

HEARING TO RECEIVE TESTIMONY RELATING TO THE “DON’T ASK, DON’T TELL” POLICY

THURSDAY, MARCH 18, 2010

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC.

The committee met, pursuant to notice, at 9:51 a.m. in room SH-216, Hart Senate Office Building, Senator Carl Levin (chairman) presiding.

Committee members present: Senators Levin, Lieberman, Ben Nelson, Webb, Udall, Hagan, Burris, Kaufman, McCain, Sessions, Chambliss, Thune, and Collins.

Committee staff members present: Richard D. DeBobes, staff director, and Leah C. Brewer, nominations and hearings clerk.

Majority staff members present: Jonathan D. Clark, counsel; Gabriella Eisen, counsel; Jessica L. Kingston, research assistant; Gerald J. Leeling, counsel; and Roy F. Phillips, professional staff member.

Minority staff members present: Joseph W. Bowab, Republican staff director; Michael V. Kostiw, professional staff member; Diana G. Tabler, professional staff member; Richard F. Walsh, minority counsel; and Dana W. White, professional staff member.

Staff assistants present: Jennifer R. Knowles, Christine G. Lang, and Breon N. Wells.

Committee members’ assistants present: James Tuite, assistant to Senator Byrd; Christopher Griffin, assistant to Senator Lieberman; Nick Ikeda, assistant to Senator Akaka; Ann Premer, assistant to Senator Ben Nelson; Patrick Hayes, assistant to Senator Bayh; Gordon I. Peterson, assistant to Senator Webb; Jennifer Barrett, assistant to Senator Udall; Roger Pena, assistant to Senator Hagan; Lindsay Kavanaugh, assistant to Senator Begich; Roosevelt Barfield, assistant to Senator Burris; Halie Soifer, assistant to Senator Kaufman; Lenwood Landrum and Sandra Luff, assistants to Senator Sessions; Clyde A. Taylor IV, assistant to Senator Chambliss; Jason Van Beek, assistant to Senator Thune; Chip Kennett and Meghan Simonds, assistants to Senator Collins.

OPENING STATEMENT OF SENATOR CARL LEVIN, CHAIRMAN

Chairman LEVIN. Good morning, everybody.

We’re going to come to order, but we’re then going to recess for 10 minutes, until 10 o’clock, and—for the benefit of colleagues, because we have an order of speaking, here, as to who’s actually here when the gavel bangs. This will count. So, this will be the order

we'll establish, and we'll pick up that order at 10 o'clock, when we will begin our hearing.

But, we are going to recess now until 10 o'clock or a few minutes thereafter.

And we will stand in recess.

[Recess.]

Chairman LEVIN. Committee will come to order.

We meet this morning to continue to receive testimony on the "Don't Ask, Don't Tell" policy on gays in the military.

The Secretary of Defense testified before this committee, on February 2nd, that he supported the President's decision to work with Congress to repeal the law known as "Don't Ask, Don't Tell," and said that, quote, "The question before us is not 'whether' the military prepares to make this change, but 'how' we best prepare for it."

At the same hearing, Admiral Mullen, the Chairman of the Joint Chiefs, expressed his personal belief that allowing gays and lesbians to serve openly could be the right thing to do. He said, quote, "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," he said, "it comes down to integrity, theirs as individuals and ours as an institution."

Today, we will hear testimony from witnesses who do not represent the Department of Defense, although each of them has served with distinction in the military.

We welcome General John Sheehan, United States Marine Corps, retired. While on Active Duty, General Sheehan served in various command positions, ranging from company commander to brigade commander in both the Atlantic and Pacific theater of operations. General Sheehan's combat tours included duty in Vietnam and Desert Shield/Desert Storm. His last assignment was as Supreme Allied Commander, Atlantic and Commander in Chief, U.S. Atlantic Command.

Michael Almy served as an Active Duty Air Force officer for 13 years before he was discharged in 2006 under "Don't Ask, Don't Tell." He deployed to the Middle East four times during his Active Duty career, serving in Operation Desert Fox, Operation Southern Watch, and Operation Iraqi Freedom. He was named Officer of the Quarter and Officer of the Year several times throughout his career, and in 2005 was named the top communications officer for the Air Force in Europe and was recommended for promotion to lieutenant colonel prior to his discharge in 2006.

Jenny Kopfstein, a Naval Academy graduate, served on Active Duty in the Navy for nearly 3 years. She revealed her sexual orientation to her commanding officer during her first shipboard assignment. Apparently, knowledge of her sexual orientation had no impact on her duty performance, as she was sent on a second deployment in support of Operation Enduring Freedom. She earned several awards and honors, and was promoted during her service. Significantly, two of her commanding officers testified at her separation hearing that, while they understood she was a lesbian, she was an excellent officer who should remain in the Navy. Despite

that testimony, Ms. Kopfstein was discharged under “Don’t Ask, Don’t Tell” in 2002.

Cases like this make it clear to me that we should repeal this discriminatory policy. I do not find the arguments used to justify “Don’t Ask, Don’t Tell” convincing, I did not find them convincing when it took effect in 1993, and they are less so now, as made evidence by the experiences of Mr. Almy and Ms. Kopfstein and so many like them. What matters is a willingness and an ability to perform the mission, not an individual’s sexual orientation.

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 gays and lesbians are, in fact, serving in our military.

As former Chairman of the Joint Chiefs, General John Shalikashvili, who supports ending the policy, has pointed out, the majority of troops already believe they serve alongside gay or lesbian colleagues. It’s hard to know for sure, but one recent study estimated that 66,000 gays and lesbians are serving today, forced to hide their orientation, at a constant risk of losing the chance to serve.

Supporters of the current “Don’t Ask, Don’t Tell” policy argue that allowing gays and lesbians to serve openly would damage unit cohesion and morale, crucial factors in building combat effectiveness. But, there is no evidence that the presence of gay and lesbian colleagues would damage our military’s ability to fight. Gay men and women are serving now, and their fellow servicemembers often know that they are serving with them. Their service is not damaging unit cohesion and morale.

Other nations have allowed gay and lesbian servicemembers to serve in their militaries without discrimination and without impact on cohesion or morale. The most comprehensive study on this was conducted by RAND in 1993. RAND researchers reported on the positive experiences of Canada, France, Germany, Israel, the Netherlands, and Norway, all of which allowed known homosexuals to serve in the Armed Forces. We’ve asked the Department to update that 1993 report.

Mr. Almy and Ms. Kopfstein were discharged, not because of their duty performance, not because their presence interfered with unit cohesion, and not because their sexual orientation compromised the military mission; they were discharge solely on the basis of who they are, what their sexual orientation is.

Senator Lieberman has introduced the Military Readiness Enhancement Act of 2010, of which I am cosponsor, that would replace the current policy concerning homosexuality in the Armed Forces with a policy of nondiscrimination on the basis of sexual orientation.

I hope we can move quickly and deliberately to maximize the opportunity for all Americans to serve their country. We can and should do that in a way that honors our Nation’s values while making us more secure.

The committee has received many statements for the record. Some of them are from the American Veterans for Equal Rights, the Center for American Progress Action Committee, the Associa-

tion of the Bar of the City of New York, Service Members United, the Human Rights Campaign, and the Service Members Legal Defense Network. They and other statements that are relative to this subject—relevant to this subject will be made part of the record.

[The information referred to follows:]

Chairman LEVIN. Senator McCain.

STATEMENT OF SENATOR JOHN MCCAIN

Senator MCCAIN. I thank you, Mr. Chairman.

And I join you in welcoming our witnesses, thanking each of them for their military service and their willingness to share their views with us today.

As we all know, the committee's focus today is on the "Don't Ask, Don't Tell" policy, which, since 1993, has not barred gay and lesbian individuals from serving in the Armed Forces. It has not barred gay and lesbian individuals from serving in the Armed Forces, but it's prevented them from doing so openly. We will hear testimony for and against the policy based on our witnesses' military experience. I look forward to listening with an open mind, and learning from each of them. I urge all my colleagues to do the same.

Since early February, our committee has received testimony on this issue from Secretary Gates and the Service Secretaries, echoing the desire of the President, a campaign commitment, to have Congress repeal the "Don't Ask, Don't Tell" policy. We've also heard the moving personal views of Admiral Mullen and several of the combatant commanders during their posture-hearing testimony.

Finally, we've heard from the Service Chiefs, who have responsibility under law for the organization, training, and overall readiness of their forces, and for providing their best military advice to the President on matters that might affect their ability to ensure sufficiently trained and ready forces. Each of the Service Chiefs has expressed his support for the comprehensive high-level review that Secretary Gates has directed. However, each has indicated that he is not prepared to support a repeal of the "Don't Ask, Don't Tell" policy at this time. Each has also testified that he opposes your suggestion, Mr. Chairman, of a moratorium on discharges while the review is being conducted.

Based on their testimony, I urge my colleagues to await the completion of the review in order to give the Service Chiefs the information they have asked for before any attempt is made to legislate a change for political reasons that our military leaders will be required to implement.

I will strongly oppose any attempt to change the current law based on an incomplete and inadequate review of this policy. And I appeal to all my colleagues to take this approach in the interest of national security.

With respect to the review itself, I have expressed my concerns about its focus and scope. Unfortunately, in his testimony to this committee, Secretary Gates described the mandate as a, quote, "A review of the issues associated with properly implementing a repeal of the 'Don't Ask, Don't Tell' policy. The guiding question," as Secretary Gates put it, "should not be—should be not whether the military prepares to make this change, but how we best prepare for

it.” This is consistent with the President’s goals, but it gets things backwards.

The current Pentagon review should be an objective study of the relevant military issues, not an implementation plan. This issue that Congress must decide, and the issue the Service Chiefs should be asked to give their best military advice about, is whether the “Don’t Ask, Don’t Tell” policy should be repealed. We should ask that question to our service personnel at all levels, and their families and genuinely consider their views in our debate. Clearly there are many policy and logistical challenges that would have to be overcome if the law is repealed, but that should not be the primary focus of this review.

I will continue to insist that we use the next 8 months to study not “how” to implement a change to the current policy, but “whether” and “why” the men and women of the Armed Forces—the generals, the officers, the NCOs, and the privates—support or oppose such a change. I would then expect, and I think the American people have every right to expect, the views of the Service Chiefs to incorporate this critically important information.

As I have stated before, I am proud and thankful for every American who chooses to put on the uniform of our country and serve this Nation, particularly in this time of war. The “Don’t Ask, Don’t Tell” policy is not perfect, but it reflects a compromise achieved with great difficulty that has effectively supported military readiness. However imperfect, the policy has allowed many gay and lesbian Americans to serve their country. I honor their service. I honor their sacrifices. And I honor them. We should not change the current policy until we are confident, from a military standpoint, with the informed advice of the Service Chiefs, that such a change is consistent with military effectiveness.

I would ask, also, without—for unanimous consent, that copies of a—recently passed resolutions from the American Legion, the largest veterans service organization, with a membership of 3 million veterans, the Veterans of Foreign Wars of the United States, with a membership over 1,500,000, recommending against repeal of the current law, to be included in the record.

Chairman LEVIN. They will be made part of the record.

[The information referred to follows:]

Senator MCCAIN. Finally, in summary, and I would say to my colleagues, we have the best-trained, best-equipped, best—most professional military that I have known in the many, many years I’ve had the honor of serving and knowing men and women in the United States military. Retention and recruitment—it is an all time high in the history of the All-Volunteer Force. We are in two wars. And before we implement a change in policy that clearly, by objective indicators, seems to have given us a best military that we have had in the history of this country, that we ought to have a careful and thorough review, not only of the views of the men and women in the military who serve at the top, but the views of the men and women who are serving today in harm’s way.

I thank you, Mr. Chairman.

[The prepared statement of Senator McCain follows:]

[COMMITTEE INSERT]

Chairman LEVIN. Thank you very much, Senator McCain.

We'll now turn—first, General Sheehan.

**STATEMENT OF GENERAL JOHN J. SHEEHAN, USMC (RET.),
FORMER SUPREME ALLIED COMMANDER, ATLANTIC, AND
FORMER COMMANDER IN CHIEF, U.S. ATLANTIC COMMAND**

General SHEEHAN. Mr. Chairman, thank you very much. And if you have no objections, I'd like to read my statement—

Chairman LEVIN. That'd be fine. Is your mic on?

General SHEEHAN. It is. Yes, sir.

Chairman LEVIN. Thank you.

