



Support Plan for Implementation

Report of the Comprehensive Review of the Issues Associated with a Repeal of “Don’t Ask, Don’t Tell”



November 30, 2010

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I

BACKGROUND

Overview

On March 2, 2010, the Secretary of Defense directed the Honorable Jeh Charles Johnson, General Counsel of the Department of Defense, and General Carter F. Ham, Commander, U.S. Army Europe, to “stand up an intra-Department, inter-Service working group to conduct a comprehensive review of the issues associated with a repeal of the [Don’t Ask, Don’t Tell] law.” The Secretary’s Terms of Reference required two deliverables: 1) a Report containing the Co-Chairs’ assessment and recommendations; and 2) “a plan of action to support the implementation of a repeal of the law.” This is that plan.

The Support Plan for Implementation was written in close collaboration with the Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)) and anticipates key elements of a successful implementation. It is based on the assessment and recommendations contained in the Co-Chairs’ Report. Because issues associated with repeal of 10 U.S.C. § 654 (commonly known as the “Don’t Ask, Don’t Tell” law) are subject to a shifting legislative and legal landscape, in order to implement any change in law or policy successfully the Department of Defense and the Services may need to deviate from some recommendations found in this Support Plan.

Until such time as Congress may act to repeal Don’t Ask, Don’t Tell, the Support Plan and subsequent related work by OUSD(P&R) and the Services serve as contingency plans that will assist the Department of Defense in preparing for a repeal, should it indeed occur. This plan is designed to support each of the Service Training Commands in developing training materials in the traditions and requirements of their respective Service. This plan does not mandate any activity, nor does it contain actual training documents or specific lesson plans; the body of the plan outlines the key policies affected if repeal occurs, while the appendices provide sample tools and information that Services may find useful in designing their training and communication materials. Planning now will allow the Department of Defense to better anticipate repeal-related issues and costs and will help to ensure that any post-repeal transition occurs with maximum efficiency and minimum disruption to a force engaged in combat operations and other demanding military activities around the globe. The Support Plan provides a basis upon which OUSD(P&R) and the Services can build executable, DoD-wide and Service-specific plans in the event of repeal.

The Support Plan links the Co-Chairs’ assessment and recommendations to OUSD(P&R) planning processes, thereby enabling a smooth transition from the Working Group to OUSD(P&R) now that the Working Group has completed its effort. The Support

Plan relies heavily on the research conducted by the various teams within the Working Group, survey data, engagements with the force, and the white papers produced by the Service academies. The Support Plan also builds on best practices gleaned from other relevant military and academic publications, the updated RAND study, and various Working Group interactions with and information provided by academic and military groups and other interested organizations.

Key Implementation Message

Based on engagements with the force and the assessment of the impact of repeal, the Working Group distills the key message for risk mitigation and successful implementation to **Leadership-Professionalism-Respect**.

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

Professionalism. Leaders must emphasize Service members’ fundamental professional obligations and the oath to support and defend the Constitution that is at the core of their military service. In the profession of arms, adherence to military policy and standards of conduct is essential to unit effectiveness, readiness, and cohesion.

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

A clear focus on **Leadership-Professionalism-Respect** will enable any change in policy to be executed with minimal disruption to the force.

Stages of Implementation

The Support Plan addresses both short-term preparation for and execution of a repeal of 10 U.S.C. § 654, as well as long-term sustainment. The Support Plan breaks the implementation process into three stages, each covered in a separate section: “pre-repeal” (section III), “implementation” (section IV), and “sustainment” (section V).

The pre-repeal stage would begin at the direction of the Secretary of Defense, prior to the enactment of any legislation that would bring about repeal of the law. During this stage, the Department of Defense and the Services would continue to review existing policies and issuances affected by repeal, and prepare new or revised issuances based on the recommendations in the Working Group’s report, should the Secretary approve those recommendations. The Department of Defense and the Services would also develop education and training materials and communications plans that would be used in the implementation stage. Because the pre-repeal stage assumes that no repeal

legislation has yet been passed by Congress, it would not be appropriate to commence education and training programs for the force during this stage.

The implementation stage would begin upon the enactment of legislation bringing about repeal of the law, should such legislation be enacted. This stage would last until some point after the effective date of repeal, once the roll-out of new policies has been completed. During the implementation stage, prior to the effective date of repeal, the Department of Defense and the Services would finalize the policy revisions started during the pre-repeal stage. Education and training programs necessary to prepare the force for repeal and to communicate the upcoming policy changes would then be executed. Upon the effective date of repeal, the Department of Defense and the Services would put any new or revised policies into effect.

Finally, the sustainment stage would begin at some point after the new policies have been put into effect, and would be ongoing. The sustainment stage would involve follow-on review and ongoing monitoring of implementation of repeal, in order to make adjustments to implementation based on the experiences of the Department of Defense and the Services to that point.

While the Support Plan separates these stages into distinct sections for ease of discussion, in execution the precise boundaries between them may not so easily be discerned.

Legislative and Legal Context

The Support Plan for Implementation is written at a time when the legislative and legal landscape regarding Don't Ask, Don't Tell is in flux. As of this writing, legislation that would allow for repeal of 10 U.S.C. § 654 is under consideration by the 111th Congress, but has not been enacted into law. The Don't Ask, Don't Tell law and policy are also the subject of ongoing constitutional challenge in Federal court.

The Support Plan does not make assumptions about the content or timing of repeal legislation, should such legislation be enacted. Depending on the content and timing of such legislation, the specific actions taken during the pre-repeal and implementation stages may need to be adjusted, and the boundaries between the stages may overlap.¹

The Support Plan also does not assume any outcome of ongoing litigation, or changes to other laws affecting the implementation of repeal, such as the Defense of Marriage Act.²

1 For instance, under the legislation currently contained in the House of Representatives version (H.R. 5136) and Senate Armed Services Committee version (S. 3454) of the National Defense Authorization Act for 2011, repeal would only take effect 60 days after the delivery of a certification signed by the President, Secretary of Defense, and Chairman of the Joint Chiefs of Staff. If such legislation were to pass in the near future, much of the development of policies and of education and training materials described in the “pre-repeal” stage would likely occur after the passage of the legislation; these activities would then blend into the finalization of policy changes and the execution of education and training described in the “implementation” stage, both of which would likely occur prior to certification.

2 1 U.S.C. § 7.

In general, this Support Plan is written with the awareness that the Department of Defense and the Services may need to deviate from its recommendations depending on legislative and legal outcomes that are unknown as of this writing. Furthermore, the Department of Defense and the Services must be mindful that, prior to the effective date of a repeal, 10 U.S.C. § 654 and associated policies remain in effect, and, as such, homosexual conduct remains a basis for separation from military service.

Additional Materials

Included in this Support Plan is a review of many of the materials the Working Group considered in developing this plan (in particular, the white papers provided by the Service academies). This literature review is provided in section II.

The Support Plan also contains four appendices that provide sample tools that may be useful for the Department of Defense and the Services in developing and executing education and training related to repeal. Appendix A contains recommended talking points. Appendix B lays out the Working Group's recommended education and training framework, including learning objectives for specific policy areas. Appendix C is a recommended leadership implementation guide to assist leaders at all levels in addressing practical issues associated with repeal. Appendix D provides a set of frequently asked questions (FAQs) and answers regarding repeal, as well as training vignettes covering a number of the Working Group's policy recommendations.

Finally, Appendix E suggests some strategies for undertaking follow-on review and ongoing monitoring of implementation of repeal.

II

LITERATURE REVIEW

Before developing the recommendations in this Support Plan, the Working Group reviewed the most recent thinking from military and academic professionals, to include external groups, and compared this review to the research and engagements the Working Group conducted. The Working Group found consistent themes across all the data considered. The Working Group specifically invited the Service academies to submit white papers and received submissions from the United States Air Force Academy (USAFA), the United States Coast Guard Academy (USCGA), the United States Military Academy (USMA),³ and the United States Naval Academy (USNA). These papers represent contributions from 37 uniformed and civilian faculty, commanders, staff, and cadets at the Service academies.

In addition to these white papers, the Working Group reviewed several books and articles published on implementation issues, along with papers submitted by interested groups. Two publications the Working Group reviewed were RAND's 1993 report and its updated 2010 study. The Working Group also reviewed literature representing both sides of the issue, including books such as Parco and Levy's 2010 *Attitudes Aren't Free: Thinking Deeply about Diversity in the U.S. Military Services*. Other major works reviewed by the Working Group in the preparation of this Support Plan are listed in the bibliography. The Service academy white papers, the two RAND reports, and *Attitudes Aren't Free* would, in particular, serve as good resources for planners and leaders who want to understand issues associated with a repeal of Don't Ask, Don't Tell, should it occur.

The Working Group's research, literature review, engagements with the force, and assessment of impact of repeal resulted in the key implementation message of **Leadership-Professionalism-Respect** as described in section I, and discussed further in section IV. This concept, when combined with the Working Group's approach to education and training, constitutes an implementation strategy that reflects many of the Service academy recommendations in their white papers. Those papers identified four ideas that are similar to the Working Group's key implementation message:

- 1. Leadership Matters Most.** Unified, strong leadership is the most important factor in successful transition. The manner in which DoD military and civilian leadership executes transition will determine the success of the transition process. To be effective, leaders must be given clear, equitable, and enforceable standards of conduct and the tools required to enforce standards and maintain good order and discipline in a sexual orientation-neutral way.

³ The USMA Office of Economic and Manpower Analysis (OEMA) also wrote a white paper, which predated the first Service academy white paper from USMA.

- 2. Minimize Management.** It is clear that effective management is important to any change process but management cannot be the driver of change. Therefore, while the Department of Defense will need effective and efficient management tools and processes, it is important to ensure that the processes developed to manage change should not dominate the change process. Unnecessary layers of new management requirements will slow down the transition process.⁴
- 3. Communicate and Educate.** Some training on the new rules and procedures will be needed as part of implementation. However, most training can be incorporated within already existing training programs, and extensive new or sensitivity-type training will not improve the implementation process. Communication and education should focus on actions and policies needed to maintain good order and discipline of an effective fighting force. Many Service members are uncertain about the prospect of serving with known gay or lesbian personnel, and have misunderstandings about the implementation process. Effective communication and education can provide needed information for effective post-repeal decision making.
- 4. Promote Strength through Professionalism.** Values such as respect, freedom, service, patriotism, integrity, and honor are some of the bonds all military professionals share. While each Service articulates these values slightly differently, these values share a common heritage with the military professional's oath to support and defend the Constitution of the United States. Military professionals are often called upon to subjugate their personal beliefs to this sworn oath as they obey the legal orders of those appointed over them. Our strength as an effective fighting force comes from our ability to apply our professional values to our conduct in training and in combat. Change must be grounded in these important professional values.

Service Academy White Papers

The idea for the Service academy white papers developed from Working Group Co-Chair General Carter Ham's vision of including the thoughts of Service academy scholars and leaders in the Working Group process. The concept solidified after an annual meeting of the Service academies (51st Annual Conference of Service Academy Superintendents (COSAS)) hosted at West Point in the spring of 2010. During the conference, senior Working Group leaders, including Co-Chair Jeh Charles Johnson, were at West Point for a scheduled engagement with academy personnel. During that visit, the Working Group leaders met with the COSAS group to discuss the Working Group process, and the academies began discussing their white papers. The United States Military Academy at West Point completed its white paper on May 18, 2010. Working from a draft of the West Point paper, the United States Air Force Academy completed its white paper on June 24, 2010. The United States Coast Guard Academy and the United States Naval Academy worked independently from these two papers and completed their papers in August 2010. By working this way, the Service academies were able to create a body of work that represents the joint expertise of all the Services

4 Kotter, *Leading Change* (1996)

and provides a comprehensive, multidisciplinary review of Don't Ask, Don't Tell and the process of organizational change.

United States Military Academy (USMA) white paper

The USMA white paper “provides a series of scholarly, evidence-based perspectives on the repeal of Don't Ask, Don't Tell” from the “academic disciplines of history, public policy, comparative politics, civil-military relations, sociology, psychology, organizational behavior, management, and law.” As the first of the four Service Academy papers, the USMA white paper provides more context than applied recommendations. This paper is important as the foundational work from the Service academies and represents a thorough review of many of the issues related to repeal. This paper also introduced the first three of the four themes that guided the Working Group's study of implementation. The ability of the USMA authors to succinctly, yet thoroughly, frame issues from a multidisciplinary perspective was a valuable source of information for the Working Group.

