

DECLARATION OF CLIFFORD L. STANLEY

I, Clifford L. Stanley, declare as follows:

1. I am currently Under Secretary of Defense for Personnel and Readiness. I am the senior policy advisor to the Secretary of Defense on recruitment, career development, pay, and benefits for the 1.4 million active-duty military personnel, 1.3 million Guard and Reserve personnel, and 680,000 DoD civilian employees. I am responsible for overseeing the overall state of military readiness. I was nominated for this position by the President on October 15, 2009, and was confirmed by the Senate on February 9, 2010.

2. One of the offices under my authority, direction, and control is the Office of Officer and Enlisted Personnel Management. That office is responsible for most Department of Defense Issuances, including DoD Directives and Instructions, governing personnel policy for the military. The implementation of the "Don't Ask, Don't Tell" statute (DADT), 10 U.S.C. § 654, involves many aspects of such personnel policy. The Department implements § 654 primarily through three DoD Instructions for which I am responsible, and regulates dozens of related issues through other regulations, policies and guidances.

3. Primary responsibility for the policy oversight of the implementation of a repeal of DADT (or compliance with an injunction of similar effect) would reside with the Office of Officer and Enlisted Personnel Management.

4. I am also a member of the Executive Committee of the Comprehensive Review Working Group that is charged with assessing the impact of a repeal of § 654 and, should a repeal occur, developing a plan to support the implementation of repeal. In this capacity, I participate in regular meetings with the co-chairs of the Working Group and other members of the Executive Committee, at which we discuss the Working Group's activities and progress.

5. I served for 33 years in the U.S. Marine Corps and retired as a Major General in 2002.

1 6. I am aware of the Court's decision in this case that § 654 and the
2 Department's associated regulations violate the First and Fifth Amendments of the
3 Constitution. In this declaration I will not address the merits of the Court's
4 decision. I submit this declaration to make the following point: the Government
5 intends to appeal the Court's decision. During the pendency of that appeal, the
6 military should not be required to suddenly and immediately restructure a major
7 personnel policy that has been in place for years, particularly during a time when
8 the Nation is involved in combat operations overseas. The magnitude of repealing
9 the DADT law and policy is demonstrated by the Department's ongoing efforts to
10 study the implications of repealing DADT, which I outline in detail below.

11 7. Further, an injunction before the appeal in this case has run its course
12 will place gay and lesbian servicemembers in a position of grave uncertainty. If
13 the Court's decision were later reversed, the military would be faced with the
14 question of whether to discharge any servicemembers who have revealed their
15 sexual orientation in reliance on this Court's decision and injunction. Such an
16 injunction therefore should not be entered before appellate review has been
17 completed.

18 8. As demonstrated below, in the event DADT is no longer in effect, an
19 injunction with immediate and worldwide effect will have adverse effects on both
20 military readiness and the Department's ability to effect a smooth and lasting
21 transition to a policy that accommodates the presence of openly gay and lesbian
22 servicemembers. The stakes here are so high, and the potential harm so great, that
23 caution is in order.

24 **Ongoing Efforts to Implement the Views of the Legislative Branch and Key**
25 **Executive Branch Officials**

26 9. The President, Secretary of Defense, and Chairman of the Joint
27 Chiefs of Staff have all announced their support for a repeal of the DADT statute.
28 Nevertheless, while expressing support for repeal, these officials have also

1 expressed their firm belief that, to be successful, implementation of a repeal of the
2 statute must be done in a comprehensive and orderly manner.

3 10. The President, who called for repeal of the statute during his 2010
4 State of the Union address, has said as recently as last month that implementation
5 of repeal must be done in "an orderly way." (See Ex. A.) The Chairman of the
6 Joint Chiefs of Staff testified before the Senate Armed Services Committee on
7 February 2, 2010, that "any implementation plan for a policy permitting gays and
8 lesbians to serve openly in the armed forces must be carefully derived, sufficiently
9 thorough, and thoughtfully executed." (See Ex. B.)

10 11. In support of the effort to repeal the DADT statute, but also
11 recognizing that a repeal could not be successfully implemented in a precipitous
12 manner, the Secretary of Defense on March 2, 2010, established the Department of
13 Defense Comprehensive Review Working Group and designated Jeh C. Johnson,
14 the Department's General Counsel, and General Carter F. Ham, Commanding
15 General, U.S. Army Europe, as Co-Chairs of the Working Group.

16 12. The Secretary of Defense's memorandum establishing the Working
17 Group, emphasized that "[t]o be successful [in implementing repeal], we must
18 understand all issues and potential impacts associated with repeal of the law and
19 how to manage implementation [of repeal] in a way that minimizes disruption to a
20 force engaged in combat operations and other demanding military activities
21 around the globe." (See Ex. C.)

22 13. Congressional proposals to repeal DADT have also recognized the
23 need for careful planning. The House of Representatives has passed, and the
24 Senate Armed Services Committee has approved, a bill that would allow the repeal
25 of the DADT statute. But even that proposed legislation does not provide for the
26 immediate repeal of the statute. Under the proposed legislation, repeal would not
27 take effect until 60 days after a certification by the President, Secretary of
28 Defense, and Chairman of the Joint Chiefs of Staff that they have considered the
recommendations contained in the Working Group's report; that the Department of

1 Defense has prepared the necessary policies and regulations to implement repeal;
2 and that the implementation of those policies and regulations is consistent with the
3 standards of military readiness, military effectiveness, unit cohesion, and
4 recruiting and retention.

5 **The Ongoing Efforts of the DoD Comprehensive Review Working Group**

6 14. The Secretary of Defense has directed the Working Group to provide
7 "an assessment of the implications" of repeal and "an implementation plan for any
8 new statutory mandate." The Working Group's report and plan of action are due to
9 the Secretary of Defense no later than December 1, 2010.

10 15. Thus far, as directed by the Secretary of Defense, the Working Group
11 has made extensive efforts to solicit the views of servicemembers and their
12 families regarding potential issues associated with repeal. The Secretary of
13 Defense has emphasized that he believes that members of the military must be
14 afforded the opportunity to inform us of their concerns, insights, and suggestions
15 if we are to carry out such a change successfully. Among other things, the
16 Working Group has conducted visits to numerous military installations across the
17 country and overseas, where they have interacted with tens of thousands of
18 servicemembers on this issue. The Working Group has also conducted an
19 extensive, professionally developed survey that was distributed to a representative
20 sample of approximately 400,000 servicemembers.

21 16. An immediate, court-ordered cessation of enforcement of the policy
22 would force the military to implement a change without awaiting the analysis of
23 the data that has been gathered, and without attempting to take account of the
24 results. A court-ordered injunction would thus undermine the credibility and
25 validity of the entire process, and make transition to a new policy far more
26 difficult and more likely to impair unit cohesion, good order, discipline, and
27 military readiness.

28 17. Additionally, the Working Group is undertaking a comprehensive
legal and policy review of the issues implicated by repeal of DADT. The result of

1 the legal and policy review will be recommended changes to DoD regulations and
2 policies to address the issues associated with repeal and to mitigate any potentially
3 negative impacts repeal may have.

4 18. The Working Group is also developing tools for leadership to educate
5 and train the force in the event of repeal. The Secretary of Defense has
6 emphasized that "strong, engaged, and informed leadership will be required at
7 every level to properly and effectively implement" such a change. (See Ex. C.)

8 19. The Working Group is in the midst of its efforts and is on track to
9 provide its report and plan of action to the Secretary of Defense by December 1,
10 2010. December 1 is by no means, however, the date on which the Department
11 may be prepared to implement a change to DADT in the event the DADT law is
12 repealed or eliminated. Additional steps that must occur after December 1 include
13 review, assessment, and approval of the Working Groups' report and
14 recommendations by the leadership of the Army, Navy, Air Force, and Marines;
15 the Secretary of Defense; and by the Chairman of the Joint Chiefs of Staff.
16 Changing the policy will also require the writing of new policies and regulations
17 by the relevant components within DoD and the Services based on those
18 recommendations; and the conducting of education and training programs for
19 servicemembers and commanders. These items cannot be fully developed for
20 implementation until the Working Group's recommendations are presented to the
21 Secretary of Defense, and the Secretary makes decisions about those
22 recommendations. It is not possible to determine now, prior to the report's
23 completion, precisely how long that process will take, but this entire process will
24 likely take some number of months.

25 20. As the Secretary of Defense recognized when convening the Working
26 Group, months of planning are necessary before the Department can implement
27 the orderly elimination of DADT without creating risk to the operation of the
28 military in the midst of ongoing conflicts.

1 **The Effect of Immediate Invalidation**

2 21. Requiring the Department to cease all enforcement of DADT,
3 immediately and worldwide, will cause significant disruptions to the force in the
4 short term and, in the long term, would likely undermine the effectiveness of any
5 transition to accepting open service by gays and lesbians in the event the law is
6 repealed or eliminated.

7 22. In the short term, there will be an immediate need to train and educate
8 the force about the change to DADT and other policies, and to revise dozens of
9 regulations and policies.

10 23. For the tens of thousands of servicemembers serving in theaters of
11 active conflict, there will be a tension between the requirement that the policy
12 change take effect immediately and the need to avoid interference with ongoing
13 operations. The exigencies of combat and other operations thus may delay the
14 Department's ability to educate the forward-deployed servicemembers about a
15 court-ordered change in policy.

16 24. This is problematic because education and training will be essential to
17 the implementation of any change in the DADT law and policy. It will be
18 difficult, if not impossible, to provide timely education to forces engaged in
19 combat operations. The Secretary of Defense specifically cited the need to avoid
20 interfering with combat operations when charging the Working Group with
21 developing a plan for implementing repeal of the DADT policy; the same concern
22 applies to the judicial invalidation of the statute.

23 25. Even for the hundreds of thousands of servicemembers not serving in
24 forward-deployed areas, training and education will be essential to inform
25 servicemembers of what is expected of them in this new environment. These
26 training programs cannot be provided instantaneously.

27 26. Invalidation of the DADT statute implicates dozens of DoD and
28 Service policies and regulations that cover such disparate issues as housing,
benefits, re-accession, military equal opportunity, anti-harassment, standards of

1 conduct, rights and obligations of the Chaplain corps, and others. Amending these
2 regulations would typically take several months. To change all of the implicated
3 policies and underlying regulations will require a massive undertaking by the
4 Department and cannot be done overnight.

5 27. The issues described above are not merely hypothetical: they have
6 been repeatedly raised by servicemembers and senior military leaders during the
7 Working Group's engagement of the force.

8 **Training and Education are Critical to Success**

9 28. A number of servicemembers have expressed concerns about, or
10 opposition to, the repeal of DADT and its replacement with a policy that would
11 permit gays and lesbians to serve openly. One of the purposes of the Working
12 Group is to understand these concerns and to develop an implementation approach
13 that adequately addresses them, through changes to policy where necessary and,
14 more importantly, through education and training of the force. An immediate
15 injunction would curtail the Working Group process and would send a very
16 damaging message to our men and women in uniform that their views, concerns,
17 and perspectives do not matter on an issue with a direct impact on their lives. This
18 message would undermine the morale of the force – and not just among those
19 servicemembers who oppose repeal, but of all servicemembers who have informed
20 the Department of their concerns, insights, and suggestions.

21 29. Overall, an abrupt change - without adequate planning or time to
22 implement a plan - substantially increases the probability of failure or backlash in
23 the early months of this transition, months that will be critical to our long-term
24 success.

25 30. It is important to keep in mind that thousands of military personnel
26 have enforced the DADT policy for many years. Any change to the policy will
27 require that these personnel receive training and instruction in a number of areas,
28 including: (i) how the policy has changed; (ii) why the policy has changed; (iii)
how the change in this policy affects other existing policies; (iv) appropriate

1 treatment of gay and lesbian servicemembers who reveal their sexual orientation;
2 (v) appropriate treatment of servicemembers who object to serving with
3 servicemembers they know to be gay or lesbian; and (vi) principles to consider
4 when handling other issues that may arise the elimination of the DADT policy.
5 Thus, it is not simply a matter of saying that a particular statute shall no longer be
6 enforced.

7 31. The need to educate and train the force will require the Department to
8 develop and give to commanders the tools necessary for this education and
9 training. Developing such tools, although already underway, and communicating
10 them effectively, will take time and effort to complete and implement once the
11 Working Group recommendations are analyzed and final decisions are made.
12 Again, this training will be particularly difficult to conduct in forward-deployed
13 areas. Without this education and training, commanders in the field will not have
14 the necessary guidance and will not be able to enforce the new regime in the
15 consistent, even-handed manner that is essential to morale, discipline, and good
16 order. Equally importantly, servicemembers must know what is expected of them
17 in this new environment.