General SHEEHAN. First, thank you for the opportunity to testify before this committee on a very complex issue. I'm here not out of any political conviction, because I was by this committee to share my views as part of the debate in this issue. From my previous experiences with this committee, I know this committee is charged with an awesome responsibility that is, in part, shared with the Commander in Chief, but the Constitution commits, exclusive to the Congress and this body, the responsibility to raise and regulate this Nation's Armed Forces.

My point of view and convictions were formed from my experience during 35 years of service as a Marine Corps infantry officer who has served in combat, led a platoon, three companies, and infantry battalion, and an infantry regiment. My career also includes command of units from 26 different nations.

My basic belief is that everyone can and should serve this great country in some way. We also know and agree that not everybody is qualified or eligible to serve in the military, for a variety of reasons, including age, health, education, and so on.

The 1993 review, which resulted in the adoption of Section 654, arrived at a number of findings. The most important in my mind, that there is not constitutional right to serve in the Armed Forces. The findings of 1993 also confirmed something that my family and I already knew and accepted, which is that military life is fundamentally different from civilian life, and that military society is characterized by its own laws, rules, customs, and traditions, including numerous restrictions on personal behavior that would not be accepted in normal civilian life.

I can acknowledge that popular culture has changed in many ways. However, the nature and requirements of military life have changed very little. Military culture is deliberately developed and structured to mold individuals from all walks of life into a coherent group that willingly sacrifices self for the strength of the unit. In fact, the cohesion of a unit is predicated, in part, on the lack of individuality of its members. No special accommodations need to be afforded to anyone of them. To the degree possible, we try to make marines interchangeable. This makes the military a unique institution within the broader American society. It asks—no, it really demands—that individuals put aside individual interests and behavior for the good of the unit. Self-sacrifice is the cornerstone of the unit cohesion that builds effective combat organizations.

The "Don't Ask, Don't Tell" policy, however awkward and difficult, reinforces the critical maxim that, first and foremost, you are a soldier, sailor, airman, or marine. Your preferences and desires

are not relevant. Effectiveness in training and mission accomplishment on the battlefield are the standards that you judge them by.

Because the military is a human institution, it is, by definition, imperfect, and there are some who fail to maintain their eligibility after entry, thus rendering them ineligible for further service. The past good work of servicemembers who are attracted to the same sex is an indication of only one thing: that they have been able to serve well prior to becoming ineligible.

To my knowledge, nobody's making the argument that a man or woman being attracted to the same sex debilitates them, either intellectually or physically. The question under review is whether the behavior of a person who openly declares a sexual attraction to the same sex directly or indirectly contributes to the—or detracts from—military cohesion. Make no mistake, this is not about consideration being given to someone who wants to serve in the military despite being attracted to the same sex, this particular argument has to do with the supposed right to declare oneself to be sexually attracted to a particular segment of the population, and insist on continuing to live in the most intimate proximity with them.

If this committee were able to clearly demonstrate that this change would improve military effectiveness, then the change should be implemented. But, if someone were to insist on implementation because of an ulterior motive other than clear evidence and there was an uncertainty about the effect it would have on the unit cohesion, then that is a risk I would not recommend or support in today's environment.

As we sit here today, U.S. Forces are deployed in Iraq and Afghanistan, fighting an armed enemy sworn to destroy our way of life. Our enemies respect and fear the United States combat capability. Unfortunately, our enemies, especially the extremists, do not care how enlightened or progressive our culture may be. The only thing that matters is the effectiveness on the battlefield.

For over 200 years, the Marine Corps and other elite combat formations, like Special Forces, Airborne, and Ranger units, have developed training and performance-based systems that breed success in the battlefield. Effective units need to act as a coherent unit. As the law says, military life is fundamentally different from a civilian life. This is a difficult reality to accept for individuals who have never served or had such exposure to our Armed Forces. It goes well beyond just wearing a uniform to work on a daily basis. More than once, during my military career, the unacceptable behavior of one selfish marine has created a single point of failure for his unit and endangered lives. In every instance unit polarization occurred because of this selfish behavior.

I also know that some will argue that the circumstances of warfare are different. I would argue that, in many ways, they're very similar. Selfish behavior in Vietnam, Khafji, Fallujah can affect entire units and detract from the success of combat missions. To state the obvious, warfare is difficult, ugly business. Congress should not impose more uncertainty in a battlefield that is already complex enough.

Each member of this committee must, in his or her own mind, feel absolutely certain that the change of the current law will improve this Nation's combat effectiveness and minimize the risks our

young men and women face in today's battlefield. The change must also reduce the current environment of a hostile workplace that exists and is increasing today.

Thank you very much for the opportunity to testify.

[The prepared statement of General Sheehan follows:]

Chairman LEVIN. Thank you very much, General.

Mr. Almy.

STATEMENT OF MICHAEL D. ALMY, FORMER MAJOR, U.S. AIR FORCE

Mr. ALMY. Thank you. Good morning, Mr. Chairman.

Chairman LEVIN. Make sure your mic is on, if you would.

Mr. ALMY. Good morning, Mr. Chairman, Senator McCain, Senators.

My name is Mike Almy. I served as an officer in the United States Air Force for 13 years and attained the rank of major, until I was discharged under "Don't Ask, Don't Tell." I'm honored to be here this morning to tell you a little of my story.

I come from a family with a rich history of military service. My father is a West Point graduate, taught chemistry at the Air Force Academy, flew helicopters in Vietnam, and ultimately retired as a senior officer from the Air Force. One of my uncles retired as a master gunnery sergeant from the Marine Corps, with service in World War II, Korea, and Vietnam. Another one of my uncles, also with service in Korea, retired from the Army.

My family's military service inspired me to follow suit. When I was growing up, I didn't really know what civilians were, I just knew I would always follow in my father's footsteps and become a military officer. As such, I joined Air Force ROTC in 1988, and shortly thereafter earned a scholarship through ROTC. In 1991, I went through Army Airborne training at Fort Benning and earned my jump wings. In 1992, I graduated from ROTC in the top 10 percent of all graduates nationwide. In 1993, I came on Active Duty, just as "Don't Ask, Don't Tell" was becoming a law, and was stationed in Mississippi. Following this I was stationed in Texas, Illinois, Oklahoma, where I was named the top officer of my year—top officer of my unit for the year, out of a group of about 1,000 people. Following this, I was one of six officers from the entire Air Force selected to attend Professional Military Education at Quantico Marine Corps Base, Virginia. After this, I was stationed in Germany for 4 years, where I led the communications directorate of an air control squadron.

During my career, I deployed to the Middle East four times in support of our efforts in Iraq. In my last position in the Air Force, I led a team of nearly 200 men and women, whose mission was to operate and maintain the systems used to control the airspace over Iraq. On this deployment, we came under daily mortar attack, one of which struck one of my airmen and also caused significant damage to our equipment. Towards the end of this deployment, I was named one of the top officers in my career field for the entire Air Force.

During my time in Iraq, the Air Force restricted access to all private emails. Therefore, we were authorized to use work emails for personal and morale purposes. Shortly after I left Iraq, someone in

the unit that had replaced mine was conducting a routine search and discovered my personal emails written to family and friends from the stress of a combat zone. The file was clearly labeled personal, and, as such, there was no military or work-related reason to search these emails. The commander in Iraq, during the height of the insurgency, ordered a search of my personal emails solely to determine if I had violated "Don't Ask, Don't Tell," and to gather whatever evidence could be used against me.

These emails were forwarded to my commander back in Germany. He next called me into his office and demanded that I give him an explanation for these emails. I refused to discuss the nature of these emails, because I considered them personal and private. And I told my commander I would not make a statement until I had first consulted with a lawyer.

I was relieved of my duties, leading nearly 200 airmen; my security clearance was suspended; part of my pay was terminated. Even as my commander was relieving me of my duties, he assured me that this was in no way a reflection of performance or my abilities as an officer.

After that day, I was in limbo for 16 months. I was still in the Air Force, but I was given a meaningless make-work job, while the process slowly ground forward. In my discharge, proceedings several of former troops and one the squadron commanders that I had served with there on the base all wrote letters on my behalf, urging that I be retained in the Air Force. They expressed the greatest respect for me as an officer, they all wanted me back on the job as their leader, and they were all horrified at how the Air Force was treating me.

Ultimately, after 16 months, I was discharged from the Air Force. The severance pay that I received from the Air Force was half what I would have received had I been discharged for any other reason.

As a final insult, on my last day of Active Duty, I was given a police escort from the base, as if I were a common criminal or a threat to national security.

"Don't Ask, Don't Tell" failed me, despite the fact that I upheld my end of this law by never disclosing my private life. Never once, in my 13-year career, did I make a statement to the military that violated "Don't Ask, Don't Tell," despite pressure from my commander to do so.

The law also failed the Air Force. There was considerable disruption to my squadron's unit cohesion after I was fired and replaced by a more junior officer with less experience. This had a negative effect on morale and unit cohesion, and the mission suffered as a result.

Approximately a year after I was relieved of my position, my wing commander recommended that I be promoted to lieutenant colonel, even as the Air Force was actively pursuing a discharge against me.

Being relieved from my duties as a 13-year career officer, and during a 16-month administrative legal proceeding, and finally being discharged, was completely devastating to me. I felt betrayed by my country and treated as a second-class citizen, even as I had repeatedly risked my life on foreign soil. I understood the con-

straints of living under “Don’t Ask, Don’t Tell,” and never imagined that I would become a statistic, since I abided by its basic premise of never disclosing any aspect of my private life.

My DD-214 discharge paperwork from the military categorizes the reasons for my separation as “homosexual admission.” I refused to sign this, because I never acknowledged anything to the military. Anytime I have applied for a Federal job, potential employers now see this on my record. I am now considered unfit for military service at a time when our Nation has actively recruited convicted felons, drug abusers, and high school dropouts. As a result of “Don’t Ask, Don’t Tell” and how the Air Force discharged me, I am now forced to reveal aspects of my private life to complete strangers, or once again lie about why I left the military.

I only recently decided to come forward with my story as an example of a career of service to our country cut short by this discriminatory law. Multiply my story by nearly 14,000, and you begin to understand the magnitude of this law. Since I’ve gone public with my story, I’ve received emails thanking me for my service, my story, and, more importantly, for giving a voice to those who have none on this issue. Some of these servicemembers are currently serving in harm’s way.

My greatest desire now is to return to the Air Force as an officer and a leader, protecting the freedoms of a Nation that I love, freedoms that I myself was not allowed to enjoy while I was serving in the military. This is my calling in life. I hope that you will allow this to happen.

Thank you.

[The prepared statement of Mr. Almy follows:]

Chairman LEVIN. Thank you very much, Mr. Almy.

Ms. Kopfstein.

STATEMENT OF JENNY L. KOPFSTEIN, FORMER LIEUTENANT JUNIOR GRADE, U.S. NAVY

Ms. KOPFSTEIN. Good morning, Mr. Chairman, Senator McCain, Senators.

My name is Jenny Kopfstein. I joined the Navy in 1995, when I entered Naval Academy. At the Academy, I majored in physics, and I was commissioned in 1999. I served openly as a lesbian officer for 2 years and 4 months before I was discharged under “Don’t Ask, Don’t Tell” in 2002.

The Naval Academy teaches you about honor and integrity. It places a special emphasis on these values. On the very first day, they give you uniforms, shoe polish, Brasso, and begin teaching you about the Academy’s Honor Concept. The Honor Concept starts out, “Midshipmen are persons of integrity. They do not lie, cheat, or steal.”

When I was a senior midshipman, I was an investigator for the Honor Staff. I investigated midshipmen who were accused of violating the Honor Concept. This experience brought home to me the importance of integrity and just what it means not to lie.

I graduated from the Naval Academy and became a surface warfare officer. I received orders to the cruiser U.S.S. Shiloh. I was excited and happy to go serve on a combatant ship.

It was difficult being on the ship and having to lie, or tell truths to my shipmates. Under “Don’t Ask, Don’t Tell,” answering the simplest questions can get you kicked out. If a shipmate asks what you did last weekend, you can’t react like a normal human being and say, “Hey, I went to a great new restaurant with my partner. You should try it.” An answer like that would have gotten me kicked out of the Navy. But, if you don’t interact like that with your shipmates, they think you’re weird and it undermines working together as a team.

So, after being on the ship for a while, and feeling deeply conflicted between the requirements of “Don’t Ask, Don’t Tell” and the Navy’s core values, I wrote a letter to my commanding officer and told him I was a lesbian, because I felt like I was being forced to lie. I didn’t want to get out of the Navy, and I said so in my letter. I wanted to stay and serve honorably, and to maintain my integrity by not lying about who I was.

