

Research Note on Pentagon Practice of Sending Known Gays and Lesbians to War

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I. OVERVIEW OF STOP-LOSS

Numerous sources provide evidence that known gays have been allowed to serve during wartime. In fact, while policies and practices have varied over time and by service branch, the military has sometimes forced service members who were known to be gay or lesbian to serve in combat, and has initiated discharge proceedings upon their return.

On some occasions, the President has authorized (but not always required) a stop-loss order. Stop-loss is a power given to the President (and, by extension, to his cabinet) in Title 10 of the United States Code, Section 673c, allowing him to suspend many kinds of legal and administrative actions in the military that relate to promotion and separation if deemed necessary in a national defense crisis. Stop-loss allows the Secretaries of the individual services to halt administrative discharges, for a variety of reasons, once a unit has been mobilized for war.

During the first Gulf War, President Bush invoked a “stop-loss” order allowing the suspension of discharge proceedings, which was applicable to those facing separation for retirement, homosexuality and other reasons. The Congressional Research Service has noted that, “as a result of these policies and laws, the situation that arises during a time of deployment place[s] homosexuals in a no-win situation. They are allowed or ordered to serve at the risk of their own lives with the probability of forced discharge when hostilities end if their sexuality becomes an issue. By deploying suspected homosexuals with their units, the services bring into question their own argument that the presence of homosexuals seriously impairs the accomplishment of the military mission.”

Three days after the terrorist attacks of 9/11, President Bush signed executive order #13223 that authorized the individual service branches to initiate a “stop-loss,” which allowed them “to suspend certain laws relating to promotion, involuntary retirement, and separation” of military personnel. Some of the media erroneously reported that the military had “suspended” discharges of homosexuals, which it had not. The document order allowed individual branches to halt discharges, but it did not order them to do so. On September 24, the Air Force suspended some discharges, but exempted gays and lesbians from the suspension, instructing leaders to continue such discharges. On October 2, the Navy followed suit.

Military leaders often defend the process of sending known gays to war by claiming the purpose of stop-loss is to keep soldiers (gay and straight) from avoiding their military obligations once they are mobilized for combat. Some observers note that commanders’ willingness to send known gays into combat calls into question the rationale that openly gay service undermines the military, since it is during wartime that morale, discipline and cohesion are most vital.

II. Summary of Available Evidence from World War II to the Present

Following is a detailed summary of major sources of evidence showing that the military sends known gays to war. Following this list is a brief history of gays serving during wartime, some of which repeats the evidence cited here. Most of the specific sources cited are available upon request from the Palm Center.

WORLD WAR II:

(1) Much of the evidence from World War II is taken from Allan Berube, *Coming Out Under Fire: The History of Gay Men and Women in World War Two* (New York: Free Press, 1990). After the war began, the adjutant general ordered the commanding general of the West Coast Air Corps Training Center in California to review the cases of convicted sodomists “to determine their respective availability for military service” with “the view of conserving all available manpower for service in the Army.” He complied, canceling the men’s dishonorable discharges and making them eligible for reassignment after their prison sentences: SOURCE: Correspondence between Commanding General, Moffett Field, and the Adjutant General, Washington, Feb. 28 to March 24, 1942, Folder: “1-1-40 to 12-31-41, 250.1 Sodomy, practice of in the Army,” RG* 407 (Army Adjutant

General's Office, 1917-). * RG is located at National Archives Building in DC or Washington National Records Center in Suitland, MD.

(2) The Adjutant General's Office also issued a letter to commanding generals telling them they should not discharge any soldiers who were doing their jobs well. SOURCE: Circular Letter No. 77, July 29, 1942, Office of the Surgeon General, Box 12, RG 112 (Office of Army Surgeon General).

(3) Discussion of a medical officer who interpreted War Department directives to mean that "homosexual relationships should be tolerated" overseas if they didn't hurt group morale. SOURCE: WD [War Department] Memorandum No. W615-4-43, "Sodomists,"** January 10, 1943; Fort Oglethorpe Report, p. 25. ** AGO "Sodomists" File = Army Adjutant General's Office compilation of correspondence, 1941-44 contained within RG 407 (see above for RG location).

(4) Stimson Memo: The description of the Stimson memo is in a memorandum from Brigadier General James B. Crawford, President, Secretary of War's Discharge Review Board, to Assistant Chief of Staff G-1, March 13, 1945, and a memorandum from Assistant Chief of Staff G-1 to TAG, March 24, 1945. SOURCE: Folder: "10-16-44, 220.8 Discharge, other separations," RG 407 (Army Adjutant General's Office, 1917-).