18 **Lingering Uncertainty During Appeal**

19 32. The military also should not be required to restructure military policy
20 and law during the pendency of the Government's appeal. If the Court's judgment
21 is overturned on appeal, and Congress has not since repealed the statute, the
22 Department of Defense will be obligated by statute to reinstate DADT. Removing
23 and then reinstating DADT will be extremely disruptive, as well as unduly costly
24 and time-consuming, particularly at a time when this Nation is involved in combat
25 operations overseas.

26 33. Enjoining the operation of the statute before any appeal is concluded,
27 moreover, would place gay and lesbian servicemembers in a position of grave
28 uncertainty. If the Court's decision were later reversed, the military would be
faced with the question of whether to discharge any servicemembers who have

1 revealed their sexual orientation in reliance on this Court's decision and
2 injunction. Such an injunction therefore should not be entered before appellate
3 review has been completed.

4 **The Importance of a Careful Transition**

5 34. More challenging than determining the substance of the new policies
6 and regulations, and devising the appropriate training, is that the need to comply
7 with an immediate, worldwide injunction will necessitate devising solutions
8 on-the-fly, rather than doing so after careful planning. The resulting *ad hoc*
9 solutions will not be as effective as those that would come after careful
10 consideration. Because of the difficulty of changing policies a second time, these
11 imperfect *ad hoc* solutions likely will become permanent, potentially jeopardizing
12 the long-term success of the transition.

13 35. The *ad hoc* implementation of policies and procedures likely would
14 undermine morale, good order and discipline, and unit cohesion, interests cited by
15 Congress in 10 U.S.C. § 654(a)(6). If the Department must devise and implement
16 new policies on an *ad hoc* basis, morale will likely suffer as servicemembers and
17 their families recognize that their responses to the Working Group surveys will be
18 for naught. To proceed without evaluating those concerns, insights, and
19 suggestions would send the damaging message that the concerns of military
20 members do not matter on this issue that directly affects them and their families.
21 Unit cohesion, good order, and discipline could suffer if the Department must
22 implement this change without the time needed to develop education and training
23 for the force.

24 36. Equally troubling is the potential harm to the long-term goal of a
25 successful transition. If the DADT policy is eventually abolished, the military will
26 only get one chance to implement the change. For a change of this magnitude, the
27 initial stages are extraordinarily important to the long-term success of the project.
28 That is one reason why the President, Secretary of Defense, and Chairman of the
Joint Chiefs of Staff have emphasized the need for careful planning of this

1 transition. A poorly implemented transition will not only cause short-term
2 disruption to military operations, but will also jeopardize the long-term success of
3 the transition. Either outcome would irreparably harm our military and the
4 national security of the United States.

5 **Conclusion**

6 37. A stay of the Court's injunction is necessary to permit the Working
7 Group to finish its important work, and to allow the Department of Defense to
8 formulate and implement the necessary policies, leadership guidance, and training
9 to implement a change to DADT in as smooth and orderly fashion as possible,
10 thereby maximizing the likelihood of a successful transition and minimizing any
11 disruption to ongoing military operations.

12
13 I declare under penalty of perjury that the foregoing is true and correct.

14 Executed this 14th day of October, 2010.

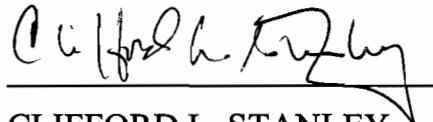
15 
16
17 CLIFFORD L. STANLEY

Exhibit A



Obama in Command: The Rolling Stone Interview

In an Oval Office interview, the president discusses the Tea Party, the war, the economy and what's at stake this November



Photograph by Mark Seliger for RollingStone.com

By **Jann S. Wenner**
Sep 28, 2010 7:00 AM EDT

The following is an article from the October 15, 2010 issue of Rolling Stone.

We arrived at the southwest gate of the white house a little after one o'clock on the afternoon of September 17th. It was a warm fall day, but the capital felt quiet and half-empty, as it does on Fridays at the end of summer, with Congress still in recess. *Rolling Stone* had interviewed Barack Obama twice before, both times aboard his campaign plane — first in June 2008, a few days after he won the Democratic nomination, and again that October, a month before his election. This time executive editor Eric Bates and I sat down with the president in the Oval Office, flanked by busts of Abraham Lincoln and Martin Luther King Jr. The conversation stretched on for nearly an hour and a quarter. The president began by complimenting my multi-colored striped socks. "If I wasn't president," he laughed, "I could wear socks like that."

Well, I'll tell you that given the state of the economy during my transition, between my election and being sworn in, our working assumption was that everybody was going to want to pull together, because there was a sizable chance that we could have a financial meltdown and the entire country could plunge into a depression. So we had to work very rapidly to try to create a combination of measures that would stop the free-fall and cauterize the job loss.

More From Rolling Stone



ADVERTISEMENT



ADVERTISEMENT



Audio Excerpts: Obama on Dylan and McCartney at the White House



Matt Taibbi: The Truth About the Tea Party



Interview: After the Primaries by Jann S. Wenner (July 2008)

The recovery package we shaped was put together on the theory that we shouldn't exclude any ideas on the basis of ideological predispositions, and so a third of the Recovery Act were tax cuts. Now, they happened to be the most progressive tax cuts in history, very much geared toward middle-class families. There was not only a fairness rationale to that, but also an economic rationale — those were the folks who were most likely to spend the money and, hence, prop up demand at a time when the economy was really freezing up.

I still remember going over to the Republican caucus to meet with them and present our ideas, and to solicit ideas from them before we presented the final package. And on the way over, the caucus essentially released a statement that said, "We're going to all vote 'No' as a caucus." And this was before we'd even had the conversation. At that point, we realized that we weren't going to get the kind of cooperation we'd anticipated. The strategy the Republicans were going to pursue was one of sitting on the sidelines, trying to gum up the works, based on the assumption that given the scope and size of the recovery, the economy probably wouldn't be very good, even in 2010, and that they were better off being able to assign the blame to us than work with us to try to solve the problem.

I don't think it's a shock. I had served in the United States Senate; I had seen how the filibuster had become a routine tool to slow things down, as opposed to what it used to be, which was a selective tool — although often a very destructive one, because it was typically targeted at civil rights and the aspirations of African-Americans who were trying to be freed up from Jim Crow. But I'd been in the Senate long enough to know that the machinery there was breaking down.

What I was surprised somewhat by, and disappointed by, although I've got to give some grudging admiration for just how effective it's been, was the degree to which [Senate Minority Leader] Mitch McConnell was able to keep his caucus together on a lot of issues. Eventually, we were able to wear them down, so that we were able to finally get really important laws passed, some of which haven't gotten a lot of attention — the credit-card reform bill, or the anti-tobacco legislation, or preventing housing and mortgage fraud. We'd be able to pick off two or three Republicans who wanted to do the right thing.

But the delays, the cloture votes, the unprecedented obstruction that has taken place in the Senate took its toll. Even if you eventually got something done, it would take so long and it would be so contentious, that it sent a message to the public that "Gosh, Obama said he was going to come in and change Washington, and it's exactly the same, it's more contentious than ever." Everything just seems to drag on — even what should be routine activities, like appointments, aren't happening. So it created an atmosphere in which a public that is already very skeptical of government, but was maybe feeling hopeful right after my election, felt deflated and sort of felt, "We're just seeing more of the same."

Well, on the economic front, their only agenda seems to be tax cuts for the wealthiest Americans. If you ask their leadership what their agenda will be going into next year to bring about growth and improve the job numbers out there, what they will say is, "We just want these tax cuts for the wealthiest Americans, which will cost us \$700 billion and which we're not going to pay for."

Now what they'll also say is, "We're going to control spending." But of course, when you say you're going to borrow \$700 billion to give an average \$100,000-a-year tax break to people making a million dollars a year, or more, and you're not going to pay for it; when Mitch McConnell's overall tax package that he just announced recently was priced at about \$4

trillion; when you, as a caucus, reject a bipartisan idea for a fiscal commission that originated from Judd Gregg, Republican budget chair, and Kent Conrad, Democratic budget chair, so that I had to end up putting the thing together administratively because we couldn't get any support — you don't get a sense that they're actually serious on the deficit side.

I think the Tea Party is an amalgam, a mixed bag of a lot of different strains in American politics that have been there for a long time. There are some strong and sincere libertarians who are in the Tea Party who generally don't believe in government intervention in the market or socially. There are some social conservatives in the Tea Party who are rejecting me the same way they rejected Bill Clinton, the same way they would reject any Democratic president as being too liberal or too progressive. There are strains in the Tea Party that are troubled by what they saw as a series of instances in which the middle-class and working-class people have been abused or hurt by special interests and Washington, but their anger is misdirected.

And then there are probably some aspects of the Tea Party that are a little darker, that have to do with anti-immigrant sentiment or are troubled by what I represent as the president. So I think it's hard to characterize the Tea Party as a whole, and I think it's still defining itself.

There's no doubt that the infrastructure and the financing of the Tea Party come from some very traditional, very powerful, special-interest lobbies. I don't think this is a secret. Dick Armey and FreedomWorks, which was one of the first organizational mechanisms to bring Tea Party folks together, are financed by very conservative industries and forces that are opposed to enforcement of environmental laws, that are opposed to an energy policy that would be different than the fossil-fuel-based approach we've been taking, that don't believe in regulations that protect workers from safety violations in the workplace, that want to make sure that we are not regulating the financial industries in ways that we have.

There's no doubt that there is genuine anger, frustration and anxiety in the public at large about the worst financial crisis we've experienced since the Great Depression. Part of what we have to keep in mind here is this recession is worse than the Ronald Reagan recession of the Eighties, the 1990-91 recession, and the 2001 recession combined. The depths of it have been profound. This body politic took a big hit in the gut, and that always roils up our politics, and can make people angry. But because of the ability of a lot of very well-funded groups to point that anger — I think misdirect that anger — it is translating into a relevant political force in this election.

More From Rolling Stone

/

Prima
Wenn



Interv
Victor
(Oct. 2



Galler
the Ye



Galler
Politic

[Laughs] Look, as president, I swore to uphold the Constitution, and part of that Constitution is a free press. We've got a tradition in this country of a press that oftentimes is opinionated. The golden age of an objective press was a pretty narrow span of time in our history. Before that, you had folks like Hearst who used their newspapers very intentionally to promote their viewpoints. I think Fox is part of *that* tradition — it is part of the tradition that has a very clear, undeniable point of view. It's a point of view that I disagree with. It's a point of view that I think is ultimately destructive for the long-term growth of a country that has a vibrant middle class and is competitive in the world. But as an economic enterprise, it's been wildly successful. And I suspect that if you ask Mr. Murdoch what his number-one concern is, it's that Fox is very successful.

That's a bunch of different questions, so let me see if I can kind of knock them out one by one.

One of the healthy things about the Democratic Party is that it is diverse and opinionated. We have big arguments within the party because we got a big tent, and that tent grew during my election and in the midterm election previously. So making everybody happy within the Democratic Party is always going to be tough.

Some of it, also, has to do with — and I joke about it — that there's a turn of mind among Democrats and progressives where a lot of times we see the glass as half-empty. It's like, "Well, gosh, we've got this historic health care legislation that we've been trying to get for 100 years, but it didn't have every bell and whistle that we wanted right now, so let's focus on what we didn't get instead of what we got." That self-critical element of the progressive mind is probably a healthy thing, but it can also be debilitating.

When I talk to Democrats around the country, I tell them, "Guys, wake up here. We have accomplished an incredible amount in the most adverse circumstances imaginable." I came in and had to prevent a Great Depression, restore the financial system so that it functions, and manage two wars. In the midst of all that, I ended one of those wars, at least in terms of combat operations. We passed historic health care legislation, historic financial regulatory reform and a huge number of legislative victories that people don't even notice. We wrestled away billions

of dollars of profit that were going to the banks and middlemen through the student-loan program, and now we have tens of billions of dollars that are going directly to students to help them pay for college. We expanded national service more than we ever have before.

The Recovery Act alone represented the largest investment in research and development in our history, the largest investment in infrastructure since Dwight Eisenhower, the largest investment in education — and that was combined, by the way, with the kind of education reform that we hadn't seen in this country in 30 years — and the largest investment in clean energy in our history.

You look at all this, and you say, "Folks, that's what you elected me to do." I keep in my pocket a checklist of the promises I made during the campaign, and here I am, halfway through my first term, and we've probably accomplished 70 percent of the things that we said we were going to do — and by the way, I've got two years left to finish the rest of the list, at minimum. So I think that it is very important for Democrats to take pride in what we've accomplished.

All that has taken place against a backdrop in which, because of the financial crisis, we've seen an increase in poverty, and an increase in unemployment, and people's wages and incomes have stagnated. So it's not surprising that a lot of folks out there don't feel like these victories have had an impact. What is also true is our two biggest pieces of legislation, health care and financial regulatory reform, won't take effect right away, so ordinary folks won't see the impact of a lot of these things for another couple of years. It is very important for progressives to understand that just on the domestic side, we've accomplished a huge amount.