After I wrote the letter, I continued to do my job on the ship to the best of my ability. We went on a 6-month deployment to the Middle East. I qualified as Officer of the Deck, and was chosen to be Officer of the Deck during general quarters. It is a great honor.

During all this time, I’m proud to say, I did not lie. I had come out in my letter officially, and I came out slowly over time to my shipmates. I expected negative responses. I got none. Everyone I talked to was positive, and the universal attitude was that “Don’t Ask, Don’t Tell” was dumb. I served openly for 2 years and 4 months.

One thing that happened during that time was the captain’s choosing me to represent the ship in a ship-handling competition. I was the only officer chosen from the ship to compete. My orientation was known to my shipmates by this time. Nobody griped about the about the captain choosing someone being processed for discharge under “Don’t Ask, Don’t Tell” to represent the ship. Instead, a couple of my fellow junior officers congratulated me and wished me luck in the competition. I competed by showing the admiral my ship-driving skills, and won the competition.

During the time I was serving openly, I earned my Sea Service Deployment ribbon, and my Surface Warfare Officer pin. During my pin ceremony, the captain took his own pin off his uniform and pinned it on mine. That was one of my proudest moments.

My open service had a positive impact on the ship’s morale. I was able to treat my shipmates like human beings, and we could interact on a personal level. One time I was walking down the passageway on the ship and the senior chief petty officer stopped me and asked, “Ma’am, may I speak to you for a minute?” And my first thought was, “Uh-oh, what is this going to be about?” We stepped into an empty room, and he pulled out his wallet. He showed me a picture of a teenage boy, “This is my son, and he’s gay. And I’m really proud of him.” I was so shocked I didn’t know what to say. Finally, I said, “Wow. Thank you, Senior Chief.” We could not have had that interaction if I was not out. Normal people interact and talk about their families.

My commanding officer wrote, in my fitness report in 2002, that my sexual orientation has not disrupted good order and discipline onboard the U.S.S. Shiloh. “Don’t Ask, Don’t Tell” has long been

defended as necessary to preserve good order and discipline. It seems to me that the captain of a ship in the United States Navy is the most qualified judge of good order and discipline among his crew.

On my assignment after I left the ship, my new commanding officer awarded me the Navy and Marine Corps achievement medal, which is an individual award. He knew about my orientation from the first moment I arrived at his command, but it made no difference to him.

During my service on the ship, I had two captains, because there was a change of command while I was there. Even though they were four grades above me, both of them came and testified at my "Don't Ask, Don't Tell" discharge hearing to say they were opposed to kicking me out.

So, 2 years and 4 months after coming out in my letter and serving openly, I was discharged under "Don't Ask, Don't Tell." I should not be forced to hide who I am. When I was closeted, the pain ate away at the core of my being. The crew of my ship was my extended family, and being in the military is not a 9-to-5 job. A lot of the time, when stationed on board a ship, going home is not even an option. I lived, worked, ate, slept, and went on liberty with that crew. Keeping parts of my life secret and separate was an incredible burden. It is an unnecessary burden, and no American soldier or sailor should be forced to bear it.

I made a commitment to the Navy when I joined, to serve 5 years after graduation from the Naval Academy. I've only gotten to serve 3 and a half so far. I want the opportunity to live up to my commitment and serve out the rest of my time with honor. The way I see it, I owe the Navy a year and half more.

There are 66,000 lesbian and gay soldiers, sailors, airmen, and marines who are currently serving this country in our Armed Forces. They couldn't be here today, because they are forced to be silent. I am here before you as living proof that this law is wrong and being forced to serve in silence is wrong. It's time for a change. I love the Navy. And I would still be serving, but for this law.

Thank you.

[The prepared statement of Ms. Kopfstein follows:]

Chairman LEVIN. Thank you very much, Ms. Kopfstein.

Let's try a—what, 7 minutes? Okay? Let's try a 7-minute first round.

We thank all of you for your testimony.

Mr. Almy, should somebody be forced to be silent about their sexual orientation in their—in the military?

Mr. ALMY. In my opinion no, Senator. I think the "Don't Ask, Don't Tell" law is inherently in conflict with the Services' core value, as Admiral Mullen reflected in his testimony before this hearing a month ago.

The principal core value of the Air Force is, "Integrity First." And "Don't Ask, Don't Tell" says that gays and lesbians can serve in the military as long as they're not who they are; as long as they lie about who they are. And to me, personally, that was in direct violation of the core values of the Air Force.

Chairman LEVIN. So, while you were willing to keep that—your orientation private, you don't feel it is the right policy or a fair policy. Is that correct?

Mr. ALMY. Correct, Senator.

Chairman LEVIN. Now, would you like to return to the military, if you could?

Mr. ALMY. Absolutely. It's my greatest desire. I'd—it's—

Chairman LEVIN. All right.

Mr. ALMY.—it's my calling in life, and I miss the military considerably.

Chairman LEVIN. General, you've been a NATO Supreme Allied Commander, and I assume that, as NATO Commander, that you discussed the issue with other military leaders of our allies. Is that correct?

General SHEEHAN. Yes, sir. I have.

Chairman LEVIN. Did you—or, did they tell you—those allies who allow open service of gay and lesbian men and women, did they tell you that they had unit cohesion or morale problems?

General SHEEHAN. Yes, sir, they did. And if you don't—beg the indulgence.

Chairman LEVIN. Sure.

General SHEEHAN. Most of this committee knows that current militaries are a product of years of development. They reflect societies that they're theoretically paid to protect. The European militaries today are a product of the collapse of the Soviet Union. Nations, like Belgium, Luxembourg, the Dutch, et cetera, firmly believed there was no longer a need for an active combat capability in their militaries. As a result, they declared a peace dividend and made a conscious effort to socialize their military. That included the unionization of their militaries. It included open homosexuality, demonstrated in a series of other activities, with a focus on peace-keeping operations, because they did not believe the Germans were going to attack again or the Soviets were coming back.

That led to a force that was ill-equipped to go to war. The case and point that I'm referring to is when the Dutch were required to defend Srebrenitsa against the Serbs. The battalion was understrength, poorly led, and the Serbs came into town, handcuffed the soldiers to the telephone poles, marched the Muslims off, and executed them. That was the largest massacre in Europe since World War II.

Chairman LEVIN. And did the Dutch leaders tell you it was because there were gay soldiers there?

General SHEEHAN. It was a combination—

Chairman LEVIN. But, did they tell you that? That's my question.

General SHEEHAN. Yes.

Chairman LEVIN. They did.

General SHEEHAN. They included that as part of the problem.

Chairman LEVIN. That there were gay soldiers—

General SHEEHAN. That their—

Chairman LEVIN.—among—

General SHEEHAN. The combination—

Chairman LEVIN.—the Dutch force.

General SHEEHAN.—was the liberalization of the military, a net effect of, basically, social engineering.

Chairman LEVIN. The—you said that no special accommodations should be made for any member of the military.

General SHEEHAN. Yes, sir.

Chairman LEVIN. Are members who are straight, who are heterosexual, allowed, in our military, to say that they are straight and heterosexual? Are they allowed to say that without being discharged?

General SHEEHAN. Are they allowed to—

Chairman LEVIN. Yeah.

General SHEEHAN.—declare the sexuality?

Chairman LEVIN. Yes. Are they allowed to say that, “Hey, I’m straight. I’m heterosexual”? Can you say that without being discharged?

General SHEEHAN. There’s no prohibition, to my knowledge.

Chairman LEVIN. Is that special accommodation to them?

General SHEEHAN. I wouldn’t consider it special accommodation.

Chairman LEVIN. Why would it be a special accommodation, then, to someone who’s gay, to say, “Hey, I’m gay”? Why do you call that “special”? You don’t call it “special” for someone heterosexual or straight. Why do you believe that’s a special accommodation to somebody who is gay?

General SHEEHAN. I think the issue, Senator, that we’re talking about really hasn’t a lot to do with the individuals. It has to do with the very nature of combat. Combat is not about individuals, it’s about units. We’re talking about a group of people who declare, openly, sexual attraction to a particular segment of the population, and insist and continue to live in the intimate proximity with them. That, by law—

Chairman LEVIN. But, you allow that for heterosexuals.

General SHEEHAN. Yes.

Chairman LEVIN. You don’t have any problem with that.

General SHEEHAN. Don’t have a problem with that.

Chairman LEVIN. You don’t have—

General SHEEHAN. But, that—

Chairman LEVIN.—any problem with men and women serving together, even though they say that they’re attracted to each other.

General SHEEHAN. That’s correct.

Chairman LEVIN. That’s not a special accommodation.

General SHEEHAN. No.

Chairman LEVIN. Okay. But, it is special to allow—

General SHEEHAN. It is, because it identifies a group as a special group of people who, by law, make them ineligible for further service.

Chairman LEVIN. But, the whole issue is whether it ought to be—they ought to be ineligible. Whether we ought to keep out of—from our—

General SHEEHAN. That—

Chairman LEVIN.—service—

General SHEEHAN. That’s the debate. The current—

Chairman LEVIN. Right.

General SHEEHAN.—the current law clearly says—

Chairman LEVIN. I know what the law says. The question is whether we ought to change the law.

General SHEEHAN. My recommendation is no.

Chairman LEVIN. No, I understand. And can you tell us what Dutch officers you talked to who said that Srebrenitsa—

General SHEEHAN. I—

Chairman LEVIN.—was in part caused because there were gay soldiers in the Dutch Army?

Chairman LEVIN. The Chief of Staff of the Army, who was fired by the Parliament because they couldn't find anybody else to blame.

Chairman LEVIN. I mean, what—and who was that?

General SHEEHAN. Hank Von Bremman.

Chairman LEVIN. Pardon?

General SHEEHAN. Hank Von Bremman.

Chairman LEVIN. All right. Why is the burden to end a discriminatory policy based on people who would end the discriminatory policy? Why do you say that people who want to end the policy have to show that it would improve combat effectiveness? If we're satisfied it would not harm combat effectiveness, and for many who would be allowed to serve, that it—they would be then permitted to serve without discrimination and without harm, why is that not good enough for you?

General SHEEHAN. Because the force that we have today is probably the finest fighting force in the world.

Chairman LEVIN. And maybe we could have an equally fine or even a better force, but if it's—

General SHEEHAN. No—

Chairman LEVIN.—equal—

General SHEEHAN.—I think the—

Chairman LEVIN.—if it's equally—

General SHEEHAN.—burden of—

Chairman LEVIN.—fine—if we're—if you could be satisfied that there would be no harm to combat cohesion or effectiveness, would that be satisfactory to you?

General SHEEHAN. No, I think it has to be demonstrated, Senator.

Chairman LEVIN. That it's—that there be an actual improvement.

General SHEEHAN. That we are—an actual improvement.

Chairman LEVIN. "No"—

General SHEEHAN. The reason—

Chairman LEVIN.—"harm" wouldn't be good enough for you.

General SHEEHAN. No, the reason I—

Chairman LEVIN. Pardon?

General SHEEHAN.—the reason I say that, Senator, is because we've gone through this once before during our lifetime—you were in the Senate at the time; it was called "The Great Society"—when it was deemed that we could bring into the military Category IVs and Vs, and help the military out, and make it part of a social experiment. Those Category IVs and Vs almost destroyed the military.

Chairman LEVIN. I don't know what that has to do with this issue.

General SHEEHAN. Well, it has to do with the issue of being able to demonstrate that the change in policy is going to improve things. We were told that this was going to help out combat strength—

combat deployable strength. It didn't. It did just the opposite. It drove people out. So, I think the burden has to be on demonstrating that something is going to become better, not hoping that it'll become something better.

Chairman LEVIN. Yeah. Well, I think the burden of people—burden to maintain a discriminatory policy is on the people who maintain the policy, not on the people who want to end it.

Senator McCain.

Senator MCCAIN. Thank you, Mr. Chairman.

And I thank the witnesses.

I'd like to ask all three witnesses, Do you have any objection to a thorough, complete review of the present implications of the issue, as to whether it's working or not, and whether it needs to be changed, and, if so, how?

Do you have a problem that—with—Ms. Kopfstein?

Ms. KOPFSTEIN. No, Senator. I don't have a problem with a review. I think it's clear that the law does need to be changed, because it's unevenly—

Senator MCCAIN. But, you don't have a problem with a review.

Ms. KOPFSTEIN. No, sir.

Senator MCCAIN. Mr. Almy?