KOREA AND VIETNAM:

(5) Historical evidence of both relaxed discharge policies and reduced discharge statistics during the Korean and Vietnam Wars shows a clear pattern of gay service during wartime. Much of this evidence is taken from Randy Shilts, *Conduct Unbecoming: Gays and Lesbians in the U.S. Military* (Columbine-Fawcett, 1993), and is summarized in the Palm Center study, "U.S. Military Policies Concerning Homosexuals," by Rhonda Evans, SOURCE:

http://www.palmcenter.org/publications/dadt/u_s_military_policies_concerning_homosexuals.

FIRST GULF WAR:

(6) Randy Shilts' interviews with scores of service members reveal a Pentagon pattern of retaining gays during war, and then discharging them once peace returns. Shilts describes these stories both in numerous newspaper articles and in *Conduct Unbecoming*. A few examples include: Donna Lynn Jackson Interview (San Francisco CA, 1991); Sam Gallegos Interviews (Ft. Irwin CA and Denver CO, 1991-1993); Michael Dull Interview (Orange County CA, 1991). SOURCE: All of these tapes are stored in the Randy Shilts Papers at the San Francisco Public Library. For published articles, see Randy Shilts, "Military May Defer Discharge of Gays," *San Francisco Chronicle*, Jan. 11, 1991; Randy Shilts, "Army Discharges Lesbian Who Challenged Ban," *San Francisco Chronicle*, Jan. 19, 1991; Randy Shilts, "Gay Troops in the Gulf War Can't Come Out," *The San Francisco Chronicle*, Feb. 18, 1991; Randy Shilts, "In Wake of War, Military Again Targets Gays," *San Francisco Chronicle*, Aug 5, 1991; and see Randy Shilts, *Conduct Unbecoming: Gays and Lesbians in the U.S. Military* (Columbine-Fawcett, 1993).

(7) Numerous other press reports also describe the practice of letting known gays serve during wartime. SOURCE: See Wade Lambert, "Gay GI's Told, Serve Now, Face Discharge Later" *Wall Street Journal*, Jan. 24, 1991, B1; Wade Lambert and Stephanie Simon, "U.S. Military Moves to Discharge Some Gay Veterans of Gulf War," *Wall Street Journal*, July 30, 1991, B6; Doug Grow, "Captain Did her Duty, Despite Military's Mixed Messages," *Minneapolis Star Tribune*, March 16, 1993, 3B; David Kirby, "Think Before You Tell," *The Advocate*, Dec. 4 2001; Joseph Giordono, "Discharged Gay Sailor is Called Back to Active Duty," *Stars and Stripes*, May 6, 2007; Joseph Giordono, "Navy Bars Outed Gay Sailor From Return to Service," *Stars and Stripes*, June 10, 2007.

(8) Letter from Carl Longshore, Head Administrative Actions Unit, USMC, Marine Corps Reserve Support Center, Overland Park, Kansas, to James A. Henderson, Attorney at Law, dated 29 January, 1991, Subj: Refusal of client's request for separation on the basis of homosexuality. SOURCE: Probably located in Randy Shilts Papers in San Francisco.

(9) The Congressional Research Service has acknowledged that suspected gays and lesbians have been sent to war, noting that, "as a result of these policies and laws, the situation that arises during a time of deployment place[s] homosexuals in a no-win situation. They are allowed or ordered to serve at the risk of their own lives with the probability of forced discharge when hostilities end if their sexuality becomes an issue. By deploying suspected homosexuals with their units, the services bring into question their own argument that the presence of homosexuals seriously impairs the accomplishment of the military mission." SOURCE: David F. Burrelli, Analyst in National Defense, Foreign Affairs and National Defense Division, Congressional Research Service, Library of Congress, in "Policy Concerning Homosexuality in the Armed Services," Senate Armed Services Hearings, 103d Cong, Mar. 29, 1993, pp17-18.

CURRENT WARS:

(10) After the terrorist attacks of 9/11, President Bush signed executive order #13223 that authorized the individual service branches to initiate a "stop-loss," which allowed them "to suspend certain laws relating to promotion, involuntary retirement, and separation" of military personnel. SOURCE: 1991, 2001 Presidential Order, available from Palm Center.

