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**THE EFFECTS OF INCLUDING GAY AND LESBIAN SOLDIERS  
IN THE BRITISH ARMED FORCES: APPRAISING THE EVIDENCE**

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## **I. EXECUTIVE SUMMARY**

Like the U.S. military, the British Services is an all-volunteer force comprised of army, air force and navy contingents. Until January, 2000, when Britain lifted its gay ban following a ruling by the European Court of Human Rights, gay and lesbian soldiers were prohibited from serving in the British Armed Forces.

The first ten months of the new policy have been an unqualified success. The military's own classified, internal assessment at six months found that the new policy has "been hailed as a solid achievement" (Ministry of Defense, 2000e, p. 2). There have been no indications of negative effects on recruiting levels. No mass resignations have occurred. There have been no major reported cases of gay-bashing or harassment of sexual minorities. There have been no major reported cases of harassment or inappropriate behavior by gay or lesbian soldiers. There has been no perceived effect on morale, unit cohesion or operational effectiveness. The policy change has been characterized by a "marked lack of reaction" (Ministry of Defense, 2000e, p. 2).

The conclusions of the Ministry of Defense report have been confirmed by our conversations with more than twenty-five representatives from the military, academia, and non-governmental organizations. None of those interviewed know of any major problems associated with the policy change. No one has heard of any difficulties related to recruitment or training completion rates; recruitment levels are characterized as "quite buoyant."

None of those interviewed for this report have heard of cases of serious homophobic harassment. Open gay service personnel interviewed for this report and by other sources describe collegial treatment by their co-workers and other service members.

Experts in all fields acknowledged that more work remains to be done, and new obstacles could still emerge. Homophobic attitudes persist throughout the Services. It is possible that some problems will develop as more gay and lesbian service personnel acknowledge their sexual orientation to colleagues, or if the Armed Forces relaxes its vigilance against harassment and inappropriate behavior of all kinds. Issues of equality such as pension, accommodation and partnership rights have yet to be addressed. Still, concerns of dire consequences have been replaced by a general recognition that the transition has proceeded smoothly.

## II. INTRODUCTION

Until January 12, 2000, the British Services maintained an official policy of discharging all known gay and lesbian soldiers.<sup>1</sup> It was felt that close living quarters and the stresses of military life precluded the inclusion of homosexual servicemembers; military commanders argued that “homosexual behavior can cause offence, polarize relationships, induce ill-discipline, and as a consequence damage morale and unit effectiveness” (Ministry of Defense, 1994, p.1). At the beginning of this year, the British Armed Forces ended its policy of excluding gay and lesbian soldiers. The change came as a result of a ruling by the European Court of Human Rights and after years of resistance by the Armed Forces to lifting the ban. Once the decision was announced, however, the Services quickly established a policy of nondiscrimination on the basis of sexual orientation. Instead, the social conduct rules were rewritten to prohibit sexual behavior, by both heterosexuals and homosexuals, that adversely affects operational effectiveness. Such misconduct includes, but is not limited to, sexual harassment, sexual contact with subordinates, and overt displays of affection between servicemembers. The new inclusive policy remains politically charged; even with the European Court decision, leaders of the Conservative Party have declared that they would reevaluate the policy if returned to majority status.

This report draws together military documents; press coverage; prior research on homosexual military issues; and interviews with military officials, academics, think tank and non-profit organization representatives, and sexual minorities presently serving in the military to provide an appraisal of the initial effects of the policy change. All available

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<sup>1</sup> Original research and analysis conducted for this report were furnished by ELM Research Associates, an independent, non-partisan research consultancy.

information indicates that the removal of the ban has been a success in its first nine months. The military undertook its own internal review of the new policy six months after enactment and declared that the transition has been characterized by a “marked lack of reaction” (Ministry of Defense, 2000c, p. 2). The policy change has had no perceptible impact on unit cohesion, morale, or operational effectiveness. There is no indication of any discernible effects on recruiting, training completion or resignation rates. There have been no major problems of gay-bashing, harassment or sexual misconduct associated with the new policy. While the long-term consequences of the policy change remain to be seen, fears of upheaval within the military have largely been replaced with an awareness that the transition has proceeded smoothly.

### **III. METHODOLOGY**

Information collected for this report was systematically gathered from publicly available primary and secondary sources relevant to an understanding of military outcomes associated with homosexual service in the British Armed Forces. Sources and methods included: identification, retrieval, and analysis of prior research bearing on homosexual service in the British military conducted by governmental, academic, and policy-focused organizations; content analysis of Lexis/Nexis search retrievals for all news articles and wire service dispatches relating to homosexual service in the British Armed Forces (n=101); interviews with present and former military officials (n=10); interviews with journalists and major academic, non-governmental, and policy observers familiar with gay-military issues in Britain or British military concerns generally (n=14);

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and interviews with present and former sexual minority participants in the British Services who were located through snowball sampling (n=5<sup>2</sup>).

This report relies on a multi-method approach to compare and synthesize evidence provided by a variety of sources in order to draw conclusions. Whenever possible, independent observations from multiple sources are compared to draw out common findings that are consistent among observers in different sectors (e.g., military, academic, non-governmental). During the interview process, we also sought to ensure the broadest universe of sources by repeatedly asking expert observers from different sectors for recommendations of additional sources of information.

#### **IV. POLITICAL AND CULTURAL CONTEXT**

From 1864 to 1885, male homosexuality was illegal in Britain unless conducted in private and by consent. In 1885, the new offense of “gross indecency” criminalized all sexual activity between men, and male homosexuality remained wholly illegal until the passage of the 1967 Sexual Offences Act<sup>3</sup>. Female homosexuality was never similarly banned, purportedly because Queen Victoria refused to believe that lesbianism existed. In 1967, Parliament partially decriminalized gay sexual activity by legalizing private consensual sex between two men over the age of 21. Male homosexual sex with anyone under 21, in public, or between more than two men remained a criminal offense. The 1967 Sexual Offences Act also included an exemption for the Armed Forces, so that male

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<sup>2</sup> This includes one former servicemember, Joan Heggie, who is also listed as an academic expert. Several other observers interviewed for this report are also former service personnel, but only Ms. Heggie was interviewed about her prior military experiences in addition to her present expertise.

<sup>3</sup> The 1864 Sexual Offences Act was amended in 1885, when Henry Labouchère added a clause to the Criminal Law Amendment Act punishing “gross indecency” between males (Hansard, Col. 1397 + 1398). See Rayside (1998) and Hall (1995) for more information on the earlier legislation.

servicemembers could still be convicted for consensual homosexual sex of any kind (Rayside, 1998; Harries-Jenkins and Dandeker, 1994).

Although British attitudes towards homosexuality have become more tolerant over the last twenty-five years<sup>4</sup> (Scott, 1998), polling data reveal continued widespread discomfort with sexual minorities. A 1994 study found that a majority of British respondents felt sex between members of the same sex is always wrong<sup>5</sup> (cited in Hayes, 1997). The British public also continues to be conservative about issues such as gay and lesbian public school teachers and adoption by homosexuals (Hayes, 1997). The data does, however, show greater tolerance of sexual minorities in other areas. Polling on the age of sexual consent revealed that approximately 75% favored equality in principle, although less than 20% specifically supported changing the age of consent to sixteen (Rayside, 1998). With respect to the issue of homosexual service in the military, a 1999 Stonewall poll found that approximately 70% of Britons opposed the ban on homosexual soldiers, with a majority in every class and party in favor of inclusion of gays and lesbians in the military (Norton-Taylor, 1999)<sup>6</sup>.

Homosexuality has been the subject of fierce skirmishes between the Conservative and Labor parties, and between religious leaders and gay rights advocates, for more than a decade. The passage in 1987 of Section 28, a law that bans local authorities from promoting the acceptability of homosexuality in schools, became a

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<sup>4</sup> There is conflicting data about British attitudes toward homosexuality. Some attitudinal surveys have shown a gradual liberalization between 1985 and 1989, followed by a stabilization in public attitudes (see Hayes (1997)), while others suggest increases in disapproval between 1983 and 1987 followed by decreases in disapproval, with a particularly marked (more than 15%) change among British women (see Scott (1998)). Rayside (1988) notes that Britain was one of only two countries in Europe and North America where attitudes had become more negative during the 1980s. See also RAND (1993).

<sup>5</sup> The original study was conducted by Wellings et al (1994). See Hayes (1997) for more detail.

<sup>6</sup> See also Hall (1995b) for a discussion of British attitudes on homosexual service in the military.

catalytic force for supporters of expanded gay and lesbian rights (Rayside, 1998)<sup>7</sup>. After considerable pressure by the gay-rights groups Stonewall and Outrage!, the age of consent for homosexual sex was decreased from 21 to 18 in 1994; this new minimum was, however, still higher than the age of 16 for heterosexual consent (See Majendie, 1995). The Labor Party, which presently holds power, has long supported the inclusion of sexual minorities in the military and expanded rights for homosexuals (Rayside, 1998). The Labor government has been working on a code that will instruct employers to grant homosexual partners the same rights to health care, travel benefits and relocation allowances as heterosexual married couples (Sylvester, 2000; Sylvester, 2000a). The government has also been trying unsuccessfully for more than a year to repeal Section 28 (See Jones, 2000; Jones, 2000a; and Britton, 2000).

Until the Human Rights Act<sup>8</sup> went into effect in October 2000, Britons were not protected by a set of enumerated fundamental human rights similar to that provided by the U.S. Bill of Rights. British citizens looking for judicial redress for governmental human rights violations had to pass what is known as the “Wednesbury test”, which mandated that courts could only overrule a governmental action if it “outrageously defies logic or accepted moral standards” so that “no sensible person who had applied his mind to the question could have arrived at it” (cited in The Lawyer On-Line, 1995). In practice, the Wednesbury test proved to be an extremely difficult hurdle to overcome. Since Britain was a signatory of the 1950 European Convention on Human Rights, British citizens could also take human rights complaints before the European Court of

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<sup>7</sup> See also Jones (2000).

<sup>8</sup> For more information about the Human Rights Act, see Shaw (1999), Shrimley (1999), and Booth (2000).



Human Rights<sup>9</sup>. They could only do so, however, after exhausting all British channels, including the High Court, the Court of Appeals, and the House of Lords<sup>1011</sup>. While the European Convention on Human Rights does not explicitly include sexual orientation, it has been interpreted expansively to encompass the rights of sexual minorities<sup>12</sup>.

## **V. A HISTORY OF BRITAIN'S MILITARY POLICY CONCERNING SEXUAL MINORITIES**

Like the U.S. military, the British Services is an all-volunteer force comprised of army, air force and navy contingents<sup>13</sup>. Military conduct is governed by the Queen's Regulations, which are reviewed by Parliament every five years (RAND, 1993). The British military includes approximately 211,000 soldiers; 7.9% of the officers and 5.4% of the enlisted soldiers are women. During the 1980s and early 1990s, women became more fully integrated into the British military. Women are employed in all corps except armor and infantry, although they are not permitted beyond the second echelon of brigade in combat. Women are allowed to serve at sea in most of the surface specialties, although they cannot work on small vessels such as submarines (Dandeker, 2000).

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<sup>9</sup> For the actual text of the European Convention, see Convention for the Protection of Human Rights and Freedoms (1950).

<sup>10</sup> The opinions of the Strasbourg court are not strictly binding, but in practice Britain has always complied with its decision. Failure by the British government to uphold the rulings of the European Court could result in Britain being expelled from the Council of Europe; participation in the Council is mandatory for all countries in the European Union. See Cullen (1999).

<sup>11</sup> In 1998, Parliament passed the Human Rights Act, which incorporated the rights enumerated under the Human Rights Convention into British law. This meant that human rights protected under the convention would be enforceable for the first time in British courts, and that British citizens could invoke the protections in the European Convention without having to go to the European Court of Human Rights (See Shaw (1999a); Shaw and Shrimley (1997); Shrimley (1999); and Booth (2000)).