Mr. ALMY. Senator McCain, actually I do. From the standpoint that this—

Senator MCCAIN. You have a problem with a thorough review—

Mr. ALMY. I have problem with—

Senator MCCAIN.—conducted—let me finish the question, if I could—the thorough review, taking the input of the men and women in the military, the views of the Service Chiefs, as to whether it will enhance battle effectiveness or harm battle effectiveness, whether it should be maintained or not. You have a problem with that review.

Mr. ALMY. I do, Senator. From the stand—

Senator MCCAIN. Thank you. Go ahead.

Mr. ALMY. From the standpoint that we've not done this on any other issues of change with the military, as far as, most recently, putting women in submarines, women at the Service Academies. We did not survey the forces then, under those issues. And the military is not a democracy. I don't see this issue as any different, Senator.

Senator MCCAIN. Thank you.

General, let me get to the heart of the question here that's being posed by those who want this policy—this law reversed. Why isn't it sufficient to argue that sexual orientation is irrelevant to combat skills, and that, with proper training and leadership, openly gay or lesbian soldiers or marines can be relied on to perform as well as any other soldier or marine?

General SHEEHAN. Senator, in my experience, homosexual marines create problems on the battlefield. Let me give you a case and point.

Early years of Vietnam, 9th Marines, West of Da Nang, rifle company on a ridgeline combat outpost, the intelligence was that the North Vietnamese were going to attack, that night. The unit was put on 50-percent alert, which meant one slept, one stood on

watch. About 1 o'clock in the morning, a fight broke out in a foxhole because the young marine was being molested by his squad leader. To the right of that foxhole, there was a machinegun section that opened up and almost killed a combat patrol that was out in the front.

Now, the natural question is, "Okay. Well, fine, don't you have rules that deal with assault?" and the answer to that's yes.

The real issue, though, was that, after we sorted this whole thing out, the sergeant—the squad leader essentially said, "Look, I was just adjusting his equipment, waking him up because the—I thought there was something out to the front." He denied it happened. The young PFC, who was new to the organization, said, "Wait a minute. This really happened to me. He was molesting me." The unit took sides, naturally. The squad leader was a popular person, been around for a while. The PFC was a new kid. For about 3 days, that unit divided down the middle—those that supported the popular squad leader, those that kind of thought the new kid might be believable.

The only reason we sorted the issue out was because the sergeant committed the offense about 3 days later. But, the real tragedy of this story is, the young PFC continually insisted, for a long period of time, that nobody in his organization believed it happened. He lost faith in his chain of command.

So, I would argue the case that, if you look at—and you can say that I'm some old guy that's been around for a while, and been—probably been around for too long. But, I read—

Senator MCCAIN. You're not the only one that—

General SHEEHAN. Well—but, I read the Defense Department's recently released sexual assault report. And the thing that really bothers me about this issue is that the report says—and this is last year's report—there's been an overall 11-percent rise in sexual assaults in the military; 16-percent rise in Afghanistan and Iraq; 32—over 3200 cases of sexual—we're not talking about sexual harassment, we're talking about sexual assault. Seven percent of those—that's about 226—male on male assaults, where rape and sodomy took place. And the Department of Defense will clearly indicate that that's an underreporting.

I would stipulate that, from my days in Vietnam in the early '60s, when I had this sergeant that almost got a combat patrol killed, that a—226 male soldiers and marines who are molested—that there's something wrong with our sexual behavior policy.

Senator MCCAIN. Thank you, General.

Mr. Almy and Ms. Kopfstein, each of you was commissioned at a time of—the "Don't Ask, Don't Tell" policy was in effect. While I understand you disagree with the policy and its effect, do you think you were confused about its meaning and potential applicability to you at the time you began your service?

Mr. ALMY. Senator, when I came in on Active Duty in 1993, I will admit, I think there was a lot of confusion, on a personal level, for myself, as well for the Nation and the military as a whole. I don't think—

Senator MCCAIN. There was confusion about the—

Mr. ALMY. I think—

Senator McCain:—"Don't Ask, Don't Tell" policy?

Mr. ALMY. I think the policy, when it was first implemented in 1993, was not well understood. And I think there are still issues where it's not.

Senator MCCAIN. And did you understand it later on?

Mr. ALMY. After I was relieved of my duties. Yes, Senator.

Senator MCCAIN. No. Did you understand it in the—

Ms. Kopfstein, did you? Were you confused or misled about the meaning and applicability of "Don't Ask, Don't Tell" at the time you began your service?

Ms. KOPFSTEIN. No, Senator. I thought that I would be able to live under "Don't Ask, Don't Tell." Unfortunately, I found out otherwise, because of the conflict between the core values of the Navy—honor, courage, and commitment—and the Navy teaching me how wrong it is to lie. To be an officer with integrity means that you tell the truth, and you tell the whole truth, even if it's unpopular.

Senator MCCAIN. Thank you. Although no one—my understanding of the "Don't Ask, Don't Tell" policy is, you are not asked. But—

Well, Mr. Chairman, my time is up. But, what I am confused about here is why there seems to be an objection to a complete, thorough, objective review conducted not just on the basis of how repeal the law, which seems to be what the Secretary of Defense stated, and what seems to be some sentiment here, but—we're in two wars. I wonder why anyone would object to a thorough, complete review as to assess the impact on our military, on our battle effectiveness in two wars, and then allow the Service Chiefs to render their best judgment. And to continue to suggest a, quote, "moratorium," which is basic to repeal, before that review is conducted is something, frankly, that I do not understand in a time that we are in two wars.

I will continue to argue and fight and do whatever I can to make sure that we have a thorough and objective review of the impact on the military of a change of this law. I think the men and women who are serving in the military deserve nothing less.

I thank you for the time. I yield.

Chairman LEVIN. Thank you, Senator McCain.

Senator Lieberman.

Senator LIEBERMAN. Thanks, Mr. Chairman.

I want to thank the three witnesses before us today, because I think that the testimony you've given and the different points of views you have on the proposal that I'm privileged to cosponsor with others, to repeal "Don't Ask, Don't Tell," really helps to elucidate the differences here. And so, it's been a—to my way of thinking, a constructive discussion.

I've said before in different places, and I'll say here, that it seems to me that, at a time in our country when some of the great institutions of country are held in disrespect—government, business, even, to some extent, religious institutions—the military continues to earn and get great respect. Part of it is because of the call to service, the bravery, the success of our military. But, also, a big part of it is that the American military is a unique institution which really lives, probably more than any other institution I know of in our society, by values. Nobody's perfect, so people within the

military break those values, violate them periodically, and they're held to account, under military discipline—good order and discipline standards and procedures.

One of the values is integrity. We've talked a lot about that. It seems to me that one of the other values, which the American military has historically embraced is "e pluribus unum"—you know, one out of many. The common cause, in defense of our security and freedom, is the goal that overcomes every diversity. Because the American people are inherently diverse. And so, over our history, immigrant groups and, more recently—well, a little bit further back, racial differences—were overcome in our military. There was a time that there were great fears about what it would mean if African Americans served next to Caucasian Americans in our military; or women served next to men.

Today, any of us who've been privileged to visit bases or battlefields know that the distinctions are gone, for the major reason—I'd quote from General Sheehan, "Military culture is intentionally structured to mold individuals from all walks of life into members of a unit willing to sacrifice themselves for shared tasks," end of quote.

And that, I think, is what we're trying to do here with repeal of "Don't Ask, Don't Tell." It's to have gay and lesbian Americans who want to serve their country, and incidentally are not being asked—I say this respectfully General Sheehan—like those Category IVs and Category Vs to go into the military as some kind of social experiment. They have been held, and they will be held, to the same high standards. In fact, as Major Almy said, maybe higher standards in a lot of cases, than others who are applying for the military.

But, the point I want to get to—and this, I think, is key, and I think the various leaders of our military, civilian and uniformed, that have come before us have made this point—that repeal of the current "Don't Ask, Don't Tell" policy and law must maintain—it can only happen if it maintains the high standards of unit cohesion and personal conduct that makes our military so effective.

So, Major Almy, Lieutenant Kopfstein, they're not asking for special treatment. They're asking to be treated like every other soldier, basically the way they perform in uniform.

And so, here's the question I want to get to. The episode you gave of the sexual assault, General Sheehan, between—with one man assaulting another man—could have course easily, and unfortunately does, happen more with a man assaulting a woman in uniform. And, in fact, by your numbers, in—a 3200-cases increase in sexual assaults last year in our military—you said 7 percent of them were homosexual. That means 93 percent were heterosexual.

And so, I know there may be fears that if we repeal "Don't Ask, Don't Tell," there'll be behavior inconsistent with good order and discipline, including sexual assault. But, if that happens they'll be held to the same account and discipline.

So, I wanted to ask all three of you to react to that statement, that all the rules of conduct in the military will apply, except that they'll not be forced to live a life of lies. They'll be held accountable, as every other marine, soldier, sailor, Air Force person is held accountable.

General Sheehan, why don't you start first.

General SHEEHAN. Senator, that's a very thoughtful question. And my only answer, not—that I would have to give you is that when you talk about the integration of forces—and I used the current DOD statistics; I haven't seen the details, because all I've seen is the summary—I think you have to keep in mind that there is a combat exclusion for women. We do not put women in a combat situation—foxholes, bunkers, and whatever have you. And so, if we're talking about a 7-percent male-on-male type of a problem—and as you say, the remainder is male-on-female—and we put that whole group into a combat environment, I think those numbers would significantly increase. That's my speculation, based on my experience.

So, I think we need to be very careful about moving to somewhere that we don't know what the outcome is. We do know that the incident rate of assault—sexual assault, not just harassment—is on the increase. I think we need to clearly understand why those assaults are taking place.

Senator LIEBERMAN. Right.

General SHEEHAN. Something is fundamentally different today in the military, and I don't know why. I don't know whether it's because the people who are coming in don't know what their boundaries are. I don't know whether it's the educational system that we're putting people through. But, clearly when you have 16-percent increase in—

Senator LIEBERMAN. Yes.

General SHEEHAN.—sexual assault, there's something that needs to be fixed.

Senator LIEBERMAN. Well, look—it's—obviously, it's a very important question. It may have to do with the stress of battle. But, I agree with what you said, just to come back to the bottom line. We've got the best military in the world. We probably have the best military we've ever had. And if—I don't think, respectfully, there's any basis for saying that, if we repeal "Don't Ask, Don't Tell," the number of homosexual assaults will go up. You may be right, but if it goes up, they'll be disciplined.

My time is up, but I wonder if I could just, Mr. Chairman, ask for a quick response from Major Almy and Lieutenant Kopfstein, to my general premise here.

Mr. ALMY. There is no place in the military today for inappropriate conduct—harassment, assault—straight or gay. And that won't change once "Don't Ask, Don't Tell" is repealed. I—I've seen very similar scenarios to what the general described between men and women—in fact, probably far more so—and they were dealt swiftly and appropriately and with discipline and punishment. And repealing "Don't Ask, Don't Tell" will have absolutely no effect on that.

Senator LIEBERMAN. Lieutenant Kopfstein?

Ms. KOPFSTEIN. I agree with Major Almy. The Uniform Code of Military Justice applies to everyone, gay and straight. And misconduct and inappropriate behavior is dealt with in the military.

Senator LIEBERMAN. Thank you.

Thanks, Mr. Chairman.

Chairman LEVIN. Thank you Senator Lieberman.

Senator Chambliss.

Senator CHAMBLISS. Thank you, Mr. Chairman.

General Sheehan, Mr. Almy, and Ms. Kopfstein, I'd first like to thank each of you for being here today and appearing before the committee. This is an issue that is very sensitive, and, frankly, it takes courage for all three of you to be here to talk about this in public. And as this debate continues, it'll be imperative that we hear from many other folks who share the same thoughts as each of you do. Again, thank you for coming. Thank you for your service to our country. And the fact that all of you served honorably should not be lost in this discussion.

Mr. Chairman, you alluded, earlier, to some polling numbers of the general public in America. Let me share with the committee, and enter into the record, some polling numbers of United States military members.

The Army Times, in February of 2010, just last month, published a poll of a survey conducted in November. Here's what they found: 54 percent of military members thought the current policy was effective in maintaining order and discipline; 21 percent thought it was ineffective—a 33 percent differential. Fifty-three percent of military members thought the current policy was effective in maintaining unit cohesion; 22 percent thought it was ineffective—again, a 31 percent differential. Fifty percent of military members said they would be uncomfortable sharing a small tent or combat outpost with openly homosexual soldiers; 36 percent said they would be comfortable. Fifty-two percent of military members said they would be uncomfortable sharing a barracks room with openly homosexual soldiers; 35 percent said they'd be comfortable. Fifty-two percent of the military members said they would be uncomfortable sharing the bunk above or below an openly homosexual soldier; 34 percent said they would be comfortable.