When you look at what we've been able to do internationally — resetting our relations with Russia and potentially having a new START treaty by the end of the year, reinvigorating the Middle East peace talks, ending the combat mission in Iraq, promoting a G-20 structure that has drained away a lot of the sense of north versus south, east versus west, so that now the whole world looks to America for leadership, and changing world opinion in terms of how we operate on issues like human rights and torture around the world — all those things have had an impact as well.

What is true, and this is part of what can frustrate folks, is that over the past 20 months, we made a series of decisions that were focused on governance, and sometimes there was a conflict between governance and politics. So there were some areas where we could have picked a fight with Republicans that might have gotten our base feeling good, but would have resulted in us not getting legislation done.

I could have had a knock-down, drag-out fight on the public option that might have energized you and *The Huffington Post*, and we would not have health care legislation now. I could have taken certain positions on aspects of the financial regulatory bill, where we got 90 percent of what we set out to get, and I could have held out for that last 10 percent, and we wouldn't have a bill. You've got to make a set of decisions in terms of "What are we trying to do here? Are we trying to just keep everybody ginned up for the next election, or at some point do you try to win elections because you're actually trying to govern?" I made a decision early on in my presidency that if I had an opportunity to do things that would make a difference for years to come, I'm going to go ahead and take it.

I just made the announcement about Elizabeth Warren setting up our Consumer Finance Protection Bureau out in the Rose Garden, right before you came in. Here's an agency that has the potential to save consumers billions of dollars over the next 20 to 30 years — simple stuff like making sure that folks don't jack up your credit cards without you knowing about it, making sure that mortgage companies don't steer you to higher-rate mortgages because they're getting a kickback, making sure that payday loans aren't preying on poor people in ways that these folks don't understand. And you know what? That's what we say we stand for as progressives. If we can't take pleasure and satisfaction in concretely helping middle-class families and working-class families save money, get a college education, get health care — if that's not what we're about, then we shouldn't be in the business of politics. Then we're no better than the other side, because all we're thinking about is whether or not we're in power.

I've got to disagree with that. If you take a look at it, what we've essentially said is that the vast majority of derivatives are now going to be sold through a clearinghouse. And if you ask the experts what was the best way to make sure the derivative markets didn't bring down the economy again, it's transparency, so that everybody understands who the counterparties are, everybody understands what the deal is, what the risks are — it's all aboveboard, it's all in the light of day.

People have legitimate concerns that if the rules drafted by all these various agencies in charge of implementing financial reform wind up with exceptions that are so big you can drive a truck through them, and suddenly you can have these specially tailored derivatives that are sold outside of the clearinghouse, then you could end up with an inadequate regulatory structure.

But if the rules are written properly — and I have confidence that the people I appointed to

these agencies intend to apply them properly — it's going to make a difference. Is it going to solve every potential problem in Wall Street in a multi-trillion-dollar, worldwide, capital market? Probably not. There could end up being new schemes, new loopholes that folks are going to try to exploit. The special interests are already ginning up to try to influence the rulemaking process in all these issues, so we have to remain vigilant. But to say that we did not significantly improve oversight of the derivatives market, it just isn't true.

Let me first of all say this. . . .

[Laughs] Exactly. I read some of the articles that Tim Dickinson and others have produced in *Rolling Stone*. I understand the point of view that they're bringing. But look: Tim Geithner never worked for Goldman; Larry Summers didn't work for Goldman. There is no doubt that I brought in a bunch of folks who understand the financial markets, the same way, by the way, that FDR brought in a lot of folks who understood the financial markets after the crash, including Joe Kennedy, because my number-one job at that point was making sure that we did not have a full-fledged financial meltdown.

The reason that was so important was not because I was concerned about making sure that the folks who had been making hundreds of millions of dollars were keeping their bonuses for the next year. The reason was because we were seeing 750,000 jobs a month being lost when I was sworn in. The consequence to Main Street, to ordinary folks, was catastrophic, and we had to make sure that we stopped the bleeding. We managed to stabilize the financial markets at a cost that is much less to taxpayers than anybody had anticipated. The truth of the matter is that TARP will end up costing probably less than \$100 billion, when all is said and done. Which I promise you, two years ago, you could have asked any economist and any financial expert out there, and they would have said, "We'll take that deal."

More From Rolling Stone

/



Interview
Victor
(Oct. 2)



Galler
the Ye



Galler
Politie

One of the things that you realize when you're in my seat is that, typically, the issues that come to my desk — there are no simple answers to them. Usually what I'm doing is operating on the basis of a bunch of probabilities: I'm looking at the best options available based on the fact that there are no easy choices. If there were easy choices, somebody else would have solved it, and it wouldn't have come to my desk.

That's true for financial regulatory reform, that's true on Afghanistan, that's true on how we deal with the terrorist threat. On all these issues, you've got a huge number of complex factors involved. When you're sitting outside and watching, you think, "Well, that sounds simple," and you can afford to operate on the basis of your ideological predispositions. What I'm trying to do — and certainly what we've tried to do in our economic team — is to keep a North Star out there: What are the core principles we're abiding by? In the economic sphere, my core principle is that America works best when you've got a growing middle class, and you've got ladders so that people who aren't yet in the middle class can aspire to the middle class, and if that broad base is rolling, then the country does well.

I've gotta say that I have been surprised by some of the rhetoric in the business press, in which we are accused of being anti-business. I know a lot of these guys who started hedge funds. They are making large profits, taking home large incomes, but because of a rule called "carried interest," they are paying lower tax rates than their secretaries, or the janitor that cleans up the building. Or folks who are out there as police officers and teachers and small-business people. So all we've said is that it makes sense for them to pay taxes on it like on ordinary income.

I understand why folks might disagree with that. I've yet to meet a broad base of people who are anxious to pay higher taxes. But the point you're making, which is exactly right, is that what should be a pretty straightforward policy argument ends up generating the kind of rhetoric we've been seeing: where I'm anti-business, I'm socialist, our administration is trying to destroy capitalism. That, I think, is over-the-top.

The average American out there who is my primary concern and is making 60 grand a year and paying taxes on all that income and trying to send their kids through school, and partly as a consequence of bad decisions on Wall Street, feels that their job is insecure and has seen their 401(k) decline by 30 percent, and has seen the value of their home decline — I don't think they're that sympathetic to these guys, and neither am I.

I was in my office in the residence, in the Treaty Room. Joe Biden called me — he was the first one who heard about it. I think it was Sunday night, and I had one of the staff here send me up a copy, and I read through the article. I will say at the outset that I think Gen. McChrystal is a fine man, an outstanding soldier, and has served this country very well. I do not think that he meant those comments maliciously. I think some of those comments were from his staff and

mean those comments maliciously. I think some of those comments were from his staff, and so he was poorly served. And it pained me to have to make the decision I did. Having said that, he showed bad judgment. When I put somebody in charge of the lives of 100,000 young men and women in a very hazardous situation, they've got to conduct themselves at the highest standards, and he didn't meet those standards.

The remarks themselves, I think, showed poor judgment. The rest of the article had to do with a series of very difficult, complex choices on the ground in Afghanistan, in which, as I said before, there are no easy answers. So Gen. McChrystal, in response to a very serious and legitimate concern about civilian casualties in Afghanistan, put out orders that have significantly reduced civilian casualties. The flip side of it is that it frustrates our troops, who feel that they may not be able to go on the offense as effectively, and it may put them in danger. That's a profound strategic, tactical debate that takes place in the military. That's not unique to Gen. McChrystal — that's a debate that Gen. Petraeus is having to work his way through, that's a debate that I have to work my way through as commander in chief.

To broaden the issue for a second, you were asking about the sources of frustration in the progressive community; clearly, Afghanistan has to be near the top of the list, maybe at the top of the list. I always try to point out, number one, that this shouldn't have come as any surprise. When I was campaigning, I was very specific. I said, "We are going to end the war in Iraq, that was a mistake," and I have done that. What I also said was that we need to plus up what we're doing in Afghanistan, because that was where the original terrorist threat emanated, and we need to finish the job. That's what we're doing.

More From Rolling Stone

/

(Oct. 2

Galler
the YeGaller
Politic

Now, I think that a lot of progressive supporters thought that maybe it would be easier than it has proven to be to try to bring Afghanistan to a place where we can see an end in sight. The fact of the matter is, when we came in, what we learned was that the neglect of Afghanistan had been more profound than we expected. Just simple examples: The Afghan National Army, the Afghan security forces, oftentimes were recruited, given a uniform, given a rifle, and that was it — they weren't getting trained. As a functional matter, there was no way that they were going to start taking the place of U.S. troops.

What we've had to do after an extensive review that I engaged in was to say to our commanders on the ground, "You guys have to have a strategy in which we are training Afghan security forces, we're going to break the Taliban momentum, but I am going to establish a date at which we start transitioning down and we start turning these security functions over to a newly trained Afghan security force." That is what we're in the process of doing.

It is exacting a terrible cost. Whenever I go over to Walter Reed or Bethesda, or when I was in Afghanistan, and I meet kids who lost their legs or were otherwise badly injured, I am reminded of that cost. Nobody wants more than me to be able to bring that war to a close in a way that makes sure that region is not used as a base for terrorist attacks against the United States. But what we have to do is see this process through. Starting July of 2011, we will begin a transition process, and if the strategy we're engaged in isn't working, we're going to keep on re-examining it until we make sure that we've got a strategy that does work.

Number one, this is very hard stuff. I knew it was hard a year ago, and I suspect a year from now, I will conclude that it's still hard, and it's messy. Number two, when you tick off these metrics that have quote-unquote "failed" — well, they haven't failed yet. They haven't succeeded yet. We've made progress in terms of creating a line of security around Kandahar, but there's no doubt that Kandahar is not yet a secure place any more than Mosul or Fallujah were secure in certain phases of the Iraq War.

I will also agree that Afghanistan is harder than Iraq. This is the second-poorest country in the world. You've got no tradition of a civil service or bureaucracy that is effective countrywide. We have been very successful in taking out the middle ranks of the Taliban. We have been very successful in recruiting and beginning to train Afghan security forces. There are elements that are working, and there are elements that are not working.

Keep in mind that the decision I have to make is always, "If we're not doing this, then what does that mean? What are the consequences?" I don't know anybody who has examined the region who thinks that if we completely pulled out of Afghanistan, the Karzai regime collapsed, Kabul was overrun once again by the Taliban, and Sharia law was imposed throughout the country, that we would be safer, or the Afghan people would be better off, or Pakistan would be better off, or India would be better off, or that we would see a reduction in potential terrorist attacks around the world. You can't make that argument.

Some have argued that what we can do is have a smaller footprint in Afghanistan, focus on counterterrorism activities but have less boots on the ground. We examined every option that's

counterterrorism activities, but there has been an air of caution. We examined every option that came out there. I assure you: With all the problems we've got here at home, and the fact that I have to sign letters to the family members of every soldier who is killed in Afghanistan, if I can find a way of reducing the costs to the American taxpayer, and more profoundly, to our young men and women in uniform, while making sure that we are not rendered much more vulnerable to a terrorist attack in the future, that's going to be the option that I choose. But no matter what your ultimate belief is in terms of what will succeed in Afghanistan, it's going to take us several years to work through this issue.

Ideally, what would have happened was that we didn't go into Iraq. Right after our victory in 2001, if we had focused on rebuilding Afghanistan, and had been in much more direct day-to-day interaction with Karzai and his government, then we wouldn't find ourselves in this circumstance.

But you know what: I have to play the cards that I'm dealt. In an ideal world, I wouldn't have inherited a \$1.3 trillion deficit and the worst recession since the Great Depression. But you work with what's before you.

When Ken Salazar came in, *he said to me*, "One of my top priorities is cleaning up MMS." It was no secret. You had seen the kind of behavior in that office that was just over-the-top, and Ken did reform the agency to eliminate those core ethical lapses — the drugs, the other malfeasance that was reported there. What Ken would admit, and I would admit, and what we both have to take responsibility for, is that we did not fully change the *institutional* conflicts that were inherent in that office. If you ask why did we not get that done, the very simple answer is that this is a big government with a lot of people, and changing bureaucracies and agencies is a time-consuming process. We just didn't get to it fast enough.

Having said that, the person who was put in charge of MMS was fired. We brought in Michael Bromwich, who by every account is somebody who is serious about cleaning up that agency. We are committed to making sure that that place works the way it is supposed to. But when I have somebody like Ken Salazar, who has been an outstanding public servant, who takes this stuff seriously, who bleeds when he sees what was happening in the Gulf, and had started on a path of reform but just didn't get there as fast on every aspect of it as needed to be, I had to just let him know, "You're accountable, you're responsible, I expect you to change it." I have confidence that he can change it, and I think he's in the process of doing so.