<sup>12</sup> See Rayside (1998) and Shaw and Jones (1996) for discussions of earlier European Court and European Parliament decisions. The European Court of Human Rights recently also ruled that the section of the 1967 Sexual Offenses Act that circumscribed consensual male homosexual sex was unlawful (Laville, 2000).

<sup>13</sup> The Royal Marines serve under the Royal Navy.

Like most of its NATO allies, the British military has faced conflicting pressures since the end of the Cold War. Troop strength has been reduced by 30%, and the percentage of GDP devoted to defense decreased from 5.2% in 1984-85 to approximately 2.8% in 1997-98<sup>14</sup> (Dandeker, 2000). At the same time, the scope of peacekeeping missions has expanded considerably, and the Armed Forces has had to prepare itself for a wider variety of operations due to changing defense roles. The British Services has also faced recruiting shortages since 1992 (Tweedle, 2000)<sup>15</sup>. The military has responded to these constraints in part by developing a recruitment initiative, increasing the use of reserves and by civilianizing and outsourcing some jobs previously performed by soldiers (Dandeker, 2000; Kirkbride, 1996).

Until January 2000, gay and lesbian soldiers were prohibited from serving in the British Armed Forces. Prior to 1967, British civil and military law were congruous with respect to male homosexuality – sodomy was illegal, and both civilians and soldiers could be imprisoned for homosexual activity. The 1967 Sexual Offences Act decriminalized gay male sex for civilians, but it included an exemption that allowed the British military to continue to prosecute servicemembers engaging in gay sex (Rayside, 1998; Harries-Jenkins and Dandeker, 1994). Gay soldiers could also be administratively discharged from the Services. While civil law did not cover same-sex female sex, however, the military was able to discharge lesbians under the offense of general misconduct<sup>16</sup>. Offenses for homosexuality were usually charged as “disgraceful conduct

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<sup>14</sup> This figure is based on 1995 estimates. See Dandeker (2000).

<sup>15</sup> See also Smith, (2000); Smith, (2000a); and Schofield, (2000)

<sup>16</sup> Because lesbian soldiers were not guilty of any crime under British statutes, they did not receive legal protections such as the right to counsel in their defense (Heggie, Personal Communication, October 2, 2000).

of an indecent kind”, “conduct prejudicial to good order or discipline”, or more rarely “scandalous conduct by officers” (Harries-Jenkins and Dandeker, 1994).

In the wake of considerable Parliamentary debate on the subject during discussions about the 1991 Armed Forces Bill, the government acknowledged that the military exemption from the 1967 Sexual Offenses Act was no longer justifiable. In June 1992, the Ministry of Defense (MOD) announced an administrative order to immediately halt criminal prosecution for sexual activities that were legal for civilians under the 1967 act. The British restricted court-martials for homosexuality to those male servicemembers who were found to have had sex in public or with anyone under the age of 21. The legislative reconciliation of military and civilian law occurred later with the passage of the 1994 Criminal Justice Act. The military persisted in maintaining, however, that both male and female homosexuality were incompatible with military service. Gay and lesbian soldiers continued to face discharge if their sexual orientation was discovered (Harries-Jenkins and Dandeker, 1994).

Figures for the number of gay and lesbian service members discharged while the ban was in place vary among sources. Estimates range between 60 and 100 each year between 1988 and 1995<sup>17</sup>. Harries-Jenkins and Dandeker report that 296 service members were administratively discharged between 1988 and 1992, while an additional 39 soldiers were dismissed following conviction for an offense involving homosexuality during the same period (Harries-Jenkins and Dandeker, 1994, p. 193)<sup>1819</sup>. When

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<sup>17</sup> See Davies (1992); Campbell and Wharton (1995); Beaumont and Mcsmith (1995); O’Kelly (1995); Guardian (1995); Majendie (1995); Davies (1997); Macklin (1999); Cullen (1999).

<sup>18</sup> Harries-Jenkins and Dandeker report the following conviction rates by Service: 9 in the Navy, 22 in the Army, and 8 in the Air Force.

<sup>19</sup> Discharge figures for earlier periods are not available, because the Ministry of Defense did not keep track of such statistics (Hall, 1995). See also Hall (1995a).

factoring in servicemembers who left without being discharged, Evans surmises that as many as 150 soldiers departed the military each year due to the policy on sexual orientation (Evans, 2000). Because the British Services did not keep statistics about the cost of the policy, no definitive figures exist about the fiscal impact of the ban on sexual minorities. Using GAO figures for the U.S. and extrapolating them to the British case, Edmund Hall estimated that the restrictive policy cost the British military L40 to 50 million between 1990 and 1995 (Hall, 1995)<sup>20</sup>.

Prior to 1994, the Royal Navy was the only branch of the Armed Forces that maintained specific guidelines related to homosexuality<sup>21</sup>; the other Services dealt with homosexuality through general regulations. The Navy's guidelines provided the following instructions for medical officers when dealing with suspected gay or lesbian personnel:

...homosexuals are often a source of sexually transmitted diseases ...  
Tears and stains, particularly of the underpants, trousers and shirt, should be examined and, if available, an ultra-violet light should be used to screen the clothing, bearing in mind that semen is not the only substance which fluoresces under UV light. (cited in Hall, 1995, p. 75)

The guidelines also suggested that investigators seek to determine “whether the man may have played the passive role” and recommended that the agent “look for feminine gestures, nature of clothing and use of cosmetics” (Hall, 1995, p. 76).

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<sup>20</sup> The U.S. GAO figures are based on training replacement costs and do not include the administrative costs of investigation and discharge. See GAO (1992).

<sup>21</sup> Army and Air Force commanders discharged homosexual servicemembers under Section 64 (Disgraceful Conduct by Officers), Section 66 (Disgraceful Conduct of an Indecent Kind), and Section 69 (Conduct Prejudicial to Good Order and Service Discipline) of the 1955 Army and Air Force Acts, while the Royal Marines used Sections 36, 37 and 39 of the Naval Discipline Act of 1957. Royal Navy regulations, which were enforced at least until 1992, lumped together homosexuality with transvestism, sadism, masochism and ‘other forms of sexual deviancy’ (cited in Hall, 1995, p. 75).

In 1994, the Ministry of Defense issued Service-wide regulations concerning homosexual soldiers. The new regulations maintained the policy of barring homosexual service, but they standardized policy and provided more detailed protocol. Any recruit who admitted to being gay would not be allowed to enlist, and any servicemember who was discovered to be homosexual would be discharged from the military. Homosexual sex between adults of consensual age would not be considered a criminal offense, but the military could prosecute a gay or lesbian soldier for otherwise consensual sex if “the act was to the prejudice of good order and Service discipline”<sup>22</sup> (Ministry of Defense, 1994, Annex 2). All recruits were to be informed that homosexuals were not allowed to serve in the British Armed Forces. The 1994 policy made it clear that homosexual orientation as well as homosexual behavior would be a bar to enlistment and service:

Even if a potential recruit admits to being homosexual, but states that he/she does not at present nor in the future intend to engage in homosexual activity, he/she will not be enlisted. (Ministry of Defense, 1994, p. 2)

The 1994 policy also included instructions for medical officers<sup>23</sup> in dealing with homosexual service personnel. The guidelines informed medical officers that “homosexuality is not in itself a medical condition” and “intimate examinations are not indicated purely on the grounds of homosexuality” (Ministry of Defense, 1994, Annex A). The medical officer was to be consulted to confirm the orientation of a professed homosexual, to advise commanders in dealing with cases of homosexuality, and to insure the emotional stability of the soldier in question. If a gay or lesbian soldier was referred to the medical officer after his or her sexual orientation was already known, the health

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<sup>22</sup> The instructions list this as an example only, leaving room to prosecute servicemembers on other grounds as well. See Ministry of Defense, 1994, Annex 1.

practitioner's job was to "assess the individual's physical and mental wellbeing, including the need for onward referral to specialist services if required" (Ministry of Defense, 1994, Annex A). The Ministry of Defense recognized that revelation of one's homosexual orientation could be psychologically devastating in the context of the military's ban on sexual minorities:

The Medical Officer should remember that 'coming out', [sic] can be highly stressful, particularly because of the prospect of the loss of a career, and attention should be paid to assessment of the individual's mental state since some individuals are vulnerable to thoughts of self harm at this time. (Ministry of Defense, 1994, Annex A)

The military's need for information about gay and lesbian soldiers did, however, outweigh any medical confidentiality rules. If a soldier's sexual orientation was already known and the purpose of an interview was therefore not to establish sexual identity, the medical officer might still be required to discuss the "health and psychological development" of the soldier with a commanding officer (Ministry of Defense, 1994, Annex A). While the medical officer was advised to obtain the consent of the servicemember, disclosure would be expected even if consent was not procured. If a servicemember was acknowledging his or her orientation for the first time, the individual was to be informed that:

...notwithstanding medical confidentiality, the Medical Officer has a duty to report to the Commanding Officer any information relating to a serious offence or matters which might adversely affect the health, security or discipline of the unit. If the Medical Officer is satisfied that the individual is experiencing homosexual feeling then it would be most unusual not to discuss the matter with the Commanding Officer (again if possible having obtained the individual's consent). (Ministry of Defense, 1994, Annex A)

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<sup>23</sup> The instructions applied only to those with a 'medical qualification'. Nurses and medical assistants were not to undertake any form of examination of a gay or lesbian soldier; they instead were to refer all such cases to medical officers 'as a matter of urgency' (Ministry of Defense, 1994, Annex A).

Commanding officers could handle cases of suspected homosexuality with their own staff or through official investigatory channels (Ministry of Defense, 1994, Annex A). Military investigations were conducted by each service's police forces: the Royal Military Police (RMP) and Special Investigating Branch for the Army, the RAF police and Security Services (P&SS) for the Air Force, and the Royal Navy's Regulating Branch and Special Investigating Branch (SIB). Investigations could include undercover surveillance, lengthy questioning, medical examinations, and searches through personal materials to uncover information about other homosexual soldiers (Hall, 1995).

Former servicemember Joan Heggie experienced investigations for suspected homosexuals as both a military policewoman and a target of investigation. She describes common tactics used during her tenure with the British Army in the late 1970s and early 1980s:

The MPs conducted raids in the middle of the night to women's barracks to "catch people in the act". The military police would gain access to the garrison with the permission of the commanding officer. Nine out of ten times the commanders would give permission, because they wanted to show that they were not accepting of lesbianism. The MPs would bring dogs and say they were looking for drugs, even though drugs were not a major problem in the early 80s. They would look under beds, in wardrobes and even out windows to make sure that no one was hiding there. I've been told that some MPs who really had a thing about homosexuality, particularly with women, would keep information on people on an index card and build up a record. If they came across information that corroborated what they had heard earlier, even if it was years later, they would target that person for investigation<sup>24</sup>. (Personal Communication, October 3 and 16, 2000)

Heggie added that, in such a restrictive environment, "Every day I woke up thinking 'Today might be the day that I get kicked out'" (Personal

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<sup>24</sup> Heggie added that if this report of information-gathering is true, keeping such information was illegal. Under British law, you cannot keep personal information about someone without his or her knowledge (Personal Communication, October 3 and 16, 2000).

Communication, October 3 and 16, 2000). Other former service personnel have told of the military using information from blackmailers, staking out local gay bars and pubs, asking detailed and embarrassing questions about sexual practices in interrogations, and even recommending shock aversion treatment (Nunn, Personal Communication, October 17, 2000; O'Kelly, 1995; Mills, 1995; Hall, 1995).