(11) A 2004 Palm Center study of gay and lesbian troops who fought in Iraq and Afghanistan found that, among those studied, most service members were out to some or most of their peers, often including their superiors. SOURCE: http://www.palmcenter.org/publications/dadt/gays_and_lesbians_at_war_military_service_in_iraq_and_afghanistan_under_don_t_ask_don_t_tell]

(12) In 2005, Palm Center researchers obtained an Army Commander's Handbook updated in 1999 and still in effect. In the handbook, entitled, "Regulation 500-3-3 Volume III, Reserve Component Unit Commanders Handbook, in Table 2.1 on "Personnel actions during the mobilization process," it says under the criterion of "homosexuality": "if discharge is not requested prior to the unit's receipt of alert notification, discharge isn't authorized. Member will enter AD [active duty] with the

unit." SOURCE: FORSCOM Regulation 500-3-3 Volume III, Reserve Component Unit Commanders Handbook, 1990, since updated.

(13) Kim Waldron, spokesperson at the U.S. Army Forces Command at Fort McPherson, acknowledged publicly that the Pentagon was sending openly gay service members into combat in Iraq: "The bottom line is some people are using sexual orientation to avoid deployment. So in this case, with the Reserve and Guard forces, if a soldier 'tells,' they still have to go to war and the homosexual issue is postponed until they return to the U.S. and the unit is demobilized." Waldron's statements were reported in the *Washington Blade*. SOURCE: Lou Chibbaro Jr., "Out gay soldiers Sent to Iraq, Regulation Keeps Straights from 'Playing Gay' to Avoid War," *Washington Blade*, Sept. 23, 2005; and see Palm Center press release, Sept. 23, 2005.

III. Brief History of Known Gays Serving During Wartime

WORLD WAR II:

Since World War II, when explicit regulations banning those with "homosexual tendencies" from the armed forces were first implemented, gay discharges have fluctuated according to the manpower needs of the military. In 1945, when the Army faced manpower shortages during the final European offensive, Secretary of War, Harry Stimson, ordered a review of all gay discharges and ordered commanders to "salvage" homosexual soldiers for service whenever necessary. [See Allan Berube, *Coming Out Under Fire: The History of Gay Men and Women in World War Two* (New York: Free Press, 1990).]

KOREA AND VIETNAM:

In 1950, at the height of the Korean War, the Navy's gay discharge figures dropped from an annual average of 1100 sailors to 483. But in 1953, when the Armistice was signed, the number of naval discharges for homosexuality jumped up again to 1353.

During the Vietnam War, the military relaxed its restrictions on gay draftees and significantly slowed its gay discharges. In the three years prior to 1966, the Navy discharged over 1600 sailors each year for homosexuality. From 1966 to 1967, the numbers dropped from 1708 to 1094. In 1968, gay discharges fell again to 798, and they dipped to 643 at the peak of the military build-up in 1969. In 1970, the Navy discharged only 461 sailors for homosexuality. But discharge levels began to increase again in 1975. [See Randy Shilts, *Conduct Unbecoming: Gays and Lesbians in the U.S. Military* (Columbine-Fawcett, 1993).]

FIRST GULF WAR:

When the first Gulf War began in 1991, the Pentagon announced that the discharge of gays and lesbians could be "deferred" until they were no longer needed. "Any administrative procedure is dependent on operational considerations of the unit that would administer such proceedings," said Lieutenant Commander Ken Satterfield, a Pentagon spokesman. "Just because a person says they're gay, that doesn't mean they can

stop packing their bags," he said.

Randy Shilts, a national correspondent for the San Francisco Chronicle who would later write *Conduct Unbecoming*, a history of gays in the military, reported extensively on this and other examples of the military sending known gays to war. Shilts reported on at least 17 service members who told their commanders they were gay, but were still told they would have to serve in Operation Desert Storm. Some were told they might face discharge upon their return, and indeed Shilts reported an uptick in investigations for homosexuality following the war. The pattern has been confirmed in numerous news accounts reporting on service members who revealed their homosexuality and were sent to war anyway, and in some cases were discharged after the war ended. [See Randy Shilts, "Military May Defer Discharge of Gays," *San Francisco Chronicle*, Jan. 11, 1991; Randy Shilts, "Army Discharges Lesbian Who Challenged Ban," *San Francisco Chronicle*, Jan. 19, 1991; Randy Shilts, "Gay Troops in the Gulf War Can't Come Out," *The San Francisco Chronicle*, Feb. 18, 1991; Randy Shilts, "In Wake of War, Military Again Targets Gays," *San Francisco Chronicle*, Aug 5, 1991; and see Randy Shilts, *Conduct Unbecoming: Gays and Lesbians in the U.S. Military* (Columbine-Fawcett, 1993); Wade Lambert, "Gay GI's Told, Serve Now, Face Discharge Later" *Wall Street Journal*, Jan. 24, 1991, B1; Wade Lambert and Stephanie Simon, "U.S. Military Moves to Discharge Some Gay Veterans of Gulf War," *Wall Street Journal*, July 30, 1991, B6; Doug Grow, "Captain Did her Duty, Despite Military's Mixed Messages," *Minneapolis Star Tribune*, March 16, 1993, 3B.]