In today's political world, anyone who wins by 10 percent is considered to have had a landslide victory. And on each one of those questions asked to the military, the people that truly count in this equation and on this issue, the margin of distinction is obviously significantly different.

Let me ask a question to each one of you. I'd like to give you an opportunity to answer this. My fundamental argument against repealing this policy has been that it will likely negatively affect morale, unit cohesion, good order and discipline, and readiness.

Let's start with you Ms. Kopfstein. What's your opinion on that particular aspect of service to our military?

Ms. KOPFSTEIN. Well, Senator, I'm not an expert on polling, but I do know the Army Times poll was conducted in a nonscientific way.

I'll give you an example from my personal experience. When I was on the ship, I had two captains; there was a change of command. So, we had a change-of-command party at my first captain's house. And he came into the wardroom, he announced the party, and he said, "Everyone's invited—every officer is invited and everyone is allowed to bring their spouse or date." And I didn't think too much of that at the time. I was open at that point—I was serving openly, because I had already come out, and he specifically—the captain of my ship specifically came up to me, after making that

announcement in the wardroom, and said, “Ordo,” because I was the ordinance officer, “you’re allowed to bring whoever you want to bring to the party at my house.” And I was stunned. But, since it came right out of the mouth of my commanding officer, I took my partner to that party. When we arrived at the front door, the captain and his wife were standing at the door, greeting each guest as we came in. And they greeted us warmly. We went inside, got a plate of food and a cocktail, and all of my fellow officers and their spouses were very pleased that we were there. Not all of them had met my partner at that point. They all wanted to talk to us. And, frankly, we were the life of the party. [Laughter.]

I met my new commanding officer at that party, and he was very happy to meet me and my partner. And it was a very normal cocktail party. And that was my experience. My shipmates were very accepting of me.

Senator CHAMBLISS. Thank you.

Mr. Almy?

Mr. ALMY. Senator, in my experience, what had a far more negative effect in my unit was when I was relieved of my duties.

Senator CHAMBLISS. I’m sorry. Can—could you just—talk just a little louder, please?

Mr. ALMY. Yes, Senator. What had a far greater effect—negative effect on my unit was when I was relieved of my duties. Subsequently—while it’s true that I was not “out” to my entire unit, subsequently, afterwards, when I had some of troops write letters of reference for me, it was a complete nonissue for my troops. They all wanted me back on the job as their leader, and didn’t care one bit.

The young men and women that are coming into the military today, fresh out of high school or college, have grown up with gay and lesbian characters on TV, have—know gays and lesbians in their schools, in their communities, on their sports teams, and most assuredly in their military. Nearly everyone in their 20s and 30s today serving in the military know of at least someone who’s gay or lesbian in their unit, and oftentimes these people are serving openly, with no negative or detrimental effects to their unit.

Senator CHAMBLISS. Okay.

General.

General SHEEHAN. You know, Senator, as I have testified, from personal experience in leading units in combat, this is a very risky proposition of an—including openly gay homosexual people in combat organizations.

Senator CHAMBLISS. Do you have any reason to believe that that is unique to the Marine Corps, versus other branches of the military?

General SHEEHAN. I used to be the—what they call, 2IC, second in charge, Whiskey Company, O1 Commando, Royal Marines, and I was a physical fitness instructor with Special Operations at Fort Bragg, North Carolina. And I can assure you, those two organizations, from personal experience, share my views.

Senator CHAMBLISS. Yeah. General, in my view, many of our potential military recruits come from traditional families whose religious and moral beliefs likely conflict with practice of homosexuality. If the military allows open homosexual service in the core

group of our military, who, by and large, have a traditional world view, are now pressured to accept such conduct, and conduct it in— in conduct it—consider it normal, and accommodate it within the military, what effect might that have on recruiting and retaining individuals from that core group?

General SHEEHAN. Senator, I can't comment on hypothetical situations. I know that speculative people have talked about mass exodus, et cetera, but I have no data to say that. My instincts say that there is an element of truth in your statement, but I have no hard data that would indicate I could give you a number or—but I do know it not—it would not sit well. But as the Major has indicated, there is an increasing acceptance of homosexuals in the military. People do know homosexuals. The real issue is not about the individuals; it's the effect on combat cohesion and performance in the battlefield.

Senator CHAMBLISS. Yeah.

Well, my time is up.

Major Almy, I would simply say to you that you came in the military knowing what the rules were, and you tried to abide by the rules, and it's unfortunate that, as you were trying to abide by the rules, that, because of personal intrusion—or intrusion into your personal email account, this arose; otherwise, you probably would still be serving, under current law, very valiantly.

And, again, to all of you, thank you for your service.

Thank you, Mr. Chairman.

Chairman LEVIN. Thank you, Senator Chambliss.

Senator Hagan.

Senator HAGAN. Thank you, Mr. Chairman.

And I, too, want to just thank you for your testimony today, and your service.

Mr. Almy and Ms. Kopfstein, although the policy is referred to as "Don't Ask, Don't Tell," as the law is currently written, members of the Armed Forces are involuntarily separated, regardless of how their sexual orientation is disclosed. And under existing law, the quality of your service does not serve as the criteria for retention due to a presumed disruption to unit cohesion and discipline. During your discharge proceedings what impact did the impact recommendations from your leadership within your chain of command have on the decision to involuntarily separate you from your service? And I think, Mr. Almy, you were speaking about that.

Mr. ALMY. Thank you, Senator. To my knowledge, it made absolutely no effect whatsoever on the Air Force's decision to retain me. I had commanders that I had served with. I had superiors, peers, and subordinates, all alike, who knew my record, who knew my achievements as an officer, and supported me, and, even though they knew the full story, still wanted me retained in the Air Force, and still wanted me back as their leader. And, to my knowledge, that had zero affect on the Air Force's decision whether or not to retain me.

Senator HAGAN. Ma'am?

Ms. KOPFSTEIN. Senator, in my case, I was honored and lucky that both of my commanding officers came to my discharge board. They were not required to do so. They took time out of their busy schedules to come and testify on my behalf.

The board—under “Don’t Ask, Don’t Tell,” its hands were basically tied. I had made an admission. And despite the vociferous recommendations of both of my commanding officers, two O6s, the board’s hands were tied and they had to vote to discharge me.

Senator HAGAN. Mr. Almy, in your earlier discussion, I think you were talking about almost like a generational feeling of acceptance, more from the younger generation than the older generation, for homosexuals in the military. Do you—can you elaborate on that?

And, Ma’am, too.

Mr. ALMY. Senator, I think you probably hit the nail on the head there. I—in my mind, in my personal experience, this is a generational issue. I have great respect for General Sheehan, for his leadership and his sacrifice to our Nation. From what I’ve seen, a lot of senior officers, senior military leaders from that generation, are the one that are holding on to maintaining “Don’t Ask, Don’t Tell,” with notable exceptions—Admiral Mullen, General Powell, General Shalikashvili.

In my experiences, and that of my peers, the young men and women coming into the military today, the 20-somethings and most of the 30-somethings, which is the large demographic in the military—for that group of people, this is largely a nonissue. There—obviously there are some exceptions, but, as I stated earlier, that generation of men and women are far more comfortable with gays and lesbians, because chances are that they know one.

Senator HAGAN. General Sheehan, do you have any feelings on the generational attitudes?

General SHEEHAN. I absolutely admit that I am old—

[Laughter.]

Senator HAGAN. We all are.

General SHEEHAN.—and that my views are formed by 35 years of leadership in a multinational environment, U.S. troops, all services. And I think that, to say that those points of view count less than a younger generation, doesn’t really look at the issue in its totality. I think that the points that Senator McCain made, about the necessity for a real, true review—a true review of what—this issue—would be very helpful, because there are an awful lot of opinions. Some of my opinions are exactly what they are, they’re my opinions, based on experience, but they don’t, in all cases, reflect what reality really is.

So, I think that, as we go through this process, as I said in my remarks, if you can demonstrate this, that it would improve combat capability, clearly demonstrate, then change the law. But, it ought to be based on fact. And—

Senator HAGAN. Ma’am?

General SHEEHAN.—those facts come from junior people, senior people, especially people at the company gunnery sergeant, first sergeant level, who lead these kids on a day-to-day basis.

Senator HAGAN. Ma’am?

Ms. KOPFSTEIN. Senator, I agree with Major Almy. The younger generation definitely has a different view on this issue.

And I’ll give you a personal story. And I certainly don’t have the General’s experience, but, on September 11th, 2001, my ship was in port, in Seal Beach, California, when this—when we were attacked. And I was standing in the wardroom, watching the tele-

vision, watching events unfold. And one of the young petty officers that worked for me ran into the wardroom and said, "Ma'am. Ma'am. Request permission to load the guns." I was the ordnance officer, so I was responsible for our anti-aircraft and self-defense weapons. So, I turned to the captain, and I said, "Sir, request permission to load the guns." And he said, "Permission granted." And we did. And I can tell you, for a fact, in that moment, neither my captain nor the petty officer that worked for me cared one whit about my sexuality.

Senator HAGAN. Thank you.

The phrase "Don't Ask, Don't Tell" implies a mutual agreement, where the services would not inquire about the sexual preferences of our members, and the military personnel would not publicly articulate your sexual orientation. However, under "Don't Ask, Don't Tell," we still have instances of a—very capable servicemembers being involuntarily separated due to investigations initiated on tips provided by third parties.

And this—Mr. Almy, in your situation, do you believe that private correspondence, via email, while deployed constitutes a breach of the existing policy? Or do you believe that your case serves as an illustration of how the policy is flawed?

Mr. ALMY. Senator, I think it's probably a little of both. I didn't tell, the Air Force asked. And I refused to answer the question. So, I think, while it's true I never made a personal—or a public statement to the military, I was still thrown out, I think that illustrates a flawed implementation of the current law. And my understanding of what Secretary Gates has called for review, as far as the so-called "third-party outings," would have had a direct bearing on my case. In all likelihood, I would still be on Active Duty.

Beyond that, I think it also illustrates that this law is just making our Nation and our military weaker by discharging qualified men and women who are patriotic and whose only crime happens to be that they might be gay or lesbian. All the while, we're actively recruiting people who are under-qualified to fill some of those vacancies.

Senator HAGAN. Thank you, all of you.

Chairman LEVIN. Thank you, Senator Hagan.

Senator THUNE.

Senator THUNE. Thank you, Mr. Chairman.

I want to thank all of you for your distinguished service to our country and for your willingness to appear today in front of us and give us your thoughts on this very important matter.

I think it's a—as has already noted, we are fighting two wars. We have to, I think, be very concerned about readiness, combat effectiveness, cohesion, recruitment, retention all those issues. And this does, of course—would, of course, represent very significant change from a policy that's been well established for some time, and by all indications, with some exceptions, has worked quite well. And so, it's something that I think needs to be very carefully considered before any sort of a change is made.

And I would ask this question of you, General Sheehan. Secretary Gates, last month, established this—as we all know, a high-level working group within DOD to review the issues associated with properly implementing a repeal of "Don't Ask, Don't Tell."

And the working group is to produce its findings and recommendations in the form of an implementation plan by December 1 of this year. And Secretary Gates subsequently provided what he called "the terms of reference" for this working group. And I don't know how familiar you are with those, but do you believe that "the terms of reference" that are provided by the Secretary will permit a fair review of the issue, or are there elements that, in your opinion, are missing from "the terms of reference," that should be included?

General SHEEHAN. Senator, I have not read "the terms of reference" for that particular report. My only comment would be is, on an issue that is this serious, it clearly has to be a fair, honest, open evaluation.

The second comment I would make is that, as this report comes close to finalization, that there be a genuine dialogue between the Service Chiefs, this committee, and the Secretary, so this doesn't become a sensationalized event. This is too serious an event to be left to a political event.

So, number one, the report has to be absolutely scrupulously above-board, not biased. And as—and, again, I have to assume that Senator McCain's correct, because he usually is in most of these issues—is that if the report is biased toward "how to," then I think it's flawed to begin with.

Senator THUNE. Yes.

Let me direct this question to the entire panel. And Admiral Mullen has made it clear that he supports the repeal of "Don't Ask, Don't Tell," but we've also heard from some of the Service Chiefs that they want the current policy to remain in place. General Conway, who's the Commandant of the Marine Corps, said, in testimony before this committee, that, and I quote, "My best military advice to this committee, to the Secretary, and the President, would be to keep the law such as it is," end quote. General Schwartz, Chief of Staff of the Air Force, has said that, and I quote, "This is not the time to perturb a force that is stretched by combat operations in Iraq and Afghanistan, and important missions elsewhere, without due deliberation," end quote. And General Casey has also weighed in on that issue in that direction.