Ministry of Defense officials in told journalist Edmund Hall in 1995 that they did not believe the police routinely carried out surveillance of gay and lesbian establishments. They did, however, acknowledge that individual surveillance probably occurred. One Ministry of Defense official declared:

Policemen are very difficult to control. ... If you tell me that this kind of surveillance is taking place then it's beyond the call of duty. Policemen have got to have their own agenda. (Hall, 1995, pp.78-79)

General Sir Charles Guthrie, Chief of the Defense Staff, admitted at the time of the removal of the ban that military police investigations of suspected gays and lesbians sometimes "went too far" and expressed regret at the way some interrogations had been carried out (cited in Evans, 2000). The European Court of Human Rights also condemned the investigations of the plaintiffs as "exceptionally intrusive" in their ruling against the Ministry of Defense (Evans, 2000).

The British Armed Services' exclusion of homosexuals from service, even after gay sex was decriminalized by Parliament in 1967, stemmed from the conviction that the unique conditions and objectives of the military precluded behavior that was acceptable in civilian life. Defense Minister Nicholas Soames commented in 1996 that:



The view of the service chiefs and of Ministers is not based on any moral judgment but on the impracticality of homosexual behavior, which is clearly not compatible with service life. (The Lawyer Online, 1996)

Military commanders argued that the sacred duties of the Armed Forces - to protect the nation from harm and to advance Britain's interests even at the expense of loss of life - necessitated considerable caution when advocating changes in military organization or the composition of personnel. The inclusion of gay and lesbian soldiers was viewed as social engineering that could damage the integrity of military units.

The unique conditions specified by military officials included cramped living conditions, same-sex facilities and the dependence on one's comrades in life-threatening situations. Given extended excursions at sea and on foreign missions, military personnel often live under conditions of minimal privacy. First Sea Lord Admiral Sir Jock Slater declared in 1995 that:

Everyone who joins the Navy is committed to going to sea and therefore there is no question of 'it is acceptable ashore but not at sea'. I then look at the conditions at sea, where relatively they are cramped, they are crowded; it can be tough, it can be stressful. (Weale, 1995, p. 1)

Military leaders argued that the intimacy of living together in same-sex barracks, showering together, and sharing toilet and washing facilities made homosexual service impractical (see The Lawyer Online, 1995). They further contended that heterosexual servicemembers would feel uncomfortable showering or sleeping next to a homosexual soldier.

British commanders also asserted that the friction that could arise between gay and lesbian soldiers and their heterosexual colleagues would undermine morale and unit cohesion and even threaten the success of its operations. Soldiers need to depend on their comrades in life-threatening situations. Commanders argued that the introduction of

distrust or ill-will among individuals within a unit due to differences in sexual orientation could have disastrous consequences on the effectiveness of that unit. Defense Minister

Archie Hamilton argued during a 1991 debate in Parliament:

[B]oth homosexual activity and orientation are incompatible with service in the armed forces. The main reason centers on the need to maintain discipline and morale. The services are hierarchical, close knit [sic] overwhelmingly single sex and young communities. Units can work to full effectiveness only on the basis of mutual trust and the expectation of equal treatment among each rank. The formation within these units of sexually motivated relationships are potentially very disruptive of discipline and morale, particularly when they cross rank boundaries. (cited in Harries-Jenkins and Dandeker, 1994)

The 1994 regulations regarding homosexuality explicitly included concerns about operational effectiveness as well:

Homosexuality ... is considered incompatible with service in the Armed Forces. This is not only because of the close physical conditions in which personnel often have to live and work, but also because homosexual behavior can cause offence, polarize relationships, induce ill-discipline, and as a consequence damage morale and unit effectiveness. (Ministry of Defense, 1994, p.1)<sup>25</sup>

Much was also made of the need of the military to protect its youthful servicemembers from the danger of homosexual sexual predators. One third of the British Armed Forces recruits in the mid 1990s were under the age of eighteen. Military officials argued that removal of the ban would result in “sexual exploitation by older, more senior, personnel” (cited in Harnden, 1996). Not only did the service chiefs feel they had a duty to protect the minors in their care, but they also worried that the potential for sexual abuse could also jeopardize recruitment among young men and women<sup>26</sup>. Air Chief Marshal Sir John Willis warned in 1995 that “the confidence both of young people

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<sup>25</sup> See also Copley (1996) and Shrimley (1996) for further justifications of the ban.

<sup>26</sup> See also Mills (1995).

to join the Armed Forces, and their parents to permit them to join the Armed Forces, would be seriously damaged” (The Lawyer Online, 1995).

## **VI. COURT CASES CONCERNING THE ARMED FORCES’ BAN ON SEXUAL MINORITIES AND THE MILITARY’S RESPONSE**

In 1994, four servicemembers discharged for homosexuality began a legal challenge in British courts against the military’s ban on gay and lesbian soldiers. Lawyers for the servicemembers invoked the Wednesbury doctrine and the European Convention on Human Rights to argue that the privacy rights of the soldiers had been violated. The former service personnel included: Lt. Cdr. Duncan Lustig-Prean, a former naval supply officer; Sgt. Graeme Grady, a former RAF intelligence officer; Jeanette Smith, a former RAF nurse; and John Beckett, a former naval weapons engineer on a nuclear submarine. Their case was backed by Stonewall, a British gay and lesbian rights group.

The four plaintiffs had excellent military records and many years of service between them (see Lyall, 1999). Lieutenant Commander Lustig-Prean maintained an ‘exemplary’ service record of fifteen years (Hicklin, 1995). He was about to be appointed a military advisor to John Major when he was discharged after reporting a blackmail attempt. Sergeant Grady, the married father of two children, was the chief clerk at the British defense intelligence liaison office in Washington, D.C. and had high security clearance. He was released after he was seen attending a counseling group for gay married men (Agence France Presse, 1999; Guardian, 1999). Smith, an RAF nurse for five years who had been recommended for promotion four times, was dismissed after an anonymous caller informed her superiors of her relationship with a civilian woman

(Booth, 1999; Guardian, 1999a). During her interrogation, Smith was asked if she had ever had sex with her partner's adolescent daughter, whether she used sexual appliances during sex, and who was the dominant sexual partner in her relationship (Agence France Presse, 1999). Beckett was a potential officer candidate. He was released from service after disclosing his relationship with a civilian man to his chaplain, who encouraged him to tell his commanding officer. It was his only gay relationship. Beckett alleges that the Royal Naval psychiatrist suggested electric shock aversion therapy (Mills, 1995).

In June 1995, the High Court ruled against the discharged service members on the grounds that the British courts did not have the authority to invoke the European Convention on Human Rights. Justices of the High Court signaled, however, that the policy was unlikely to withstand judgement by the European Court. Lord Justice Simon Brown declared at the time that “the tide of history is against the Ministry”, and “so far as this country's international obligations are concerned the days of this policy are numbered” (cited in *The Lawyer On-Line*, 1995). Britain's Court of Appeals upheld the High Court's decision in November 1995 (Majendie, 1995)<sup>27</sup>.

In response to the High Court's warning that the ban would likely be overturned by the European Court, the Ministry of Defense assembled the Homosexual Policy Assessment Team (HPAT) in 1995 to appraise the existing policy and determine if changes were needed (Butcher, 1995). The HPAT report<sup>28</sup>, which was released in 1996, included survey data from servicemembers and analyses of the military policies toward sexual minorities in Australia, Canada, Israel, the Netherlands and the U.S. A month before the release of the report, an insider leaked to journalists that the HPAT committee

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<sup>27</sup> For details on the appeals case, see Butcher (1995a).

<sup>28</sup> See Ministry of Defense (1996).

would propose a compromise policy that would permit individuals with a homosexual orientation to serve while continuing to prohibit homosexual contact between servicemembers. A source close to the committee commented, “We are looking to take some of the heat out of the issue. We need to make some changes while respecting the strong feeling in the Services” (Gilligan, 1995, p.1). But the source also acknowledged that the proposals were provisional and could be changed (Gilligan, 1995). By the time the report was released in February, the committee did in fact recommend the continued prohibition of homosexual service.

The HPAT report argued that lifting the ban on homosexual soldiers would be an “affront to Service people” and would harm fighting efficiency. The report maintained that while “evolving social attitudes towards homosexuality” might induce further review, “it may equally be that the permanent features of the military environment are such that it will never be possible to integrate homosexuals” (cited in Harnden, 1996). The report evoked the unique demands of military life to justify restrictions not necessary in civilian life, declaring: “No other employer sends its employees out in disciplined teams to kill and be killed”. Ending the ban would likely lead to “heterosexual resentment and hostility” and would be viewed by military personnel as “coercive interference in their way of life” (cited in Harnden, 1996).

The HPAT report also included an attitudinal survey of 13,500 servicemembers. 80% of those surveyed felt that the ban should continue indefinitely, while only 5% felt the ban should be lifted immediately. Only 3% believed that the Armed Forces would be a more comfortable environment if gays were accepted; 84% disagreed (Copley, 1996; Bowcott, 1996). Opposition to a more relaxed policy was strongest in the Army and

weakest in the Air Force (Harnden, 1996), and women were less resistant than men to removal of the ban (Shrimley, 1996). Greater hostility toward male homosexuality than to lesbianism was also reported (Bowcott, 1996). More than two-thirds of the men felt that admitting gay and lesbian soldiers would damage recruiting, and a similar amount said they would not willingly serve under those circumstances (Shrimley, 1996). Some complaints about bias in the survey and the methodology were, however, registered at the time (Bowcott, 1996; Bowcott, Stewart and Zinn, 1996).

In addition, the committee received 639 letters about the policy; 587 of those received, or 92%, opposed changing the regulations (Bowcott, 1996). The letters included comments like those expressed by a warrant officer in the Royal Marines who said, “Men don’t like taking showers with men who like taking showers with men”, and those from a senior aircraftsman who warned that, “Homosexuals would definitely get beaten up” (cited in the Daily Telegraph, 1996). A lieutenant in the Royal Marines argued that:

We do not want a citizen army with the same weaknesses as Continental forces. The role of British Forces is to mount successful operation as directed, not to be a medium of social change. (cited in the Electronic Telegraph, 1996)

However, not all of the comments were negative. For example, one lieutenant in the Army wrote, “When I go to war, I would rather have alongside me a guy [sic] who shoots straight, than a straight who shoots crooked” (cited in the Daily Telegraph, 1996).

The committee’s recommendation for the continuation of the ban came even though “...committee members who visited foreign armed forces, most of which permit homosexuality, were told that the admission of gays had made little practical difference to operational efficiency” (Gilligan, 1995). This view was reinforced by the comments of

a Canadian officer who said that British researchers told him that, “We believe we could change our policy, based on your experience, and what we heard in terms of candid comments from former commanders” (Belkin and McNichol, 2000). The British team also told the CF official, however, that they did not believe a more inclusive policy would be politically feasible in Britain at that time<sup>29</sup>.

A legal advisor for the Ministry of Defense also warned military officials that the British Forces were likely to lose their case with the European Court of Human Rights, and that they would have a better case if they “mov[ed] to a compromise solution, eg. [sic] no open homosexuality” (cited in *The Lawyer Online*, 1996a). But the armed forces minister and the three service chiefs of staff were said to strongly support a continuation of the exclusion of homosexuals (Bowcott, Stewart and Zinn, 1996; Copley, 1996). Instead, defense ministers ordered a relaxation of the ban, which Armed Forces Minister Soames described as the “softly softly” approach (Gilligan and Wastell, 1996). Military police were instructed not to actively search for gay and lesbian soldiers; they were only to act if a problem was drawn to their attention. The defense ministers also made it clear that overzealous investigation, surveillance and harassment would no longer be tolerated (Gilligan and Wastell, 1996)<sup>30</sup>.

Despite the recommendations of the HPAT report and the relaxed approach, it appears that over the next three years ministers and service chiefs behind the scenes were adjusting to the possibility that they would lose the case of the former servicemembers in the European Court of Human Rights (ECHR) (Sylvester and Thomson, 1998; Carrell,

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<sup>29</sup> Researchers for this report were unable to reach MOD employees who worked on the HPAT recommendations and could therefore not verify this assessment.