CURRENT WARS:

Three days after the terrorist attacks of 9/11, President Bush signed executive order #13223 that authorized the individual service branches to initiate a "stop-loss," which allowed them "to suspend certain laws relating to promotion, involuntary retirement, and separation" of military personnel [see 1991, 2001 Presidential Order PDF, available from Palm Center]. Some of the media erroneously reported that the military had "suspended" discharges of homosexuals, which it had not. The document order allowed individual branches to halt discharges, but it did not order them to do so. On September 24, according to *The Advocate* magazine, the Air Force suspended some discharges, but exempted gay discharges from the suspension, instructing leaders to continue such discharges. On October 2, the Navy followed suit. [See David Kirby, "Think Before You Tell," *The Advocate*, Dec. 4 2001.]

Despite the exemptions for homosexuals, a Pentagon spokesman said that while "administrative discharges (medical, hardship, suitability) could continue under stop loss, commanders would be given enough latitude in this area to apply good judgment and balance the best interests of the service, the unit and the individual involved." [See Christopher Heredia, "Gay, Lesbian Troops Can Serve Openly – For Now," *San Francisco Chronicle*, Sept. 19, 2001.]

An army document, Milper Message Number 04-169 [originally available at www.perscomnd09.army.mil, and at the National Lawyer's Guild, Military Task Force] issued June 2, 2004 explicitly exempted from stop-loss "those soldier in violation of the

Army's homosexual conduct policy." This meant anyone who had been determined to have violated "don't ask, don't tell" would be discharged.

Yet evidence shows that the Army was able to subvert its own regulation simply by neglecting to pursue homosexual conduct violations until they had already sent avowed homosexuals to war. In 2005, Palm Center researchers obtained an Army Commander's Handbook updated in 1999 and still in effect. In the handbook, entitled, "Regulation 500-3-3 Volume III, Reserve Component Unit Commanders Handbook, in Table 2.1 on "Personnel actions during the mobilization process," it says under the criterion of "homosexuality": "if discharge is not requested prior to the unit's receipt of alert notification, discharge isn't authorized. Member will enter AD [active duty] with the unit." [Electronic version of Regulation 500-3-3 is available from Palm upon request.]

After the handbook was discovered and publicized, a military spokesperson acknowledged that the Pentagon was sending openly gay service members into combat in Iraq. Kim Waldron, of the U.S. Army Forces Command at Fort McPherson, said that, "The bottom line is some people are using sexual orientation to avoid deployment. So in this case, with the Reserve and Guard forces, if a soldier 'tells,' they still have to go to war and the homosexual issue is postponed until they return to the U.S. and the unit is demobilized." Waldron's statements were reported in the *Washington Blade*. [See Lou Chibbaro Jr., "Out gay soldiers Sent to Iraq, Regulation Keeps Straights from 'Playing Gay' to Avoid War," *Washington Blade*, Sept. 23, 2005; and see Palm Center press release, Sept. 23, 2005.]

The following month, another FORSCOM spokesperson made statements conflicting with what Ms. Waldron had said in September. "While our spokesperson may have been accurately quoted in saying, 'they still have to go to war and the homosexual issue is postponed until they return to the U.S. and the unit is demobilized,' we wish to clarify that the Soldier's case is not postponed until the unit returns. The review process continues while the unit is deployed and there is no delay in resolving the matter or discharging the Soldier if that is the resolution." [email to Palm Center researchers.]

In fact, there is no question that the military delays and neglects gay discharges during the current wars in the Middle East. In 2006 and 2007, the Navy twice deployed a gay sailor to duty despite his public acknowledgement that he was gay. His dismissal form was marked "completion of service" rather than homosexual conduct, thus allowing the Navy to re-deploy him in the future. Only after the sailor became the subject of an article in *Stars and Stripes*, a military newspaper, did the Navy finally and swiftly discharge him for homosexual conduct. [See Joseph Giordano, "Discharged Gay Sailor is Called Back to Active Duty," *Stars and Stripes*, May 6, 2007; Joseph Giordano, "Navy Bars Outed Gay Sailor From Return to Service," *Stars and Stripes*, June 10, 2007.]

IV. Current Discharge Figures

(SOURCE: Servicemembers Legal Defense Network)

1994: 617
1995: 772
1996: 870
1997: 1007
1998: 1163
1999: 1046
2000: 1241
2001: 1273 (*peak)
2002: 906
2003: 787
2004: 668
2005: 742
2006: 612