



'Don't Ask, Don't Tell' Overturned Pentagon report outlines implementation

By Cindy Ramirez

'Long overdue'

IN WHAT HAS BEEN HAILED A CIVIL RIGHTS MILESTONE, THE "DON'T ASK, DON'T TELL" LAW WAS OVERTURNED IN THE 11TH HOUR OF THE 111TH CONGRESS IN DECEMBER.

"It's not just about gay rights; it's about civil rights," said Darren Manzella, a former Army sergeant who was honorably discharged under DADT in 2008 after having served six years. "This was long overdue, and I'm very happy to see repeal is finally here. Now, persons who want to serve their country, no matter their sexual orientation, have the right and privilege to do so without having to hide who they are."

The law that repeals the 17-year ban on gays serving openly in the military, however, may take months to implement.

In fact, "don't ask, don't tell" remains in effect until the president, the secretary of defense and the chairman of the Joint Chiefs of Staff certify that the military is prepared to make the change. The law would take effect 60 days after that certification.

"For a long time, there was great emphasis on the fear of the unknown instead on how to make this happen," said Manzella, a member of the speakers bureau of the Servicemembers Legal Defense Network, a nonprofit watchdog and policy organization that has long challenged the constitutionality of DADT. More than 12,500 service members have been dismissed under "don't ask, don't tell" since 2003.

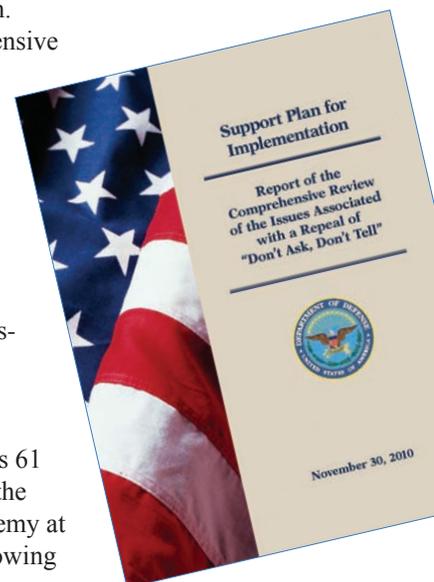
"We're past that now," Manzella said in a phone interview from New York, where he now serves as assistant director of advancement at the University of Rochester. "The report, I think, outlines how to make it happen. Now, it just needs to get done."

Work has already begun, as a Pentagon study that shows strong support for repeal outlines the process and numerous recommendations for implementation.

The "Report of the Comprehensive Review of the Issues Associated with a Repeal of 'Don't Ask, Don't Tell'" and its accompanying "Support Plan for Implementation" were released by the Pentagon Nov. 30.

The reports point to three values as the keys to successful implementation: leadership, professionalism and respect.

Though they had mixed feelings about homosexuality, several noncommissioned officers in Class 61 of the Sergeants Major Course at the U.S. Army Sergeants Major Academy at Fort Bliss, Texas, agreed that following



military code and regulations in a professional manner was their duty as Soldiers and leaders.

“When I put this uniform on, I am Army,” said Master Sgt. George Bullard. “We have these rules and regulations, and I follow them as long as I have this uniform on. I will lead according to those rules. ... Regardless of whether you like it or not, the rules are there for us to follow and govern our Soldiers by.”

Others said they believe the impact of overturning DADT may be too much to handle.

“For someone to serve openly, I think, will cause more problems,” said Master Sgt. Robert Navarro, expressing concerns over the additional “stressors” on leaders who “already have too much on their plates.”

Navarro said though he’s not comfortable with having gays serve openly in the military, he’s glad implementation will not be done “overnight.”

Regardless of the time frame, said Master Sgt. John Woodson, implementing the changes is “going to be overwhelming. It will get out of control before it gets better.”

Woodson said he has mixed feelings about the repeal. More than just changing policies, he said, repeal is going to “force people to change their morals and values. It’s going to be a culture change, and change doesn’t come overnight.”

SURVEY SAYS

The survey of active-duty and reserve component service members and military spouses was not a poll of whether to overturn DADT, the report stresses.

Instead, the working group of 49 military members and 19 civilians was charged with assessing the impact of repeal by addressing concerns and outlining a plan for implementation should repeal occur. In addition to the survey, the review team held 140 focus groups and forums at more than 50 military installations.

Overall, about 70 percent of service members surveyed said they thought having a gay service member in their unit would have “mixed, no or a positive effect” on the unit’s ability to work together and get the job done.

About 69 percent of those surveyed responded they have at some point served alongside a gay person, and 92 percent of those indicated their unit’s ability to work together was “very good, good, or neither good nor poor.”

A majority of military leaders endorsed the report, though some, including Army Chief of Staff Gen. George W. Casey Jr., expressed concerns it would be a distraction to change the policy during wartime. Moreso, many worried that in the hands of the courts, the services would not have been given time to effectively implement the changes.

