will not cover in this paper. The key actors included: President Clinton, Secretary Aspin, members of the Senate Armed Services Committee, members of the House Armed Services Committee, Joint Chiefs of Staff, and General (Ret.) H. Norman Schwarzkopf.

The Chairman of the Senate Armed Services Committee (Senator Sam Nunn, Democrat from Georgia) presided over a series of hearings on the policy concerning homosexuality in the Armed Forces. At least six separate sessions were held spanning the period from March 29 through July 22, 1993. The hearings were structured sequentially, beginning with an overview of the historical and legal background of the current Defense Department policy. This was followed by field visits to military installations and discussions with a broad cross-section of military members, hearings with witnesses (individuals/groups)

²United States Congress, *Policy Concerning Homosexuality In The Armed Forces, Hearings Before The Committee On Armed Services United States Senate* (Washington U S Government Printing Office, 1994), S HRG 103-845, 21

³ Ibid, 21

on both sides of the issue, culminating in the conduct of hearings with the civilian and military leadership of the Department of Defense.

Senator Nunn came into the hearings with a clearly articulated position against changing the current policy. However, he carefully listened to all testimony and all points of view during the hearings before making his final judgement. Senator Nunn's opening statement provided the primary focus for the initial and subsequent hearings. He mentioned that to many people it is a moral issue, to others it is a civil rights issue. However, in his view, *the **primary focus** and concern must always be on the implications of any change in current policy on the effectiveness of the Armed Forces to carry out their mission to defend the Nation.*

During the course of the hearings, several Senators gave their views regarding the service of gay men and lesbians in the military. Everyone generally agreed that there have been and are homosexuals in the military service that serve with distinction. Senator Metzenbaum from the state of Ohio viewed the issue as one of civil rights. In his mind it was simply about equal opportunity under the law. He stated that many people presented the argument that the military has always reserved the right to exclude certain groups from serving. He further stated that women and African-Americans won the right to serve their country because there was no justification for a policy that excluded them. He said that both groups proved themselves in battle and showed that

they could do the job.⁴ According to Senator Metzenbaum, the same is true of homosexuals today. Senator's Boxer and Feinstein made similar comments during their testimony. Senator Metzenbaum questioned the argument by proponents of the ban that homosexuals in the military will adversely affect morale and unit cohesion. However, virtually every senior noncommissioned officer and officer witness who testified before both the Senate Armed Services and House Armed Services Committees felt strongly that open homosexuality in the military would affect morale, unit cohesion, and discipline in the units.

Beginning in May of 1993, the Chairman of the House Armed Services Committee (Representative Ron Dellums from California) conducted a series of hearings similar to those being conducted in the Senate. In his opening statement, Representative Dellums stated that he was clearly in favor of lifting the ban. He, like Senator Metzenbaum and other members of the Senate claimed that the policy on homosexuals parallels the prejudice that kept the services racially segregated. Conversely, General Colin Powell, the Chairman of the Joint Chiefs of Staff stated that, "skin color is a benign, non-behavioral characteristic, whereas sexual orientation is perhaps the most profound of human behavioral characteristics". According to General Powell, "comparison of the two is a convenient but invalid argument."⁵

During conduct of the Senate hearings, Senator Nunn and his colleagues engaged in a discussion about the code of conduct and whether lifting the ban

⁴ Ibid, 458

⁵ Ibid, 49

entirely would require one code for heterosexuals and a separate one for homosexuals. The discussion carried over into the area of displaying affection on base, providing commissary privileges to same sex partners and allowing these same couples to live in government quarters. All the Senators preferred one code of conduct for all but, none had a solution to the issue.

Senator Murkowski (Alaska) was a proponent for retaining the current policy. He believed that military service was a privilege and is not a guaranteed right, as evidenced by the criteria to join the military. Furthermore, he believed that allowing gays to openly serve in the military would be an extreme burden on the Veterans Affairs system, especially in the area of treatment and compensation for veterans with AIDS. He also voiced a concern about the effect that AIDS would have on the Veterans Group Life Insurance program.

General (Ret.) H. Norman Schwarzkopf was one of several high-ranking officers to testify before the committee. During his testimony, General Schwarzkopf stated that the Armed Forces' principal mission was not to be instruments of social experimentation. He clearly stated that, "the first, foremost, and all eclipsing mission of the military was to be ready to fight our Nation's wars and when called upon to do so to win those wars." ⁶ He mentioned unit cohesion as the single most important factor in a unit's ability to succeed on the battlefield. In his estimation, anyone that disputes that fact may have been to war, but certainly never led troops into battle. He further stated that from his experience, "whenever it became known that someone was openly

homosexual, polarization occurred, and both morale and unit effectiveness suffered.”⁷ His statement was consistent with the vast majority of the senior leaders who testified before both committees.

Several events began to unfold as the players continued to work through the policy development process. In March 1993, President Clinton restated he would not rule out placing restrictions on where gays can serve in the military such as sea duty or combat. A few days later he insisted his position on the ban had not changed. During the same month Senator Nunn advanced a compromise described as “Don’t Ask, Don’t Tell”. In May, Representative Barney Frank (Massachusetts) proposed a compromise that builds on Senator Nunn’s “Don’t Ask, Don’t Tell” idea. He agreed with Senator Nunn that gays conduct themselves as asexual on base but, off base they should be able to live a homosexual lifestyle without fear of reprisal. Senator Nunn disregarded Representative Frank’s proposal.

As the hearings continued and the July 15 deadline approached, advocates on both sides of the emotionally charged debate maneuvered to shape the final outcome. Secretary Aspin had warned President Clinton that the Joint Chiefs of Staff, led by General Colin Powell, would concur only in a policy that required gay service members to keep their sexual orientation secret. Representative Frank recommended that the President not compromise on his

⁶ Ibid , 595.

⁷ Ibid , 596

campaign pledge to repeal the ban, even if it meant that Congress would override him.

President Clinton announced a new policy on July 19, 1993. The policy consisted of several key elements: First of all, servicemembers in the Armed Forces will be judged based on their conduct, not their sexual orientation. Secondly, the six-month-old practice of not asking about sexual orientation in the enlistment procedure will continue. Finally, an open statement by a service member that he or she is a homosexual will create a rebuttable presumption that he or she intends to engage in prohibited conduct, but the servicemember will be given an opportunity to refute that presumption.

This process used to develop this policy was a perfect example of the "pulling and tugging" associated with the bureaucratic model of decision-making. All actors came into the process with specific goals, interests, stakes, and stands. President Clinton entered the fray with a goal to fulfill a campaign promise, the gay rights lobby came into the process with a goal to further extend the rights of gays and lesbians, and the military and the majority of Congress came into the battle determined to maintain the status quo. The players ultimately worked through a process of deliberation, negotiation, and compromise that resulted in the Military's Don't Ask, Don't Tell policy.