<sup>30</sup> See also Johnston (1997) and *The Observer* (1997) for further details of the MOD review.

1999)<sup>31</sup>. The Defense Minister announced in 1998 that the ban “in principle” should be lifted, and Rank Outsiders reported the same year that they were consulted on a draft code of conduct for all military personnel, heterosexual and homosexual (Gilligan, 1998). In a related case, the European Court ruled in July 1999 that discrimination against transsexuals fell under the definition of “sex discrimination” in the European Convention. The ruling undermined part of the Armed Forces’ defense in the European Court case, which, in accordance with the British Sex Discrimination Act, argued that neither transsexuals nor homosexuals suffered from sex discrimination as long as transsexuals or homosexuals of both sexes were treated identically. On August 2, 1999, it was reported that transsexuals would henceforth be permitted to serve in the Armed Forces (Davies and Jones, 1999). The decision was criticized by the Conservative shadow defense secretary, Iain Duncan-Smith, who accused the Government of having a “politically correct agenda” and seeking to “end by stealth” the ban on homosexual service (Jones, 1999). The Ministry of Defense continued to discharge homosexual service personnel, however, and the last gay servicemember was dismissed from the Armed Forces on September 24, 1999 (Norton-Taylor, 1999).

On September 27<sup>th</sup>, the European Court of Human Rights ruled unanimously that the ban on homosexual military service violated the privacy rights of the plaintiffs. The seventy cases being investigated by the Armed Forces were immediately put on hold (Norton-Taylor, 1999a; Cullen, 1999)<sup>32</sup>. Civil servants suggested that a new code of conduct could be put in place earlier than 2001, presumably because considerable work

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<sup>31</sup> Parliament upheld the ban on homosexuals in May, 1996 (Hibbs and Millward, 1996). The Labor Party announced the same month that it would accept a ruling from the European Court of Human Rights overturning the ban if it formed the next government (Hibbs, 1996).



had already been done on it. The Conservative Party signaled that it might try to overturn the policy change if it were returned to power (Shrimpsley, 2000).

A week after taking office, the new Secretary of State for Defense Geoffrey Hoon set aside “at least £4m” to cover pending compensation claims by homosexual ex-servicemembers (Syal and Gilligan, 1999). The more important question, however, was what model to choose for the new army regulations. There was considerable opposition from both gay groups and services chiefs to basing the regulations on the American model, which was seen as “a disaster”; services chiefs saw the Dutch and Israeli options as “too liberal” (Sparrow, 1999). Stonewall recommended the Australian regulations, which bans heterosexual and homosexual public displays of affection, as a possible model (Waugh, 1999). In mid-December, Hoon announced that the new code would be published the following month, and that it would govern “sex not sexuality” - a reference to the Australian rules.

With respect to the model that was chosen, Michael Codner of the Royal United Services Institute explained:

I think both sides of the debate saw “Don’t Ask, Don’t Tell’ as something which hadn’t worked, which was unworkable and hypocritical. The internal advice given to service chiefs by the civilian civil service was in favor of another model.

...But the Australian model was pushed strongly by Australian service chiefs. Their defense attaches were also very proactive in pushing the success of the Australian option. And I think the British service chiefs saw some logic to it. The two forces have a similar structure and ethos. (Personal Communication, September 26, 2000)

On January 12<sup>th</sup>, the Secretary of State for Defense announced the lifting of the ban to the Commons. He declared that the European Court judgement made the ban “not

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<sup>32</sup> For greater detail about the ruling and the military’s response, see Norton-Taylor and Dyer (1999) and

legally sustainable” and proclaimed that a new code of conduct governing personal relationships, based on that of the Australian armed forces, would be introduced. No legislation was required to effect this change, which went into effect immediately. Discharged homosexuals were also invited to reapply for their jobs (Waugh, 2000). Shadow Defense Minister Iain Duncan-Smith voiced “regret”, and he said that if the Conservatives won the next election they would review the decision and allow military chiefs to decide (Waugh, 2000). On that day a sailor became the first homosexual servicemember to come out openly to colleagues (Fleet, 2000).

Since the January 2000 decision, the enactment of the Human Rights Act in Britain has resulted in the replication of the European Court decision by a domestic court. A former RAF officer won an employment tribunal appeal against the Ministry of Defense in September, after it was ruled that the officer suffered sex discrimination in his dismissal for homosexuality (Robertson, 2000). The original plaintiffs in the European Court case were also awarded more than L400,000 as compensation for loss of future earnings, the emotional and psychological impact of the investigations, and court costs (Dyer, 2000; BBC News, 2000). A number of other suits are presently pending.

## **VII. BRITAIN’S PRESENT POLICY CONCERNING SEXUAL MINORITIES**

In their development of a new policy, the Ministry of Defense emphasized the need for: 1) compliance with the ECHR ruling, 2) regulations that were non discriminatory; 3) the preservation of operational effectiveness, 4) accordance with the general requirements of the military, and 5) protection of individual rights under the Human Rights Act (Ministry of Defense, 2000). Homosexuality is no longer a bar to

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Butcher (1999).

military service. Gay and lesbian soldiers are not, however, eligible for married accommodations, spousal pension or other partnership rights. In addition, a code of social conduct establishes rules of behavior that apply equally to heterosexuals and homosexuals. Soldiers, regardless of sexual orientation or sex, are prohibited from engaging in social behavior that undermines, or may potentially undermine, the trust and cohesion, and therefore the operational effectiveness, of the Services. Enumerated inappropriate behavior includes: unwelcome physical or verbal sexual attention, overfamiliarity with the spouses of other service personnel, displays of affection which might cause offense to others, taking sexual advantage of subordinates, and behavior which damages the marriage or personal relationship of other service personnel. The code of conduct further covers other types of “social misbehavior” that have not been enumerated. Discretion is left up to the commanding officer to determine if behavior constitutes a threat to the cohesion of the unit or the military command chain. Abuse of authority, trust or rank, or taking advantage of a person’s separation, are deemed particularly serious types of misconduct (Ministry of Defense, 2000a)<sup>33</sup>.

The new guidelines for social conduct are general and involve considerable discretion. The code therefore provides a “service test” for commanding officers to use in their assessment of the need to “intervene in the personal lives of personnel” (Ministry of Defense, 2000a, p. 1). Commanding officers must consider each case in light of the following question:

Have the actions or behavior of an individual adversely impacted or are they likely to impact on the efficiency or operational effectiveness of the Service? (Ministry of Defense, 2000a, p. 1)

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<sup>33</sup> See also *The Star Tribune* (2000), Reid (2000), and *The New York Times* (2000).

In the event of an affirmative answer, commanders are instructed to take prompt and decisive action to minimize damage to the effectiveness of the unit. If the misconduct is sufficiently serious, commanders may institute immediate administrative or punitive action. Such action may include a formal warning, official censure, the posting of the parties involved, or other disciplinary action. If the behavior is sufficiently serious, or if the servicemember has a history of social misconduct, termination of service may occur (Ministry of Defense, 2000a).

The Ministry of Defense also issued guidelines and speaking notes for commanding officers to help them explain and enforce the new policy. The speaking notes emphasize that the lifting of the ban brings the Armed Forces into greater concordance with the general society. A person's sexual orientation is to be considered a private matter, and every servicemember has a right to personal privacy. The speaking notes exhort service personnel to "[r]espect that right, and do not try to make their private business your concern" (Ministry of Defense, 2000c, p.2) Commanders were further advised to stress the continuity of the policy:

This change is not a major issue, and you should not make it into one. There have always been homosexuals serving in the Armed Forces. We do not expect that this change will result in a significant increase in the number of homosexuals coming into the Service. (Ministry of Defense, 2000c, p.2)

Continuity is emphasized with respect to the new code of social conduct as well. The speaking notes explain that the code "largely reflects existing policies" and "does not mean a tightening up on heterosexual relationships" (Ministry of Defense, 2000c, p. 2)

The notes for commanding officers state that their actions should be guided by the following principles:

- a. Sexual orientation is regarded as a private matter for the individual.
- b. Knowledge of an individual's sexual orientation is not a basis for discrimination.
- c. Incidents which involve the possible commission of civil or military offences, or which come to a Commanding Officer's attention through a formal complaint, should be investigated and dealt with in accordance with Service disciplinary or administrative procedures.
- d. The Service Test ... should be applied when there is any doubt about the impact on operational effectiveness of any particular incident.
- e. The Armed Forces value the unique contribution which every individual makes to operational effectiveness, regardless of their sexual orientation.
- f. The Armed Forces ... will only intervene in the private lives of individuals where it is necessary in the interests of preserving operational effectiveness.
- g. The new policy makes no moral judgements about an individual's sexual orientation.
- h. There is no place in the Armed Forces for harassment, bullying or victimization.
- i. Commanders have a duty of care towards all those under their command. (Ministry of Defense, 2000d, p. 1)

The guidelines also include a list of questions and answers that commanding officers might encounter under the new policy. The list provides responses to such situations as: what to do regarding someone who wants to 'out' themselves<sup>34</sup>; whether homosexual personnel will be able to bring their partners to 'semi-official' functions<sup>35</sup>; how they should handle a situation in which a person

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<sup>34</sup> It is a personal matter whether or not to publicly announce one's sexual orientation. Servicemembers should be advised to "bear in mind that sexual orientation is a private matter", and they should: particularly consider how such a declaration might be received by the colleagues ..., and what impact it might have on their future working relationships. If they decide to go ahead, they should be advised not to make an issue of their sexuality and to go no further than a simple acknowledgement of it. (Ministry of Defense, 2000d, p. 4)

<sup>35</sup> The Mess Presidents are to exercise discretion, as they do for all Mess guests. "In general, however, it would be appropriate to extend to homosexual partners the same arrangements as apply to unmarried heterosexual partners in respect of the particular function" (Ministry of Defense, 2000d, p. 5). The guidelines add:

is unwillingly 'outed'<sup>36</sup>; whether an individual has a legal right to refuse to share accommodations with a homosexual<sup>37</sup>; and how to deal with an extra-marital relationship between heterosexual servicemembers<sup>38</sup>. With respect to a question about protecting young soldiers from predatory homosexuals, the guidelines declare that "It would be wrong to assume that homosexuals are predatory" and remind commanding officers that they must be "particularly alert to ensure young people are protected, regardless of their sex" (Ministry of Defense, 2000d, p. 5). Commanding officers are advised to remember that an open display of sexual behavior of any kind can cause offense, and to respond quickly to defuse situations before they spread (Ministry of Defense, 2000d).

When the new policy was announced by Secretary of State for Defense Geoff Hoon on January 12, 2000, he highlighted the fact that the chiefs of staff were completely involved in the creation of the new policy and endorsed the changes. Secretary Hoon stated that the code would apply to all members of the Forces, regardless of "Service, rank, gender or sexual orientation" (Ministry of Defense, 2000b, p. 2). He further

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Where partners wish to dance together, the circumstances will need to be judged: on some occasions this might pass virtually unremarked and cause no difficulty, on others it could cause offense (with, perhaps, further consequences). Where necessary, those responsible for the function should intervene as discreetly as possible with a view to minimizing any disturbance. It will always be appropriate for couples attending such functions to bear in mind that any overt displays of a partner's affection can cause offence. (Ministry of Defense, 2000d, pp. 5-6)

<sup>36</sup> It is up to the individual to decide whether or not to acknowledge their sexual orientation. If they decide to acknowledge their homosexuality, "they should do so with the minimum of fuss and not make a major issue of it" (Ministry of Defense, 2000d, p. 6). Knowledge of one's sexual orientation should not be reason in itself to move a servicemember. The commanding officer should be alert for any harassment or bullying (Ministry of Defense, 2000d, p. 6).

<sup>37</sup> Individuals have no legal rights to do so under either the European Convention on Human Rights or the Human Rights Act. Accommodations and facilities will be assigned without regard to sexual orientation (Ministry of Defense, 2000d, p. 3).

