



## FOR IMMEDIATE RELEASE

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### SENIOR ADMIRAL SAYS LIFTING GAY BAN WOULD STRENGTHEN MILITARY Former Navy JAG Calls 'Don't Ask, Don't Tell' "Odious"

SANTA BARBARA, CA, August 21, 2003 - The retired Judge Advocate General (JAG) for the Navy, Rear Admiral John D. Hutson, has called for the end of the military's "don't ask, don't tell" policy banning openly gay soldiers from service. In an article published this month in the National Law Journal Admiral Hutson called the gay ban "virtually unworkable in the military." The article argues that the policy is the "quintessential example of a bad compromise," and that the "don't ask, don't tell" regulations are a "charade" that "demeans the military as an honorable institution."

Admiral Hutson, who retired in 2000, now lives with his wife in New Hampshire, where he serves as dean and president of the Franklin Pierce Law Center. As JAG, Hutson was the senior uniformed attorney in the Department of the Navy. His job was to oversee all legal issues in the Navy, supervise the 750 lawyers in the JAG Corps who serve around the world, and provide legal counsel to top commanders, including the Secretary of the Navy and the Chief of Naval Operations.

In an interview this week with the Center for the Study of Sexual Minorities in the Military, University of California, Santa Barbara, he said he initially supported the policy, concluding that "a satisfactory resolution was impossible then." Since it was hammered out in 1993, however, much has changed. "At that time," he said, "we thought the sky could fall. To completely overturn the policy ran the risk of undermining our ability to complete our mission." But with the benefit of over a decade of experience with the policy, and with what he called a "somewhat more enlightened population, particularly among younger people," he now believes it's time to end the ban. "That was then and this is now," he said. "I am now convinced, as I was not then, that the military could survive" lifting the ban entirely.

When the policy was adopted, he explained, "I don't think any of us thought it was going to be permanent. Nobody liked it. So then the question became how long? Is it going to be a generation? Fifty years? I think enough things have happened in the country, and then on top of it all, you've got the Supreme Court overturning the [sodomy] statute, that it just became time to reconsider."

Admiral Hutson was a Navy Captain in the office of the JAG in 1993 when the current gay ban was formulated, serving as the JAG's executive assistant. In 1997, he became the JAG himself, and it fell to



him to enforce the policy. Since retiring from the Navy in 2000, he has gained "a somewhat different perspective, and I think a richer one." He now perceives "a very low level of support for the policy." He advocates ending the ban because he recognizes "that the American public is more ready for this and is not crazy about the policy."

Defenders of the ban have long argued that allowing gays to serve openly would impair unit cohesion and undermine military readiness. But a growing number of observers now argue that the ban itself, not the presence of gays, may threaten morale, cohesion and performance. Last year, the policy faced a barrage of criticism when Americans learned that nearly two dozen Army linguists, many specialists in Arabic, were discharged under "don't ask, don't tell."

Admiral Hutson said that ending the ban could help strengthen the military. "Eliminating the policy on balance now would serve a greater good and in many respects would foster cohesion. Unburdened by this odious policy, the Department of Defense might come out stronger, and more able to defend the country." He explained this was not only because more people could join or remain in the service, but because the public's support of the military could increase. "There is right now what I perceive to be this blemish on [the armed forces], and it ought to be removed. And if it is removed, ultimately the military would feel better about itself and it would be held in even higher regard by removing this fundamental unfairness for a fairly significant population in the country."

Since Congress made the gay ban a federal statute, the Pentagon cannot overturn the policy without Congressional action. But Admiral Hutson said that, although Congress would need to act to repeal the ban, the Department of Defense could take the lead and use its influence to reverse the policy. "The way things tend to work inside the beltway," he said, "if the Department of Defense put up enough of a squawk, Congress would not stand in the way." He said the Pentagon could initiate studies, interview soldiers, and call on the legislature to reconsider the law. "At some point, obviously it needs to see the light of day."

Admiral Hutson was prompted to write the article in the National Law Journal after the Supreme Court overturned state sodomy laws early this summer. While that decision did not immediately end military regulations banning sodomy and prohibiting openly gay soldiers, legal challenges are underway using the High Court's recent decision as a new precedent. Dean Hutson argues that the American public has "moved far enough along" for it to accept openly gay soldiers, an assertion that is born out by several polls both within and outside the military.

Nathaniel Frank, Senior Research Fellow at the Center for the Study of Sexual Minorities in the



Military, said Admiral Hutson is the most eminent military officer to call unambiguously for the lifting of the gay ban. "As the former JAG of the Navy," Dr. Frank said, "Hutson's comments warrant special attention." The Santa Barbara Center has published studies on the Israeli, British, Australian and Canadian militaries since they lifted their gay bans, which conclude that allowing gays to serve openly does not undermine military readiness.

Admiral Hutson fears that the U.S. military is "falling further and further behind" the American public. "This is what's discouraging to me," he said. "I don't want an institution for which I have great affection to be antiquated in its ideas. The military is better than that."

The Center for the Study of Sexual Minorities in the Military is an official research unit of the University of California, Santa Barbara. The Center is governed by a distinguished board of advisors including the Honorable Lawrence J. Korb of the Council on Foreign Relations, Honorable Coit Blacker of Stanford University and Professor Janet Halley of Harvard Law School. Its mission is to promote the study of gays, lesbians, and other sexual minorities in the armed forces.