More From Rolling Stone

/



Interview
Victor
(Oct. 2)



Galler
the Ye



Galler
Politic

What I would agree with is that climate change has the potential to have devastating effects on people around the globe, and we've got to do something about it. In order to do something about it, we're going to have to mobilize domestically, and we're going to have to mobilize internationally.

During the past two years, we've not made as much progress as I wanted to make when I was sworn into office. It is very hard to make progress on these issues in the midst of a huge economic crisis, because the natural inclination around the world is to say, "You know what? That may be a huge problem, but right now what's a really big problem is 10 percent unemployment," or "What's a really big problem is that our businesses can't get loans." That diverted attention from what I consider to be an urgent priority. The House of Representatives made an attempt to deal with the issue in a serious way. It wasn't perfect, but it was serious. We could not get 60 votes for a comparable approach in the Senate.

One of my top priorities next year is to have an energy policy that begins to address all facets of our overreliance on fossil fuels. We may end up having to do it in chunks, as opposed to some sort of comprehensive omnibus legislation. But we're going to stay on this because it is good for our economy, it's good for our national security, and, ultimately, it's good for our environment.

Understand, though, that even in the absence of legislation, we took steps over the past two years that have made a significant difference. I will give you one example, and this is an example where sometimes I think the progressive community just pockets whatever we do, takes it for granted, and then asks, "Well, why didn't you get this done?"

We instituted the first increase in fuel-efficiency standards in this country in 30 years. It used to be that California would have some very rigorous rule, and then other states would have much weaker ones. Now we've got one rule. Not only that, it used to be that trucks weren't covered, and there were all kinds of loopholes — that's how SUVs were out there getting eight miles a gallon. Now everybody's regulated — not only cars, but trucks. We did this with the agreement of the auto industry, which had never agreed to it before, we did it with the auto workers, who had never agreed to it before. We are taking the equivalent of millions of cars off the road, when it comes to the amount of greenhouse gases that are produced.

Is it enough? Absolutely not. The progress that we're making on renewable energy, the progress

that we're making on retrofitting buildings and making sure that we are reducing electricity use — all those things, cumulatively, if we stay on it over the next several years, will allow us to meet the target that I set, which would be around a 17 percent reduction in our greenhouse gases.

But we're going to have to do a lot more than that. When I talk to [Energy Secretary] Steven Chu, who, by the way, was an unsung hero in the Gulf oil spill — this guy went down and helped design the way to plug that hole with BP engineers — nobody's a bigger champion for the cause of reducing climate change than he is. When I ask him how we are going to solve this problem internationally, what he'll tell you is that we can get about a third of this done through efficiencies and existing technologies, we can get an additional chunk through some sort of pricing in carbon, but ultimately we're going to need some technological breakthroughs. So the investments we're making in research and development around clean energy are also going to be important if we're going to be able to get all the way there. Am I satisfied with what we've gotten done? Absolutely not.

Yes. Not only can I foresee it, but I am committed to making sure that we get an energy policy that makes sense for the country and that helps us grow at the same time as it deals with climate change in a serious way. I am just as committed to getting immigration reform done.

I've been here two years, guys. And one of the things that I just try to remember is that if we have accomplished 70 percent of what we committed to in the campaign, historic legislation, and we've got 30 percent of it undone — well, that's what the next two years is for, or maybe the next six.

More From Rolling Stone

/

interview
Victor
(Oct. 2)



Galler
the Ye



Galler
Politie

Understandably, everybody has a great sense of urgency about these issues. But one of the things that I constantly want to counsel my friends is to keep the long view in mind. On social issues, something like "don't ask, don't tell." Here, I've got the Secretary of Defense and the Joint Chiefs of Staff both committed to changing the policy. That's a big deal.

Now, I am also the commander in chief of an armed forces that is in the midst of one war and wrapping up another one. So I don't think it's too much to ask, to say "Let's do this in an orderly way" — to ensure, by the way, that gays and lesbians who are serving honorably in our armed forces aren't subject to harassment and bullying and a whole bunch of other stuff once we implement the policy. I use that as an example because on each of these areas, even those where we did not get some grand legislative victory, we have made progress. We have moved in the right direction.

When people start being concerned about, "You haven't closed Guantánamo yet," I say, listen, that's something I wanted to get done by now, and I haven't gotten done because of recalcitrance from the other side. Frankly, it's an easy issue to demagogue. But what I have been able to do is to ban torture. I have been able to make sure that our intelligence agencies and our military operate under a core set of principles and rules that are true to our traditions of due process. People will say, "I don't know — you've got your Justice Department out there that's still using the state-secrets doctrine to defend against some of these previous actions." Well, I gave very specific instructions to the Department of Justice. What I've said is that we are not going to use a shroud of secrecy to excuse illegal behavior on our part. On the other hand, there are occasions where I've got to protect operatives in the field, their sources and their methods, because if those were revealed in open court, they could be subject to very great danger. There are going to be circumstances in which, yes, I can't have every operation that we're engaged in to deal with a very real terrorist threat published in *Rolling Stone*.

These things don't happen overnight. But we're moving in the right direction, and that's what people have to keep in mind.

Over the past two years, what I probably anticipated but you don't fully appreciate until you're in the job, is something I said earlier, which is if a problem is easy, it doesn't hit my desk. If there's an obvious solution, it never arrives here — somebody else has solved it a long time ago. The issues that cross my desk are hard and complicated, and oftentimes involve the clash not of right and wrong, but of two rights. And you're having to balance and reconcile against competing values that are equally legitimate.

What I'm very proud of is that we have, as an administration, kept our moral compass, even as we've worked through these very difficult issues. Doesn't mean we haven't made mistakes, but I think we've moved the country in a profoundly better direction just in the past two years.

My iPod now has about 2,000 songs, and it is a source of great pleasure to me. I am probably

still more heavily weighted toward the music of my childhood than I am the new stuff. There's still a lot of Stevie Wonder, a lot of Bob Dylan, a lot of Rolling Stones, a lot of R&B, a lot of Miles Davis and John Coltrane. Those are the old standards.

A lot of classical music. I'm not a big opera buff in terms of going to opera, but there are days where Maria Callas is exactly what I need.

Thanks to Reggie [Love, the president's personal aide], my rap palate has greatly improved. Jay-Z used to be sort of what predominated, but now I've got a little Nas and a little Lil Wayne and some other stuff, but I would not claim to be an expert. Malia and Sasha are now getting old enough to where they start hippping me to things. Music is still a great source of joy and occasional solace in the midst of what can be some difficult days.

More From Rolling Stone

/



Here's what I love about Dylan: He was exactly as you'd expect he would be. He wouldn't come to the rehearsal; usually, all these guys are practicing before the set in the evening. He didn't want to take a picture with me; usually all the talent is dying to take a picture with me and Michelle before the show, but he didn't show up to that. He came in and played "The Times They Are A-Changin'." A beautiful rendition. The guy is so steeped in this stuff that he can just come up with some new arrangement, and the song sounds completely different. Finishes the song, steps off the stage — I'm sitting right in the front row — comes up, shakes my hand, sort of tips his head, gives me just a little grin, and then leaves. And that was it — then he left. That was our only interaction with him. And I thought: That's how you want Bob Dylan, right? You don't want him to be all cheesin' and grinnin' with you. You want him to be a little skeptical about the whole enterprise. So that was a real treat.

Having Paul McCartney here was also incredible. He's just a very gracious guy. When he was up there singing "Michelle" to Michelle, I was thinking to myself, "Imagine when Michelle was growing up, this little girl on the South Side of Chicago, from a working-class family." The notion that someday one of the Beatles would be singing his song to her in the White House — you couldn't imagine something like that.

Whenever I think about my wife, she can choke me up. My wife and my kids, they'll get to me.

[Signaled by his aides, the president brings the interview to a close and leaves the Oval Office. A moment later, however, he returns to the office and says that he has one more thing to add. He speaks with intensity and passion, repeatedly stabbing the air with his finger.]

One closing remark that I want to make: It is inexcusable for any Democrat or progressive right now to stand on the sidelines in this midterm election. There may be complaints about us not having gotten certain things done, not fast enough, making certain legislative compromises. But right now, we've got a choice between a Republican Party that has moved to the right of George Bush and is looking to lock in the same policies that got us into these disasters in the first place, versus an administration that, with some admitted warts, has been the most successful administration in a generation in moving progressive agendas forward.

The idea that we've got a lack of enthusiasm in the Democratic base, that people are sitting on their hands complaining, is just irresponsible.


Everybody out there has to be thinking about what's at stake in this election and if they want to move forward over the next two years or six years or 10 years on key issues like climate change, key issues like how we restore a sense of equity and optimism to middle-class families who have seen their incomes decline by five percent over the last decade. If we want the kind of country that respects civil rights and civil liberties, we'd better fight in this election. And right now, we are getting outspent eight to one by these 527s that the Roberts court says can spend with impunity without disclosing where their money's coming from. In every single one of these congressional districts, you are seeing these independent organizations outspend political parties and the candidates by, as I said, factors of four to one, five to one, eight to one, 10 to one.

We have to get folks off the sidelines. People need to shake off this lethargy, people need to buck up. Bringing about change is hard — that's what I said during the campaign. It has been hard, and we've got some lumps to show for it. But if people now want to take their ball and go home, that tells me folks weren't serious in the first place.

If you're serious, now's exactly the time that people have to step up.

The is an article from the October 15, 2010 issue of Rolling Stone, available on newsstands on October 1, 2010.

Exhibit B

 Joint Chiefs of Staff

Joint Chiefs of Staff

[Home](#)[News Stories](#)[Speeches/Interviews](#)[Photos](#)[Videos](#)[Biographies](#)[About JCS](#)[Links](#)

JCS Speech

Testimony Regarding DoD 'Dont Ask, Dont Tell' Policy

As Delivered by Secretary of Defense, Robert M. Gates and Adm. Mike Mullen, chairman of the Joint Chiefs of Staff, Dirksen Senate Office Building, Washington, D.C. Tuesday, February 02, 2010

 SHARE

SEN. LEVIN: (Strikes gavel.) The committee is now going to receive testimony from our senior leadership in the Department of Defense as we begin the task of addressing the "don't ask, don't tell" policy on gays in the military.

I believe that ending the policy would improve our military's capability and reflect our commitment to equal opportunity. I do not find the arguments that were used to justify "don't ask, don't tell" convincing when it took effect in 1993, and they are less so now. I agree with what President Obama said in his State of the Union Address, that we should repeal this discriminatory policy.

In the latest Gallup poll, the American public overwhelmingly supports allowing gays and lesbians to serve openly in the military. Sixty-nine percent of Americans are recorded as supporting their right to serve, and many in fact are serving. As former chairman of the Joint Chiefs, Gen. John Shalikashvili, said – and he supports ending the policy – a majority of troops already believe that they serve alongside gay or lesbian colleagues. One recent study estimated that 66,000 gays and lesbians are serving today, at constant risk of losing their chance to serve.

Other nations have allowed gay and lesbian service members to serve in their militaries without discrimination and without impact on unit cohesion or morale. A comprehensive study on this was conducted by RAND in 1993. RAND researchers reported on the positive experiences of Canada, France, Germany, Israel, and The Netherlands and Norway, all of which allowed known homosexuals to serve in their armed forces. Sen. McCain and I have asked the Department of Defense to update the 1993 report.

Ending this discriminatory policy will contribute to our military's effectiveness. To take just one example, dozens of Arabic and Farsi linguists have been forced out of the military under "don't ask, don't tell," at a time when our need to understand those languages has never been greater. Thousands of troops – 13,000, by one estimate – have been forced to leave the military under the current policy. That number includes many who could help the military complete some particularly difficult and dangerous missions.

I have long admired the merit-based system of advancement employed by the U.S. military that allows servicemen and women of varied backgrounds to advance to positions of high leadership. An Army is not a democracy; it is a meritocracy, where success depends not on who you are, but on how well you do your job. Despite its necessarily undemocratic nature, our military has helped lead the way in areas of fairness and anti-discrimination. It has served as a flagship for American values and aspirations, both inside the United States and around the world.

We will hold additional hearings to hear from various points of view and approaches on this matter. This committee will hold a hearing on February 11th, when we will hear from an independent panel. The service secretaries and service chiefs will all be testifying before this committee during the month of February on their various budgets, and they of course will be open to questions on this subject as well during their testimony.

My goal will be to move quickly but deliberatively to maximize the opportunity for all Americans to serve their country, while addressing any concerns that may be raised. We should end "don't ask, don't tell," and we can and should do it in a way that honors our nation's values while making us more secure.

My entire statement will be made part of the record. A statement of Sen. Gillibrand will also be inserted in the record following the statement of Sen. McCain.

Sen. McCain.

SEN. MCCAIN: Thank you very much, Mr. Chairman. And I want to thank Secretary Gates and Adm. Mullens (sic) (for what's ?) turning into a very long morning for them, and we appreciate your patience and your input on this very, very important issue.