And I guess the question I would ask of all of you is, How should we weigh the fact that there isn't a consensus among the Service Chiefs with regard to the issue of repealing "Don't Ask, Don't Tell"?

And, General, if you want to start—

General SHEEHAN. I think that's the value, Senator, of having this unbiased report. That starts the basis of a real dialogue. And, as I said before, I would hope that as the report becomes final, that it becomes a real discussion between this committee, the Service Chiefs, and the secretariat. And so, I would hope, out of that process, you would then be able to make an informed decision that's based on fact, not opinion.

Senator THUNE. Thank you.

Major?

Mr. ALMY. Senator, and—my understanding is that Secretary Donley, the Secretary of the Air Force, has basically contradicted General Schwartz and said that now is the time for repeal. And I understand that there is some disagreement among the Service Chiefs, among the Secretaries. Secretary Gates and Admiral

Mullens have both called for repeal, as well as for the study of how to repealing “Don’t Ask, Don’t Tell.”

From my own limited understanding of this, there’s been ample research, both within the military and academia, from the militaries of foreign nations that have dealt with this issue, and they all showed that this was basically a nonissue. If you talk to the leadership of foreign militaries that have already dealt with this and have implemented repeal, they will all tell you that it was a great success. And I think that to say that America is any less, that we have a less capable military of dealing with this issue, or a less professional force, I just think it’s simply not true. I think we—clearly we have the greatest military in the world, and I think that this is an issue that we can deal with. And, quite frankly, I think it’s going to be—a few years from now we’re going to look back on this and say, “What was all the fuss about?”

Senator THUNE. Ms. Kopfstein.

Ms. KOPFSTEIN. Senator, I agree that our military is the most professional, most capable military in the world. This—repeal of this law will be a nonevent. The Service Chiefs have recommended repeal, and there may be some division, but Congress is the final decisionmaker. The law is wrong, and it’s unevenly applied. And we’re Americans too, and we just want to serve.

Senator THUNE. Well, I think the Service Chiefs have—as I have noted here, are—there’s consensus among the Service Chiefs that it should not be repealed. And there may be others in the administration, I know I’m aware of, that have a different view of that, but that’s—I think, is an important consideration obviously we have to weigh too as we evaluate this.

General, at the same time that Secretary Gates has stood up this working group to study the—how to implement repeal of “Don’t Ask, Don’t Tell,” he’s also asked DOD lawyers to come back in 45 days with proposed changes on how to, within existing law, enforce this policy in a more humane and fair manner. That is a sort of different approach to this issue, and that is, that we should be seeking ways to update or improve “Don’t Ask, Don’t Tell,” rather than throw it out. Are there any approaches that we, as Congress, could take to improve the “Don’t Ask, Don’t Tell” statute, rather than taking what would be a very significant and dramatic departure from existing policy and repeal it altogether?

General SHEEHAN. Senator, I think that, because of the scope of the responsibility of this committee, you have a lot of opportunities, in various bills and things that come before this committee, to do three things. First, I think that, as we’ve discussed, and in this “terms of reference” for this study, to make sure it’s absolutely scrupulously honest and organized.

Second is that “Don’t Ask, Don’t Tell,” as a policy, is very, very imperfect. I think the Congress recognized that when it passed the 1993 law. They knew there were going to be ambiguities, and they knew that is was going to led to be—led to be—problems, and that’s why it didn’t include it in the law.

Over the last 5, 10 years since it was passed, there has been being built, in the public’s mind, a perception of inevitability that this law is going to get changed. That, I think, in turn, leads to young men and women who think they’re going to come into the

military and the law's going to be changed on their watch. It may ultimately be changed, but not necessarily on their watch. And that puts them in a very difficult position, because they come in with the expectation that this law is going to change.

And I think that one of the things this committee could do is take a neutral position that says, "We're examining this law" that says, "It should be"—or not—or that it—"to investigate whether it is—should be changed," not that "is going to be changed," because you're creating, in the minds of young Americans, a—not a false expectation, but a hope that may not be realized.

The last comment I would make is that, in order to understand sexual behavior in the military, you can't do that in just the isolation of the "Don't Ask, Don't Tell" clause. As I said earlier in my remarks, there is something that—going on within the American military today that is fundamentally flawed, when you have a 16-percent increase in sexual assaults in a combat zone. I don't know what the cause of that is, but as you investigate—all of things kind of come together in one pot. So, if you try to parse this out and just deal with this, deal with this, deal with this, I think you'll come up at an imperfect solution.

I think this committee has a tremendous responsibility and a tremendous opportunity to rise above the political debate and do something that is really helpful to the American military.

And so, I would recommend those three things: one, a clear statement of what the purpose of this study is; two, tampen down the expectations what allows young kids to come in, thinking that something's going to be different tomorrow morning, when it may not be; and three, understand—truly understand where we're going with the sexuality in the American military, because it is a problem, a real problem.

Senator THUNE. Well—and we need as candid and honest of assessments as we can possibly get about the impacts. In my judgment, bottom line is readiness, effectiveness, all those issues is—as we evaluate this.

So, we appreciate your—all of your candor, and you're here today.

Thank you, Mr. Chairman.

Chairman LEVIN. Thank you, Senator Thune.

Senator Burriss.

Senator BURRIS. Thank you, Mr. Chairman.

I want to add my thanks to all three witnesses, who certainly have served this country well, and protected us. And I just want to try to raise some questions.

General, I'm—will challenge you and the rest on age. I'm pretty much your age. If you've served 35 years in, I think that you have—

General SHEEHAN. Sir, I'll concede to you.

Senator BURRIS. I'm sorry?

General SHEEHAN. I will concede age to you.

[Laughter.]

Senator BURRIS. Thank you. And I can remember, General, when I was attorney general of my State, how difficult it was for me to make a change. But, on my staff there were—there was a young lesbian lady who would sit down with me each day and explain to

me the problems, of persons who were lesbian or gay, that never occurred to me because I grew up in a different era. We talked about them, we laughed about them. It was something, "Eh, djib, djib, djib, djib, djib," you know, it was all these derogatory terms that we used to use.

And, General, it also deals with the racial question. Do you know a fellow named Jackie Robinson? You ever heard of him? You talk about the bright and the best. We don't know if we've got the bright and the best serving in our military service until we let everyone serve with their best distinction, best ability. The bright and the best may not be.

You hear of a fellow name—a couple tennis players named the Williams Sisters? You ever heard of the young man who had a little personal problem called Tiger Woods? We didn't know how golf really could be until a black person got into the competition. They were all eliminated from the game of golf. They were all eliminated from the game baseball, General. They were all eliminated from type of sports which was for whites only. Now, we're saying the military is for straits only.

General, I think that we need, you know, to put a moratorium on this situation right now. Don't let anyone be discharged from the military because of their sexual orientation until we can change this law, which I'm certainly supporting, a cosponsor on Senator Lieberman's bill to change the law.

But, General, could you give me a little insight of your background. Did you ever command black soldiers under your command?

General SHEEHAN. Sir, the American military has been integrated since President Truman was a President of the United—

Senator BURRIS. 1947, by executive order, sir.

General SHEEHAN. I have never commanded a unit that there were not Hispanics, blacks, whites, and Orientals. At one time during the Vietnam war, as both Senator Lieberman and the Chairman will remember, 65 percent of my rifle companies were black. They sustained 40 percent of the casualties in Vietnam. They understand what it means to be in harm's way. So, race in the military is not an issue. This institution that I represent—

Senator BURRIS. Pardon me, General, I have to interrupt you.

General SHEEHAN.—has the finest record of integration than any institution in this country of ours.

Senator BURRIS. Absolutely. How long ago—how long did it take that to take place? What happened in World War II, with my uncles and my uncles-in-laws when they were discriminated against? Prisoners were being brought back from Germany, and the black soldiers that were guarding them couldn't even ride in their cars, they were put back in the back cars, because of the color of their skin. That's far America has come. For you to now command those men, and they're fighting and dying for us, and at one time, because of this, the color of their skin, they could not serve this country. And they fought and clawed to get there, to have an opportunity to serve. These are the same thing with the gay and lesbian people. They want to serve. That's all they're asking.

Continue, General, I'm sorry.

General SHEEHAN. Well, Senator, I think that if you go back to the 1993 discussions and hearings on “Don’t Ask, Don’t Tell,” there’s a very rich history of discussion with Cal Waller, Colin Powell, and the committee about this very issue, when Congressman Pat Schroeder was trying to equate this to a racial issue. Both Cal Waller and Colin Powell objected strenuously to the analogy. And many of the black leaders and the black marines that I was with at the time objected to the concept that their civil rights movement was being hijacked by gays and lesbians. I’m not an expert on this issue. But, I will only defer to both Cal Waller and Colin Powell, and refer this good Senator to their testimony back in 1993.

Senator BURRIS. And do you know what Colin Powell’s position is now on gays serving in the military, General?

General SHEEHAN. Yes, sir, I do. He has said that he thinks it’s time to conduct this review. He has deferred to the Service Chiefs on their position and essentially says, “If they’re—are for changing the law,” he will support that.

Senator BURRIS. I’m sorry. I think we just have correction on the record. My understanding is, the General says that it’s time to end this “Don’t Ask, Don’t Tell” policy. That’s what my understanding of the retired Joint Chief of Staff’s position is. And—but, we can certainly double check that and—

Do you have any statistics, General, on how many homosexual—I mean heterosexual rapes there are in the military?

General SHEEHAN. The last report I saw, Senator, was the numbers that I quoted, that 87 percent of the 330—3,200-something were male-on-female.

Senator BURRIS. And so, then there could be male-on- male or female-on-male. In other words—

General SHEEHAN. The male-on-male is 7 percent of that—

Senator BURRIS. Yeah.

General SHEEHAN.—number. And so—but, again, as DOD says, that’s an underreported statistic, so the number—the actual number may be—

Senator BURRIS. Sure.

General SHEEHAN.—a lot larger.

Senator BURRIS. You’re probably correct. And based on that, General, there are heterosexual rapes in the military, as well as there probably would be if—that takes place under young people as in our natural society. They’re still human beings. God forbid, there will be probably homosexual, unfortunately, rapes in the military. I mean that’s not any reason for them people not to be able to serve openly and forthrightly.

My time is up, but I’m going to hope there’s a second round, Mr. Chairman, because this is something that—

And I want to commend these two brave men and women who put their life on the line and, for no reason of their own, they’re now being discharged from the military because of their sexual orientation. I suggest that we have a stop order issued on anyone else being discharged at this point until this situation is satisfied.

And, very quickly, Major, would you agree to that, that we probably should stop right now, so that none of your colleagues who are being investigated right now should be discharged?

Mr. ALMY. I would agree, Senator. Any further man or woman that's discharged just—under “Don't Ask, Don't Tell”—just because of who they are, I think is an unacceptable loss to our military.

Senator BURRIS. And how would you say, Lieutenant?

Ms. KOPFSTEIN. Senator, I agree. No one should be separated from the military anymore because of this antiquated law, but it does need to be repealed in full.

Senator BURRIS. Thank you.

Thank you, Mr. Chairman.

Chairman LEVIN. Thank you, Senator Burris.

Senator WEBB.

Senator WEBB. Thank you, Mr. Chairman.

General, just—I think the data you just used needs some clarification, in terms of African American casualties in Vietnam. And, with all due respect to everyone who served—and I grew up in the military. I grew up in a—the military at a time when it had been racially integrated. I'm very proud of everybody's service. But, I've done a lot writing and reporting on this issue, including 4 years on the Veterans Committee as a committee counsel years ago. And the statistics that we had at that time were that African Americans were about 13 percent of the age group, about 12 percent of the people in the military, and about 12 percent of the casualties, and about 10 percent of the—those killed in action. So, they certainly did their share, along with everyone else. But, if you're saying 40 percent, you may be talking about one rifle company at one particular piece of time, or something. I don't know where that came from.

General SHEEHAN. No, sir. I was—the 40 percent number comes from a study that was done on those that were inducted into the military during the Project 100,000 era.

Senator WEBB. So, you're talking about—

General SHEEHAN. I'm talking about a specific group of people during that—

Senator WEBB. The Project 100,000—

General SHEEHAN. Project 100,000—

Senator WEBB.—drafted—

General SHEEHAN.—drafted that were brought—

Senator WEBB.—the casualties among that—

General SHEEHAN. Yeah.