United States Air Force Academy (USAFA) white paper

The USAFA white paper team sought to supplement and build on the interdisciplinary review provided by their West Point colleagues. The USAFA team sought to “go beyond the contextual and scholarly analysis of the issues related to changes in Don't Ask, Don't Tell policy and provide actionable suggestions to assist decision makers in creating a culture of inclusiveness.” The authors framed the problem in the values of the profession of arms, the oath of office, and Service core values. The authors especially focused on the value of respect for human dignity. Other ideas offered by the USAFA team included suggestions on the use of training scenarios or vignettes, developing sexual orientation-neutral standards and training, the importance of initially focusing on behavior rather than attitudes or culture, developing a leadership information “tool-kit”, working training into pre-existing programs as much as possible, and developing specialized training for medical and legal professionals. The authors emphasized seven points:

1. Focus on military readiness, cohesion, and effectiveness and not difficult moral debates on sexual orientation.
2. Focus on “strength through respect” as a unifying theme embedded in military values.
3. Resolve practical issues such as housing and privacy quickly and with little fanfare.
4. Swift accountability for non-compliance.
5. Incorporate training into existing training as much as practical.
6. Culture change is a long-term process that will require persistence.
7. Do not allow a small vocal minority to dominate the debate.

United States Naval Academy (USNA) white paper

The USNA white paper summarized the USMA and USAFA white papers and provided five independently written perspective papers. Three perspective papers were written through the lenses of the three primary mission areas at USNA of moral, mental, and physical development; a fourth was from the Admissions Office and the fifth was from the Sexual Assault Response Coordinator (SARC).

The moral perspective paper proposed a “minimalist approach to change” similar to the West Point theme of minimizing management. This perspective identified the most important factor in successful repeal as “the steadfast and unwavering support of leaders from the most senior officers to the most junior midshipmen.” A seamless transition marked by ethical leadership will create “a sense of ownership in the process and promote the readiness of future leaders.” The mental perspective paper also provided recommendations for swift implementation should the law change. Finally, this perspective suggested that sexual orientation-specific policies and standards not be created and that existing conduct standards be used to address breaches to good order and discipline. The physical perspective paper discussed issues related to NCAA athletics and provided insights that may be useful to the other Service academies post-repeal.

In addition to the perspective papers covering the three main mission elements at USNA, papers from the Admissions Office and the Sexual Assault Response Coordinator round out the USNA white paper. The admissions perspective discussed tactical implementation practices related to training admissions staff to ensure new accessions are aware of the change in policy, creating communications, and collecting data on the impact of repeal. The perspective paper from the SARC expressed the opinion that policies and procedures are currently in place to support victims of sexual assault irrespective of their sexual orientation. This paper suggested that SARC offices already handle cases of same-sex assault and that repeal would remove some of the barriers for victims of same-sex sexual assault to report assaults.

United States Coast Guard Academy (USCGA) white paper

The USCGA’s interdisciplinary analysis cautioned against linear, compartmentalized thinking and offered perspectives on how organizational change theory can assist in the transition process. Based on their findings, the team recommended a professionalism-based framework for Don’t Ask, Don’t Tell repeal using the themes of leadership matters, minimize management, maximize education, and promote professionalism. The USCGA paper also expanded the discussion on organizational change introduced in the USMA paper and further developed in the USAFA paper. Leader-led change throughout the organization was identified as an important component of successful organizational change.

An important contribution of the USCGA paper was a thoughtful discussion of the religious and moral issues related to Don’t Ask, Don’t Tell. The authors offered the idea

that religious plurality is a core American value and that constitutional protections allow all Service members to retain their personal views regarding homosexuality without fear of reprisal. The United States is characterized by both religious freedom and religious diversity and citizens do in fact make different choices about their personal spirituality. As such, there is diversity of opinion on homosexuality both across religions and within denominations. Military leaders must lead all members without prejudice regardless of their religious or personal convictions.

In its recommendations for implementation, the USCGA white paper authors suggested five coequal components of a successful repeal process:

1. Consistent professional ethos and core values linkages.
2. Leader-led implementation at all levels.
3. Providing resources and tool sets to all leaders.
4. Focusing on unit cohesion and military effectiveness and readiness.
5. Assessment and leader accountability.

Finally, the USCGA white paper suggested that preparation, communication, and execution of the repeal process “should be based in the core values and professional ethos of the individual Services.” Each Service should personalize its implementation plan in a way that demonstrates ownership of the process in the context of Service values and respect for human dignity.

United States Military Academy Office of Economic and Manpower Analysis (OEMA) white paper

In a April 28, 2010, white paper that predated the four Service Academy white papers, the United States Military Academy Office of Economic and Manpower Analysis (OEMA) provided a baseline analysis of implementation issues related to the repeal of Don't Ask, Don't Tell. Not surprisingly, OEMA's main contribution to the discussion was a focus on the process of assessing the impact of repeal on the force. In order to prepare for follow-on review, the OEMA report recommended collecting data on several metrics to provide the Department of Defense a pre-repeal, baseline measure.

The OEMA white paper offered a list of recommended implementation efforts based on their analysis, to include:

1. Leadership must provide unqualified and committed support for the policy change.
2. Any non-discrimination policy should be adopted in concert with regulations governing all behavior, regardless of sexual orientation.

3. Enforcement of the policy must be uniform.
4. Training in support of the policy should address inappropriate behaviors without reference to sexual orientation.

Finally, the OEMA white paper cautioned that whatever policy is ultimately adopted by the Department of Defense, the costs to military readiness of being reactive versus proactive can be significant. Therefore, early preparation for any potential change will assist in both the efficiency and the effectiveness of the change process. The report suggested that metrics collected pre-repeal will greatly assist in a proactive understanding of repeal issues. This position was echoed in the USNA white paper: “Once the Department of Defense gives the direction, we should be ready to make the change without delay.”

Other Academic Literature Related to Don’t Ask, Don’t Tell

In addition to the Service academy white papers, the Working Group reviewed the 1993 RAND study, the 2010 RAND study, Parco and Levy’s (2010) *Attitudes Aren’t Free*, other academic writings on Don’t Ask, Don’t Tell; interacted with multiple groups such as the Brookings Institution/Palm Center Forum on the Experiences of Foreign Militaries; received inputs from interested groups; and issued multiple data calls. The total body of literature reviewed overwhelmingly converged on the four themes of leadership matters most, minimize management, communicate and educate, and promote strength through professionalism.

In addition to these four themes, the literature also suggested the following goals for each stage of the implementation process:

1. Goals of Pre-repeal.
 - a. Develop a strategic vision and a strategic communications plan.
 - b. Develop a plan for change (e.g., policy review, training/education materials).
 - c. Cultivate unified leadership committed to change.
 - d. Stress organizational values related to change (e.g., respect, team, integrity).
 - e. Emphasize preparation.
2. Goals of Implementation.
 - a. Publish revised policies, instructions, and regulations.
 - b. Roll-out education and training materials.
 - c. Ensure senior leaders and commanders brief change to the force, public, retirees, and other interested groups.

- d. Conduct specialized training for chaplains, JAGs, medical, counselors, recruiters, and personnel specialists.
 - e. Ensure standards of conduct are equally applied without reference to sexual orientation.
 - f. Emphasize behavior (not attitudes) and standards.
3. Goals of Sustainment.
- a. Conduct on-going assessment and adjustment.
 - b. Continue to train new personnel.
 - c. Manage resistance with ongoing education and swift, appropriate response to violations of standards.
 - d. Provide support to people most impacted by the change.
 - e. Monitor changes in Federal law and adjust as needed.
 - f. Emphasize a culture of respect and inclusiveness.

Conclusions

As mentioned earlier, the most frequently cited idea across all the data sources reviewed for this Support Plan was that successful transition depends on effective leadership. Leadership must be unified at all levels of the chain of command. Commanders must have the authority to effectively execute the change and be held accountable for its implementation. Several other ideas also emerged consistently across most of the data sources. Ultimately, these frequently-cited ideas are all variants of the Working Group's key message for successful implementation of a repeal: **Leadership-Professionalism-Respect**. Nonetheless, as the Department of Defense and the Services work to frame the change process from pre-repeal preparation through sustainment, there is value in noting a few more particularized concepts:

- A clearly articulated vision of what the Department of Defense expects as a result of repeal, should it occur, is an important part of the change process. An essential part of this vision is the ability to apply unifying military values, especially respect for all Service members, to the transition process.
- Many Service members' views about Don't Ask, Don't Tell have a strong religious and moral component. Religious pluralism is a core American value and Service members have a wide range of religious views on this issue. Service members will not be required to change their personal views and religious beliefs. They must, however, continue to respect and co-exist with others who may hold different views and beliefs, consistent with the core values that already exist within each Service.

- Each Service culture is unique and implementation must account for and align with Service core values.
- Unit cohesion is a leadership responsibility and leadership is the best way to mitigate potential cohesion problems.
- Respect strengthens the team and is the most important value associated with the effective inclusion of any new group. Respect does not mean agreement with a person's point of view. Respect does mean honoring a person's right to hold their point of view even if it differs from yours.
- Education and communication will be important aspects of the implementation process. Accurate and timely information is important. People want to know "What does this change mean to me?" Information that answers this very basic question will greatly assist in the implementation process.
- Focus on military readiness, cohesion, and effectiveness and keep sexual orientation a private matter as much as possible. Behavior consistent with the military mission should guide implementation.
- Focus on standards of behavior and not attitudes. Policies and standards should be sexual orientation-neutral, clearly worded, and equally enforced. The goal is equitable treatment for all without endorsing any particular point of view or belief system.
- Recurring assessments that measure performance and impact of repeal on military readiness, cohesion, and effectiveness are important.

Note on the Service Academy White Papers

The Service academy white papers occupy a unique position in the scholarship on military service by gays and lesbians in the United States, primarily because Service academies are responsible for developing future officers and preparing them for military leadership. The current legal and legislative landscape is unclear, but it is likely that this issue will be an ongoing source of debate among Service members as the broader national conversation about sexual orientation continues. Academy and ROTC students of today will be asked to lead any changes that may arise in the future, first as junior officers, and later as commanders and senior leaders. Current academy perspectives, therefore, have an important impact on leadership trends in the years ahead. Further, as educational institutions, the academy faculties represent some of the best thinking of the Military Services. The white papers not only provide a rigorous analytical approach to the issue of gay and lesbian service, but also reflect the breadth of first-hand command experience of senior military officers. For these reasons, the Support Plan draws on the analysis and conclusions of those papers to inform its approach to implementation.

III PRE-REPEAL STAGE

The pre-repeal stage would begin at the direction of the Secretary of Defense, prior to the enactment of any legislation that would bring about repeal of 10 U.S.C. § 654. During this stage, the Department of Defense and the Services would continue to review existing policies and issuances affected by repeal, and prepare new or revised issuances based on the recommendations in the Working Group's report, should the Secretary approve those recommendations. The Department of Defense and the Services would also develop education and training materials and communications plans that would be used in the implementation stage.

Because the pre-repeal stage assumes that no repeal legislation has yet been passed by Congress, this section focuses on actions that may appropriately be taken prior to Congressional action and while 10 U.S.C. § 654 remains in effect.

Key Implementation Message

As previously mentioned, the key message for successful implementation is **Leadership-Professionalism-Respect**. Among these three, leadership matters most. Leaders at all levels of the chain of command set the example for members in the unit and must be fully committed to DoD policy to sustain unit effectiveness, readiness, and cohesion. All Service members must remember their professional military obligations and their oath to support and defend the U.S. Constitution. In the profession of arms, adherence to military policy and standards of conduct is essential to unit effectiveness, readiness, and cohesion. Finally, each member of the unit must be treated with respect and dignity. A clearly articulated message of **Leadership-Professionalism-Respect** will enable any change in policy to be executed with minimal disruption to the force.

Pre-Repeal Overview

During the pre-repeal stage, the Department of Defense and the Services should prepare for repeal in four key areas: policies and regulations, education and training, leadership communication, and implementation assessment.