<sup>38</sup> Commanders are instructed to first assess whether an offense has occurred and then apply the Code to determine whether administrative action is necessary. "The most serious cases, especially where there has been an abuse of position or trust, may warrant the most severe consequence and result in discharge, resignation or retirement" (Ministry of Defense, 2000d, p. 4).

stressed that the code complemented existing policies, including “zero tolerance for harassment, discrimination and bullying” (Ministry of Defense, 2000b, p. 2). As for the use of the service test, Secretary Hoon declared that:

Commanders will have to apply this Service Test through the exercise of their good judgement, discretion and common sense – the essence of command and the effective management of people. (Ministry of Defense, 2000b, p. 2)

Shifting gears from the public statements in support of the ban before the European Court ruling, Chief of the Defense Staff General Sir Charles Guthrie went on record at the time of the announcement of the new code of conduct to say that lifting the ban was likely to lead to some difficult situations for commanding officers, who would be required to decide if conduct was damaging to a unit’s operational effectiveness. He added, however, that “As CDS (Chief of the Defense Staff), I don’t believe that the operational efficiency of the Services will be affected, although I’m not saying we won’t have some difficult incidents”. He acknowledged that some people would still be against the ban “because they are homophobic or on religious grounds”, and that his assessment of the new policy differed from that of former service chiefs and ministers. But he added that “times have changed”, and he doubted that the change in policy would have any effect on recruiting (Evans, 2000). General Guthrie characterized the new code of conduct as “sensible and pragmatic” and said that it would be up to commanding officers to reassure their subordinates. “We think we can make it work”. (Evans, 2000)

Discussions on the code of social conduct and the importance of equal treatment for heterosexuals and homosexuals have since been integrated into training at the Tri-Service Equal Opportunities Training Center, the training site for the Services’ Equal Opportunity Advisors (Ministry of Defense, 2000c). In

February, the Royal Air Force became the first service to include tolerance toward homosexuality in its officer training courses. The training course discusses the issue during the “beliefs and values” session, which is conducted by chaplains and staff. Officer candidates are informed that homosexuality is compatible with service and does not damage team morale. They are also taught that overt displays of affection, whether heterosexual or homosexual, threaten team discipline (Butcher, 2000). The other Services have since followed suit.

In October, 2000 it was reported that a naval lieutenant-commander had won the right to some of the partnership benefits previously reserved for heterosexual personnel. The companion of Lieutenant-Commander Craig Jones will be flying out with other naval spouses to visit the HMS Northumberland in the Mediterranean. Spousal flights are subsidized by interest-free loans from the Navy. Jones’ partner has also been invited to a black-tie dinner and other mess dinners on shore and aboard the ship (Gilligan, 2000).

## **VIII. INITIAL ASSESSMENT OF THE EFFECTS OF THE CHANGE IN POLICY**

Six months after the lifting of the ban and the enactment of the new social code of conduct, the Ministry of Defense conducted its own assessment of the policy change. Commanders from each of the Services were asked to comment on a variety of issues related to the policy change and on developments arising from it. The assessment was for internal review only, and the resulting report was not released to the public. The Ministry of Defense report therefore constitutes the best evidence to date on the effect of the military’s new policy. It conducted a comprehensive managerial review with access to



all relevant data. Further, since it was not intended for a civilian audience, the report was not written with an eye toward shifting the public opinion or influencing policy debates. The Ministry of Defense provided the researchers of this report with a summation of the contents of the internal assessment. This marks the first time that the findings of the report have been released to the public.

The appraisal by the Ministry of Defense depicts the policy change as an unqualified success. No problems associated with the new policy were reported. It found that both the lifting of the ban on homosexual soldiers and the new social code of conduct have been effectively instituted. It also states that there have been no significant difficulties in the transition to the new policy, that servicemembers have come to widely accept the policy change, and that the implementation has gone surprisingly well. Given the success, the internal review found that no further changes in regulations or enforcement were needed:

... [T]he change in policy has generally been hailed as a solid achievement. It has been introduced smoothly with fewer problems than might have been expected and no changes either to the policy, the Code of Social Conduct, or the content of our training courses are planned at the present time. (Ministry of Defense, 2000e, p. 2)

The Ministry of Defense determined that the policy change has not affected recruitment levels. The three Services “reported that the revised policy on homosexuality had had no discernible impact, either positive or negative, on recruitment” (Ministry of Defense, 2000e, p. 2). The evaluation did, however, find that the more inclusive policy had positively affected their access to recruiting fairs. College recruiting fairs that used to forbid participation by the military have reversed themselves in the wake of the lifting of the ban:

Interestingly, some areas that had previously closed to the Forces, such as Student Union “Fresher’s Fairs”, are now allowing access to the Services because of what is seen to be a more enlightened approach. (Ministry of Defense, 2000e, p.2)

Because sexual orientation is now seen to be a private matter, the British Armed Forces will not set any quotas for the recruitment of sexual minorities and will not monitor recruitment levels of sexual minorities. No records will be kept if recruits volunteer the information that they are homosexual.

The report acknowledges that the policy change was not popular with some military personnel before its enactment, as some servicemembers originally expressed apprehension about the lifting of the ban:

Within the Services, the change in policy was accepted as inevitable, although there were some expressions of ‘political correctness’ having gone too far. The majority of initial misgivings were in regard to the practical aspects of implementation and its consequences, often centered on shared accommodation. (Ministry of Defense, 2000e, p.2)

Such misgivings appear, however, to have been short-lived. After the new policy had been in place for only six months, the Ministry of Defense was able to report that service personnel had adjusted well to the lifting of the ban:

Over the longer term the feeling has been generated that there is widespread acceptance of the new policy. ... Generally people have demonstrated a mature and pragmatic approach which has allowed the policy to succeed. (Ministry of Defense, 2000e, p. 2)

Service personnel have gotten along well and adjusted quickly to the policy change; the actual inclusion of homosexual servicemembers has resulted in surprisingly little reaction. The report also found that harassment of gay and lesbian soldiers had not been a problem since the new social conduct code had been instituted. There were “no

reported difficulties of note concerning homophobic behavior amongst Service Personnel” (Ministry of Defense, 2000e, p. 2).

The evaluation by the Ministry of Defense suggests that the success of the new policy was in large part due to the non-discriminatory nature of the Code of Social Conduct. The Code’s emphasis on behavior allows the military to address problematic behavior without resorting to discriminatory policies or restricting whole classes of people:

The Code of Social Conduct has been very well received and has been found to be a useful guide for commanding officers in dealing with all issues surrounding personal relationship and behavior, going wider than just homosexual issues. (Ministry of Defense, 2000e, p.2)

Because the focus has been placed on behavior instead of sexual orientation, sexual orientation has not become a source of antagonism as some had feared. Gay service personnel know that they have the code of conduct to back them up in the event of harassment or bullying. And all servicemembers know that they have recourse to complain if they witness inappropriate comments or actions. The report remarks on the noteworthy lack of focus by service personnel about the issue of sexual orientation:

[Homosexuality] has not been an issue of great debate, in part because of the underlying principle, embodied in the Code of Social Conduct, that sexual orientation is now regarded as a private matter. In fact there has been a marked lack of reaction. Discussion has rather been concerned with freedom of individual choice and exercising personal responsibility across the board, rather than a focus just on sexual orientation. (Ministry of Defense, 2000e, p.2)

In arguments for the continuation of the ban, military officials suggested that friction between heterosexual and homosexual servicemembers could result in distrust and offense among colleagues and even threaten operational effectiveness. In contrast, the Ministry of Defense’s own internal assessment of

the policy after six months suggests that heterosexual and homosexual soldiers alike have responded well to the change in policy. In spite of the concerns raised in the years and months prior to the lifting of the ban, no major problems have so far resulted from the policy change. At the request of the House of Commons Defense Committee, the Ministry of Defense will conduct another review of the policy in two years. But the report indicates that at this stage military officials believe the new policy has been successfully implemented.

Since the ban has been lifted, several newspaper articles have recorded military reactions to the policy change<sup>39</sup>. British newspapers have reported the assessment of Rear-Admiral Burnell-Nugent and two resignations over the policy. In addition, researchers for this report interviewed eight Armed Forces officials and two retired Armed Forces officers. The officials include: the director of personnel policy for the Ministry of Defense, a commander with Naval Personnel and Service Conditions who was involved in the writing of the new policy, a lieutenant colonel with Army Public Relations, a major with the Army Training and Recruiting Agency, a squadron leader with the Air Force Engineer Liaison Recruiting Team, an official with the Personnel Management Agency of the Air Force, an official with the Ministry of Defense Press Office, and a Whitehall source with knowledge of the policy's implementation. The retired officers were not apprised of the effect of the transition and were interviewed for background information.

Nine months after the ban was lifted, the assistant chief of the Navy staff, Rear-Admiral James Burnell-Nugent declared publicly that the change in policy had caused fewer problems than the inclusion ten years ago of women at sea. The Rear-Admiral

stated that the removal of the ban had caused less difficulty than many of his colleagues had expected. He further stated that the ruling had raised some issues about accommodations aboard ships but that it had otherwise not caused serious problems. “I think it has caused less of a ruffle than the issue of women at sea did 10 years ago. That is not to say it is not without impact” (Paterson, 2000). The Rear-Admiral also commented that, “Although some did not welcome the change of policy, it has not caused any great degree of difficulty” (Paterson, 2000). Rear-Admiral Burnell-Nugent added:

There are issues to do with sharing accommodation and so on, which we shall deal with using normal management mechanisms. I am not saying everybody is happy with it, but on the whole it has not caused a great upset. (Paterson, 2000)

A straw poll of cadets immediately following the change in policy “revealed an already relaxed attitude to the issue” (Butcher, 2000a). One cadet responded, “It might just be that we belong to a different generation but I do not see it as a problem” (Butcher, 2000a). This attitude was shared by most of her fellow cadets. All those polled agreed that it was possible for homosexuals to serve in the RAF if their professional work was not influenced by their sexuality. One male cadet did say, however, that the presence of a gay or lesbian in a soldier in a unit could damage the team’s morale. “I personally do not have a problem with homosexuals but I can see it being a problem if everyone is cooped up together” (Butcher, 2000a)<sup>40</sup>.

Two officers publicly resigned in the wake of the lifting of the ban. Brigadier Pat Lawless, the Deputy Commander of the Joint Helicopter Command, announced in January 2000 that he was resigning because the ban was lifted without adequate consideration for the military rationale for preserving it. Brigadier Lawless, who reported

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<sup>39</sup> Newspaper coverage of the experiences of two ‘out’ servicemembers are discussed in the section below.

that he was “very sad to leave”, stated that he “couldn’t reconcile my strongly held moral and military convictions as a soldier and a citizen with the Government’s decision to lift the ban on homosexuals” (Wright, 2000). A friend of Lawless stated that “[Cdr. Lawless] was not taking this decision because he personally has a problem with homosexuals. He saw it as a decision foisted on the Armed Forces for no good military reason” (Butcher, 2000).

Commander Colin Douglas, a senior naval commander who led an air squadron in Bosnia and was director of flying at the Fleet Air Arm’s Culdrose air station, also resigned in January because he felt that policy decisions were being made for political reasons instead of military ones. Cdr. Douglas said that the decision on homosexual inclusion was “the final straw”. He added, “There is plenty of sound military sense against lifting the ban, but the decision was taken for political and legal reasons” (Butcher, 2000). There have been no other public announcements of resignations due to the lifting of the ban.

An article on desertion and recruitment issues in June 2000 commented that the opening of the military to gays and lesbians and of combat positions to women would hopefully *increase* recruitment levels. Problems associated with desertion included bullying, harassment during initiation rites, and an inability of the military to successfully deal with soldiers far away from home when family problems such as terminal illness and marital strain develop (Burke, 2000)<sup>41</sup>. Problems in recruiting levels were first made public in 1996. Articles discussing recruitment problems cited the number of foreign operations and the number of humanitarian missions, as well as the family turbulence that

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<sup>40</sup> At the time of the straw poll, there were no open homosexuals at the training college (Butcher, 2000a).