Senator WEBB.—group.

General SHEEHAN. Right.

Senator WEBB. Well, now what I'm talking about's the over all—

General SHEEHAN. Yes, sir. I—

Senator WEBB.—casualties. So, now—

General SHEEHAN. Yes—

Senator WEBB.—this is—

General SHEEHAN.—yes, sir.

Senator WEBB.—it's clearly not a hearing about that issue, but in—I know—I think that what you said could have been misunderstood by a lot of people walking out of the room, and—

General SHEEHAN. Okay.

Senator WEBB.—need to be clear on it.

General SHEEHAN. Thank you for—

Senator WEBB. Let me—

General SHEEHAN.—the correction.

Senator WEBB. Let me get into the subject of our discussion today.

First, I'd like to express my appreciation for all of you for your testimony. I think the issues that were being discussed from your two perspectives are very much the issues of integrity, which is what Admiral Mullen was bringing to the table. I've known him since I was 18 years old. I have a great respect for his views on this. And I've known General Sheehan for many years. And I think the validity of discussing the unique culture and environment in the military, and particularly the operational military, is something that really has to be also put on the table here.

And there can be nothing more important, in my view—and I think John McCain and I share this concern—than ensuring that, in this type of a process, that the military be allowed to report to the political side.

And, General Sheehan, you'll recall when you were Deputy Secretary Taft's military aid and I was Secretary of the Navy. I had come under a number of questions, during my confirmation hearing, about my views on women in combat. And I—a big part of my frustration during that period was the political process telling the military how to do its functions—its actual functions. And so, I convened a study: 14 males, 14 females, officer and enlisted, who went out and examined this issue and then reported, not back to me, but through the warfare chiefs, then to the CNO. And all of them reporting—the military reported to the political process. And we opened up more billets to women than any Secretary of the Navy in history. But, we did it in a way where the military itself was invested in the end result.

And that's why I believe that the nature of this survey that has been announced, defining it is so vital to addressing this issue. And I think we need to review the state of play here so that we know where on the table.

Secretary Gates and Admiral Mullen, when they announced their decision in front of our committee, they did say they wanted to take this time period to examine the issue and then report to this committee about whether this law should be appealed. That—and I asked them, after they had made their testimony, if that was clear. And the answer was yes, that this was clear.

So, General, your comment about our body, here, ensuring that we would be viewed objectively is very important.

And the other part of this is, the study that was done in 1993 did not really examine attitudes in the military. We've had a lot of anecdotal comments today—and they're valuable, in terms of understanding the issue—but we need the data, we need to be able to see, not in a political way, and not simply as to how this policy would be implemented, but in a way that we can understand the attitudinal characteristics in play—by age, by officer or enlisted, by service; in many cases, I think, by occupational specialties—so we will truly have a matrix here in terms of understanding attitudes in the military.

I don't know where that will go. It may surprise you, General. I—you know, I have no idea where it's going to go. But, it's a vital

piece, in my view, of moving this issue forward in the right way. And based on that, I believe we can come to a considered and intelligent decision. And they may even go into distinctions based on types of units, General, something that you were referring to. I'm not—I don't want to predict at all where this is going to go. I just think that it is vital that we can say to the people in the military, and the American people, that we've been responsible in terms of how a decision has been made.

Thank you, Mr. Chairman.

Chairman LEVIN. Thank you very much, Senator Webb.
Senator Udall.

Senator UDALL. Thank you, Mr. Chairman.

Good morning, to all three of you. This is a delicate and sensitive topic. I commend the courage all three of you have shown in coming here today and sharing your point of view.

But, General, before I direct a set of questions at you, and then follow with Mr. Almy and Ms. Kopfstein, I wanted to just make an editorial comment from one Senator. I am in the camp that thinks it's time to repeal "Don't Ask, Don't Tell." It's not whether, it's how and when. And I understand the need to study "Don't Ask, Don't Tell" in order to implement it. But, I share a deep concern that, if we continue the policy that's in place, hearing the stories I've heard today, you have to ask the question who is going to be the last servicemember—maybe I should say patriot, frankly—to be discharged under what I think's an outdated policy. I just want to make that clear for the record.

General, let me turn, as I suggested I would, to you. And—I'm aware of about a dozen studies, that go back at least two decades, to—that show that—no scientific evidence to back the assertion that open service is a detriment to unit cohesion and good order and morale. Are you aware of any reputable scientific study that does? Is there a study out there, to say it another way, from a reputable source, that lays out and gives weight to your belief that gays and lesbians are a threat to the military and its readiness?

General SHEEHAN. Senator, the answer to that is no. My—as I said in my statement, my conclusions are based on combat experience and leadership.

Senator UDALL. You said that we ought to prove that open service improves military effectiveness, and you did also mention this shouldn't be about enlightenment, and there is a different standard to serve in the military than there is, if you will, to be a United States citizen. I agree completely, this isn't, for me, about feeling good or feeling like we're pushing society to be more open. For me, it is that we're in a situation where we have 14,000 Americans who have been discharged, who've served honorably and with great effectiveness.

But, back to my question—so, I was saying you—you were saying we need to prove that open service improves military effectiveness. Has anybody proved that the current law improves effectiveness?

General SHEEHAN. Not that I know of, Senator.

Senator UDALL. I appreciate your frank answer.

Let me turn to the Major and the Lieutenant. Picture of our Armed Forces that General Sheehan paints is a very different one than I see. He's suggesting that the patriotic young Americans who

serve their country are afraid of gay servicemembers and lack the professionalism to focus on the task at hand. As I said, I agree with him that there's no constitutional right to serve, and that some people are excluded, for any number of reasons. Where we differ is that I see all of reasons for exclusion as performance-related, except for sexual orientation. And I believe we're dealing with a generation of people who know the difference between body weight or educational qualifications, for instance, and someone's essence, who they are, at their core.

In your numerous years of service, did you see anything that led you to believe that General Sheehan's view of our Armed Forces is based on today's realities? Lieutenant, maybe I'll start with you, and then turn to the Major.

Ms. KOPFSTEIN. No, Senator. In my experience, I only had positive experiences with my shipmates and the people I served with. Nobody had any complaints about taking orders from me or the quality of my work product or—and no one asked to be moved out of sharing a stateroom with me. All of the feedback I got after I came out was positive. People were happy and thankful that I was being honest with them, and that I could share parts of my life with them, and that we could actually be friends, that there wasn't a wall between us. And that helps teamwork, frankly, because we could communicate with each other on a level that was human and positive.

So, no, I had no negative experiences with anyone in the military.

Senator UDALL. Lieutenant, if I might pursue that before I turn to the Major. Reading your very powerful, moving testimony, and, even more, hearing you deliver it, it seemed to me you were making the case that actually—when you live a lie, morale isn't as high as it could be, not only for you, as the individual involved, but for those with whom you serve, whether they're subordinates or superiors. Is that a fair way to characterize it—

Ms. KOPFSTEIN. Absolutely, Senator.

Senator UDALL.—at least your—

Ms. KOPFSTEIN. Absolutely.

Senator UDALL.—impression?

Ms. KOPFSTEIN. People can sense when you're not being fully honest with them, and they get the sense that you're holding back and that there's something strange about you. And that—not only does that make them curious, but it makes them not necessarily trust you completely. And trust is something that you have to have for unit cohesion and morale. If there is no trust, there is no teamwork.

Senator UDALL. As you've—

Ms. KOPFSTEIN. And under "Don't Ask, Don't Tell," it is very difficult to have trust.

Senator UDALL. And it undercuts the element of trust which, yeah, as you point out, is really the crucial element, is it not?

Major, I want to make sure I don't run out of time before you can also comment.

Mr. ALMY. Senator, from my own personal experience, "Don't Ask, Don't Tell" is often the subject—it's a bit of a running joke or the subject of mockery, from gays and straights alike in the military,

from the standpoint that everyone knows gays and lesbians are serving in the military today, and oftentimes they are serving openly, they are valued and patriotic members of their units who make tremendous contributions. And I think the general consensus, or the general attitude, among the population, at least the ones that I served, was that they all understand this law is a reflection, not upon an individual's characteristics, their traits, their performance, but solely based upon who they are. And so, as I said, it's a bit of a running joke, because they're—gays and lesbians are already serving.

Senator UDALL. To that point, you served in 13 years of Active Duty, I think, alongside forces that did provide for gay servicemembers.

Mr. ALMY. Correct, Senator.

Senator UDALL. Did that affect the cohesion or morale, in your opinion?

Mr. ALMY. Not at all. And what I've just stated, I found that attitude to be true, not only among the Air Force, but in my time serving with the Marine Corps, the Army, the Navy. I've worked with all four branches. I have served for 4 years in Europe with our allies, who—none of whom have this discrimination anymore. In fact, the U.S. military is a bit of a joke among our allies, solely because of "Don't Ask, Don't Tell," on this issue. It's a complete nonissue for our allies, as well as allies that I have served with over in Iraq.

Senator UDALL. I mean, my time's going to expire, but last question to the two of you. I think it's a yes-or-no answer, but don't let me require that. It's been argued that: "Don't Ask, Don't Tell" is working, so why change? Do you believe "Don't Ask, Don't Tell" is working, Major?

Mr. ALMY. I do not believe "Don't Ask, Don't Tell" is working, because it throws out qualified men and women who just want to serve their country.

Senator UDALL. Lieutenant?

Ms. KOPFSTEIN. It's absolutely not working, Senator.

Senator UDALL. Thank you.

And I know, General, you believe it's working. If it isn't broken, fix it. I appreciate you being here as well, today.

So, thank you, to all three of you, again.

Chairman LEVIN. Thank you very much, Senator Udall.

We'll have a second round now. Why don't we start with about 3 minutes each, if we can, and then we can have a third round, if that's not enough.

General, we now serve with the Dutch in Afghanistan. And you made reference to the Dutch Army a couple decades ago. The Dutch allow their troops to serve openly as—if they're gay or lesbian. We're fighting alongside with them now. Do you know of any problem with that relationship?

General SHEEHAN. I have no firsthand experience of—

Chairman LEVIN. Have you heard of any problem?

General SHEEHAN. I have not.

Chairman LEVIN. Did you ever, when you were NATO Supreme Allied Commander, command gay servicemembers?

General SHEEHAN. I never asked for the sexual—

Chairman LEVIN. But—

General SHEEHAN.—orientation—

Chairman LEVIN.—did you know whether or not you did?

General SHEEHAN. No. I never—I—

Chairman LEVIN. You weren't aware of it.

General SHEEHAN. No.

Chairman LEVIN. Okay.

I just want to read—let me read Secretary Gates's statement, because there was some question here, and Senator Burriss, I think, asked a question, which elicited a response that was not—well, anyway let me read what Secretary Gates has said. "I fully support the President's decision. The question before us is not whether the military prepares to make this change, but how we best prepare for it." So, it's not, in Secretary Gates's view, a question of "whether," but a question of "how." So, I agree with what Senator Burriss was saying, there, in terms of what Secretary Gates's position relative to this is.

And, in terms of General Powell, he basically supports, he said, Secretary Gates's decision. They obviously support a study, but the study is not a study of "whether"; it's a study of "how" we are going to implement a repeal. That's just clarifications for the record.

Senator Lieberman.

Senator LIEBERMAN. Thanks, Mr. Chairman.

Major Almy, I wanted to ask you—perhaps I missed it—but what do you think was the motivation of the individual who went through your personal computer and then found these messages? In other words, was he—did he have a gripe with you about something else, was he antigay, or was he just looking for trouble?

Mr. ALMY. Senator, I really can't—I don't know, for certainty. But, I can speculate that either this person just had a bias against gays and lesbians serving in the military or perhaps he was of the mindset that this was a law, and he was—

Senator LIEBERMAN. Yeah.

Mr. ALMY.—he was being a good a good troop and following the letter of the law.

Senator LIEBERMAN. Yeah. But as—

Mr. ALMY. Maybe a combination of both.

Senator LIEBERMAN. Right. But, did you know him? Or happen to—

Mr. ALMY. Very briefly. This was an individual in the unit that replaced mine in Iraq, so I had a brief overlap with this—

Senator LIEBERMAN. So—but, as far as you know, there was no conflict between you or anything of that kind.

Mr. ALMY. None that I'm aware of, Senator.

Senator LIEBERMAN. Okay.