A. Legal, Policy, and Regulatory Issues

- Review and prepare for revision of necessary policies, regulations, and instructions affected by repeal.
- Review and prepare for required changes to the Uniform Code of Military Justice (UCMJ) and the *Manual for Courts-Martial* (MCM).
- Further study the fiscal impact and timing of repeal actions.

B. Education and Training

- Services draft initial training documents and lesson plans for specialty areas (e.g., judge advocates, chaplains, medical, personnel, recruiters) and the force.
- Services prepare content for Service member education (e.g., FAQs, leader toolkits, vignettes for issues related to repeal). Plan for distribution via various media: manuals, websites, and social media.
- Services develop training documents and lesson plans for BMT, officer accessions, professional schools, and other educational forums.
- Develop sexual orientation information for future incorporation into human relations and sexual assault prevention training programs as appropriate.
- Develop informational materials appropriate for distribution to military spouses, supporters, and families.

C. Leadership Communications

- Develop and articulate a clear leadership vision.
- Prepare memoranda to be issued by senior DoD and Service military and civilian leaders.
- Prepare press releases and senior leader talking points.
- Inform retired and active duty General Officer and Senior NCOs/CPOs on the Working Group study and recommendations.

D. Pre-Repeal Preparation for Implementation Follow-On Review

- Identify and begin to prepare appropriate monitoring mechanisms to measure the success of follow-through on repeal.

Pre-Repeal Analysis

A. Legal, Policy, and Regulatory Issues

The Working Group reviewed existing DoD policies, regulations, and UCMJ articles related to repeal and recommends the Department of Defense and the Services review the following and develop appropriate guidance in the pre-repeal stage:⁵

1. Separation for Homosexual Conduct

- DoDI 1332.14, *Enlisted Administrative Separations*, March 29, 2010, and DoDI 1332.20, *Officer Separations*, March 29, 2010, should be amended to eliminate homosexual conduct as a basis of separation.
- DoD discharge code for homosexual conduct should be deleted.
- Services should review any specific instructions or regulations regarding separations on the basis of homosexual conduct, along with any corresponding separation and re-enlistment codes.

2. Standards of Conduct

In the Working Group's engagements with the force many Service members questioned whether standards of conduct would be maintained after repeal of Don't Ask, Don't Tell. Many of these concerns were about conduct that is already regulated in the military environment, regardless of the sexual orientation of the individuals involved.

As such, the Working Group does not recommend an extensive set of new or revised standards of conduct in the event of repeal. Instead, the Working Group recommends that the Department of Defense issue generalized guidance that all standards of personal and professional conduct should apply uniformly without regard to sexual orientation. The Working Group also recommends that the Services review existing standards of conduct to ensure that they are sexual orientation-neutral and provide adequate guidance, to the extent each Service considers appropriate, in the following areas:

- Public Displays of Affection (PDA)
- Dress and Appearance
- Unprofessional Relationships
- Harassment

⁵ This is not intended to be an exhaustive list. The Working Group anticipates that there may be additional policies, directives, and instructions not identified here that require review and, where necessary, amendment or alteration.

The Working Group recognizes the uncertainty many Service members currently have about this issue and notes that commanders will be instrumental in providing clarity for their units where there may be confusion. Therefore, the Working Group strongly recommends that commanders rely on the FAQs and vignettes provided in this Support Plan to answer questions and communicate policies to Service members. In the event of repeal, leaders must ensure that all Service members understand that the military's current high standards of conduct will continue to apply to all Service members.

- Services should aim to ensure they have standards clearly addressing the responsibility of leaders, supervisors, and subordinate personnel at all levels to foster unit cohesion, good order and discipline, respect for authority, personal safety, and mission accomplishment.
- Leaders at all levels should understand that repeal does not change their duty to ensure the impartial administration of standards of conduct. In cases where conduct is prohibited, leaders should be expected to take unbiased corrective or disciplinary action as necessary to preserve good order and discipline, unit cohesion, morale, military readiness, and combat effectiveness.
- Service members should understand they will be held accountable for their behavior without regard to sexual orientation.

3. Moral and Religious Concerns

In the Working Group's engagements with the force, a large number of Service members expressed religious and moral objections to homosexuality or to serving alongside someone who is gay. Some feared repeal of Don't Ask, Don't Tell might limit their individual freedom of expression and free exercise of religion, or require them to change their personal beliefs about the morality of homosexuality. The concerns expressed by the force, including the concerns of many in the community of 3,000 military chaplains, should not be downplayed.

In today's U.S. military, people of very different moral values and religious convictions already co-exist, work, live, and fight together on a daily basis. Policies regarding Service members' individual expression and free exercise of religion already exist and are adequate. Therefore, the Working Group does not recommend any policy change regarding Service members' exercise of religious beliefs, nor has it recommended any change to policies on the chaplains corps and its duties. Service members, to include chaplains, will neither be encouraged nor required to change their personal views and religious beliefs; they must, however, continue to respect and serve with others who hold different views and beliefs. Specifically for chaplains, the existing guidance developed by and for our chaplains, should be reiterated as part of any education and training concerning repeal. These regulations strike an appropriate balance between protecting a chaplain's First Amendment freedoms and a chaplain's duty to care for all.

4. Equal Opportunity

The Working Group does not recommend that the Department of Defense place sexual orientation alongside race, color, religion, sex, and national origin as a class eligible for various diversity programs, tracking initiatives, and the Military Equal Opportunity program complaint resolution processes. Instead, if a Service member experiences inappropriate interpersonal behavior where sexual orientation is a factor, he or she should use existing (non-MEO) mechanisms to file the proper complaint.

The Working Group recommends that, in a post-repeal environment, gay and lesbian Service members be treated under the same general principles of military equal opportunity policy to “promote an environment free from personal, social, or institutional barriers that prevent Service members from rising to the highest level of responsibility possible” and to evaluate Service members “only on individual merit, fitness, and capability.”

The Department of Defense should issue guidance on the prevention of discrimination, harassment, or abuse based on sexual orientation.

- Sexual orientation may not, in and of itself, be a factor in accession, promotion, or other personnel decision-making.
- Gay and lesbian Service members, like all Service members, shall be evaluated only on individual merit, fitness, and capability.
- Harassment or abuse based on sexual orientation is unacceptable.
- All Service members are to treat one another with dignity and respect regardless of sexual orientation.

The Department of Defense and the Services should ensure that MEO policies are clearly communicated to the force so Service members and leaders understand the proper manner in which to process discrimination complaints related to sexual orientation issues.

The Department of Defense should review its current MEO Program as established in DoDD 1350.2, *Department of Defense Military Equal Opportunity (MEO) Program*, August 18, 1995, to discuss how allegations based on harassment and “sex stereotyping” are actionable under the DoD MEO program, to the extent these allegations are based on gender (sex) as opposed to sexual orientation.

The Department of Defense should consider whether to issue guidance on how to process Service member complaints alleging discrimination based on sexual orientation. Any such guidance should discuss the distinction between complaints based on sexual orientation and complaints based on sexual harassment or sex stereotyping (gender) which are actionable under DoD MEO.

Defense Equal Opportunity Management Institute (DEOMI) should draft additional fact-based vignettes to supplement those in Appendix D in order to aid leaders in identifying and resolving discrimination-based complaints on “sex stereotyping” and “sexual orientation.”⁶

All Service MEO programs should be reviewed to ensure consistency regarding discrimination based on “sex stereotyping” and/or “harassment.”

5. Collection and Retention of Sexual Orientation Data

The Working Group does not recommend any new guidance. The Department of Defense and the Services should continue their policy against requesting, collecting, or maintaining information about the sexual orientation of Service members.

6. UCMJ

The Working Group recommends that the Department of Defense proceed with the Joint Service Committee (JSC) proposals to seek repeal of Article 125 of the UCMJ in its entirety and to amend Article 120 of the UCMJ to include forcible sodomy and sodomy offenses against children. The Department of Defense should also proceed with the JSC’s related proposal to amend the *Manual for Courts-Martial* (MCM) to include other aspects of Article 125 not barred by Federal court decisions (e.g., sodomy that is Service discrediting) in the punitive offenses section of the MCM under Article 134.

Additionally, the Working Group recommends the JSC review all other UCMJ offenses involving sexual conduct or inappropriate relationships to ensure sexual orientation-neutral application. For example, the offense of adultery defined in the *Manual for Courts-Martial* should be revised to apply equally to heterosexual and homosexual sex that is engaged in by or with a married person.

7. Privacy and Cohabitation

In most of the Working Group’s engagements with the force, a large number of Service members expressed their discomfort with sharing bathroom facilities or living quarters with those they know to be gay or lesbian. Leaders at all levels should be aware of the frequency and intensity of discussion on this topic, and the broad range of views that exists among Service members. As with standards of conduct, leaders should rely on the FAQs and vignettes provided in this Support Plan to answer questions and communicate policies to the force. The Working Group recommends that the Department of Defense prohibit the creation of separate bathroom and shower facilities based on sexual orientation. Besides being logistically impractical, “separate but equal” facilities would wrongly isolate and stigmatize some Service members. Consistent with

⁶ DEOMI assisted in the development of the vignettes in the Appendix D.

the military mission, commanders retain their authority to alter berthing or billeting assignments and may accommodate privacy concerns of individuals on a case-by-case basis.

Therefore, the Working Group recommends that:

- The Department of Defense prohibit berthing or billeting assignments based on sexual orientation, except that commanders should retain the authority to alter berthing or billeting assignments on an individualized, case-by-case basis, in the interest of maintaining morale, good order, and discipline, consistent with performance of mission.
- The Department of Defense prohibit the designation of separate bathroom or bathing facilities based on sexual orientation except that commanders would have the authority to accommodate privacy requests on an individualized, case-by-case basis, in the interest of maintaining morale, good order, and discipline, consistent with performance of mission.

8. Benefits

For reasons laid out in the recommendations section of the Working Group's report, the Working Group recommends that the Department of Defense not create a new status of "committed relationship" applicable to same-sex relationships for the purpose of benefits eligibility at this time. The issue of benefits eligibility is very complex and is part of the ongoing national political and legal debate concerning same-sex relationships and gay marriage. The Working Group recommends that the Department of Defense and the Services continue to treat all Service members not in a federally recognized marriage as "single Service members" for benefits purposes. However, to ensure all Service members have the support of important people in their lives—be they a spouse, long-time partner, parent, or friend—the Working Group recommends that the Department of Defense and the Services review those benefits that may, where justified from a policy, fiscal, and feasibility standpoint, be revised to give the Service member the discretion to designate a person or persons of their choosing as a beneficiary. By extending these benefits and resources, the Department of Defense would enhance the vital role that a Service member's supporters can play in enabling them to accomplish the mission, especially during times of deployment stress.

Service members can currently designate beneficiaries of their choosing for several benefit and notification purposes. Federal law and DoD Instructions often establish the priority for the distribution of benefits and notifications for

Service members. For married Service members, the Service member's spouse is typically the first beneficiary, followed by children, parents, and then other relatives in the priority set by law. For single Service members, the typical order is children, followed by parents, and then other relatives. However, all Service members may designate other people to receive some benefits and notifications. These designations are usually made on the Service member's DD Form 93, *Record of Emergency Data* (RED) and the Servicemembers' Group Life Insurance (SGLI) Policy. Service members may want to designate permissible benefits to someone other than a person in the priority list set by law. This could include an unmarried partner, significant other, friend, or distant relative. Service members must be diligent to ensure their desired beneficiaries are properly documented in the event the Service member dies or goes missing while serving. As such:

- The Department of Defense and the Services should ensure benefit-related administrative processes and educational materials are sufficient to provide Service members with the information they need to properly designate beneficiaries and ensure that people they designate receive proper notification in the event the Service member dies or goes missing while serving.
- Commanders and other leaders should proactively counsel subordinates on the need to keep emergency data current. A thorough review of all emergency data must be conducted on a regular basis and prior to any deployment.
- Table 1 lists benefits the Working Group identified for which Service members can currently designate to a beneficiary of his or her choosing. This may not be an exhaustive list. The Working Group recommends that the Department of Defense and the Services study other possible benefits and beneficiary designations that currently exist.
- The Department of Defense and the Services should determine what other additional benefits and beneficiary designations could be extended to supporters of single Service members as allowed by law and where justified by policy, fiscal, and feasibility considerations.