<sup>41</sup> See also Davies (2000).

results from long absences or overseas postings (Schoefield, 2000). The lifting of the ban was not mentioned as a source of problems.

Two months after the Ministry of Defense's internal appraisal, the responses of military officials interviewed for this report confirm its findings. The transition to the new policy has gone surprisingly well, and there have been no major problems to date. A Whitehall source who had access to the original, unabridged report emphasizes the definitiveness of its conclusions:

The assessment showed that there has been no impact at all. The report looked at all aspects, operational effectiveness, unit cohesion, and there has been no impact. At the end of the day, operational effectiveness is the critical matter, and there has been no effect at all. There haven't been any disciplinary problems. There have only been one or two minor incidents, and they have been handled individually. The whole thing has gone a lot better than people had expected. (Personal Communication, October 9 and 11, 2000)

None of the officials that we spoke to knew of any evidence or had heard of any that suggested any significant difficulties that had arisen as a result of the policy change. No one had heard of any problems with resignations<sup>42</sup>. None of the officials interviewed knew of any evidence to suggest that recruitment rates or training completion had been affected. There have been no major problems with harassment or gay-bashing. Military officials interviewed for this report affirm that the lifting of the ban has largely been a non-issue.

This is not to imply that all servicemembers approved of the new policy before it was implemented. Many soldiers maintain anti-gay attitudes and worried about how the lifting of the ban would affect them. While complaints about the sharing of facilities with

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<sup>42</sup> Military officials interviewed for this report put the number of resignations as between one and three. An additional resignation that was not reported in the papers was mentioned. But more than one official noted that at least one of the published resignations was thought to have actually been due to other factors.

homosexual in particular were vociferous before the policy change, such protests were surprisingly short-lived. Commander Cooper, who worked on the new social code of conduct, explains:

The prime concern, and really the only one raised by people in the run-up to the publication of this policy, which came into effect in January of this year, was sharing accommodations. ... straight chaps and straight girls might not necessarily like having to share living, changing and washing facilities with people of another sexual orientation. ... We've taken the view that we will not separate out homosexuals and give them separate living accommodations. Now I would characterize the reaction to that as being very short-term complaints, very loud but short-lived. And as far as I know, the Armed Forces of the United Kingdom has only lost three people who have resigned over this issue. (Personal Communication, October 13, 2000)

Military officials interviewed for this report were also not aware of any indications that the new policy had negatively affected recruit training completion rates or that there had been any training problems related to the lifting of the ban (Hodges, Personal Communication, October 10, 2000; Cooper, Personal Communication, October 13, 2000; Peebles, Personal Communication, October 17, 2000). Service personnel have responded well to the new code of social conduct and the equitable premise of all servicemembers' responsibility to act appropriately. As was suggested by the Ministry of Defense's internal report, more discussion appears to have been raised about exercising personal responsibility generally than about the specific issue of homosexuality. A Whitehall source explains:

In the commanding officers' course, they go over the code of social conduct. Homosexuality doesn't even come up anymore – it's no longer an issue. In the Equal Opportunities training, a whole raft of issues are discussed, and race and gender are bigger issues for us. There is one morning in the training where homosexuality gets discussed along with many other issues. One person in six months has argued vociferously against it, and that's it. Everyone else's attitude is to let people alone. No



one wants to flaunt their sexuality, so let people have it. (Personal Communication, October 9 and 11, 2000)

Incidents of harassment or sexual misconduct related to sexual orientation by either heterosexual or homosexual soldiers have also not been a problem since the new policy was implemented in January. None of the military officials interviewed related a single case of gay-bashing or assault related to sexual orientation. Lieutenant Colonel Hodges confirmed with a colleague at the Central Discipline Office there have been no incidents related to sexual orientation reported to that office since the ban on homosexual soldiers was lifted. He added: “The change in policy has been a complete non-event” (Personal Communication, October 9 and November 2, 2000).

Although precise data is not available, there are no indications that the policy change has affected recruitment levels (Bagley, Personal Communication, October 13, 2000; Fuller, Personal Communication, October 17, 2000; Payne, Personal Communication, October 9, 2000). The Armed Forces does not ask about sexual orientation when recruiting, so the military does not possess any statistics specifically concerning either increases in the number of homosexual recruits or decisions not to enlist because of the policy change. Further, so many factors affect recruiting that it is difficult to isolate the effects of one. But there have been no signs, from the experiences of recruiters or assessments within the Ministry of Defense, that recruiting numbers have decreased substantially as a result of the lifting of the ban. A Ministry of Defense official states, “Certainly recruitment hasn’t dropped dramatically – recruitment is quite buoyant at present” (Barnard, Personal Communication, October 13, 2000). After several years of recruiting shortages, the last two years have witnessed the fulfillment of recruiting targets (Hodges, Personal Communication, October 9 and November 2, 2000).

Paul Barnard adds, “Nothing drastic has happened in terms of recruiting or anything else” (Personal Communication, October 13, 2000).

Military leaders emphasize that behavior rather than sexual orientation is what ultimately matters to the men and women in the Armed Services. As long as people do their jobs and contribute effectively to the teamwork of their units, individual differences in opinion or in their personal lives are not considered relevant. The new policy’s focus on behavior rather than on personal attributes has allowed heterosexual and homosexual soldiers alike to maintain their focus on the jobs at hand. It is the emphasis on effective teamwork that Lieutenant Colonel Hodges believes is ultimately behind the success of the policy change:

There has been absolutely no reaction to the change in policy regarding homosexuals within the military. It’s just been accepted. In the military, it’s important to fit in and be a member of the team. As regards homosexuals, if someone were acting ‘camp’, they would not fit into the team. But if they are discrete [sic], it doesn’t matter. Our great strength as an Army is that we treat everyone [as] an individual who contributes to the team. We’ve won three recent wars – Sierra Leone, Kosovo and East Timor because we place a lot of importance on personal responsibility, down to the lowest level. Everyone has strengths and known weaknesses, and everyone is given responsibility. Your sexuality doesn’t matter as long as you act as a member of the team. (Personal Communication, October 9 and November 2, 2000)

For those heterosexual soldiers who feared the new policy would bring major changes in interpersonal relationships, the continuity has been a relief. Since the lifting of the ban, heterosexual servicemembers have discovered that the Services after the policy change looks basically like the Services under the old policy. Paul Barnard explains:

And the media likes scare stories – about showers and what have you. A lot of people were worried that they would have to share body heat in close quarters or see two men being affectionate, and they would feel

uncomfortable. But it has proved at first look that it's not an issue.  
(Personal Communication, October 13, 2000)

Now that the court case has been resolved, people have been able to effectively move past the controversy. There have been no major surprises, no radical or inappropriate behavior. Heterosexual and homosexual soldiers alike continue to focus on the primary task at hand: doing the job that they signed up for. Paul Barnard adds: "It's gone better than a lot of people thought it would. It's almost gone unnoticed." (Personal Communication, October 13 and November 6, 2000)

Military officials also suggest that servicemembers were better prepared to adapt to the lifting of the ban than many military commanders expected. Both the on-the-ground reality of homosexual service and more accepting attitudes in general about homosexuality among the young were raised as partial explanations for the relatively tranquil transition. Homosexual service personnel have been a part of the Armed Forces since long before the policy change occurred – a fact that was not denied by military officials even during the legal battle. Barnard argues that for many heterosexual servicemembers, the admission by a colleague of his or her sexual orientation in the wake of the new policy has not come as a surprise:

A lot of gay people have gone about like before and not said anything. But in most cases with those that have said that they're gay, it was probably known already. Close associates who worked with them probably already knew, but they kept quiet about it, because they didn't want to get the person in trouble. So often it hasn't been a surprise. It just has not been an issue. (Personal Communication, October 13, 2000)

Commander Cooper in turn emphasizes the more liberal attitudes of younger service men and women:

We have a ground-breaking social policy here. ... But in broad terms, I don't think we're shy about the fact that there has been an atmosphere of

resigned acceptance, particularly amongst the younger people in the Navy. ... There is a more relaxed attitude among younger people towards those of a different sexual orientation, and by and large it has been, therefore, a non-issue; it really has. (Personal Communication, October 13, 2000)

In interviewing military officials for this report, the theme of a lack of response was repeated. Officials emphasized that the policy transition had occurred more smoothly than expected, that any criticism to the lifting of the ban quickly died away, and that the anticipated problems have not developed. People on all sides of the issue have behaved responsibly and respectfully. And while problems may still develop at a later date, many Service officials are genuinely surprised by how agreeable the transition has been. A number of interviewed officials commented on the disjuncture between the predicted difficulties and the reality of the change. The Ministry of Defense Director of Personnel Policy states:

And [the] code of conduct seems to have been accepted and applied generally around the Armed Forces, and we've had very few real problems that have emerged, and people seem to have, slightly surprisingly, settled down and accepted the current arrangements. And we don't really have the problems that we thought we'd have. (Fuller, Personal Communication, October 17, 2000)

Peebles concurs:

As far as I am aware, the rank and file airmen and airwomen have accepted the revised policy. The anticipated tide of criticism from some quarters within the Service was completely unfounded. (Personal Communication, October 17, 2000)

And Commander Cooper adds:

We now have chaps at sea that people now know are homosexuals – there are very few – we're talking about a handful of people who have come out, and there wasn't a [problem] coming out at all. And our youngsters have just taken it in stride. So it's a major non-issue, which has come as a considerable surprise. (Personal Communication, October 13, 2000)

Given the fact that the new policy has been in place for less than a year, insufficient time has passed for any quantitative or in-depth external study of the policy change. Nonetheless, researchers for this report felt that it was important to canvass relevant observers outside of the military to further assess the impact of the lifting of the ban on homosexual soldiers. Academics, journalists and non-profit organization representatives<sup>43</sup> who have been following the controversy concerning sexual minorities in the military, or who are knowledgeable about British military personnel issues more generally, provide an independent check to the information provided by the Armed Forces. The outside experts may be aware of issues that have not been brought to the attention of the upper echelon of military commanders, they can provide a different perspective on events, and they may be more critical of the policies or the culture of the British Services than commanders.

Researchers for this report spoke with six respected academics and journalists who have been commentators on the military policy concerning homosexuality since before the ban was lifted. The interviewees included: Dr. Gwyn Harries-Jenkins, a professor of military sociology at the University of Hull; Dr. Christopher Dandeker, a professor of military sociology and head of the Department of War Studies at King's College; Dr. Hew Strachan, professor of military history at the University of Glasgow; and Edmund Hall, former journalist for the Sunday Times, Independent and the Evening Standard, and the author of the most widely-read book on the subject, We Can't Even March Straight. Professor Harries-Jenkins and Dandeker specialize in military personnel issues

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<sup>43</sup> The opinions of relevant non-profit representatives are provided in the following section.

and have written specifically about homosexuality in the Armed Forces.

Researchers also interviewed Joan Heggie, a doctoral candidate at the University of York who is presently working on a dissertation on lesbian service personnel in Britain, and Tim Butcher, a reporter for the Daily Telegraph who has covered the topic for that paper since 1995. The researchers asked these and other contacts if they knew of any other prominent scholars or commentators who should be reached for this report; we could uncover no other principal sources on this subject.

The academics and journalists contacted for this report agree that it is still too soon to determine what the long-term consequences of the policy would be. The information available so far does, however, suggest reason for cautious optimism. None of the respondents knew of any major problems that have occurred in the wake of the policy change. And the (admittedly scant) information that they have heard about indicates a relatively smooth transition.

