



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

MAR 2 2010

MEMORANDUM FOR THE GENERAL COUNSEL
COMMANDER, US ARMY EUROPE

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

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

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

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

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

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



OSD 02309-10



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

A handwritten signature in black ink, appearing to read "Robert M. Gates". The signature is fluid and cursive, with the first name "Robert" and last name "Gates" clearly legible.

Attachment(s):

As stated

cc:

Secretaries of the Military Departments

Under Secretary of Defense for Personnel and Readiness

General Counsel of the Department of Defense

Joint Chiefs of Staff

TERMS OF REFERENCE

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

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

Objectives and Scope:

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

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

Methodology:

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

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

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

Deliverables:

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

Support:

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