Table 1. Benefits for Which Service Members Can Currently Identify a Beneficiary of His or Her Choosing

Benefit	Eligibility
<ul style="list-style-type: none"> • Service members' Group Life Insurance (SGLI) – Eligible Beneficiary • Veterans' Group Life Insurance (VGLI) – Eligible Beneficiary 	<p>A Service member can designate anyone to receive SGLI/VGLI payments if properly designated as a beneficiary. If undesignated, a person might only receive as a residual beneficiary if authorized by law. (38 USC §§ 1965-1980A)</p>
<ul style="list-style-type: none"> • Post Vietnam-Era Veterans Assistance Program (VEAP) • All-Volunteer Force Educational Assistance (VEA) Program (Montgomery G.I. Bill – Active Duty), Death Benefit 	<p>A Service member can designate anyone to receive unused contributions if properly designated as an SGLI beneficiary. (38 USC §§ 3201-43 and 38 USC §§ 3011-3020)</p>
<ul style="list-style-type: none"> • Beneficiary for Death Gratuity • Beneficiary for Final Settlement of Accounts: Deceased Members (Pay and Allowances) 	<p>A Service member may designate on the DD Form 93 a person or persons of their choosing to receive the full value of this benefit. (10 USC § 1477 and 10 USC § 2771; Implemented by DoDI 1300.18)</p>
<ul style="list-style-type: none"> • Survivor Benefit Plan (SBP) 	<p>A Service member may designate anyone to receive the retirement annuity if the Service member is not married and does not have a dependent child. (10 USC §§ 1447-1455; Implemented by DoDI 1332.42)</p>
<ul style="list-style-type: none"> • Rights Regarding Care, Management, and Transition of Recovering Service Member (Wounded Warrior Act) 	<p>A Service member can appoint anyone as a designated caregiver for a wounded Service member during recovery. (Pub Law 110-181 Secs 1601 - 1676; Implemented by DODI 1300.24)</p>
<ul style="list-style-type: none"> • Thrift Savings Plan (TSP) Beneficiary Designation 	<p>A Service member can designate anyone as a beneficiary. (See Chapters 83-4 of Title 5.)</p>
<p>Notes:</p> <ol style="list-style-type: none"> 1. Eligibility always follows a priority set by law unless otherwise properly designated by the Service members. Service members should always confirm the proper designation of all benefits with the appropriate installation personnel. 2. Federal law will not permit an unmarried partner to qualify as a “spouse,” “widow,” or “widower.” 3. Unused benefits not properly designated by the Service member will follow the priority set by law for each benefit. 	

9. Medical Policy

The Working Group has assessed that, in the event of repeal, there will be no change in the safety of the blood supply and no significant change in overall HIV prevalence. Consistent with the letter provided to the Working Group by the Surgeons General of the military departments, the Working Group recommends no new policies or modifications to existing medical policies.

10. Accessions and Recruiting Policy

As stated in item 5 above, it is the policy of the Department of Defense and the Services not to ask applicants for entry into military service to reveal their sexual orientation. The Working Group does not recommend any change to this policy.

- All recruiting and accession instructions of Service members should be changed to remove references to homosexual conduct as a basis for administrative separation or for denial of entry into military service. In particular, appropriate portions of DoD Instruction 1304.26 should be deleted.
- Recruiter training should continue to include a section addressing the prohibition on requesting or collecting information regarding applicants' sexual orientation.
- Interaction with the public is a fundamental part of recruiters' mission. Therefore, recruiters should be prepared to answer questions on repeal that they will inevitably receive from potential recruits and in public venues.
- Language pertaining to administrative separation for homosexual conduct should be removed from briefings given to applicants for enlistment and appointment regarding separation policy and personal conduct in the Military Services.
- Policies derived from subsection (c) of 10 U.S.C. § 654 requiring every applicant be briefed on the homosexual conduct prohibition in the Military Services, should be deleted or amended and relevant references from the periodic briefing requirement for enlisted members should be removed.
- The policy to brief every applicant for enlistment on personal conduct while at the Military Entrance Processing Station (MEPS) should be updated to reflect changes.⁷
- USMEPCOM Form 601-23-5-R-E, *Introductory Pre-Accession Interview* (requiring applicant to affirm he/she has been briefed on DoD separation policies and restrictions on personal conduct) should be updated as necessary.

⁷ MEPS personnel are required to administer the DoD Applicant Briefing on Separation Policy and Restrictions on Personal Conduct in the Military Services, USMEPCOM Form 601-23-4-E, to all applicants processing through MEPS for enlistment.

- DoD Applicant Briefing on Separation Policy and Restrictions on Personal Conduct in the Military Services for Officer Candidate School personnel should be amended.
- DoD Directive 1322.22, requiring each Service cadet or midshipman be briefed on separation policies within 72 hours of reception should be amended as appropriate.

11. Re-Accession

The Working Group recommends that the Department of Defense issue guidance to the Services permitting Service members previously separated on the basis of homosexual conduct to be considered for reentry, assuming they qualify in all other respects.

- Prior service personnel who meet all qualifying conditions and were discharged solely on the basis of homosexual conduct under 10 U.S.C. § 654 should have the same opportunity for reentry as other similarly qualified prior Service personnel.
- The fact that the basis of the separation was homosexual conduct should not be considered to the detriment of the applicant. If, however, there are reasons for discharge other than just homosexual conduct, these may be considered in the way they would for any other Service member. For example, a separation that resulted in an “other than honorable” characterization of service would disqualify a previously-discharged Service member from reentry under this policy recommendation.
- The Department of Defense should leave to the discretion of each Service how to change reentry codes in some uniform manner or, alternatively, to issue guidance to ensure that a disqualifying reentry code on a DD Form 214 will not prohibit consideration of a candidate qualified for reentry. (Some prior Service personnel may desire the DD Form 214 to remain historically accurate.)
- The Department of Defense and the Services should process claims for redress by Service members previously separated under 10 U.S.C. § 654 according to policies and procedures applicable to all prior Service members (i.e., through Service Boards for Correction of Military Records and Discharge Review Boards).
- The Department of Defense should coordinate with the Department of Veterans Affairs to determine if any veteran benefits for Service members separated under 10 U.S.C. § 654 need to be reinstated.

12. Release from Service Commitments

The Working Group does not recommend additional policies or procedures to allow for release from service commitments for Service members opposed to repeal of 10 U.S.C. § 654 or to serving and living with gay and lesbian Service members.

- Service members may request to be voluntarily discharged under the Military Department Secretary’s plenary authority. Under current policy, such discretionary discharge may only be granted when the Military Department Secretary has determined the early separation would be in the best interest of the Service.
- If a chaplain is unable to reconcile serving with or caring for gay and lesbian Service members with his or her faith, the chaplain may request that the relevant endorsing agency withdraw its ecclesiastical endorsement for him or her. This would trigger an administrative separation under DoDI 1304.28.

13. Family Readiness

Benefits and services are discussed in item 8 above. In addition, the Department of Defense and the Services should publish information to military spouses and families about repeal. The Working Group asked military spouses to identify how they would like to receive information about repeal. The responses to that question are presented in Table 2:

Table 2. Spouse Preferences for Information on Repeal from the Spouse Survey	
Question 11. If Don't Ask, Don't Tell is repealed, the military will want to prepare and assist spouses in understanding the new policy. How would you like the military to provide you with information on the new policy? MARK ALL THAT APPLY.	
	Overall
No special activities or communications would be necessary	43.0%
Distribute printed information to spouses about repeal	37.4%
Provide information about the repeal on military Web sites	34.3%
Have interactive chats available on line to answer questions from Service member spouses	8.2%
Conduct information sessions on bases and installations about repeal	13.5%
Provide information through military chaplains trained to work with spouses and family members on repeal	14.5%
Provide information through other military counselors trained to work with spouses and family members on repeal	14.1%
Provide information through Family Readiness Group/Work-Life Program leaders trained to work with spouses and family members on repeal	21.2%
Offer courses to spouses on how to discuss repeal within their families	9.1%
Other	3.6%

Based on these results and engagements with the force and military spouses, the Working Group recommends that the Department of Defense and the Services provide information to spouses and families as follows:

- The largest percentage of spouses who indicated they would like information about repeal would like printed or web-based materials. Family readiness personnel could use information in the appendices of this Support Plan to develop printed information for distribution to military families. This information should also be posted to military family websites (e.g., MilitaryOneSource.com).
- Family support staff, including counselors and military chaplains, should be trained to assist Service members and their families in discussing issues related to repeal. Links to helpful resources for talking to children and youth about repeal and sexuality could be placed on military family websites.
- The ability to send in questions to the Department of Defense and Service experts on repeal would help ensure accurate information is available.
- Place links to web-based resources in printed materials. Wallet-cards could be an efficient and cost-effective manner to advertise web site locations.

B. Pre-Repeal Education and Training

The Department of Defense and the Services should begin to prepare education and training programs for the force in the pre-repeal stage. The Working Group developed a framework for education and training with three tiers of education, each targeted towards different categories of DoD personnel for the most efficient distribution of information.⁸ A tiered approach to education and training will enable the Services to tailor information to a Service member's position, occupational specialty, and level of responsibility:

Tier 1 (Expert Level). Material targeted toward Service members responsible for administration or policy implementation, or whose occupation specialty requires that the Service member needs to understand the implications of any policy change. At a minimum this includes: judge advocates and civilian lawyers, chaplains, recruiters, personnel specialists, military law enforcement personnel, military criminal investigators, family support staff, military equal opportunity advisors, and health services personnel.

Tier 2 (Leader Level). Material targeted toward Service members in leadership positions who are responsible for maintaining standards of conduct, good order and discipline, and military effectiveness. At a minimum this includes: senior leaders (general/flag officers and senior executive service), commanding officers, chief

⁸ A complete description of the recommended education and training guide developed by the Working Group is located in Appendix B. The Working Group relied on the expertise of Service Headquarters Training leadership, Service Academy and War College academic leadership, OUSD(P&R) representation, and DEOMI leadership to identify the training requirements associated with the Working Group recommendations.

warrant officers, senior enlisted advisors, senior non-commissioned officers and chief petty officers, and civilian supervisors.

Tier 3 (Service Member Level). Material designed for all members of the Military Services, to be distributed as soon as practical after passage of legislation and prior to the effective date of repeal, and during accessions training for all personnel. At a minimum, all Service members should be briefed on the new policy and expectations of personal conduct in the military.

Education and training guidance at Tiers 1 and 2 should include more detailed information for senior leaders, commanders, and personnel responsible for implementing policy and should be more detailed than the general guidance provided to all Service members in Tier 3. As currently envisioned, Tiers 1 and 2 are discretionary requirements provided on a “need to know” basis, while Tier 3 is mandatory to ensure the education and training of all personnel on policies and standards of conduct. Effective education and training ensures that Service members have uniform, clear information, which allows them to follow new policy readily. The Department of Defense and the Services should prepare much of the education and training in the pre-repeal stage in order to enable execution of education and training in the implementation stage prior to the effective date of repeal.

- The education and training framework sets out what training must be provided, to whom, and the appropriate level of detail. The question of how to conduct the training should be left to Service training commands as much as possible.
 - The framework (see Appendix B) is organized in tiers, each tier describing the target audience, learning objectives, training guidance, and measures of effectiveness for the policy topic at issue.
- Much of the Level 1 and 2 training would occur as early as practical in the implementation stage, after the development of policies, to ensure that personnel responsible for executing those policies are adequately prepared. Tier 3 training should be rolled out to the force as soon as possible prior to the effective date of repeal.
- The Department of Defense and the Services must ensure that deployed troops receive adequate training quickly and without disrupting combat operations. The Working Group recommends that Service members deployed to a combat zone be informed about the basics of the change in policy and the key message of **Leadership-Professionalism-Respect**. The message to these troops must not degrade the combat mission but must succinctly and clearly inform troops of the new policy and the expectations for respecting all members of the force. Additional recommendations on education and training of deployed troops are located in section IV (Implementation Stage).