Professor Dandeker states:

It's too early to say, but the reports I have heard say ... that so far there are few problems and indeed, perhaps less than the ones arising from gender integration. (Personal Communication, September 20, 2000)

Professor Harries-Jenkins also agrees that insufficient time had passed to definitively assess the outcome of the new policy, but he does add that “press statements (‘an informed source’) suggest a slight decrease in the incidence of harassment” (Personal Communication, October 16, 2000). Joan Heggie argues that the relative lack of news about the transition is itself a sign that no major problems had occurred. Since many military and political officials had been

highly antagonistic to the removal of the ban, any sign of significant problems would have created a public furor. Heggie declares:

But there has been no feedback the new policy is not working. Certainly the fears of massive resignations or sexual harassment have not come true. (Personal Communication, October 2 and 16, 2000)

Professor Dandeker, Heggie and Hall all suggest that the relatively smooth transition may have been due in part to the fact that most gay and lesbian soldiers presently serving in the military have remained quiet about their sexual orientation and their private lives. Professor Dandeker and Heggie argue that such low visibility most likely stems from continued bias against homosexuality by most heterosexual soldiers. Professor Dandeker explains:

Most expect gay personnel to continue to be extremely discreet until attitudes within the services change further, and that this is an acceptable price to pay for achieving a lifting of the ban on personnel serving simply because of their homosexual orientation. (Personal Communication, September 20, 2000)

Heggie adds:

Even though the situation is better, soldiers don't want to set themselves up for a fall. Even though the rules have changed, not everyone feels comfortable. (Personal Communication, October 2 and 16, 2000)

Hall, however, argues that gay and lesbian service personnel were unlikely to be particularly conspicuous even in the most accepting environment:

When the ban was lifted, I think that many people who had been serving quietly in the armed forces breathed a sigh of relief. Gay people who go into the armed forces tend to be conservative in their politics, and reserved about their private lives. After the ban was lifted, you didn't find these people indulging in ostentatious out behavior. (Personal Communication, September 25, 2000)

Professors Harries-Jenkins and Dandeker, both noted experts on the British military in general, also concur that the issue of homosexual service in the

military was minor given the priorities of the military at present. Like many other Western militaries in the wake of the Cold War, the British military has had to confront the effects of a shift in priorities and the extension of peacekeeping missions with shrinking resources. Professor Harries-Jenkins states that homosexuality “is a minor issue in the light of major problems for recruitment and retention caused by overstretch, role uncertainty, turbulence and rates of remuneration” (Personal Communication, October 16, 2000). Professor Dandeker also cites overstretch, recruitment and retention as primary problems presently facing the British military, and he adds that the size of the defense budget is an additional source of concern (Personal Communication, September 20, 2000).

Echoing Rear-Admiral Burnell-Nugent, Professors Dandeker and Harries-Jenkins suggest that the integration of women into the Armed Services is perhaps a more vexing personnel problem than that of including homosexuals. Professor Harries-Jenkins declares:

At present, the major [personnel] issue is the political policy that women should be recruited to direct combat on the ground posts in armor, infantry and special forces units. Whilst it is possible to substitute males in terms of race and sexual preference, there is a strong body of opinion in the military which questions the ability of women to serve in such posts. The lifting of the ban on gays may or may not have effects upon good order and discipline but these can be covered by regulations. (Personal Communication, October 16, 2000)

Both Professors did, however, append caveats to this assessment. Professor Dandeker contends that it “remains to be seen” whether the integration of women and sexual minorities will “interact and lead to difficulties” (Personal Communication, September 20, 2000). Professor Harries-Jenkins adds that the legislative approval of gay marriages or the “active promotion of the rights of



homosexuals” would “alarm service chiefs” (Personal Communication, October 16, 2000).

Finally, Dandeker, Heggie and Butcher all caution that while the rules may have changed, fundamental attitudes have not. Many military personnel remain opposed to the change in policy, including a number of commanders. And a large number of those who are resigned to the new regulations continue to view homosexuality in an unfavorable light. Given the discretion placed with commanding officers in interpreting what constitutes social misconduct, such anti-gay feelings could result in harsh restriction of homosexuals. Professor Dandeker explains:

It should be pointed out that the ‘lifting of the ban’ is not quite right. Integration of open homosexuals is problematic and remains so under the new policy. ... Much will depend on how commanding officers use discretion and how much gay personnel wish to be discreet about their orientation as well as scrupulously careful about their behavior both on and off duty. (Personal Communication, September 20, 2000)

Heggie also warns that “the rules of conduct are so loose that they allow discrimination by individual commanders” (Personal Communication, October 2 and 16, 2000). How the implementation of the code of social conduct proceeds in the coming months will have a considerable effect on the ultimate success of the new policy. Because gay-bashing is punishable by administrative discharge, however, Butcher expects that “the quality of life for the average homosexual servicemember [will] go up considerably” (Personal Communication, August 8, 2000).

Researchers for this report also talked with representatives from relevant major non-governmental organizations to determine their assessments of how the policy change was proceeding. We contacted the Christian Institute, the major NGO opposing the new

policy; TORCHe, the gay rights group of the Conservative Party; the Royal United Service Institute (RUSI), an independent military think-tank; Stonewall and Outrage!, the two primary gay-rights groups in Britain; and Rank Outsiders, an organization that promotes the rights of gay and lesbian servicemembers. Rank Outsiders has been monitoring the inclusion of gay and lesbian service personnel closely since the policy change was announced in January.

Colin Hart, the executive director for the Christian Institute, does not feel that sufficient information was yet publicly available to assess the impact of the removal of the prohibition against homosexual servicemembers:

Well, it's far too early to say what the results of lifting the ban have been. Clearly some senior officers are so concerned that they have resigned. We have not yet been able to investigate the implementation of the policy.  
(Personal Communication, September 21, 2000)

Debbie Gupta, the Director of Policy and Public Affairs at Stonewall, also feels that her organization is not in a position to know the military effects of the policy change on morale, unit cohesion, or harassment levels. She points to the statements of Rear-Admiral Burnell-Nugent as providing the best public evidence of the impact of the policy change (Personal Communication, October 18, 2000).

None of the other organizations, including the non-partisan RUSI, know of any major problems with morale, unit cohesion or operational effectiveness that have developed in the wake of the policy change. Steven Johnston, the Chair of Rank Outsiders, posed the question of operational effectiveness and morale to Air Marshal Pledger at a RUSI presentation on September 28 concerning personnel matters:

I asked the very same question [concerning operational effectiveness and morale], and his direct reply was that there had been no change in either operational effectiveness or problems with moral[e]. In fact, I have three

members of my Association who have been accepted back to full service (all in the Navy) where they have rejoined with the service knowing about their sexual orientation. These three individuals are of the three rank structures: Lt. [Commander], Chief Petty Officer and rating. This I believe is sufficient evidence to back up that statement. (Personal Communication, October 16, 2000)

Peter Tatchell, the Chairman of Outrage!, echoes Joan Heggie's comments about the lack of news about difficulties during the transition. Although Outrage! does not have the military connections that either RUSI or Rank Outsiders maintains, Tatchell suggests that the level of concern before the removal of the ban means that major post-change problems would have been brought to light:

But clearly, there has been none of the damage that the army chiefs were predicting to morale or operational effectiveness. ... [G]iven the dire warnings the service chiefs were making before the ban was lifted about how it would cripple morale, the consequences they predicted were so severe that we should be seeing something by now. But they have not come to pass. (Personal Communication, August 21, 2000)

RUSI, Rank Outsiders and Outrage! also have no knowledge of any increases in harassment related to sexual orientation. Rank Outsiders has been monitoring this issue and has been in close contact with the military on these matters. It is best positioned to assess the issue of anti-gay harassment, because they both support gay and lesbian service personnel and have access to the military's own analysis. Rank Outsiders might hear about cases of harassment of homosexual servicemembers that were not reported within the chain of command. Johnston, the Chair of Rank Outsiders, states that he knows of no significant harassment problems within the British military. He only knows of two minor instances of harassment, both of which were successfully resolved:

As an Association we have not heard of any major problems of harassment or assaults [sic] within the AF. I have been privy to two incidents in which we were able to advise and the problems were resolved quite

quickly. ... Both incidents were of a 'name calling' situation with only one that included any physical efforts, that being belongings overturned and adverse comments painted onto a private motor vehicle. The local commanders were very sympathetic ... The end result was that the individual, by his own request, had moved units and is now an instructor at his unit Training Center! (Personal Communication, October 16, 2000)

Johnston further reports that the military has expressed a desire to work effectively with Rank Outsiders should any future problems arise. Johnston explains:

I have been to the Ministry of Defense a number of times in which [harassment] has been the subject of many discussions. It appears that there have not been any cases that they are aware of and were very positive as [to] this situation. I have been told, however, that if any do come to light that I am aware of and require assistance, they will investigate at the highest levels (Personal Communication, October 16, 2000).

Michael Codner, the Assistant Director for Military Sciences at RUSI, believes that assurances of this kind by military commanders are not simply empty gestures. He is convinced that the Armed Forces are strongly committed to making the new policy work. Codner argues that not only has the top brass invested in the policy change, but also that the new thinking about homosexual inclusion is part of a larger shift that has affected the military. Codner explains:

The intention is to be far more than cosmetic. If you look at the thinking of senior personnel, they have invested a great deal of credibility and authority into this policy shift. They want to see it fully implemented.

There has been a kind of generational shift. [For] the people who are moving into the rank of 1-star and 2-star general, who are around 50-53 ... for them this is just not so much of a major issue. (Personal Communication, September 26, 2000)

The Chairs of Rank Outsiders and OutRage! both suggest that the eradication of the ban on homosexual service in the military is just the first step in

a longer process toward full equality in the military for sexual minorities. The attainment of equal access to domestic partner benefits, joint accommodations and pension benefits will signal a real acknowledgement of the contributions and sacrifices that homosexual personnel have made, as well as their full acceptance into the fabric of military life. Johnston explains:

As to the future, there is still much to be done. The ban being overturned is a major step for the future, but equal rights with their heterosexual colleagues is a different matter. Full employment rights will include: pension rights, accommodation rights and partnership rights ... These, when obtained, will show the commitment by the [Armed Forces] hierarchy to full equality to every member of the [Armed Forces] ...

As for the transition to the new policy, well it has all been very much a 'matter of fact' and life goes on as it always has. In summary, there has simply been no change but a positive step forward that at last each and every person can be themselves and give their very best to the roles that they undertake! (Personal Communication, October 16, 2000)

Since the ban on homosexual servicemembers has been lifted, the British media has reported the first instance of a gay soldier coming out to his crewmates. Most recently, it has also reported the acceptance of the boyfriend of the first openly gay officer in the Royal Navy as a "naval wife", with rights to benefits such as subsidized flights to see his partner in port and invitations to formal Navy dinners (Gilligan, 2000). Researchers for this report also spoke with four sexual minorities presently serving in the British Armed Forces about their experiences before and after the policy change. The four men include: a chief petty officer in the Royal Navy, a lieutenant commander in the Royal Navy, a corporal in the Royal Air Force, and a junior technician in the Royal Air Force. The chief petty officer and the lieutenant commander were both discharged under the former policy and have recently been reinstated. The corporal has been in the

military for ten years and was recently promoted. He has been out to his colleagues since the ban was lifted. The junior technician has served continuously for the past five years and has not disclosed his sexual orientation to any of his colleagues. Because these interviewees do not constitute a representative sample of presently-serving homosexual soldiers, their experiences cannot be said to provide a complete picture of life for sexual minorities under the new policy. But their perspectives as servicemembers most affected by the policy change allow for a more detailed portrait of the present conditions on-the-ground than the comments by MOD staff members and other non-military observers.

At the end of January 2000, the first purported servicemember to publicly acknowledge his homosexuality in the wake of the lifting of the ban told his shipmates that he was gay. The sailor, who asked reporters not to disclose his name, announced his sexual orientation several hours after the lifting of the ban. The 280-member crew was ‘reminded’ of the rules against bullying and harassment, and that any allegation would be “thoroughly investigated” (Fleet, 2000). The man told members of the ship’s mess while docked near Portsmouth, Hants, his hometown. He reported that his announcement was well-received. “They were all fine about it. I was surprised. I had no problem with them about it at all”.