We meet to consider the "don't ask, don't tell" policy, policy that the president has made clear, most recently last week in his State of the Union Address, that he wants Congress to repeal. This would be a substantial and controversial change to a policy

that has been successful for two decades. It would also present yet another challenge to our military at a time of already tremendous stress and strain.

Our men and women in uniform are fighting two wars, guarding the front lines against a global terrorist enemy, serving and sacrificing on battlefields far from home, and working to rebuild and reform the force after more than eight years of conflict.

At this moment of immense hardship for our armed services, we should not be seeking to overturn the "don't ask, don't tell" policy.

I want to make one thing perfectly clear up front. I'm enormously proud of and thankful for every American who chooses to put on the uniform of our nation and serve at this time of war. I want to encourage more of our fellow citizens to serve and to open up opportunities to do so. Many gay and lesbian Americans are serving admirably in our armed forces, even giving their lives so that we and others can know the blessings of peace. I honor their sacrifice, and I honor them.

Our challenge is how to continue welcoming this service amid the vast complexities of the largest, most expensive, most well-regarded and most critical institution in our nation, our armed forces.

This is an extremely difficult issue, and the Senate vigorously debated it in 1993. We heard from the senior uniformed and civilian leaders of our military on eight occasions before this committee alone. When Congress ultimately wrote the law, we included important findings that did justice to the seriousness of the subject. I would ask without objection, Mr. Chairman, that a copy of the statute including those findings be included in the record.

SEN. LEVIN: It will be.

SEN. MCCAIN: I won't quote all those findings. But three points must be made. First, Congress found in the law that the military's mission to prepare for and conduct combat operations requires service men and women to accept living and working conditions that are often spartan and characterized by forced intimacy with little or no privacy.

Second, the law finds that civilian life is fundamentally different from military life, which is characterized by its own laws, rules, customs and traditions, including many restrictions on personal conduct that would not be tolerated in civil society.

Finally, the law finds that the essence of military capability is good order and unit cohesion, and that any practice which puts those goals at unacceptable risk can be restricted.

These findings were the foundation of "don't ask, don't tell." And I'm eager to hear from our distinguished witnesses what has changed since these findings were written, such that the law they supported can now be repealed.

Has this policy been ideal? No, it has not. But it has been effective. It has helped to balance a potentially disruptive tension between the desires of a minority and the broader interests of our all-volunteer force. It is well understood and predominantly supported by our fighting men and women. It reflects, as I understand them, the preferences of our uniformed services. It has sustained unit cohesion and unit morale while still allowing gay and lesbian Americans to serve their country in uniform. And it has done all of this for nearly two decades.

Mr. Chairman, there – this is a letter signed by over 1,000 former general and flag officers who have weighed in on this issue. I think that we all in Congress should pay attention and benefit from the experience and knowledge of over a thousand former general officers and flag officers, and which – where they say: We firmly believe that the – this law, which Congress passed to protect order – good order, discipline and morale in the unique environment of the armed forces, deserves continued support.

And so I think we should also pay attention to those who have served, who can speak more frankly on many occasions than those who are presently serving.

I know that any decision Congress makes about the future of this law will inevitably leave a lot of people angry and unfulfilled. There are patriotic and well-meaning Americans on each side of this debate. And I've heard their many passionate concerns. Ultimately though, numerous military leaders tell me that "don't ask, don't tell" is working, and that we should not change it now. I agree.

I would welcome a report done by the Joint Chiefs of Staff – based solely on military readiness, effectiveness and needs and not on politics – that would study the "don't ask, don't tell" policy, that would consider the impact of its repeal, on our armed services, and that would offer their best military advice on the right course of action.

We have an all-volunteer force. It is better trained, more effective and more professional than any military in our history. And today, that force is shouldering a greater global burden than at any time in decades.

We owe our lives to our fighting men and women. And we should be exceedingly cautious, humble and sympathetic when attempting to regulate their affairs. "Don't ask, don't tell" has been an imperfect but effective policy. And at this moment when we're asking more of our military than at any time in recent memory, we should not repeal this law.

Thank you, Mr. Chairman.

SEN. LEVIN: Thank you, Sen. McCain.

Secretary Gates.

SEC. GATES: Mr. Chairman, last week during the State of the Union Address, the president announced he will work with Congress this year to repeal the law known as "don't ask, don't tell." He subsequently directed the Department of Defense to begin the preparations necessary for a repeal of the current law and policy. I fully support the president's decision.

The question before us is not whether the military prepares to make this change but how we must – how we best prepare for it. We have received our orders from the commander in chief and we are moving out accordingly. However we can also take this process only so far, as the ultimate decision rests with you, the Congress.

I am mindful of the fact, as are you, that unlike the last time this issue was considered by the Congress more than 15 years ago, our military is engaged in two wars that have put troops and their families under considerable stress and strain. I am mindful, as well, that attitudes toward homosexuality may have changed considerably, both in society generally and in the military, over the intervening years.

To ensure that the department is prepared should the law be changed, and working in close consultation with Adm. Mullen, I have appointed a high-level working group within the department that will immediately begin a review of the issues associated with properly implementing a repeal of the don't ask, don't tell policy. The mandate of this working group is to thoroughly, objectively and methodically examine all aspects of this question, and produce its finding and recommendations in the form of an implementation plan by the end of this calendar year.

A guiding principle of our efforts will be to minimize disruption and polarization within the ranks, with special attention paid – a special attention paid to those serving on the front lines. I am confident this can be achieved.

The working group will examine a number of lines of study, all of which will proceed simultaneously. First, the working group will reach out to the force to authoritatively understand their views and attitudes about the impact of repeal. I expect that the same sharp divisions that characterize the debate over these issues outside of the military will quickly seek to find their way into this process, particularly as it pertains to what are the true views and attitudes of our troops and their families. I am determined to carry out this process in a way that establishes objective and reliable information on this question, with minimal influence by the policy or political debate. It is essential that we accomplish this in order to have the best possible analysis and information to guide the policy choices before the department and the Congress.

Second, the working group will undertake a thorough examination of all the changes to the department's regulations and policies that may have to be made. These include potential revisions to policies on benefits, base housing, fraternization and misconduct, separations and discharges, and many others.

We will enter this examination with no preconceived views, but a recognition that this will represent a fundamental change in personnel policy, one that will require that we provide our commanders with the guidance and tools necessary to accomplish this transition successfully and with minimum disruption to the department's critical missions.

Third, the working group will examine the potential impacts of a change in the law on military effectiveness, including how a change might affect unit cohesion, recruiting and retention, and other issues crucial to the performance of the force. The working group will develop ways to mitigate and manage any negative impacts.

These are, generally speaking, the broad areas we have identified for study under this review. We will, of course, continue to refine and expand these as we get into this

process or engage in discussion with the Congress and other sources. In this regard, we expect that the working group will reach out to outside experts with a wide variety of perspectives and experience. To that end, the department will, as requested by the committee, ask the RAND Corporation to update their study from 1993 on the impact of allowing homosexuals to serve openly in the military.

We also have received some helpful suggestions on how this outside review might be expanded to cover a wide swath of issues. This will be a process that will be open to views and recommendations from a wide variety of sources, including, of course, members of Congress.

Mr. Chairman, I expect that our approach may cause some to wonder why it will take the better part of the year to accomplish the task. We've looked at a variety of options, but when you take into account the overriding imperative to get this right and minimize disruption to a force that is actively fighting two wars and working through the stress of almost a decade of combat, then it is clear to us we must proceed in a manner that allows for the thorough examination of all issues.

An important part of this process is to engage our men and women in uniform and their families over this period since, after all, they will ultimately determine whether or not we make this transition successfully.

To ensure that this process is able to accomplish its important mission, Chairman Mullen and I have determined that we need to appoint the highest-level officials to carry it out. Accordingly, I am naming the Department of Defense general counsel, Jay Johnson, and Gen. Carter Ham, commander of U.S. Army Europe, to serve as the co-chairs for this effort.

Simultaneous with launching this process, I have also directed the department to quickly review the regulations used to implement the current don't ask, don't tell law, and within 45 days present to me recommended changes to those regulations that within existing law will enforce this policy in a fairer manner.

You may recall that I asked the department's general counsel to conduct a preliminary review of this matter last year. Based on that preliminary review, we believe that we have a degree of latitude within the existing law to change our internal procedures in a manner that is more appropriate and fair to our men and women in uniform. We will now conduct a final, detailed assessment of this proposal before proceeding.

Mr. Chairman, Sen. McCain, members of the committee, the Department of Defense understands that this is a very difficult, and in the minds of some controversial policy question. I am determined that we in the department carry out this process professionally, thoroughly, dispassionately, and in a manner that is responsive to the direction of the president and to the needs of the Congress as you debate and consider this matter.

However, on behalf of the men and women in uniform and their families, I also ask you to work with us to, insofar as possible, keep them out of the political dimension of this issue. I am not asking for you not to do your jobs fully and with vigor, but rather, as this debate unfolds, you keep the impact it will have on our forces firmly in mind.

Thank you for this opportunity to lay out our thinking on this important policy question. We look forward to working with the Congress and hearing your ideas on the best way ahead.

SEN. LEVIN: Thank you.

Adm. Mullen.

ADM. MULLEN: Thank you, Mr. Chairman, Sen. McCain. And thank you for giving me the opportunity to discuss with you this very important matter.

The chiefs and I are in complete support of the approach that Secretary Gates has outlined. We believe that any implementation plan for a policy permitting gays and lesbians to serve openly in the armed forces must be carefully derived, sufficiently thorough – sufficiently thorough, and thoughtfully executed.

Over these last few months, we have reviewed the fundamental premises behind don't ask, don't tell, as well as its application in practice over the last 16 years. We understand perfectly the president's desire to see the law repealed, and we owe him our best military advice about the impact of such a repeal and the manner in which we would implement a change in policy.

The chiefs and I have not yet developed that advice, and would like to have the time to do so in the same thoughtful, deliberate fashion with which the president has made it

clear he wants to proceed. The review – the review group Secretary Gates has ordered will no doubt give us that time and an even deeper level of understanding. We look forward to cooperating with and participating in this review to the maximum extent possible, and we applaud the selection of Mr. Johnson and Gen. Ham to lead it. Both are men of great integrity, great experience, and have our complete trust and confidence.

Mr. Chairman, speaking for myself and myself only, it is my personal belief that allowing gays and lesbians to serve openly would be the right thing to do. No matter how I look at this issue, I cannot escape being troubled by the fact that we have in place a policy which forces young men and women to lie about who they are in order to defend their fellow citizens. For me personally, it comes down to integrity – theirs as individuals and ours as an institution. I also believe that the great young men and women of our military can and would accommodate such a change. I never underestimate their ability to adapt.

But I do not know this for a fact, nor do I know for a fact how we would best make such a major policy change in a time of two wars. That there will be some disruption in the force I cannot deny. That there will be legal, social, and perhaps even infrastructure changes to be made certainly seem plausible. We would all like to have a better handle on these types of concerns, and this is what our review will offer.

We would also do well to remember that this is not an issue for the military leadership to decide. The American people have spoken on this subject through you, their elected officials, and the result is the law and the policy that we currently have.

We will continue to obey that law, and we will obey whatever legislative and executive decisions come out of this debate. The American people may yet have a different view. You may have a different view. I think that's important, and it's important to have that discussion.

Frankly, there are those on both sides of this debate who speak as if there is no debate; as if there's nothing to be learned or reflected upon. I hope we can be more thoughtful than that. I expect that we will be more thoughtful than that.

The chiefs and I also recognize the stress our troops and families are under, and I have said many times before, should the law change, we need to move forward in a manner that does not add to that stress. We've got two wars going on, a new strategy in Afghanistan, and remaining security challenges in Iraq. We're about to move forward under a new Quadrennial Defense Review. We still have budget concerns in a struggling economy. And we have a host of other significant security commitments around the globe. Our plate is very full. And while I believe this is an important issue, I also believe we need to be mindful as we move forward of other pressing needs in our military.

What our young men and women and their families want – what they deserve – is that we listen to them and act in their best interests. What the citizens we defend want to know – what they deserve to know – is that their uniformed leadership will act in a way that absolutely does not place in peril the readiness and effectiveness of their military.

I can tell you that I am 100 percent committed to that. Balance, Mr. Chairman – balance and thoughtfulness is what we need most right now. It's what the president has promised us, and it's what we ask of you in this body.

Thank you.

SEN. LEVIN: Thank you very much, Admiral.

So that everyone has a chance within a reasonable period of time, we're just going to have a three-minute first round.

SEN. MCCAIN: Mr. Chairman, we need more than three minutes. We need more than three minutes.

SEN. LEVIN: We'll have a – try to have a second round, then. We have to also have a schedule here. So we'll go to a second round if we can fit that into Secretary Gates' schedule. If not, we will pick this up at a later time.