- The Department of Defense and the Services must also ensure that personnel in Special Duty assignments (e.g., fellowships, joint assignments, and attaché duty) are informed of the change in policy expeditiously.
- Recommendations for training content are included in the Recommended Training and Education Framework, Leaders' Implementation Guide, vignettes, and FAQs (see Appendices B–D). During the pre-repeal stage the Services should adapt this material to their Service culture.
 - For some specialty areas, especially combat arms, greater proportions of those surveyed expressed concerns about the impact of repeal. Training personnel should be aware of particular areas of concern and the concerns of particular specialties within the force (as described in the survey, assessment, and recommendations sections of the report) when they develop lesson plans and educational materials.

C. Pre-Repeal Leadership Communication

Communication from DoD leadership should consistently reinforce that, unless and until Don't Ask, Don't Tell may be repealed, homosexual conduct remains a basis for administrative discharge and existing policies remain in effect. This section recommends an approach to communications based on the findings of the Working Group.

1. Pre-Repeal Internal Leadership Communication

- Should repeal occur, leadership will be the best predictor of successful transition.
- Leaders throughout the chain of command should be familiar with the concerns voiced to the Working Group during its engagements with the force.
- Senior leaders should actively explain to Service members the Working Group process, findings, and recommendations.
- Senior leaders should reinforce professional military values such as respect for human dignity, integrity, and selfless service so that the force is best prepared for repeal should the law change.

2. Public Communication

In addition to internal communications for the force, leadership should prepare to engage with the public, media, and key constituencies like veterans' groups, Service academy graduate organizations, and advocacy groups that provided input to the Working Group. The message should emphasize that, with or without repeal, exemplary behavior is expected from all personnel and the professional focus of the Services will remain on combat readiness. Talking points should be prepared for leaders and targeted for different audiences, consistent with the law and with the President's and Secretary of Defense's intent and vision.

D. Pre-Repeal Preparation for Implementation Follow-on Review

The Department of Defense should establish baseline metrics for post-repeal review and an ongoing program to monitor military effectiveness and the workforce climate after repeal to ensure continued success in implementation, as specified in the Working Group's Terms of Reference.

- In keeping with the theme of minimizing impact on the force, the Working Group recommends that, to the extent possible, assessments be incorporated in existing surveys such as the DEOMI Organizational Climate Survey (DEOCS) and DoD IG processes. (See Appendix E.)
- The Working Group does not anticipate the need for an extensive survey similar to the surveys conducted during the preparation of this report. DEOMI and Service MEO specialists should be consulted to provide subject-matter expertise on effective DoD-wide and Service-specific monitoring approaches.

Summary

During the pre-repeal stage, the primary goals are the preparation of: 1) the necessary policies, regulations, and instructions required to implement a repeal; 2) the education and training plans that will best inform Service members and their families of the changes a repeal would bring; and 3) communications plans to be used during the implementation stage. Preparations that the Department of Defense and the Services make beforehand will enable an efficient implementation, should 10 U.S.C. § 654 be repealed. During this period, the Don't Ask, Don't Tell law and policy remain in effect, and the Department of Defense is obliged to and will enforce the law.

IV IMPLEMENTATION STAGE

The implementation stage would begin upon the enactment of legislation bringing about repeal of 10 U.S.C. § 654, should such legislation be enacted. This stage would last until some point after the effective date of repeal, once the roll-out of new policies has been completed. During the implementation stage, prior to the effective date of repeal, the Department of Defense and the Services would finalize the policy revisions started during the pre-repeal stage. Education and training programs necessary to prepare the force for repeal and to communicate the upcoming policy changes would then begin. Upon the effective date of repeal, the Department of Defense and the Services would put any new or revised policies into effect.

The Department of Defense and the Services must be mindful during this stage that, until the effective date of repeal, 10 U.S.C. § 654 and associated policies remain in effect, and, as such, homosexual conduct remains a basis for separation from military service. Depending on the provisions of the legislation enacted, the Department of Defense and the Services may need to adapt the content of this section.

Throughout the implementation stage, leaders should focus on the key message of **Leadership-Professionalism-Respect**. Committed, joint leadership will be the most important catalyst for success. Leaders must emphasize the professionalism of the force, and promote respect among Service members to execute the new policy effectively.

Implementation Overview

RAND's approach to implementation in its 2010 report is consistent with the Working Group's recommendations. The implementation chapter in the RAND report is a good supplement to this Support Plan that leaders, trainers, and planners may find useful in their preparation for repeal. Specifically, the following four activities are helpful in framing an execution strategy:

A. Update and Publish Policies

Policy changes drafted by the Department of Defense and the Services should be distributed quickly. These initial policies may need revision as implementation is executed.

B. Communicate the Change

Information should also be straightforward and communicated swiftly to the force. The vision for the Department of Defense should be clearly articulated and standards should be unambiguous and orientation neutral to the extent possible. A central idea that leaders should promote is that the new policies require changes in behaviors, not attitudes.

C. Provide Training

Training should be efficient and should not burden the force. Expectations for behavior should be clearly stated. Training should answer the question most Service members will ask during any change process: “How will this change affect me?” Special attention should be paid to providing education and training for deployed forces in a manner that does not impede their operations.

D. Emphasize Key Implementation Message

Leaders should promote and continually reaffirm the key implementation message: **Leadership-Professionalism-Respect** during implementation.

Implementation Analysis

A. Update and Publish Policies for Implementation

Listed below are legal, policy, and regulatory action items that the Working Group recommends the Department of Defense and the Services consider during the Implementation Stage:

1. Separation for Homosexual Conduct

- Publish new versions of DoDI 1332.14, *Enlisted Administrative Separations* (March 29, 2010), and DoDI 1332.20, *Officer Separations* (March 29, 2010), reflecting the elimination of homosexual conduct as a basis of separation.
- Publish regulations eliminating the separation code for homosexual conduct and provide guidance on how to interpret DD-214s.
- Services publish amendments to Service-specific instructions or regulations regarding separations on the basis of homosexual conduct, along with any corresponding changes to separation and re-enlistment codes.

2. Standards of Conduct

- The Department of Defense should issue generalized guidance that all standards of personal and professional conduct shall apply uniformly without regard to sexual orientation. The Department of Defense should also instruct the Services

to review their policies on standards of conduct to ensure that they are sexual orientation neutral and provide adequate guidance, to the extent each Service considers appropriate, on the following topics: public displays of affection (PDA), dress and appearance, unprofessional relationships, and harassment.

- Service standards should clearly address the responsibility of leaders, supervisors, and personnel at all levels to foster unit cohesion, good order and discipline, respect for authority, and mission accomplishment.

3. Moral and Religious Concerns

- Current DoD and Service policies on Service members' ability to freely exercise their religious beliefs are adequate. The Working Group does not recommend any new policies with respect to Service members' religious practices; however, the Department of Defense and the Services should continue to educate Service members on these policies.
- The Service should reiterate the principle that chaplains, in the context of their religious ministry, are not required to take actions inconsistent with their religious beliefs, but must continue to care for all Service members, and that evaluation, promotion, and assignment of chaplains will remain consistent with these long-standing principles.

4. Equal Opportunity

- The Department of Defense should issue guidance on the prevention of discrimination, harassment, or abuse based on sexual orientation, to include the following:
 - Sexual orientation may not, in and of itself, be a factor in accession, promotion, or other personnel decision-making.
 - Gay and lesbian Service members, like all Service members, shall be evaluated only on individual merit, fitness, and capability.
 - Harassment or abuse based on sexual orientation is unacceptable.
 - All Service members are to treat one another with dignity and respect regardless of sexual orientation.
- The Department of Defense and the Services should issue appropriate policy guidance reaffirming DoD's commitment to promoting "an environment free from personal, social, or institutional barriers that prevent Service members from rising to the highest level of responsibility possible" and prohibiting the evaluation of Service members on bases other than "individual merit, fitness, and capability," within the confines of the law and existing DoD policy.
- Execute new training requirements to include updates to existing MEO training, Prevention of Sexual Harassment (POSH) training, UCMJ training under UCMJ Article 137, complaint procedures under UCMJ Article 138, and Sexual Assault Response Coordinator (SARC) training.

- Services should review and update existing Service MEO programs to ensure that they are consistent with the updated DoD program. Consider:
 - Means of referring complaints of discrimination/harassment based on sexual orientation to leadership, to include level of commander discretion to either initiate investigation (command investigation, IG investigation) or resolve without an investigation using techniques of conflict resolution.
 - Methods to refer complaints of harassment to military law enforcement for criminal investigation, where appropriate.
 - Use of existing MEO resources to investigate complaints that allege same-sex harassment or “sex stereotyping” as opposed to discrimination based on sexual orientation.
- Commanding Officers should be trained on the possible implications for failing to take action on complaints that allege discrimination based on sexual orientation.

5. Collection and Retention of Sexual Orientation Data

- The Working Group recommends no new policies. The Department of Defense and the Services should continue their policy against collecting or retaining information on Service members’ sexual orientation.

6. UCMJ

- The Department of Defense should proceed with the Joint Service Committee (JSC) proposals to seek repeal of Article 125 of the UCMJ in its entirety and to amend Article 120 of the UCMJ to include forcible sodomy and sodomy offenses against children. The Department of Defense should also proceed with the JSC’s related proposal to amend the *Manual for Courts-Martial* (MCM) to include other aspects of Article 125 not barred by Federal court decisions (e.g., sodomy that is Service discrediting) in the punitive offenses section of the MCM under Article 134.
- JSC should continue to review all other UCMJ offenses involving sexual conduct or inappropriate relationships to ensure sexual orientation-neutral application, and take actions as appropriate.
- Update MCM training materials as necessary.

7. Privacy and Cohabitation

- The Department of Defense should issue guidance prohibiting berthing or billeting assignments being based on sexual orientation, except that commanders retain the authority to alter berthing or billeting assignments on an individualized, case-by-case basis, in the interest of maintaining morale, good order, and discipline, consistent with performance of mission.

- The Department of Defense should issue guidance prohibiting the designation of separate bathroom or bathing facilities based on sexual orientation except that commanders have the authority to accommodate privacy requests on an individualized, case-by-case basis, in the interest of maintaining morale, good order, and discipline, consistent with performance of mission.

8. Benefits

- Where it is permissible to do so under existing statutory definitions and where justified by policy, fiscal, and feasibility considerations, the Department of Defense should redefine the eligibility for benefits and/or support resources to allow Service members to designate a beneficiary or supporter of their choosing. (See “Benefits” in section III.)
- The Department of Defense and Services should continue to study extension of benefits in accordance with the law.
- The Department of Defense should provide clear guidance on benefits to all Service members so they have the information needed to properly designate beneficiaries for relevant benefits, including notification to appropriate family or support persons in the event the member dies or is missing.

9. Duty Assignments

- The Department of Defense and Services should develop and implement the appropriate guidance on lawful and unlawful behaviors for individual countries for pre-departure briefings when Service members are traveling to OCONUS assignments.
- The Services should make voluntary counseling available to gay and lesbian Service members on issues relating to same-sex partnerships and family relationships in various U.S. jurisdictions and foreign countries.

10. Accessions and Recruiting Policy

- The Department of Defense and the Services should ensure that recruiters, Military Entrance Processing Command personnel, Service Academy Liaison Officers and other accessions and recruiting personnel understand accessions and recruiting policies as described in “Accessions and Recruiting Policy” in section III.

11. Release from Service Commitments

- Services should communicate to the force that no new procedures will be developed for the early separation of Service members based on opposition to repeal or to serving and living with gay and lesbian Service members. Service members may request to be voluntarily discharged under the Military Department Secretary’s plenary authority, which will be granted only when the Secretary has determined the early separation would be in the best interest of the Service.

12. Family Readiness

- Publish and distribute printed materials on repeal to family support organizations, counseling centers, pediatric clinics, family practice clinics, and other areas frequented by military families.
- Publish information for families on appropriate websites (e.g., MilitaryOneSource.com) and social media sites (e.g., Facebook.com).
- Ensure family support staff, including counselors and military chaplains, are prepared to assist Service members and their families in discussing issues related to repeal.

13. Re-Accession

- Services review and publish regulations pertaining to Service Boards for Correction of Military Records and Discharge Review Boards as required.
- Services, in consultation with OUSD(P&R), issue guidance to their military personnel commands detailing necessary changes to separation codes to be executed promptly.
- Services should develop a communication plan to inform former Service members about the Department of Defense and Service policies regarding re-accession, as well as separation and reentry codes. This plan should include communications to the public to assist previously separated Service members, whose records were completed using pre-repeal codes.