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FROM CONGRESS TO THE COURTS

Even before the Pentagon report was released, the DADT law had become a political hot potato, as a full-fledged repeal required an act of Congress. Repeal

was part of an overall annual Pentagon policy bill that contained various spending provisions — including one for the repeal of DADT.

The bill failed to pass, as it was locked in political play. As a last-ditch effort, both the House and the Senate introduced stand-alone bills that provided for the repeal of DADT. In the end, repeal was approved by the House with a 250-175 vote, while the Senate voted 65-31 in its favor.

Before its run in the legislature, repeal of DADT had been entangled in the court system.

In September, a federal judge ruled that the law violated the equal protection and First Amendment rights of service members, and on Oct. 12, ordered the military to stop enforcing “don’t ask, don’t tell.”

After a month of rulings and appeals, the U.S. Supreme Court on Nov. 12 upheld the decision of a panel of three judges of the Court of Appeals for the Ninth Circuit in San Francisco,

which issued an order allowing the Pentagon to continue enforcing the law. Under the last ruling, the existing “don’t ask, don’t tell” law would have remained in effect until February 2011. At that time, the Ninth Circuit Court would have heard a full appeal asking the federal judge’s order be reinstated.

Manzella, whose discharge papers state “homosexual conduct admission” as the reason for his dismissal, said he was often taken aback by the DADT law.

“These are people like me, willing to lay down their lives for their country, and they were being shown the door,” said Manzella, whose dismissal came after he talked about being a gay man in combat in a *60 Minutes* interview during his tour in Iraq in 2007.

IMPLEMENTATION

The report recommends three stages for the implementation: pre-repeal, implementation and sustainment.

The first two stages focus on the review and revision of policies and regulations affected by the repeal, including changes to the Uniform Code of Military Justice. They also emphasize the need for education and training, as well as leadership communications to create awareness of the changes.

“With a continued and sustained commitment to core values of leadership, professionalism and respect for all, I am convinced that the U.S. military can successfully accommodate and implement this change,” defense secretary Robert M. Gates said.

NCOs said training and education must be more than catch phrases and slide presentations.

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“They cannot just give us a PowerPoint presentation and tell us to go out there and show it to our Soldiers,” said Master Sgt. William Funcheon, a Sergeants Major Course student. “It’s going to have to be intense, detailed, on what to expect, how to deal with it. We’ll have to know what’s changed, and be given time to understand the changes so we can enforce them correctly.”

Key among numerous policies and regulations that will require revision is separations from the service, which eliminate homosexual conduct as a basis of separation.

Other policies that will be revised are re-accessions, which will permit qualified service members previously separated on the basis of homosexual conduct to be considered for re-entry; and benefits, which carry a slew of policy recommendations.

In part, the report recommends that the DoD not create a new status of “committed relationship,” which means same-sex couples will not be eligible for benefits currently allotted only to married couples consisting of a man and a woman.

All service members not in a federally recognized marriage should be treated as “single” for benefits purposes, the study recommends. Same-sex marriage is recognized in five states and in Washington, D.C., but not by the federal government.

Although service members can now designate any beneficiary for some benefits and notification purposes, the study recommends services review additional benefits that may give them “the discretion to designate a person or persons of their choosing as a beneficiary.”

“The issue of benefits eligibility is very complex and is part of the ongoing national political and legal debate concerning same-sex relationships and gay marriage,” the report states.

Certain articles in the UCMJ that reference sodomy will have to be deleted or otherwise revised, as would those involving “sexual conduct or inappropriate relationships to ensure sexual orientation-neutral application.” For example, the offense of adultery defined in the *Manual for Courts-Martial* should be revised to apply “equally to heterosexual and homosexual sex that is engaged in by or with a married person,” according to the report.

The study also addresses standards of conduct, moral and religious concerns, equal opportunity and harassment, accessions and recruiting, medical policies, and privacy and cohabitation. The report recommends against the creation of separate bathroom and shower facilities (think “separate but equal”) that would “wrongly isolate and stigmatize some service members.”

However, it also recommends commanders retain authority to alter berthing or billeting assignments to accommodate privacy concerns on a case-by-case basis.

REMAINING ‘CIRCUMSPECT’

Some gay-rights organizations, including the *Advocate* magazine, have questioned whether the study itself is “homophobic by nature,” especially given questions about privacy concerns — such as the use of bathrooms and showers.

In a December press conference, Pentagon press secretary Geoff Morrell reiterated that the intent of the survey was not “itself a referendum on whether or not there should be a repeal of DADT.” Additionally, he said, the mandate of the working group was to study “how you go about implementing a repeal if it were to take place,” including concerns voiced by service members about the use of such facilities.

At the request of the Armed Services Committee, Rand Corp., a nonprofit research and analysis institution, conducted a study titled “Sexual Orientation and U.S. Military Personnel Policy.” An update to its original 1993 study, the 2010 version was intended to provide insight to the working group that

headed the DADT report, the Rand study overview states.