The secretary – well, now, this schedule was shared with everybody here now, and so –

SEN. MCCAIN (?): Not with me.

SEN. LEVIN: It was indeed shared.

SEN. MCCAIN: You're the chairman.

SEN. LEVIN: Mr. Secretary, The Washington Post I think this morning reported that the military services will not pursue any longer disciplinary action against gays and lesbian servicemembers whose orientation is revealed by third parties. Is that one of the – is that one of the degrees of latitude within existing law that you're looking at?

SEC. GATES: Mr. Chairman, a preliminary assessment is that – and this fits within this 45-day review that I mentioned in my prepared statement – the preliminary assessment is that we can do the following within the confines of the existing law. We can raise the level of the officer who is authorized to initiate an inquiry. We can raise the level of the officer who conducts the inquiry. We can raise the bar on what constitutes credible information to initiate an inquiry. We can raise the bar on what constitutes a reliable person on whose word an inquiry can be initiated.

Overall, we can reduce the instances in which a servicemember who is trying to serve the country honorably is outed by a third person with a motive to harm the servicemember. And we also have to devise new rules and procedures in light of the appeals court decision in Witt versus the Department of the Air Force for the areas of the country covered by the appellate court.

So I would say all of these matters are those that will be reviewed within this 45-day period. So it's a little more complicated than The Washington Post conveyed.

SEN. LEVIN: All right. But all of those are possibilities?

SEC. GATES: Yes, sir.

SEN. LEVIN: Now, would you, assuming it – even if it requires a – legislation, would you support a moratorium on discharges under don't ask, don't tell during the course of this up to year-long assessment that the department is going to be making?

SEC. GATES: I would have to look into that because the problem – the problem that we have is that all of the issues that both Adm. Mullen and I described in terms of what we have to look into in terms of the effect on the force, in terms of everything else, is what we need to examine before I could answer that question.

SEN. LEVIN: All right. Well, you're going to be examining the other points that you're looking at, the other flexibilities.

SEC. GATES: Yes.

SEN. LEVIN: Would you add this to the questions you're going to look at and let us know promptly –

SEC. GATES: Sure.

SEN. LEVIN: – as to whether you would support the – a moratorium pending this period on discharges. That doesn't mean you couldn't discharge at the end of the period, but there would be a moratorium.

SEC. GATES: We will look at it, Mr. Chairman. I would tell you that the advice that I have been given is that the current law would not permit that, but –

SEN. LEVIN: I'm saying would you support a change in the current law, if necessary, in order to permit that? That's what we need to hear from you on.

Sen. McCain.

SEN. MCCAIN: I'm deeply disappointed in your statement, Secretary Gates. I was around here in 1993 and was engaged in the debate. And what we did in 1993 is we looked at the issue and we looked at the effect on the military, and then we reached a conclusion, and then we enacted it into law.

Your statement is, the question before us is not whether the military prepares to make this change, but how we best prepare for it. It would be far more appropriate, I say with great respect, to determine whether repeal of this law is appropriate, and what effects it would have on the readiness and effectiveness of the military, before deciding on whether we should repeal the law or not. And fortunately, it is an act of Congress, and it requires the agreement of Congress in order to repeal it. And so your statement obviously is one which is clearly biased, without the view of Congress being taken into consideration.

Adm. Mullen, you're the principal military adviser to the president. Do you – and you have to consult with and seek the advice of the other members of the Joint Chiefs of Staff and the combatant commanders. What, in your view, are the opinions of the other

members of the Joint Chiefs and combatant commanders about changing this policy?

ADM. MULLEN: Sen. McCain, as the chairman indicated earlier, they will obviously be out in their posture hearings in the near future, and I would certainly defer to them in terms of exactly how they're going to –

SEN. MCCAIN: Well, in the near future – in the near future I'd like you to ask them and we could have it on the record what their position is.

ADM. MULLEN: Yes, sir.

SEN. MCCAIN: In the near future.

ADM. MULLEN: Yes, sir.

SEN. MCCAIN: I would like it as soon as possible.

ADM. MULLEN: I've – actually, I've worked very closely with them over the last months in terms of understanding what their – what their concerns and what our overall concerns are, and I would summarize them by saying it's really important for us – to us – for us to understand that if this policy changes, if the law changes, what's the impact, and how we would implement it.

And Secretary Gates' point about the study is to really understand objectively the impact on our – on our troops and on their forces, and that is their biggest concern.

SEC. GATES: And I would say, Sen. McCain, I absolutely agree that the – how the Congress acts on this is dispositive.

SEN. MCCAIN: Well, I hope you will pay attention to the views of over a thousand retired flag and general officers.

What kind – Mr. Secretary, what kinds of partnerships or unions would the military be prepared to recognize by law in the event that this don't ask, don't tell is repealed?

SEC. GATES: That's one of the many issues that I think we have to look at, Senator.

SEN. MCCAIN: So again, you are embarking on saying it's not whether the military prepares to make the change, but how we best prepare for it, without ever hearing from members of Congress, without hearing from the members of the Joint Chiefs, and of course without taking into considerations – consideration all the ramifications of this law. Well, I'm happy to say that we still have a Congress of the United States that would have to – would have to pass a law to repeal don't ask, don't tell despite your efforts to repeal it in many respects by fiat.

Thank you, Mr. Chairman.

SEN. LEVIN: Thank you, Sen. McCain.

Sen. Udall.

SEN. UDALL: Thank you, Mr. Chairman. Thank you for holding this very important hearing.

I want to acknowledge, Secretary Gates, the work you've done to put a plan in place. And Adm. Mullen, I think the centerpiece of your statement will be long remembered for the courage and the integrity with which you outlined your own personal beliefs and how we can proceed.

I'm proud to hail from a region of the country – the Rocky Mountain West – where we have a live-and-let-live attitude. Some people would call it small-L libertarianism. People's personal lives, the choices that people make, are not the government's business.

And I can't help but think about the great Arizonan. I grew up in Arizona. My father was an Arizonan, my mother was a Coloradan. I have the great honor to represent Colorado now. But Barry Goldwater once said, "you don't have to be straight to shoot straight." And that's the opportunity that we have here today as the Congress and the Pentagon moves forward.

I've got a few concerns I'd like to share in the couple of minutes that I have, and I'll pepper my comments with questions, and hopefully there will be time for you all to respond.

There have been a lot of studies done, Mr. Secretary – RAND, and there's a recent

study in the Joint Force Quarterly. It's not clear to me that the study group needs a full year to study implementation and transition. I want to just put that out there.

I want to ensure that the focus of the group is on how to implement repeal of the policy, not whether. And I want to ask you to assure me that the endpoint of the study would be a road map to implementing repeal, and that the Congress would then be in a position to take legislative action that the Pentagon as a whole could support.

And then, before you answer, I'd like your reaction to a legislative proposal that you may have seen. It would be to write and to repeal legislation for the period of time you suggest you need – say, one year – while legislating that at the end of that time we would have finality – in other words, a complete end to don't ask, don't tell. During the year-long transition, the DOD would have full authority and discretion with respect to don't ask, don't tell investigations and discharges. Language like this would certainly make me much more comfortable, since I want, and so many others, a clear path to full repeal, and I'm not sure I see finality in the study.

Again, thank you, gentlemen, and hopefully there's a little bit of time left for you to answer.

SEC. GATES: Well, I think the purpose of the examination that we're undertaking, frankly, is to inform the decision-making of the Congress and the nature of whatever legislation takes place. It's also, frankly, to be prepared to begin to implement any change in the law. We obviously recognize that this is up to Congress, and my view is, frankly, that it's critical that this matter be settled by a vote of the Congress.

The study is intended to prepare us along those lines, so that we understand all of the implications involved. Frankly, there have been a lot of studies done, but there has not been a study done by the military of this, and this is the kind of thing that Adm. Mullen was talking about.

And I would just say, with respect to your second point, that I think we would regard, if legislation is passed repealing don't ask, don't tell, we would feel it very important that we be given some period of time for that implementation, at least a year.

ADM. MULLEN: Senator if I may, just the only thing I would comment about, all the studies and all the polls, I would just urge that everybody that's going to be involved in this look at those studies and polls deliberately and what they actually looked at specifically. And so just reemphasize what the secretary said: there really hasn't been any significant – statistically significant and objective survey of our people and their families. And that gets to the Chiefs' concern and mine as well, which really is engaging them in a way that we really understand their views on this, and that just hasn't been done. And as urgently as some would like this to happen, it's just going to take some time to do that.

SEN. LEVIN: Thank you, Sen. Udall.

Sen. Sessions.

SEN. JEFF SESSIONS (R-AL): Thank you, Mr. Chairman. And I know this is an important issue. We need to think it through, and every American is entitled to fairness and justice as we deliberate these issues, and I do think we should do it at a high level.

I would note, however, a bit of a concern that arises from something Sen. McCain suggested, and that is that the president, as the commander in chief, has announced a decision, and the secretary of Defense apparently supports that decision. Adm. Mullen now has declared that he personally believes in this decision. And so then presumably someone below you will do some work on the policy, whether this is a good policy or not. So I guess it's – if it was a trial, we would perhaps raise the undue command influence defense.

And I think we need an open and objective and a fair evaluation of this. A lot of things that have been said I would note that are not accurate, at least in my view, at least misrepresent certain things. One of them is 10,000 people have been dismissed from the military or voluntarily left from the military under these – under this provision, but that's over 10 years. It would be 1 percent, maybe, if it was one year, less than that maybe – (audio break) – so there will be costs.

I noticed – and I give the military credit. A lot of people don't know this, Adm. Mullen, how open the debate and discussion are. There's an article in the Joint Forces Quarterly that basically supports this change. It was an award-winning article, and they raised a lot of different issues, both for and against, and the military welcomed that. And I salute that. I think that's healthy.

But the – one of the points it made is that Charles Moskos, one of the original authors of

the don't ask, don't tell policy, points out that the number of discharges for voluntary statements by servicemembers – presumably they come forward and say that they are homosexual – accounts for 80 percent of the total. And the number of discharges for homosexual acts have declined over the years. Do you think that's approximately correct?

ADM. MULLEN: Sen. Sessions, I think it is approximately correct. But it does go to, again sort of a fundamental principle with me, which is everybody counts. And part of the struggle back to the institutional integrity aspect of this, and –

SEN. SESSIONS: Well, I know. I appreciate your view.

ADM. MULLEN: – and putting individuals in a position that every single day they wonder whether today's going to be the day, and devaluing them in that regard just is inconsistent with us as an institution.

I have served with homosexuals since 1968. Sen. McCain spoke to that in his statement. Everybody in the military has, and we understand that. So it is a number of things which cumulatively for me, personally, get me to this position.

But I also want to reemphasize what I said, is I am not all-knowing in terms of the impact of what the change would have, and that's what I want to understand. And it's – and any impact, and understanding readiness and effectiveness, is absolutely critical.

SEN. SESSIONS: Well, it's pretty clear what your view is. And that will be – that will be clear on all your subordinates. Every single servicemember in uniform would be – qualify for that. And I don't think it – that they are required to lie about who they are; I think that's an overstatement, although I think the rule of don't ask, don't tell has seemed to work pretty well. And I would note from the Christian Science Monitor here that the chiefs of the services met with the chairman, Mike Mullen – I'm quoting from the article – “and the consensus seemed to be that the military, fighting two wars and now responding to a new mission in Haiti, now is not the time to make such a big change to military policy.”

And that's my understanding of the status of things. And I just hope that, as we discuss it, you'll recognize, first, that Congress has made the decision – it's not yours to make, and we'll have to change it if we do change it; and second, you shouldn't use your power to in any way influence a discussion or evaluation of the issue.

SEC. GATES: Senator I would just say that we can't possibly evaluate the impact on unit cohesion, on morale, on retention, on recruitment and so on unless we encourage people to tell us exactly what they think and exactly what their views are, honestly and as forthrightly as possible. Otherwise, there's no use in doing this at all.

And again, I just can't emphasize enough we understand from the beginning of this that this must be an act of Congress.

SEN. LEVIN: Thank you –

ADM. MULLEN: Sen. Sessions, for me, this is about – this is not about command influence, this is about leadership. And I take that very seriously.

SEN. LEVIN: Thank you.

Sen. Hagan.

SEN. HAGAN: Thank you, Mr. Chairman.

Secretary Gates, I want to say that I applaud your efforts in commissioning a thorough evaluation of the don't ask, don't tell policy, and how to implement a repeal of the policy in order to minimize disruption in military readiness. And I was just wondering, within this study, how will you study – how will this study take into account the views of the combatant commanders in theater in order to minimize any disruption in the military readiness?

SEC. GATES: The combatant commanders, the service chiefs will all have a part in this.

The one thing that I have asked is that, as we go through this process, we try to – try not to disrupt or impact the deployed forces, and particularly those in Afghanistan and Iraq.