14. Follow-On Review

- Identify new or existing review and monitoring processes (see Appendix E) that the Department of Defense and the Services can use to collect appropriate data to analyze success in implementing repeal.
- Establish a program of ongoing review of the implementation of repeal, to include reviewing and updating policy related to same-sex partner benefits when appropriate.

B. Implementation Communication

The senior leader communication announcing the change in policy should be clear and candid. All communications should capture the broader strategic vision and be grounded in professional military values such as respect, integrity, and service. Leaders at all levels of the chain of command must deliver consistent messages about the change in policy. Recommended talking points for leaders are provided in Appendix A to assist in developing and delivering the message. Tools for leaders and Service members such as the Leadership Implementation Guide (see Appendix C) and the FAQs and vignettes (see Appendix D) should also be disseminated quickly to provide accurate information about the change as soon as practical.

The Department of Defense should develop and execute an overarching communications plan that delivers a consistent message tailored to the wide range of interested parties. Interested parties will include uniformed Service members (both active and reserve), DoD civilians, family members, retirees and veterans, Veteran Service organizations, advocacy groups, and potential recruits. Central to this communications plan will be the vision and a statement from senior leaders explaining the rationale for repeal and the related policy changes.

Behaviors, not attitudes. Part of the communicated message should be a focus on behaviors rather than private attitudes, which will help promote unit cohesion and military effectiveness in environments of diverse opinions.

The Working Group recognizes that some Service members object to the repeal of Don't Ask, Don't Tell on religious or moral grounds. The Department of Defense and the Services should emphasize that no Service member is being asked to change his or her personal beliefs as a result of repeal of Don't Ask, Don't Tell. The United States is characterized by great diversity of religious and spiritual practices; it follows that there is diversity of opinion on homosexuality. Focusing on behaviors not attitudes will allow for this diversity of personal opinion while also leading to the most successful and least disruptive implementation of policy change.

Military leaders must lead all members without prejudice regardless of their religious or personal conviction, and Service members are expected to act professionally at all times even when they strongly disagree with another Service member's beliefs or sexual orientation. All personnel are subject to uniform standards of conduct as published by their Service and their Commands. Harassment and discrimination will not be tolerated.

C. Provide Implementation Education and Training

As discussed in the previous section, Services should provide specialty (Tier 1) and leadership (Tier 2) training as early as practical in the implementation stage, after the development of policies.⁹ Tier 3 training for all members of the force should occur as soon as practical after leadership is trained on the new policies.

It is important that leaders and specialists be the first to be trained so the force will receive a consistent and accurate message about repeal. Methods of training delivery are left to the discretion of the individual Service training commands.

Education and Training for Deployed Forces. The U.S. military has forces deployed worldwide in a variety of high stress assignments such as battlefields in the CENTCOM AOR, Training Teams in South America and Africa, and U.S. Embassy Guards. Training and education for deployed forces must not in any way impede the operations of forces directly engaged with the enemy. When training is delivered to

⁹ See Appendix B for the Working Group recommended training framework.

deployed forces, it must be concisely written and efficiently delivered. Commanders ensure minimum disruption by keeping the training requirement for all Service members simple, and this requirement is even more critical the closer the Service member is to the fight.

Commanders should become familiar with the information in the Leadership Implementation Guide, FAQs, and vignettes as they apply to deployed troops. Information that is applicable only to garrison settings, such as base housing assignments, should be omitted from training until the force returns to a garrison setting. The Services should include a training session on omitted information when deployed Service members return to garrison.

Combatant commanders must ensure that Service members have the information from their chain of command before hearing about it on the news or other social and media outlets. Leaders should use the Leadership Implementation Guide, FAQs, and vignettes to prepare their message to the troops. At a minimum, all Service members must understand the expectations for exemplary conduct and the key elements of the policy change. (See the Tier 3 training requirements in Appendix B.) The best place to start with the expectations for exemplary conduct is to emphasize the key implementation themes of **Leadership-Professionalism-Respect**.

The key elements to be communicated to deployed Service members should include the following:

- The Department of Defense will no longer separate service members solely for engaging in homosexual conduct.
- The Department of Defense will not require anyone to disclose their sexual orientation.
- Local commanders are authorized to determine potential privacy requirements and accommodations based on mission and supportability.
- All Service members are expected to conduct themselves in a professional manner that maintains good order and discipline within the force.
- All Service members will treat each other with dignity and respect in keeping with Service core values.
- Leaders at all levels will comply with this change in policy and establish a climate that fosters tolerance and respect of all individuals within their command.
- Any issues or questions about the policy change should be handled through respective Service member's chain of command.
- Harassment or violence towards another Service member will not be tolerated and will be swiftly and appropriately dealt with.

Finally, when units return to their forward operating base and have an opportunity to further consider the change in DoD policy, front line leaders must proactively address issues and concerns with their troops as soon as they are able. Leaders must be comfortable with the information in the FAQs and vignettes in order to discuss concerns of their troops when behind the wire and have free time on their hands. The most likely place for incidents of harassment and abuse is when Service members have disengaged from combat operations and have the free time to process and discuss the new policy. Maintaining good order and discipline will require leaders to support the new policy in their actions and words, fairly enforce orientation-neutral standards of conduct, and be role models of leadership, professionalism, and respect.

D. Emphasize Key Implementation Message

The Working Group has identified the key implementation message for implementation as **Leadership-Professionalism-Respect**. Each of those three elements is examined in greater detail here:

1. **Leadership matters most.** The message “leadership matters most” has been repeated throughout this Support Plan because the Working Group’s research indicates that this is the most critical predictor of successful implementation. Without strong leadership, the views of a vocal minority could negatively impact cohesion, readiness, and, ultimately, the effectiveness of a given unit.¹⁰ This research clearly indicates that the best mitigator for potential problems post-repeal is the frontline leader. For the past 17 years under Don’t Ask, Don’t Tell, leaders have successfully led Service members with widely divergent opinions on gay and lesbian military service. After repeal, leaders will continue to lead Service members with widely divergent opinions on gay and lesbian military service. The policy will have changed, but the leadership challenges will remain the same: the leader’s task is to build unit cohesion and maintain readiness in a diverse force so the unit is able to accomplish the mission effectively. By providing leaders at all levels with accurate information and the appropriate authority to carry out the mission, we enhance our ability to assure a smooth transition with minimal disruption to the force.
2. **Focus on professionalism.** The American military mirrors the diversity of the broader United States in many respects. As such, the force will have diverse opinions on complex social issues. Nonetheless, all Service members have taken oaths as military professionals to support and defend the U.S. Constitution, and have made a commitment to their Service’s core values. Emphasizing these professional obligations in a post-repeal environment will reinforce behavior that helps a unit accomplish its mission, thereby reducing any impact a policy change may have on military effectiveness.

¹⁰ For further information on this issue, see the USAFA White Paper, p.18, which discusses the concept of pluralistic ignorance—a situation where fear of judgment and the passionate expression of a minority opinion suppresses opposing views. This can lead to a false perception that a minority perspective is the norm in the community—particularly where there is an emotional component to the view, as is frequently the case with views on gay and lesbian military service.

3. **Promote strength through respect.** Each Service should capitalize on the strengths of their values and traditions as the foundation for maintaining the strength of our force. An important aspect of that strength is respect for the dignity of all people. Even where a Service member may personally object to another Service member's sexual orientation, the Service member is expected to treat that person with respect. Service leaders should emphasize the value of every member of the team.

V

SUSTAINMENT STAGE

The sustainment stage would begin at some point after the new policies have been put into effect, and would be ongoing. The sustainment stage would involve follow-on review and ongoing monitoring of implementation of repeal, in order to make adjustments to implementation based on the experiences of the Department of Defense and the Services to that point.

Successful sustainment of a repeal of Don't Ask, Don't Tell depends upon continued leadership support and responsiveness to the results of monitoring efforts. The Department of Defense and Service implementation plans must continue to provide leaders and Service members with the information and support they need to continue to implement repeal effectively. The Department of Defense should devise and employ appropriate monitoring mechanisms that will identify key metrics measuring implementation success in policy areas of concern, collect sufficient data for meaningful analysis at regular intervals, and determine and make appropriate adjustments to implementation.

Sustainment Overview

To accomplish an effective program of sustainment and analysis, the Department of Defense and the Services should:

- A. Identify and monitor policies and regulations in those areas that will be the greatest barometers of implementation success.
- B. Devise and employ a follow-on review strategy that will help OUSD(P&R) and the Services adapt and refine the policies and training approaches for greater implementation success.
- C. Adapt education and training tools to better implement repeal and continue to reduce potential impact to unit cohesion, effectiveness, and readiness.

Sustainment Analysis

A. Legal, Policy, and Regulatory Monitoring

The Department of Defense and the Services should monitor and evaluate the success of all the policy and regulatory changes identified in previous sections of this Support Plan; they are not all listed here. A small number of policies, however, would require additional specific sustainment action to continue facilitating a repeal with minimal disruption to the force. Those policies and the related additional actions are as follows:

1. Equal Opportunity

The Department of Defense and the Services should seek input from leaders to assess whether the DoD MEO policy has been successful in handling complaints based on sexual orientation as follows:

- The Department of Defense and the Services should collect data to determine the number of cases involving sexual orientation that have been filed/adjudicated. These cases would include military justice, complaints of wrongdoing filed under UCMJ Article 138, IG investigations, and complaints submitted (but not actionable) under MEO policy.
- The Department of Defense and Service legal communities should monitor legislation and Federal case law regarding sexual orientation, sex stereotyping, and related issues, and modify or update policies accordingly.
- The Department of Defense and the Services should survey the force to measure reactions to additions to the MEO training to determine whether the training needs modification.
- At some time interval after repeal, the Department of Defense and the Services should assess whether DoD policy on sexual orientation-based complaints is consistent with any changes in legislation and/or Federal case law.

2. UCMJ

At an interval determined by OUSD(P&R), the Department of Defense should request feedback from the Service military justice legal communities to determine whether additional changes to the MCM or UCMJ should be made to facilitate the most effective administration of justice post-repeal. The Services should review the data collected regarding the number of cases involving sexual orientation (e.g., hate crimes, harassment), to determine whether the force requires additional training to decrease the frequency of such behaviors. The Service legal communities should monitor Federal statutes and case law for any changes concerning crimes committed against or involving gays and lesbians. This information should be relayed to the Department of Defense so that, where appropriate, recommendations can be made for changes to the MCM and UCMJ.

3. Privacy and Cohabitation

Services retain the discretion—as budgetary constraints and mission needs permit—to modify facilities to provide one or more private showering/changing areas consistent with current DoD design guidance. Small modifications to improve privacy, such as installing privacy curtains where feasible, can be accomplished at the unit level with little impact on the force. As in civilian society, there will be locations, either at the fitness facility or in the field, where privacy will be minimal. Members of the Military Services must understand that the mission frequently demands operations in austere conditions where privacy is not a concern to operational planning.

As with shower and bathroom facilities, the Working Group does not recommend any new construction or modifications to facilities beyond low-cost, unit-funded adaptations where appropriate. Existing design criteria are adequate to support most billeting and berthing concerns in the the Department of Defense. DoD Unified Facilities Criteria (UFC) require that all new permanent party unaccompanied housing be designed to afford members private bedrooms and bathrooms shared by not more than one person (the “1+1” standard). DoD UFC will remain in effect regardless of repeal of 10 U.S.C § 654, as will existing Service waivers or exceptions and Services’ ability to apply for such waivers and exceptions. The continued construction of unaccompanied housing facilities in accordance with the 1+1 standard, subject to Service waivers and exceptions, will, over time, provide greater personal privacy to Service members as budgetary constraints and mission needs permit. Regardless of the availability of individual bedrooms for Service members, such construction would not affect berthing or billeting in deployed or shipboard environments.

4. Benefits

OUSD(P&R) should revisit the issue of benefits eligibility again in the future, specifically during the designated follow-on review, and perhaps periodically after that, as the national debate on same-sex marriage and partner benefits is ongoing and the judicial and legislative landscape is in a state of flux. During this review, depending in part on the degree to which the external landscape may have changed, the Department of Defense may consider creating a “qualifying relationship” status for same-sex relationships, or for both same-sex and unmarried opposite-sex relationships, if the experience of repeal to that point indicates that the extension of benefits in this manner would be desirable.