Let me ask Major Almy and Lieutenant Kopfstein this question. I think we've dealt—when you got a—a policy of discrimination in the United States, the burden has to be on those who are defending it. There've been arguments made about effect on morale, effect on unit cohesion. I think we've dealt with those very well, relevance to military values.

One of the other arguments, which Senator Chambliss referred to, is the effect on recruiting, on the argument that a lot of people coming into the military, perhaps disproportionate number—I don't know what the numbers are—come from areas of the country that

are more conservative, in terms of social values, et cetera. I know you're not expert in this, but you have come out of experience in the military. What's your judgment, the two of you, about what impact a repeal of "Don't Ask, Don't Tell" will have on recruitment?

Mr. ALMY. Senator, I'm not aware of any particular studies or polls on that very question you ask. But, I am aware of the experiences of foreign militaries, and there were similar predictions of gloom and doom on recruiting and retention once they repealed their bans on open service. And none of that came to fruition. In other words, if you talk to all the senior leadership of these militaries today, they will tell you that repealing their ban had absolutely no effect upon their recruiting and retention.

So, I think we can draw similar analogies in our own military. That, as well as—I would like to say that—the military's diverse culture—one of the strengths of our military is, we bring men and—young men and women from diverse backgrounds and bring them together and basically tell them that they have to be professional and work with people that are different from themselves. Oftentimes, these young men and women have never experienced an interaction, professionally, with someone from a different race, from a different background, from a different country of origin. And that's one of the strengths of our military. In fact, our military celebrates in our diversity, and it's true. And I see this as just one more aspect of our diverse military culture.

Senator LIEBERMAN. Thank you.

Lieutenant, do you have a judgment on that?

Ms. KOPFSTEIN. Senator, I believe that repealing this law will actually improve recruiting. I know that there are many patriotic Americans who do not want to work for an organization that discriminates. So, in that respect, I believe that recruiting will be improved. Also, when you're talking about recruiting, you're talking about the 18-to-24-year-old demographic. Today's generation, most likely, are likely to know someone who is gay. And when you know somebody, personally, it's—you're much less likely to fear them. And I think that most discrimination is based on fear.

Senator LIEBERMAN. Thank you very much.

Ms. KOPFSTEIN. So, it's my opinion—

Senator LIEBERMAN. You know, I just remembered something. This was a while back, on another issue, but related. I was talking to an executive of a Fortune 100 company, and he was saying that he felt, when his company goes out to recruit on college campuses—this is to validate your point—that it is a positive to say that they, essentially, have employment nondiscrimination based on sexual orientation.

Thank you.

Chairman LEVIN. Thank you very much.

Senator BURRIS.

Senator BURRIS. Thank you, Mr. Chairman.

I just want to say for the record that, you know, I'm not trying to base all of my questions on race. It's just a framework to try to get people to start thinking beyond that.

And I'd like to raise a question with General Sheehan. In your 3 years, as you served as Supreme Allied Commander, command of the Atlantic, you oversaw NATO troops from many diverse nations.

Would you say that your chores—your forces bonded and were successful in the missions that they carried out? Did they have any problems in carrying out their missions, General?

General SHEEHAN. The answer to that's no. And the reason why that's no is because NATO clearly understood the U.S. military was present, that we had the capability and the rules of engagement in place to do things that they could not do. You see, still, manifestations of this—withholds or caveats in the use of troops in Afghanistan today—that is still problematic.

Senator BURRIS. And, General, I'm sure that you, over the course of your service, have seen many units bond, with the purpose of working as a cohesive group. Can you tell me how—what parts of Major Almy's service record affected his unit negatively, or affected his readiness? Can you have any—

General SHEEHAN. I do not have a detailed knowledge of Major Almy's record. I do appreciate his service to this Nation. Both of them are to be congratulated for that service.

As I said during my testimony, my experience in a combat environment essentially was that, when a homosexual marine molested another marine, the real problem with the unit, not that it was the discipline to the individual, but what it did to the cohesion of the organization. First off, because the young PFC didn't believe that he was being supported; second, that people took sides. And you cannot afford to take a unit out of combat for 3 to 4 days while you sort out these type of issues. The enemy doesn't allow you the luxury of taking units off the line.

Senator BURRIS. And, Major, would you say your—how was your effectiveness, in terms of you operating—your readiness and your—any negativism under your command?

Mr. ALMY. I would say, Senator, that certainly my being relieved of my duties had a negative impact upon my unit.

Senator BURRIS. So, the release of—the releasing you.

Mr. ALMY. Correct. That had a negative impact on the mission, the unit cohesion. And certainly, as I told some of my troops what was going on, they all—it was a complete nonissue for them, to the point that they all wanted me back on the job as their leader.

Senator BURRIS. And Lieutenant, how about you, in terms of when you said you got the orders—the captain—to load up the batteries, and you said it had no impact, whether you were lesbian or not, as to just what the situation was. Is that correct?

Ms. KOPFSTEIN. That's right, Senator.

Senator BURRIS. Now, did you experience any negative attitude when you came out in open? Was there anything negative that you experienced?

Ms. KOPFSTEIN. No, I only had positive experiences.

Senator BURRIS. For being honest, forthright, and living up to the Navy—

Ms. KOPFSTEIN. Absolutely. I believe my fellow sailors appreciated my honesty.

Senator BURRIS. Thank you, Mr. Chairman.

Chairman LEVIN. Thank you very much, Senator Burriss.

Mr. ALMY. Excuse me, Mr. Chairman, if I could offer one quick comment.

Chairman LEVIN. Sure.

Mr. ALMY. I wanted to go back to your question to the General regarding the Dutch military. I have served alongside the Dutch military, I have been in a field exercise—an exercise in field conditions, in the Netherlands, where my unit served alongside the Dutch military, both officers and enlisted. And the subject of sexual orientation, or “Don’t Ask, Don’t Tell,” was a complete nonissue to both the Americans as well as the Dutch. And that was within the past 5 years.

Chairman LEVIN. Well, I think we all remember Srebrenitsa, but I think that any effort to connect that failure on the part of the Dutch to the fact that they have homosexuals, or did allow homosexuals, I think, is totally off target, and I’ve seen no suggestion of that. I’ve seen the failures that you talk about, General, in terms of their training being peacekeeping and their not being trained to do the kind of work that needed to be done—is accurate. But, in terms of—any attribution to the fact that they had allowed gays in the military is no more on point than the fact that they may have allowed African—Dutch-Africans or women, if there were women. I think it’s just—

General SHEEHAN. My comment—

Chairman LEVIN. And we’ll check it out—

General SHEEHAN. My—

Chairman LEVIN. We’re going to—

General SHEEHAN.—comment was that it was the liberalization that caused—

Chairman LEVIN. I know, but the—I agree with the - - liberalization can—

General SHEEHAN. I am—

Chairman LEVIN.—mean that the—

General SHEEHAN. I am just repeating—

Chairman LEVIN.—you don’t train people to—

General SHEEHAN.—what was told me.

Chairman LEVIN.—engage in combat. You don’t train people to have—to engage in the kind of activity that you have to do to enforce the law. I agree with that. They weren’t good in that respect. They were trained to be peacekeepers, not peace enforcers. I totally agree with that.

But, to slip over—slide over from that into a suggestion that it had something to do with fact that homosexuals were allowed in the Dutch Army suggests that somehow or other homosexuals are not great fighters. And I think that is totally—

General SHEEHAN. I didn’t say—

Chairman LEVIN.—wrong.

General SHEEHAN.—they weren’t great fighters.

Chairman LEVIN. Well—

General SHEEHAN. What I said was the liberalization of the Dutch military was a contributing factor to their failure in Srebrenitsa.

Chairman LEVIN. The Dutch military, as you point out, were peacekeepers and not peace enforcers. I agree with that. But, what the heck that has to do with the issue before us is what mystifies me. It—because I don’t think it has anything to do with the issue in front of us. But, I’ll—

Senator LIEBERMAN. Mr. Chairman, if I may—and I don't want to prolong this, but I just do want to say—look, our closest military allies in the world, the Brits, have a policy by which homosexuals serve openly, and, you know, they've got a great record. The British military, we would work very closely with them. They are side by side with us today in Afghanistan. And, in fact when I was last there, in January, with Senator McCain, we were briefed by British General Carter, who's overseeing his tactical direction of a large number of forces, including marines—U.S. Marines in the south—in Helmand Province, in the south of Afghanistan—so just to offer evidence, with which I would guess that you'd agree, that the British military is a great military, and great allies of ours, notwithstanding their policy on homosexuals serving openly.

General SHEEHAN. Sir, not to prolong the discussion, but—

Senator LIEBERMAN. I did.

General SHEEHAN.—just for the matter of record. The decision, to allow openly homosexual people to serve in British military, was not done by the British government, or by the British people. It was done because the U.N.—or the European Union court imposed it on the British. So, depending on who you talk to within the British—and I lived in London during the time of this process, the—basically, the British military was told just to shut up and accept it. And so, there—it is not an open-and-shut case that there isn't some tension over the issue.

The issue, in terms of working for British general and I—and I—and both of you know this, because we've gone through this discussion on previous times when I've been here—there's a difference—we don't allow, because of incidents like dual-key, American forces to become—under the operational control of non-U.S. commanders. We give them tactical control.

Senator LIEBERMAN. Tactical, right.

General SHEEHAN. And tactical control does not affect much more than just a tactical activity. So, again, these are minor points in the discussion, and I have no problem with your analogy that the Brits are good soldiers.

Senator LIEBERMAN. Thank you.

Chairman LEVIN. And I would add the Canadians and a bunch of other allies to that. I—we visited the Canadians down in southern Afghanistan, in Helmand Province, and they're doing one hell of a job, and they allow people to serve openly regarding their sexual orientation. So, I just think we've got to be careful that you don't stereotype people because they're gay or lesbian, that somehow or other they are lesser fighters. And that was the problem in Srebenitsa, is that you didn't have people there that were fighting to enforce the law against some people who were terrorizing and killing others. It had nothing to do with their sexual orientation; it had to do with their training and their rules of engagement.

Let me close the hearing now with—first of all, with thanks to each of you for your service, as well as for your appearance here today. I think every one of us have thanked you for both your service to our country, as well as your willingness to appear today.

Just one example of how ending this discriminatory policy could contribute to our military's effectiveness—and I think the most important way it'll contribute, it will allow patriots who are willing

to fight and put the uniform on, of this country, to join the cause. And that's, to me, vitally important in this kind of a pluralistic and diverse democracy that we have.

But, we have lost I don't know how many linguists, just to give one example, who speak Arabic and Farsi, who've been forced out of the military because of this policy. And we desperately need those folks. Now, I think we need all people who are willing to put on the uniform, and I use that as just one example. We probably have lost 13,000 or more Americans who are willing to serve, and that, to me, is a real loss of military effectiveness. But, just that one example, maybe, can highlight how we're really damaging our own capabilities and our own effectiveness when we have a discriminatory policy.

I also believe it's unconscionable, when the Commander in Chief and the Chairman of the Joint Chiefs have both said we should repeal a policy, for us to continue to discharge people solely because of their sexual orientation, during a period when there's a study going on as to how to implement that policy. Not "whether" to implement it; if you look at the policy guidance, it's "how" to implement a new policy. And it just violates my conscience.

I'm in favor of repeal, and there's no issue—no doubt about that. I've made that clear. I've cosponsored Senator Lieberman's bill. But, that's, for me—as important as that is, there's this interim problem we have, that people are going to be discharged, apparently, pursuant to this policy, after the Commander in Chief has said they shouldn't be discharged, and after the Chairman of the Joint Chiefs has said they shouldn't be discharged, and while we are having a study underway as to how to implement a repeal. That strikes me as unconscionable and unfair, and I hope we can repeal this policy promptly.

But, in the interim we surely ought to suspend the discharges until the completion of that study. And if we can't get this repealed—and I hope we can—at a minimum, I hope we can suspend the discharges under these circumstances.

Senator LIEBERMAN. Chairman Levin, just from—made me think about what Lieutenant Kopfstein said at the beginning. We made a big investment in her, and she owes us a year and a half. So, I want to give her—

[Laughter.]

Chairman LEVIN. And we intend to get it back. I want you to know that, too.

[Laughter.]

Ms. KOPFSTEIN. I'm happy to give it, sir.

Chairman LEVIN. Well, no, we are very grateful to all of you for coming forward, and we've had a good, lively discussion. And that's a part of this democracy of ours, too. Hopefully, we cannot only reach the right conclusion, but reach it promptly, and have an interim solution which is fair, as well.

We will stand adjourned, with thanks to everybody.

[Whereupon, at 12:11 p.m., the committee adjourned.]