They have enough on their minds, and it seems to me we can get the answers that we need to the questions that need to be asked by not adding to their burden. And so the one limitation I've put on this, which obviously does not apply to the combatant

commanders, is that we and have as little impact on the deployed force as possible.

SEN. HAGAN: And, Mr. Secretary and Adm. Mullen, as we move to end discriminatory practices within our armed forces, is there any reason to believe that the dedication and professionalism of our leaders in uniform is based in any way upon their sexual orientation, and that the morale fitness of our men and women in uniform should be based upon their sexual orientation? And if not, then on what grounds do you believe that there remains a need to discriminate based on a servicemember's sexual orientation?

ADM. MULLEN: Well, I – Sen. Hagan, I personally don't think sexual orientation, again, has a place for these kinds of decisions. Actually, I think there's a gap between that which we value as a military, specifically the value of integrity, and what our policy is. But again, that's personally where I am.

I think it's really in the review that would take place over the course of the next – by the end of this year that I would look to certainly understand it much more fully and understand the impact, and if – you know, if and when the policy changes, the impact on our people.

And that's really – rather than at the end of this, we're to some degree at the beginning of really trying to understand that. And that's – in light of many other opinions on this, including the opinions of those who have retired, all those things, but it really is – what I need to understand is to get it from our people and their families. And incorporating that, in addition to all the other requirements that are here, will be the goal of the review over the next – better part of this year.

SEN. HAGAN: Thank you, Mr. Chairman.

SEN. LEVIN: Thank you, Sen. Hagan.

Sen. Wicker.

SEN. WICKER: Thank you, Mr. Chairman.

I too am disappointed with this decision by the administration, but I'll say this for our two witnesses. They understand the chain of command. I think we understand that elections have consequences, and these two gentlemen see their charge as moving forward with the directives of their commander.

I think Secretary Gates said it explicitly in his statement: quote, "We have received our orders from the commander in chief, and we are moving out accordingly." Unquote. So we'll have a debate about this, and we will appreciate the information that the department gathers for us.

Sen. McCain referenced in his statement more than a thousand retired flag and general officers – actually, I think it's upwards of 1,160 retired flag and general officers from all the armed services who have come out against a change in this policy. For my colleagues, their statement urging continued support for the 1993 law is contained at www.flagandgeneralofficersforthemilitary.com.

I would commend to the members of this committee an op-ed written by Carl E. Mundy, Jr., a retired four-star general and former commandant of the U.S. Marine Corps, who points out – who mentions the strong support for the current policy by this overwhelming number of retired flag and general officers, and points out that certain findings were made by Congress in support of the 1993 law to ensure clarity concerning the rationale behind the current statute.

Key findings included that the primary purpose of the armed forces is to prepare and to prevail in combat – not to promote civil rights or social justice or compassion or individual fairness, but to prepare for and prevail in combat.

Further findings include that success in combat requires military units that are characterized by high morale, good order and discipline, and unit cohesion; and further, that one of the most critical elements in combat capability is unit cohesion – that is, the bonds of trust among individual servicemembers.

I would ask, Mr. Chairman, that this op-ed, dated January 12th, 2010, by Gen. Mundy, be included in the record at this point.

SEN. LEVIN: It will be made part of the record.

SEN. WICKER: So I appreciate the situation that our two witnesses find themselves in, and I look forward to the debate, and hope that the policy remains. Thank you.

SEN. LEVIN: Thank you, Sen. Wicker.

Sen. Webb.

SEN. WEBB: Thank you, Mr. Chairman.

Gentlemen, just – let me see if we can review the facts here. This is obviously quite an emotional issue, but it's also a legislative issue. My understanding from hearing both of your statements is, this year period that you're going to take in order to examine the issues will be followed then by clearer observations about the implications of changing the law. Would that be a correct way to state it? So you're not coming in here today and saying, we're going to change the law and this is the year that we're going to put into figuring out how to implement the change.

SEC. GATES: Our hope would be that the information we would develop during the course of this review would help inform the legislative process.

SEN. WEBB: Right. I salute both of you for very careful statements. And Adm. Mullen, I salute you for the courage of what you said. But I want to also emphasize that you balanced that, in your statement, saying you don't know what's going to come out of this. We don't know.

So you know, what we're looking for here is an examination of the present law. What is the most damaging aspect of the present policy? And I think, Adm. Mullen, you made a very powerful statement in terms of the integrity of the individual as your deciding factor on your personal view. And what is – on the other hand, what is the great value of this law, if we were to do away with it and move into something else?

And then, again, what are the perils of undoing the law? Where are we going? Do we – would we know we were going in the proper direction? We don't – we can't really say that today.

I think that, when you say that this is something that will ultimately decided – be decided by the Congress, I'd also like to emphasize my own agreement with what you have been saying about how important it is to hear from people who were serving. Because whether the ultimate decision might be here with the Congress, that decision can't be made in a proper way without a full and open input from all of those who are serving. Not just combatant commanders – family members, people who are in the operating units.

And the way that I am hearing this, which I would agree with, is that we have a duty here in a very proper way to understand the impact of this on operating units, to raise the level of understanding of the complexity of this issue among the American people and up here – as well as attempting to do fairly with this issue.

So again, I salute you both for a very responsible and careful approach to how we examine this.

Thank you, Mr. Chairman.

SEN. LEVIN: Thank you very much, Sen. Webb.

Sen. Chambliss.

SEN. SAXBY CHAMBLISS (R-GA): Thank you, Mr. Chairman.

And just as was stated by my friend, Sen. Udall, I think live and let live is not a bad policy to adhere to and that's what we have in place in the military with don't ask, don't tell right now.

To you, Secretary Gates and Adm. Mullen, you're in a tough spot and we understand that. This is an extremely sensitive issue and everybody on this committee, I'm satisfied, is very sensitive to the issue both inside and outside the military.

In the military, it presents entirely different problems than it does in civilian life, because there is no constitutional right to serve in our armed forces. And today we know we've got gay and lesbian soldiers serving. They've served in the past; they're going to serve in the future; and they're going to serve in a very valiant way.

But the primary purpose of the armed forces is to prepare for and to prevail in combat should the need arise. Military life is fundamentally different from civilian life in that military society is characterized by its own laws, rules, customs and traditions – including restrictions on personal behavior that would not be acceptable in civilian society. Examples include alcohol use, adultery, fraternization and body art. If we change this rule of don't ask, don't tell, what are we going to do with these other

issues?

The armed forces must maintain personnel policies that exclude persons whose presence in the armed forces would create an unacceptable risk to the armed forces' high standards of morale, good order and discipline and unit cohesion. In my opinion, the presence in the armed forces of persons who demonstrate a propensity or intent to engage in homosexual acts would very likely create an unacceptable risk to those high standards of morale, good order and discipline, and effective unit cohesion and effectiveness. I'm opposed to this change and I look forward to a very spirited debate on this issue, Mr. Chairman.

SEN. LEVIN: Thank you, Sen. Chambliss.

I believe Sen. Burr is next.

SEN. ROLAND BURRIS (D-IL): Thank you, Mr. –

SEN. LEVIN: Sen. Burr is.

SEN. BURRIS: Thank you, Mr. Chairman.

I'd like to extend my deep admiration for our two distinguished leaders in their position. And not only are you following the direction of the commander in chief, but Adm. Mullen, you expressed your personal view, which is to be commended.

What we need is a policy that allows any individual who has the integrity and the commitment to serve this country, to serve this country. We can go back to President Truman who took the audacity to integrate the services. At one time, my uncles and members of my race couldn't even serve in the military. And we moved to this point where they're some of the best and brightest that we've had – generals and even now the commander in chief is of African-American heritage.

So what we're doing here now is not looking at the integrity and the commitment that individuals can make not based on their sexual orientation, but the defense of this country. I say the policy needs to be changed; the policy must be changed. And we must have everyone who is capable, willing and able to volunteer to defend this country, defend this great American tradition of ours to have the opportunity to serve regardless to their sexual orientation.

And so based on that, we must continue to have the American spirit and have individuals who are willing to serve.

I don't have a question, Mr. Chairman. I just have the statement. I hope that we'll look at legislation. By the way, the House has drawn up a bill. There are 185 members on this House bill, which is House Bill 1283. And I'm hoping and praying that we will get moving on this issue, get it beside us and not be wasting the taxpayers' time and all of the energy on something that is so basic in human rights and opportunities for individuals in this country.

Thank you, Mr. Chairman.

SEN. LEVIN: Thank you very much, Sen. Burr is.

Sen. Collins.

SEN. SUSAN COLLINS (R-ME): Thank you, Mr. Chairman. Mr. Chairman, unlike my colleagues, I do have some questions, rather than just a statement, to ask.

Adm. Mullen, we know that many of our NATO allies allow gays and lesbians to serve openly and many of these countries have deployed troops who are serving with us in Afghanistan.

Are you aware of any impact on combat effectiveness by the decision of our NATO allies to allow gays and lesbians to serve openly?

ADM. MULLEN: Sen. Collins, I've talked to several of my counterparts in countries whose militaries allow gays and lesbians to serve openly. And there has been, as they have told me, no impact on military effectiveness.

SEN. COLLINS: We've heard today the concerns that if don't ask, don't tell is repealed, that it would affect unit cohesiveness or morale. Are you aware of any studies, any evidence that suggests that repealing don't ask, don't tell would undermine unit cohesion?

ADM. MULLEN: I'm not. In fact, the 1993 RAND study focused heavily on unit cohesion

and that became the principal point put forward by the military leadership at the time and I understand that.

I understand what it is; I understand what goes into it. And there are – there's been no thorough or comprehensive work done with respect to that aspect since 1993.

And that's part of what needs to be addressed as we move forward over the part of the – over this year.

SEC. GATES: I think I would just underscore that. I mean, part of – part of what we need to do is address a number of assertions that have been made for which we have no basis in fact.

SEN. COLLINS: Exactly.

SEC. GATES: We need the – the purpose of the review that we are undertaking is to find out what the force – what the men and women in our armed forces, and, as Sen. Webb said, and their families – really think about this. And the fact is, at this point, we don't really know.

SEN. COLLINS: Thank you.

Thank you, Mr. Chairman.

SEN. LEVIN: Thank you very much, Sen. Collins.

Sen. Lieberman is next; and then, assuming nobody else comes in, Sen. McCaskill would be next; and then Sen. Reed.

Sen. Lieberman.

SEN. LIEBERMAN: Thanks, Mr. Chairman.

I opposed the don't ask, don't tell policy when it was created by this committee in 1993 and I remain opposed to it today, therefore, I support repealing it as soon as possible. My feeling, stated simply then, was that what mattered most was not how a member of the military lived his or her private sexual life, but that they were prepared to risk their lives in defense our country.

And my judgment was that, in a combat situation, a member of the military – in a tank or an MRAP, today is going to care a lot more about the capability and courage of the soldier next to him than they are about the sexual orientation of that soldier, just as over the years, as Sen. Burris referred to, they came to care a lot less about the race of the soldier next to them than about his or her courage or capability.

What I hear – and, therefore, I'm grateful that the president has said he supports the repeal of don't ask, don't tell. I thank you, Secretary and Chairman, for saying that the question now is not "whether," but "how," and I think, for us, really "when" we will repeal don't ask, don't tell.

Am I right that what you're telling us today is that what (you're ?) going to do – as soon as possible, at least within 45, after 45 days – is to determine how you can reduce the impact of the don't ask, don't tell policy within the current state of the law? Is that correct?

SEC. GATES: Yes, sir. And the numbers – the numbers actually have gone down fairly substantially. They were about 600-and-some in 2008; 428 in 2009. And we don't know – I mean, we can't quantify what the possible changes that I've talked about here, what impact they would have on that. But at least it would – if we were able to do something like that, would make these folks less vulnerable to somebody seeking revenge, or whatever their motives, in terms of trying to wreck somebody's career.

SEN. LIEBERMAN: Am I correct – just to ask the question and get it on the record, that your judgment, as advised by counsel, is that it requires an act of Congress repealing don't ask, don't tell for the actual policy itself to be ended in the military? You can't do it by Executive action?

SEC. GATES: Yes, sir. That is correct.

SEN. LIEBERMAN: I wanted to ask you if – I'm sure one of the reactions to what you've announced today will be that this is a delay, I wanted to ask you to consider not only the 45-day limit, but whether you would think about providing regular reports to Congress, and, therefore, the public, on the program of the study that you're doing, during this next year?

SEC. GATES: I don't see any reason why we can't do that.

SEN. LIEBERMAN: I appreciate that.

And, look, then the final, obviously, is that it's up to us in the Congress and in the Senate. We've got to – we've got to get 60 votes to repeal don't ask, don't tell, or else it will remain in effect. Thank you.

SEN. LEVIN: Unless there's a provision inside the Defense authorization bill; that goes to the floor, which would then require an amendment to strike it from the bill; in which case the 60-vote rule would be turning the other way. In fact –

SEN. LIEBERMAN: It is – (inaudible) – knowledge, but it is with great appreciation that I accept the higher wisdom – (laughter) – of the chairman of our committee.