To effectively implement repeal, the Department of Defense must continually monitor and evaluate changes to the law throughout the implementation process. The Department of Defense should be especially attentive to changes in law that could trigger swift and unexpected changes in benefit eligibility for all Service members and their families.

Legislative changes could occur at the Federal or state level, with Federal changes likely to have a more immediate impact on the expansion of benefit entitlements than would be the case for changes at the state level. For example, changes to, or repeal of, the Defense of Marriage Act (DOMA), 1 U.S.C. § 7, and similar laws, would change the legal and regulatory definition of “spouse” upon which the Department of Defense and Services currently rely to determine eligibility. Likewise, Federal legislation redefining “dependent” to include a same-sex partner, or child of a same-sex partner, would broaden benefit eligibility.

5. Family Readiness

Readiness of Service members’ families has a direct impact on the overall military readiness of the force. As such, in the event of repeal, the Working

Group recommends that OUSD(P&R) engage with Service family members on a regular basis to reassess their readiness as part of ongoing sustainment efforts. OUSD(P&R) should address, at minimum, the three major subcategories of family readiness: mobilization and deployment readiness (deployment); mobility and economic readiness (relocation/PCS); and personal and family life readiness (garrison). Further, OUSD(P&R) should develop and employ the appropriate tools to gather data directly from the force and also from the various Service support centers catering to families' needs. OUSD(P&R) should work with the Services to assess and, where needed, improve family engagement initiatives that facilitate the transition from an environment in which gay and lesbian family matters have not been contemplated to an environment in which they are.

B. Devise and Employ Follow-On Review Strategy

1. Monitoring and Assessment

The Department of Defense and the Services should consider using exit surveys to assess Service member reasons for separating from the military and be able to measure success of implementation and any attendant changes in retention. Tracking and monitoring the number of reentry applications submitted by former Service members discharged under Don't Ask, Don't Tell is another means of evaluating success in communicating the change to former Service members and the public. The Department of Defense and the Services should utilize existing surveys and assessments already developed across the Services to monitor implementation of repeal on an ongoing basis. (See Appendix E.)

2. Fiscal Impact

OUSD(P&R) and the Services should, in conjunction with standard budgetary analysis and management procedures, track any costs directly attributable to repeal of Don't Ask, Don't Tell. Services should also account for those costs in budget projections for future fiscal years. Such costs might include benefits adjusted so that all Service members may designate a beneficiary of their choosing regardless of relationship.

C. Adapt Education and Training

Education and training programs will also need to adapt to the changing landscape of the public debate over gay rights. The first several years after repeal may produce adjustments to policies and regulations based on legislative and legal changes that may occur. The Department of Defense and the Services should posture themselves so that they do not have to react without preparation to new laws, judicial rulings, or executive directives. Similar to the contingent nature of this support plan, the Department of Defense and the Services should continue with a contingency planning process that anticipates future changes and prepares appropriate education and training programs.

Senior leaders should also continue to engage the force, both to monitor implementation and continue to reinforce the key implementation message.

Summary

OUSD(P&R) and the Services should engage in a systematic sustainment effort by collecting data, analyzing trends, and making policy adjustments as needed to better implement repeal of Don't Ask, Don't Tell. Each of the policy areas of concern discussed in sections III and IV of this Support Plan should, at least initially, be monitored as part of the sustainment effort, and amended as needed.

A

RECOMMENDED TALKING POINTS

Background: If Congress repeals 10 U.S.C. § 654, commonly known as “Don’t Ask, Don’t Tell,” then Service members must be informed of repeal, how it occurred, and new policies and practices.

- During the January 2010 State of the Union address, the President called on Congress to repeal 10 U.S.C. § 654.
- In support of the President, on March 2, 2010, the Secretary of Defense established an intra-Department, inter-Service working group to conduct a comprehensive review of the issues associated with a repeal of Don’t Ask, Don’t Tell.
- The review was completed on November 30, 2010, and assessed and considered the impacts a change in the law might have on military readiness, military effectiveness, unit cohesion, retention, recruiting, and family readiness, and how to best manage any such impacts during implementation.

The New Policy: Service members will no longer be discharged for engaging in homosexual conduct. This includes homosexual acts; statements that they are gay, lesbian, or bisexual; or marriage to someone of the same sex.

- Sexual orientation remains a personal and private matter.
- It remains the policy of the Department of Defense to evaluate all Service members on the basis of their individual merit, fitness, and capability.
- Sexual orientation may not, in and of itself, be a factor in accession, promotion, or other personnel decision-making.
- This policy change recognizes that the most valuable component of our national defense is the men and women in uniform who make up America’s all-volunteer force.
- Our military remains a lethal and professional fighting force. Fidelity in our values and our culture of mutual respect and obedience to orders provides the foundation for the superior strength of the U.S. military. The hallmark of military culture is professionalism: our laws, rules, customs, and traditions require adherence to high standards of personal and professional conduct to ensure mission accomplishment.

Details Regarding the New Policy: Regardless of sexual orientation, we will continue to hold Service members to the same high standards of conduct.

- Applicants for military service will not be asked or required to reveal their sexual orientation.
- Service members will not be involuntarily separated for lawful, consensual homosexual acts; a statement by a Service member that he or she is a homosexual or bisexual, or words to that effect; or marriage or attempted marriage to a person known to be the same biological sex.
- The Department of Defense is committed to maintaining an environment that is free from personal, social, or institutional barriers that prevent Service members from rising to the highest level of responsibility possible.
- The UCMJ remains the legal foundation of good order and discipline in the Military Services and is the vehicle for enforcement of proper conduct.

Key Messages For Our Leaders: In accordance with our mission to fight and win our nation's wars, our military will foster a climate of mutual respect consistent with our standards of professional conduct and core values.

- A clear focus on **Leadership-Professionalism-Respect** will enable this change in policy to be executed with minimal disruption to our already combat-stressed force.
- Commanders and leaders at every level must work to reinforce the importance of dignity and respect for all Service members. We promote these values by living them, and reaffirm our commitments to enforcing standards of conduct and the expectations for a military culture where Service members are valued for their contributions to national defense.
- The views and beliefs of those who are opposed to “open” service by gays and lesbians on well-founded moral or religious grounds are not being rejected, and leaders have not turned their backs on them. We do not expect individual Service members to change their personal religious or moral beliefs about homosexuality, but we do expect every Service member to treat all others with dignity and respect, consistent with the core values that already exist in each Service.
- Commanders remain responsible for maintaining good order and discipline. Harassment or violence among Service members will not be tolerated.
- Leaders reinforce standards of conduct and expectations for exemplary conduct of all Service members. Commanders’ leadership and personal commitment to implementation must be visible and unequivocal.
- Commanders are expected to communicate standards of professional conduct and build on their Service cultures where members are valued for their contributions and performance, respected, and treated fairly.
- The core of this issue is allowing all qualified citizens to serve based on individual merit, fitness, and capability, without regard to sexual orientation.

B

RECOMMENDED EDUCATION AND TRAINING FRAMEWORK

Education and Training Framework

The intent of providing an Education and Training Framework is to assist the Services in developing Service member knowledge of issues related to repeal based on their subject matter needs, rather than to provide a checklist of topics or number of hours of instruction required. As a starting point for commanders, leaders, training managers, trainers, and those being trained, the framework is organized by tier and describes the target audience, learning objectives, and training guidance for each policy issue topic. Education and training guidance at Tiers 1 and 2 include more detailed information for senior leaders, commanders, and personnel responsible for implementation that expands what is provided to all Service members in Tier 3. Tiers 1 and 2 are designed as discretionary education requirements based on the needs of leaders and specialists who will be charged with leading repeal efforts. Tier 3 is recommended mandatory education and training of all personnel. The Education and Training Framework provides three levels of understanding for the following categories of DoD personnel:

Tier 1 (Expert Level). Material targeted toward Service members responsible for administration or policy implementation, or whose occupation specialty requires that the Service member needs to understand the implications of any policy change. At a minimum this includes: judge advocates and civilian lawyers, chaplains, recruiters, personnel specialists, military law enforcement personnel, military criminal investigators, family support staff, military equal opportunity advisors, and health services personnel.

Tier 2 (Leader Level). Material targeted toward Service members in leadership positions who are responsible for maintaining standards of conduct, good order and discipline, and military effectiveness. At a minimum this includes: senior leaders (general/flag officers and Senior Executive Service), commanding officers, chief warrant officers, senior enlisted advisors, and senior non-commissioned officers and chief petty officers, and civilian supervisors.

Tier 3 (Service Member Level). Material designed for all members of the Services, to be distributed as soon as repeal is effective, and during accessions training for all personnel. At a minimum, all Service members should be briefed on the new policy and expectations of personal conduct in the Military Services.

Services should determine appropriate measures of effectiveness for each training area. This appendix provides a basis for the content Services should consider in their education and training lesson plans. The Services are responsible for education and

training program delivery to support implementation. This framework was written in close collaboration with OUSD(P&R), and while it anticipates key elements of a successful implementation, it should be acknowledged that this issue is dynamic and subject to a shifting legal and legislative landscape. OUSD(P&R) and the Services may need to deviate from some of the recommendations found in this appendix to reflect any changes in policy that occur after the Support Plan was written.

Education and Training Principles

Based on the Working Group's engagements with the force and research, the Working Group recommends the following principles when the Department of Defense and the Services are creating lesson plans to support repeal:

- Develop tools so leaders at all levels can deliver the key messages to the force as much as possible. The most important message in mitigating potential concerns related to repeal is: leadership matters most.
- Conduct training and education in a manner that minimizes the burden on the force to ensure military mission is not negatively impacted: keep it simple.
- Maximize autonomy of the Services for execution.
- Embed training and education in existing programs to the greatest extent possible.
- Promote sexual orientation-neutral execution to greatest extent possible.

Education and Training Guidance

The framework below lays out a statement of each policy topic and a basic explanation of education and training on that policy. The training guidance further expands the basic issue and how it should be approached in implementation. Service education and training programs should impress on all Service members the importance of exemplary conduct. This framework is designed to assist the Services in:

- Achieving and maintaining adequate and applicable uniformity of education and training requirements in support of the implementation of repeal.
- Understanding and interpreting standards of conduct and new policies for all tiers of training (Tier 1 Expert Level, Tier 2 Leader Level, and Tier 3 Service Member Level).
- Achieving consistency across implementation of education and training programs, mandatory instructional information, and discretionary materials.

- Developing instructional material related to implementation of repeal in a manner that is grounded in the profession of arms and an organizational climate of dignity and respect for all Service members.

Learning Objectives

1. Topic: Standards of Conduct

- Training guidance: Tiers 1 & 2.
 - Services will conduct a review of existing standards to ensure that they provide adequate guidance in relevant areas, to the extent the Service consider appropriate, and that they apply uniformly without regard to sexual orientation. Services will place special emphasis in their review on standards for personal displays of affection, dress and appearance, unprofessional relationships, and harassment.
 - Standards shall clearly address the responsibility of leaders, supervisors, and subordinate personnel at all levels to foster unit cohesion, good order and discipline, respect for authority, and mission accomplishment.
 - Leaders at all levels are trusted to ensure the impartial administration of these standards. Service members will be held accountable without regard to their own, or another's sexual orientation. In cases where conduct is prohibited, leaders shall be expected to take such corrective or disciplinary action as necessary to preserve morale, good order and discipline, unit cohesion, military readiness, and combat effectiveness.
- Training guidance: Tier 3.
 - Service members occupy a unique position in society and represent the military establishment. This special status brings with it a responsibility to uphold and maintain the dignity and high standards of the Military Services at all times and in all places. Service members must be ready at all times for worldwide deployment. This fact carries with it a requirement that Service members possess high standards of morale, good order, discipline, and cohesion. As a result, military laws, rules, customs, and traditions include restrictions on personal behavior that may be different from civilian life.
 - Standards of conduct regulate many aspects of Service members' personal lives that generally are not regulated in civilian society. The unique nature of military service requires regulation of behavior that brings discredit on the Military Services, adversely affects good order and discipline, or is inconsistent with military customs, traditions, and decorum.
 - The Uniform Code of Military Justice remains the legal foundation of good order and discipline in the Military Services and is the vehicle for enforcement of Service standards of conduct.
 - Service-specific standards of personal and professional conduct shall apply uniformly without regard to sexual orientation.