Rand worked with organizations that support gay service members and veterans, which were asked to encourage “military personnel who were directly affected by the DADT” to participate in an anonymous online survey. In all, 268 people responded, 208 of them indicating they were gay, lesbian or bisexual.

In a summary of its findings, Rand reported the vast majority of gay respondents “indicated they would remain circumspect in how they make their [sexual] orientation known to other service members.”

“I think, unfortunately, that there’s a stereotype that suddenly there’s going to be an outpouring of people coming out of the closet ... and that it’s going to be flamboyant and disruptive. I think that’s furthest from reality,” Manzella said.

“It’s more about not having to lie about who you had dinner with or not being scared and paranoid about being ‘found out.’”

The survey also asked respondents what factors would make them more comfortable about disclosing their sexual orientation. Ninety percent said “commitment by leadership” to implement policy change was “extremely important.”

Enforcing a zero tolerance policy on harassment was also of extreme importance for about 78 percent of the respondents.

Eighty percent of the respondents were male, which may account for a notable difference when participants were asked if they were concerned about harassment. Overall, 19 percent of respondents thought lesbians who are open about their sexual orientation would be harassed by other military personnel, compared with 37 percent who thought gay men would encounter harassment.

Manzella said that’s where strong leadership comes into play.

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“I have complete faith in the military leadership,” he said. “You follow orders; you enforce orders. If someone is breaking the law, the policies and regulations, you deal with it appropriately and move on to accomplish the mission.”

Overall, 29 percent of the Rand survey respondents indicated they were in the Army, with 25 percent of those in the lower NCO ranks.

RECRUITMENT & RETENTION

Looking ahead, the impact on recruitment and retention in the military was also considered.

To that end, the Rand study looked at other countries that allow gays to serve in the military. More than 20 NATO countries presently allow gay people to serve in their militaries, including the United Kingdom and France. Additionally, so do Russia and Israel. China does not.

The Pentagon’s study showed that nearly half the service members surveyed said DADT repeal would have no effect on their willingness to recommend military service to a family member or close friend. Some 27 percent indicated it would have a negative effect on their recommendation, while 6 percent said it would have a positive effect.

Rand surveyed young adults about the likelihood that they would enlist, asking potential recruits whether repeal would impact their decision to join the military. Results show there would be a decline in recruits of 4 to 7 percent.

To analyze the impact of repeal on retention, Rand used data from the Survey of Military Personnel conducted for the Pentagon’s study. The group of active-duty personnel most likely to leave the military because a repeal of DADT accounts for less than 6 percent of all personnel, Rand reported. Those individuals said they planned to stay, but considered the repeal more important than other factors affecting their retention decision.

“Estimates based on the best available data suggest that negative effects would be well within the range of past drops in recruiting and retention and would therefore be manageable,” the Rand report states.

Some NCOs said regardless of surveys, opinions and beliefs, laws must be followed.

“We as leaders have to accept it and follow the rules,” said Master Sgt. Lisa Williams. “We have to be professionals no matter what. We have to treat everyone equally — like Soldiers, period.”

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‘DON’T ASK, DON’T TELL’

The “don’t ask, don’t tell” law was overturned by Congress in December but remains in effect until an implementation plan is certified by the president.

“No longer will our nation be denied the service of thousands of patriotic Americans forced to leave the military, despite years of exemplary performance, because they happen to be gay,” President Barack Obama said. “And no longer will thousands more be asked to live a lie in order to serve the country they love.”

The Pentagon study, “Report of the Comprehensive Review of the Issues Associated with a Repeal of ‘Don’t Ask, Don’t Tell’” and its accompanying “Support Plan for Implementation,” set a framework for implementation.

KEY IMPLEMENTATION MESSAGE

LEADERSHIP. The clear message is “leadership matters most.” Leaders at all levels of the chain of command set the example for members in the unit and must be fully committed to DoD policy to sustain unit effectiveness, readiness and cohesion.

PROFESSIONALISM. Leaders must emphasize service members’ fundamental professional obligations and the oath to support and defend the Constitution that is at the core of their military service.

RESPECT. Unit strength depends on the strength of each member. We achieve that strength by treating each member with respect.

IMPLEMENTATION

The report recommends three stages for implementation: pre-repeal, implementation and sustainment. The implementation stage includes:

- A. Update and Publish Policies**
- B. Communicate the Change**
- C. Provide Training**
- D. Emphasize Key Implementation Message**

The report also includes a list of policies that would require updating and gives recommendations for revision, a Q-and-A section, and vignettes that provide leaders with training scenarios.

DOWNLOAD THE FULL REPORT AT:
<http://www.defense.gov/dadt>

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EQUALLY —
LIKE **SOLDIERS,**
PERIOD.”

Master Sgt. Lisa Williams