The sailor, who had been with the Navy for eight years but had only realized his sexual orientation four years ago, said that he was relieved to have been able to disclose his sexual orientation with his crewmates:

I was just fed up with lying to people, especially when I went home at the weekends. People have asked me where I have been, and I have had to make up somewhere because I had been to a gay club. I was living separate lives. I had my Navy life and I had my life at home. Coming out in the Navy has been a big weight off my shoulders. It has been a big relief. (Fleet, 2000).

The sailor added that he did not expect any problems in the wake of his announcement. He declared, “I do not expect any problems in the future or for it to affect my work” (Fleet, 2000).

On October 29, the Sunday Times reported that the partner of the first openly gay naval officer had won the right to some partner benefits, including joining naval spouses flying out to see their husbands and wives. Lieutenant Commander Craig Jones said that his partner Adam has been “made to feel welcome” by the navy and has been “fully integrated” into naval family life (Gilligan, 2000). Jones’ partner has attended formal dinners on ship and ashore:

Our first mess dinner, in Portsmouth, was a worry, but we had a great time. It was a difficult issue for Adam and me, but people generally, and particularly my colleague’s wives, looked after us very well. (Gilligan, 2000)

All of the out servicemembers interviewed for this report also state that they have had no major problems with their colleagues because of their sexual orientation. Corporal Andrew Blythe has had no difficulties with his colleagues at Bentley Priory, all of whom know that he is gay. Chief Petty Officer Rob Nunn and Lieutenant Commander Michael Griffiths, who have been recently reinstated in the Navy after earlier discharges due to sexual orientation, report that colleagues have responded well to their reinstatements. The circumstances of their departures and returns have meant that the sexual orientation of each officer is widely known by co-workers. This has not, however, resulted in problems for either officer. Lieutenant Commander Griffiths explains:

I am now out to anyone who wishes to know. Just about everyone who knew me before 1995 knows [my sexual orientation,] and I have already met about a dozen people who know since rejoining. They have been absolutely fine, welcoming me back to the Royal Navy and it obviously

isn't causing them any difficulty. I have come out to one person who knew me [prior to discharge] but didn't know [my sexual orientation]. He was astonished, remarked that I kept it very quiet before and has been fine since. (Personal Communication, October 22, 2000)

Chief Petty Officer Nunn, who has served in the navy for a total of 21 years, may be returning to submarine duty and is in line for a promotion. He also reports a positive response from co-workers:

Now, the people in the mess have asked me all sorts of questions, and I've answered their questions. They think I'm very brave doing what I've done, and we've now got to the stage where the mess president a couple of nights ago asked if my partner was coming to the Christmas ball. (Personal Communication, October 17, 2000)

Chief Petty Officer Nunn believes that the best approach has been to allow for an open dialogue with colleagues about the subject of his sexual orientation and his reinstatement. This has enabled him to counter stereotypes, improve the knowledge of his colleagues, and put people at ease. Chief Petty Officer Nunn has not been subject to harassment either before his dismissal or after his return; he has, however, encountered several people since his reinstatement who have been unsure how to respond to him. He describes the experience:

Well, it's the not being able to ask me a question. It's the old – 'I don't know quite what to say'. In fact, one guy that I talked to who couldn't sort of talk to me, I said, 'Right, I'm going to ask the questions that you want to ask, and answer them.' So I did. (Personal Communication, October 17, 2000)

Chief Petty Officer Nunn adds that his open approach has been successful. Once colleagues are able to ask the questions that they have about homosexuality and about the service of gay and lesbian soldiers, any remaining discomfort seems to disappear. With respect to the colleague who was once afraid to voice his queries,



Chief Petty Officer Nunn reports that he is “nice as pie now” (Personal Communication, October 17, 2000).

All four respondents feel positively about the policy change. While Lieutenant Commander Griffiths and the junior technician believe that it is too early to know if the policy will be implemented fairly for both heterosexual and homosexual soldiers, Corporal Blyth and Chief Petty Officer Nunn both feel that the army is committed to providing equal standards for heterosexual and homosexual soldiers alike. Corporal Blyth says that, “In fact I now feel more protected under the military code than my partner does at work ([h]e’s a civilian)” (Personal Communication, October 27, 2000).

Chief Petty Officer Nunn believes that he has already seen evidence of the military’s commitment to enforcing across-the-board both a code of social conduct and a zero-tolerance policy for harassment. He explains:

To a person, everybody I’ve talked to, commander downwards, has said – if you’ve got problems, come and see me. ... I can deal with most of it. But you know, I know full well that if I went to one of them with it, it would be sorted out. They are more than willing to use the legislation, which is very good news from our point of view. (Personal Communication, October 17, 2000)

He also reports that he has just acted as the Provost Marshal at a Court Martial for a male soldier who had been sexually harassing female trainees. The male soldier was severely disciplined; he was demoted a rank, had to forfeit a medal and lost twelve years of good conduct. Chief Petty Officer Nunn argues that this punishment was a good example of the military’s willingness to apply the social code of conduct to all its servicemembers (Personal Communication, October 17, 2000).

Chief Petty Officer Nunn, Lieutenant Commander Griffiths and the junior technician also report that not much has changed in the day-to-day life in the Armed

Forces. The primary alteration has been that homosexual service personnel now have the option to reveal their sexual orientation without fear of discharge. Having this choice enables soldiers to confront comments or harassment by peers without having to worry about losing their jobs. Chief Petty Officer Nunn and Lieutenant Commander Griffiths both agree that service personnel were more receptive to a change in policy than MOD officials initially believed. Lieutenant Commander Griffiths declares:

The policy appears to have been put across as unwelcome but inevitable and the briefing officers seemed to be embarrassed by the requirement to tell their men and women of the change. Fortunately, the men and women seem to be much better able to cope with the change than senior officers were prepared to give them credit for and many of the men and women know friends or family outside of the Service who are gay. (Personal Communication, October 22, 2000)

For Chief Petty Officer Nunn, his assessment of the open-mindedness of the soldiers stems from both the reception he has received upon his return and the comments of his crewmates when he was discharged. When his co-workers originally heard that he was being dismissed, they expressed support for him:

In fact, all of them were coming up to me and saying 'if there's anything I can do, give us a shout', all this sort of stuff. And ... my commanding officer when he said goodbye to me, said that 'we can't afford to lose people like you, but my hands are tied'. And the attitude as far as I can see – certainly it's been proved since I got back - is that 'what the hell's the problem here?'. You do your job, and that's all they want from you. (Personal Communication, October 17, 2000)<sup>44</sup>

At the same time, however, the servicemembers agree that negative stereotypes about homosexuals continue to be widespread among British soldiers. Because the Armed Forces is such an insular climate, many gay and lesbian soldiers still feel fearful of revealing their sexual orientation in a setting where anti-homosexual feelings remain

pervasive. For the RAF junior technician, the homophobia of his colleagues has made him wary of telling anyone about the people that he dates or other aspects of his private life:

And [the restrictive military environment is] difficult, and that prevents people from coming out, the fact that it's such an insular environment, where everybody knows everyone else... and no matter if you get moved, someone else will find out, and that's the big problem for people at the moment, is that we know it's quite homophobic, and we know that there's not an easy way of getting away from it. And that's the worry we face at the moment – is the general perception of gay people. (Personal Communication, October 22, 2000)

But, he adds, 'Gay people are just like any other people' (Personal Communication, October 22, 2000). For Lieutenant Griffiths, changing heterosexual servicemembers' attitudes about gay and lesbian people will take time:

Overall, the [Royal Navy] seems to be treating the change in policy as a bit of a joke (I believe as an inherent defense mechanism) but this is likely to change as the numbers of openly gay people grow. I do not foresee a problem and the joke will stop once people get used to serving with lesbian and gay people. (Personal Communication, October 22, 2000)

For Corporal Blyth, such a change in attitudes has already begun:

Yes, there is less micky talking etc. We used to be a minority that was fair game to be the butt of someone's [sic] joke, but that is all changing. People are now aware that they used to serve with [closeted] gays and the ones I work with now know that they are serving with a gay man, [who] is proud of the fact he's gay. (Personal Communication, October 27, 2000)

## **IX. CONCLUSION**

The British Services fought for a number of years to maintain its policy of excluding openly gay and lesbian soldiers. Even after the outcome of the European Court

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<sup>44</sup> For other stories about positive responses by heterosexual colleagues before the policy change, see Hall (1995).

of Human Rights case appeared inevitable, the Armed Forces resisted calls to eliminate the ban. While the Ministry of Defense asked commanders to soften their enforcement of the ban in the months before the decision was handed down, it both refused to alter its basic policy and continued to dismiss soldiers for homosexuality. The last gay soldier was discharged from the military just three days before the ruling that overturned the ban on homosexual service. Service officials argued that the inclusion of open homosexuals would engender distrust, splinter working relationships, damage morale, and even harm operational effectiveness. Efforts to overturn the ban were deemed by some military officials to be inappropriate political meddling in military operations and harmful social engineering.

Once the decision was handed down by the European Court, however, the military acted quickly to put in place a policy that would both accord with the ruling and address effectiveness concerns. The Armed Forces enacted a new policy within three months of the decision by the European Court. It established a nondiscriminatory mandate that focuses on behavior rather than on personal characteristics. It emphasized the importance of equal application of the new social code of conduct and instructed commanders to intervene in soldiers' personal lives only when operational effectiveness might be compromised. It invited discharged soldiers to reapply and accepted back several former service personnel. The Services also reemphasized the policy of zero tolerance for harassment, bullying and victimization.

While the long-term effects of the elimination of the ban remain to be seen, the first ten months of the new social code of conduct and the more inclusive policy have been a clear and unqualified success. The Services' own internal assessment at six

months found that the new policy has “been hailed as a solid achievement” (Ministry of Defense, 2000e, p. 2). There have been no indications of negative effects on recruiting levels. The social code of conduct has been effectively incorporated into the military’s training courses. No mass resignations have occurred. There have been no major reported cases of gay-bashing or harassment of sexual minorities. There have been no major reported cases of harassment or inappropriate behavior by gay or lesbian soldiers. There has been no perceived effect on morale, unit cohesion or operational effectiveness. The new policy has been well received by soldiers, and the policy change has been characterized by a “marked lack of reaction” (Ministry of Defense, 2000e, p. 2).

The conclusions of the Ministry of Defense report have been confirmed by our conversations with more than twenty-five representatives from the military, academia, and non-governmental organizations. None of those interviewed know of any major problems associated with the policy change. No one has heard of any difficulties related to recruitment or training completion rates; recruitment levels are characterized as “quite buoyant” (Barnard, Personal Communication, October 13, 2000). There has not been a problem of mass resignations associated with the removal of the ban. None of those interviewed have heard of cases of serious homophobic harassment. Rank Outsiders, the only organization devoted exclusively to homosexual servicemembers, knows of only two cases of minor problems. The issues were quickly addressed by military personnel and effectively resolved. Out service personnel interviewed for this report and by other sources describe collegial treatment by their co-workers and other servicemembers.

Experts in all fields acknowledged that more work remains to be done, and new obstacles could still emerge. Homophobic attitudes persist throughout the Services, and

many soldiers therefore feel the need to remain silent about their personal lives. It is possible that some problems will develop as more gay and lesbian service personnel acknowledge their sexual orientation to colleagues, or if the Armed Forces relaxes its vigilance against harassment and inappropriate behavior of all kinds. Issues of equality such as pension, accommodation and partnership rights have yet to be addressed. Still, the distance that has been traveled over the past year is impressive. Concerns of dire consequences have been replaced by a general recognition that the transition has proceeded smoothly.

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