SEN. LEVIN: (Laughs, laughter.)

SEN. LIEBERMAN: I think that's a great way to go.

SEN. LEVIN: That's on the record, everybody. (Laughter.)

SEN. LIEBERMAN: (Laughs.) Thank you.

SEN. LEVIN: Thank you, Joe.

Sen. McCaskill is next.

SEN. MCCASKILL: Thank you, Mr. Chairman.

I just want to make sure that we're crystal clear about a couple of things here. First, are gay and lesbian Americans currently serving in our military?

ADM. MULLEN: Yes.

SEN. MCCASKILL: And, in fact, isn't (it) the foundation of the current policy that we welcome their service?

ADM. MULLEN: Yes.

SEN. MCCASKILL: Are you aware of any morale issues or disciplinary problems surrounding the current service of gay and lesbian members – Americans, as members of our military?

ADM. MULLEN: Certainly not broadly.

SEN. MCCASKILL: Now, here's my – I think what you're embarking upon is important; I think it is welcomed, but here's my problem. We now have established that we have gay and lesbian Americans serving in the military; that they are not broadly causing any kind of disciplinary or morale problems; that we welcome their service.

So the issue isn't whether or not gay and lesbian Americans are serving in the military, it's whether or not we talk about it. So how are you going to get their input in this survey? (Applause.)

ADM. MULLEN: Oh, I'd, actually – I mean, my take on that is – well, hang on a second. (Laughs.) I think that we would have to look very carefully at how we would do that, specifically.

SEN. MCCASKILL: And that's the point I would like –

ADM. MULLEN: Yeah – (inaudible).

SEN. MCCASKILL: – to leave you with today, is that, unfortunately, because of this policy – we welcome their service –

ADM. MULLEN: Sure.

SEN. MCCASKILL: – they're serving bravely and well, we don't have any kind of issues with morale, and cohesiveness surrounding their service, but yet when it comes time to evaluate their service, they're not allowed to talk about it. And so you have a real challenge in getting perhaps maybe some of the most important input you may need as you consider this policy. And I'll be anxiously awaiting how you figure that one out.

ADM. MULLEN: Yes, ma'am.

SEN. MCCASKILL: Thank you, Mr. Chairman.

SEN. LEVIN: Thank you, Sen. –

SEC. GATES: Well, one approach, Senator is to talk to those who have been separated.

SEN. MCCASKILL: And I think that's terrific. I think the ones who have been separated would be a great place that you can get good information. But I don't know that you're going to be able to get at those that are currently serving because, obviously, they're not going to be able to step forward and talk about it. But I agree, Secretary Gates, that's a great place, because so many of them voluntarily separated because of issues of integrity. Thank you.

SEN. LEVIN: Thank you, Sen. McCaskill.

Sen. Reed.

SEN. REED: Thank you very much, Mr. Chairman.

Mr. Secretary, I want to follow up on a point that Sen. Collins made. It's my understanding that both Canada and the United Kingdom have allowed gays and lesbians to serve openly – in the case of Canada, since the early '90s, and Great Britain since at least the early 2000.

They are fighting side-by-side with us today in Afghanistan. And, in fact, I would think that we would like to see more of their regiments and brigades there. Does that, I think, suggest, as Adm. Mullen mentioned before, that their combat effectiveness has not been impaired – and we've had the opportunity to work with them, you know, in joint operations; does that add credibility, evidence or weight to the discussions that you're undertaking?

SEC. GATES: Well, I think that it is clearly something we need to address. We need to talk to those countries' militaries in a more informal and in-depth way about their experience. I think that their experience is a factor. But I also would say that each country has its own culture and its own society, and has to be evaluated in those terms as well.

SEN. REED: I think one of the aspects you refer to in your prepared remarks is the, at least presumptive difference, in terms of the attitudes at differing ranks within the military. Is that something you can comment upon now? Have you done any research?

Or Adm. Mullen think on that, about the attitudes based on age, or based on other factors?

SEC. GATES: I think that really goes to the point of what – of what we, what we need to do in the months ahead. I think Adm. Mullen would agree that we don't know; we don't have information based on rank or anything like that.

ADM. MULLEN: Anecdotally, I mean, it would be my only comment, there really hasn't been any objective review of this and so I think it would too soon to comment, because actually, anecdotally, there are young people, NCOs, senior officers on both sides of this issue. And it gets to this strongly held views driving this as opposed to really understanding objectively what this policy change would mean.

SEN. REED: Let me ask a final question, which I think is implicit in your overall testimony. And that is, and this is rather simplistic, but there will be a decision and then there will be the implementation of that decision. I would assume that, at least in part, those have to be coordinated or referenced so that part of this discussion analysis going forward is not only a decision but it's also about how this policy would be implemented in a very detailed fashion. And that would be something that would be available to the Congress before they made the decision, or what's, can you comment at all about that aspect?

SEC. GATES: Let me just start by saying sure. And because one of the things that we will look at is, if there is a problem with unit cohesion, how would you mitigate it? How, through training or regulations or other measures, do you, if the Congress were to repeal the law, then how would we implement it, just as you say?

And part of our review process is, as we look at the different aspects of it, what are the problem areas that we're going to see, and how do we address those? And as I said in my statement, it's everything from base housing to various policies and regulations and so on. All of those have to be addressed.

ADM. MULLEN: For me, Senator it's the understanding the impact. It is then, in that

understanding that speaks in great part to potential implementation, and that, then, really goes to the core of where I am on this, which is leadership. So I mean, understanding that, and they are integral to each other, impact and implementation, then says to me, Mullen, here's how you lead this. This is what you need to do to move through it, if the law changes.

SEN. REED: Thank you, Mr. Chairman.

SEN. LEVIN: Thank you.

Just briefly following up Sen. Reed's and Sen. Collins' point about other militaries, and Sen. Reed's point that our military is fighting side by side and with militaries who do not have a discriminatory policy against open service by gays. Have you noticed any impact on our troops who serve with Canadians or with Brits because of a British or Canadian policy that allows gays to openly serve? Admiral?

ADM. MULLEN: Since these wars started in 2003, it has not been brought to my attention that there's been any significant impact of the policies in those countries on either their military effectiveness or our ability to work with them.

SEN. LEVIN: All right. I have to make one comment on a suggestion that somehow or other, Admiral, you are simply following orders here of your commander in chief who's made a decision, in your testimony this morning. I think your testimony was not only eloquent, but it was personal, you made it very clear that you were reflecting your personal view, which you are obligated, under the oath you take, to give to us. We thank you for that.

And I thank you, not just because it happens that I agree with what you said, but more importantly because you were required to give us a personal view, and it was clear to me, and I think clear to most of us, that this was a view that you hold in your conscience and not giving to us because you were directed to by anybody, including the commander in chief. This statement of yours, in my judgment, was a profile in leadership this morning. It's going to take a great deal of leadership to have this change made. I hope it is.

The sooner the better, as far as I'm concerned, but with the kind of leadership that you've shown this morning, I think it's very doable, hopefully, in a short period of time. One other comment, and that has to do with what can be done in the interim. You're going to be looking at that without legislative change.

Secretary, it's my understanding that when service members are discharged under the Don't Ask, Don't Tell policy, with an honorable discharge, the DOD policy now is that they only receive half of their separation pay, which is authorized by statute. You're authorized to either give half or full pay. Would you take a look at that as something we can do in the interim here to indicate a greater sense of fairness about this issue? (Sounds gavel.)

You know you're sitting there quietly, Sen. Udall. I should have asked, do you have a final question? Okay.

I thank you both, it's been a long hearing this morning. We very much appreciate you, the men and women that serve with you and your families.

We will stand adjourned.

Exhibit C



SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

MAR 2 2010

MEMORANDUM FOR THE GENERAL COUNSEL
COMMANDER, US ARMY EUROPE

SUBJECT: Comprehensive Review on the Implementation of a Repeal of 10 U.S.C. §
654

The President has requested that the Congress repeal 10 U.S.C. § 654, "Policy Concerning Homosexuality in the Armed Forces," and directed the Department to consider how best to implement a repeal of this law.

The Chairman of the Joint Chiefs of Staff and I owe the President an assessment of the implications of such a repeal, should it occur. We also must develop an implementation plan for any new statutory mandate. To be successful, we must understand all issues and potential impacts associated with repeal of the law and how to manage implementation in a way that minimizes disruption to a force engaged in combat operations and other demanding military activities around the globe. Should Congress take this action, strong, engaged and informed leadership will be required at every level to properly and effectively implement a legislative change.

Accordingly, you are to stand up an intra-Department, inter-Service working group to conduct a comprehensive review of the issues associated with a repeal of the law. An integral element of this review shall be to assess and consider the impacts, if any, a change in the law would have on military readiness, military effectiveness and unit cohesion, and how to best manage such impacts during implementation.

To effectively accomplish this assessment, I believe it essential that the working group systematically engage the force. The participation of a range of age, rank and warfare communities in this study including families, in addition to active outreach across the force is a critical aspect that will undoubtedly lead to insights and recommendations essential to the Department's implementation of any change.

It is critical that this effort be carried out in a professional, thorough and dispassionate manner. Given the political dimension of this issue, it is equally critical that in carrying out this review, every effort be made to shield our men and women in uniform and their families from those aspects of this debate.



OSD 02309-10



Your terms of reference are attached. By copy of this memorandum, all DoD Components will fully cooperate in the execution of this Review and be responsive to all requests for information, detail personnel, or other support. The working group shall submit its report to me by December 1, 2010.

A handwritten signature in black ink, appearing to read "Robert M. Gates". The signature is fluid and cursive, with a large initial "R" and "M".

Attachment(s):
As stated

cc:
Secretaries of the Military Departments
Under Secretary of Defense for Personnel and Readiness
General Counsel of the Department of Defense
Joint Chiefs of Staff

TERMS OF REFERENCE

Comprehensive Review on the Implementation of a Repeal of 10 U.S.C. § 654

These Terms of Reference (TOR) establish the objectives of the Secretary of Defense-directed Comprehensive Review for the Repeal of 10 U.S.C. § 654, "Policy Concerning Homosexuality in the Armed Forces." The Review will examine the issues associated with repeal of the law should it occur and will include an implementation plan that addresses the impacts, if any, on the Department.

Objectives and Scope:

The Review will identify the impacts to the force of a repeal of 10 U.S.C § 654 in the areas reflected below:

1. Determine any impacts to military readiness, military effectiveness and unit cohesion, recruiting/retention, and family readiness that may result from repeal of the law and recommend any actions that should be taken in light of such impacts.
2. Determine leadership, guidance, and training on standards of conduct and new policies.
3. Determine appropriate changes to existing policies and regulations, including but not limited to issues regarding personnel management, leadership and training, facilities, investigations, and benefits.
4. Recommend appropriate changes (if any) to the Uniform Code of Military Justice.
5. Monitor and evaluate existing legislative proposals to repeal 10 U.S.C § 654 and proposals that may be introduced in the Congress during the period of the review.
6. Assure appropriate ways to monitor the workforce climate and military effectiveness that support successful follow-through on implementation.
7. Evaluate the issues raised in ongoing litigation involving 10 U.S.C § 654.

Methodology:

1. Review all DoD directives, instructions and other issuances potentially impacted by a repeal. Identify where new directives and instructions may be needed.
2. Ensure participation in the working group by: military service leadership; appropriate OSD staff elements; cross service officer and enlisted communities; mid-grade and senior ranks; human resources/personnel specialists; pay and benefits specialists; family support programs specialists; accession point and training communities; service

academies and/or senior service schools; and medical, legal and religious support personnel.

3. In an appropriately balanced manner, engage Members of Congress, key influencers of potential service members and other stakeholder groups that have expressed a view on the current and perspective policy.
4. Research/study methods shall include systematic engagement of all levels of the force and their families, analysis of current data and information, and review the experiences of foreign militaries.
5. Engage the RAND Corporation to update the National Defense Research Institute report on "Sexual Orientation and U.S. Military Personnel Policy: Options and Assessment" (1993).

Deliverables:

- A Report addressing the areas above will be delivered to the Secretary of Defense not later than December 1, 2010. Prior to the delivery of the report to the Secretary of Defense, each Service Chief shall be afforded the opportunity to review and comment.
- The Review will provide a plan of action to support the implementation of a repeal of the law. The Review shall identify areas for further study.

Support:

- The Under Secretary of Defense (Comptroller)/Chief Financial Officer will provide adequate funding for the Review.
- The DA&M, through Washington Headquarters Services, will coordinate for and provide human resources, office/facilities, and other support to ensure success of this effort.
- The Military Departments and other DOD Components will provide full support to the Review with detail personnel, information (including but not limited to documents and interviews of personnel), analytical capacity as determined necessary and any other support as requested.