- The Uniform Code of Military Justice remains the legal standard for enforcing proper conduct, to include existing laws against harassment or violence against any Service member, for any reason.
- Violations of Service standards of conduct may be punished as violations of lawful regulations, orders, or derelictions of duty, as the case may be, under the Uniform Code of Military Justice.
- Service members may be involuntarily separated prior to the expiration of their term of service for various reasons established by law and military regulations, to include violations of Service standards of conduct.

2. Topic: Moral and Religions Concerns (Chaplains)

- Training guidance: Tiers 1 & 2.
 - Chaplains facilitate the free exercise of religion for all personnel, regardless of religious affiliation of either the chaplain or the individual.
 - Chaplains, in the context of their religious ministry, are not required to take actions that are inconsistent with their religious beliefs. Existing policy regarding chaplains' free exercise of religion and duty to care for all continues to apply.
 - Evaluation, promotion, and assignment of chaplains will continue to be consistent with these long-standing Service policies.

3. Topic: Moral and Religions Concerns (Service Members)

- Training guidance: Tiers 1 & 2.
 - Existing policies regarding Service members' freedom of expression and free exercise of religion continue to apply.
 - Service members can continue to freely practice their religion, being aware of the expectations set forth by the UCMJ and appropriate Service standards of conduct.
 - Service members are not expected to change their personal religious or moral beliefs; however, they are expected to treat all others with dignity and respect, consistent with the core values that already exist within each Service.
 - Service members do not have the right to refuse duty or duty assignments based on a moral objection to another's sexual orientation.
 - Service members remain obligated to follow orders that involve interaction with others who are gay or lesbian, even if an unwillingness to do so is based on strong, sincerely held, moral or religious beliefs. As expressed in the *Manual for Courts-Martial* regarding a Service member's obligation to obey

orders: “the dictates of a person’s conscience, religion, or personal philosophy cannot justify or excuse the disobedience of an otherwise lawful order.”

- Service members may, in appropriate circumstances and within the limitations of law and policy, express their moral or religious beliefs regarding sexual orientation. However, Service members may not make statements detrimental to good order and discipline and must obey lawful orders. Service members who feel that their religious beliefs regarding homosexuality require religious accommodation, may request such accommodation of that belief under DoDI 1300.17.

4. Topic: Equal Opportunity

- Training guidance: Tiers 1, 2 & 3.
 - Sexual orientation is not specified as a class eligible for the MEO complaint resolution process.
 - Gay and lesbian Service members are treated under the same general principles of military equal opportunity policy to “promote an environment free from personal, social, or institutional barriers that prevent Service members from rising to the highest level of responsibility possible” and Service members are evaluated “only on individual merit, fitness, and capability.”
 - Sexual orientation may not, in and of itself, be a factor in accession, promotion, or other personnel decision-making. Gay and lesbian Service members, like all Service members, are evaluated only on individual merit, fitness, and capability.
 - Harassment or abuse based on sexual orientation is unacceptable. All Service members are to treat one another with dignity and respect regardless of sexual orientation.
 - If a Service member experiences inappropriate interpersonal behavior where sexual orientation is a factor, he or she should use existing (non-MEO) mechanisms to file the proper complaint, namely the chain of command, the Inspector General, and other means as may be determined by the Services.
 - Tiers 1 and 2 personnel should be trained on the possible implications for failing to take action on complaints that are not cognizable under MEO, but allege discrimination based on sexual orientation. Possible implications include being the subject of an IG investigation, being the subject of a complaint of wrongs filed under UCMJ Article 138, being the subject of a Command Investigation, or being investigated for possible criminal misconduct under the UCMJ (e.g., dereliction of duty).

5. Topic: Collection and Retention of Sexual Orientation Data

- Training guidance: Tiers 1 & 2.
 - Sexual orientation is a personal and private matter.
 - The Department of Defense and the Services will not create a data category for Service member sexual orientation.
 - Service members will not be required to identify their sexual orientation, nor will any such information be collected and maintained in a system of records.
 - Information implicating a Service member's sexual orientation could be incidentally collected when, for example, a Service member designates a same-sex partner as an SGLI beneficiary, or a person to whom emergency notifications may be made.

6. Topic: Uniform Code of Military Justice (UCMJ)

- Training guidance: Tiers 1, 2, & 3.
 - Service members occupy a unique position in society and represent the military establishment. This special status brings with it a responsibility to uphold and maintain the dignity and high standards of the Military Services at all times and in all places. Service members must be ready at all times for worldwide deployment. This fact carries with it a requirement for Service members to possess high standards of morale, good order and discipline, and cohesion.
 - The UCMJ remains the legal foundation for good order and discipline in the Military Services and is the vehicle for enforcement of proper conduct.
 - Harassment, sexual assault, or other violence against any Service member, for any reason, is prohibited.
 - Violations of Service standards of conduct pertinent to professional relationships, and public displays of affection may be punished as violations of lawful regulations, orders, or derelictions of duty, as the case may be.
 - Sodomy under Article 125 of the UCMJ may be punishable if it is without consent (forcible). In light of decisions by the Supreme Court and the Court of Appeals for the Armed Forces, private acts of sodomy between consenting adults, regardless of their sex, are not punishable absent factors unique to the military environment (such as a superior-subordinate relationship or other circumstance adverse to good order and discipline). In light of these decisions, and the repeal of 10 U.S.C. § 654, conforming amendments to Article 125 of the UCMJ may be considered for presentation to the Congress and/or action by President.
 - The Department of Defense is considering other changes to the *Manual for Courts-Martial* to ensure sexual orientation-neutral application. For example, the adultery offense may be redefined to include both homosexual and heterosexual sex.

7. Topic: Privacy and Cohabitation (Showers, Dressing Areas, and Comparable Facilities)

- Training guidance: Tiers 1 & 2.
 - Service in the military makes it necessary at times for Service members to accept living and working conditions characterized by little or no privacy.
 - Sexual orientation is considered a personal and private matter.
 - Berthing or billeting assignments based on sexual orientation are prohibited, except that commanders retain the authority to alter berthing or billeting assignments on an individualized, case-by-case basis, in the interest of maintaining morale, good order, and discipline, consistent with performance of mission.
 - Compliance with professional standards of conduct will be essential to fostering respect among fellow Service members and resolving concerns about privacy. Commanders should use existing tools, to include counseling, non-judicial punishment, and court-martial, to deal with misconduct in living quarters or showers.

8. Topic: Benefits

- Training guidance: Tiers 1 & 2.
 - The Defense of Marriage Act and current benefit laws do not allow the Department of Defense to extend many key benefits—including dependent medical coverage, dependent-rate BAH, and dependent-based travel and transportation allowances—to a Service member in a relationship with a same-sex partner.
 - Federal law and DoD regulations do not restrict a Service member from designating a same-sex partner as a beneficiary for certain benefits such as the posthumous disbursement of funds from the Service member's Thrift-Savings Plan, or the selection of a beneficiary for the proceeds from a life insurance policy provided under Servicemembers' Group Life Insurance (SGLI). Service members should be informed about these benefits so that they may take advantage of them for their same-sex partners, should they desire to do so.
 - The Department of Defense and the Services are studying whether some benefits may, consistent with current law, be revised to give the Service member the discretion to designate a person or persons of their choosing as a beneficiary. By extending these benefits and resources, the Department of Defense would enhance the vital role that a Service member's supporters can play in enabling Service members to accomplish the mission, especially during times of deployment stress.

9. Topic: Benefits (Military Family Housing)

- Training guidance: Tiers 1 & 2.
 - The Department of Defense and the Services currently authorize assignment to military family housing (MFH) to those Service members eligible for Basic Allowance for Housing (BAH) at the with-dependent rate.
 - Current federal law including the Defense of Marriage Act precludes the Department of Defense from providing BAH to Service members at the with-dependent rate unless the Service member has a statutorily authorized dependent such as a child.
 - Current Service policies state that non-dependents are not allowed to reside in military family housing. There have been no changes to these policies.
 - Any exception to policy to allow a non-dependent to reside in military family housing must be administered without regard to sexual orientation.

10. Topic: Privacy and Cohabitation (Berthing/Billeting)

- Training guidance: Tiers 1 & 2.
 - Services maintain individual unaccompanied housing policies in accordance with DoD guidance.
 - Service in the Military Services makes it necessary at times for Service members to accept living and working conditions characterized by little or no privacy.
 - Sexual orientation is considered a personal and private matter.
 - Service members shall not be asked to identify sexual orientation as part of any routine application for assignment to unaccompanied quarters.
 - The Services shall not establish quarters or berthing assignment regulations or policies that segregate Service members according to sexual orientation. Applicable male/female segregation requirements remain in effect.
 - Commanders retain the authority to alter berthing or billeting assignments on an individualized, case-by-case basis, in the interest of maintaining morale, good order, and discipline, consistent with the performance of the mission.
 - Compliance with professional standards of conduct will be essential to engender respect among fellow Service members and resolve concerns about privacy.

11. Topic: Benefits (Committed Same-Sex Relationships)

- Training guidance: Tiers 1 & 2.
 - The Department of Defense is not at this time creating a new relationship status applicable to same-sex relationships for purposes of eligibility for benefits or personnel management policies and practices.

- As part of the post-repeal follow-on review, the Department of Defense will revisit the issue of benefits and support resources eligibility, including whether a “qualifying relationship” status should be established for committed same-sex relationships, or for both committed same-sex and committed unmarried opposite-sex relationships, for these purposes.
- The national debate on same-sex marriage and partner benefits is ongoing, and the judicial and legislative landscape is in a state of flux. It is possible that, in the future, additional policy options may be available.

12. Topic: Duty Assignments (Co-Location)

- Training guidance: Tiers 1 & 2.
 - The Department of Defense provides the Services discretion to consider dual-military spouse status in matters of duty assignment. The term “spouse” can only refer to opposite-sex married couples under the Defense of Marriage Act. As a result, a Service member in a same-sex relationship with another Service member is not eligible for collocation consideration.
 - The Department of Defense is not at this time creating a new relationship status applicable to same-sex relationships for purposes of eligibility for benefits or personnel management policies and practices.
 - Gay and lesbian Service members in committed same-sex relationships, like their unmarried heterosexual counterparts, can make an individualized, hardship-based request for accommodation in assignment.
 - As part of the post-repeal follow-on review, the Department of Defense will revisit the issue of eligibility for personnel management policies and practices, including whether a “qualifying relationship” status should be established for committed same-sex relationships, or for both committed same-sex and committed unmarried opposite-sex relationships, for these purposes.
 - The national debate on same-sex marriage and partner benefits is ongoing, and the judicial and legislative landscape is in a state of flux. It is possible that, in the future, additional policy options may be available.

13. Topic: Duty Assignments (Overseas Assignments)

- Training guidance: Tiers 1 & 2.
 - There are no restrictions on overseas assignments of gay and lesbian personnel.
 - All Service members will be provided with information on host-country laws and related military policies regarding homosexuality and homosexual conduct in standard overseas deployment briefings.
 - Current law limits the ability of the Department of Defense to fund and support accompanying travel for a Service member’s same-sex partner.

- Gay and lesbian Service members in committed same-sex relationships, like their unmarried heterosexual counterparts, can make an individualized, hardship-based request for accommodation in assignment.

14. Topic: Medical

- Training guidance: Tiers 1 & 2.
 - No modifications to existing medical policies have been made. Existing policies and procedures for HIV screening and testing, management of HIV-positive personnel, and management of the military blood supply continue to be effective.
 - The Service Surgeons General have determined that repeal does not affect the medical readiness of the force and that changes to medical policies are not necessary.
 - Member information revealed during medical evaluations and treatments continues to be protected under the Health Insurance Portability and Accountability Act (HIPAA).
 - Current policy that HIV-infected members shall not be retired or separated solely on the basis of HIV infection remains in place. Active duty members with HIV determined to be fit for duty are allowed to serve in a manner that ensures access to appropriate medical care.
 - Annual Service medical and first aid/buddy care training will continue to focus on modes of transmission and the prevention of HIV and other sexually transmitted diseases, with a requirement that more detailed education and training continue to be provided to healthcare professionals and other individuals working within patient care.

15. Topic: Accessions and Recruiting Policy

- Training guidance: Tiers 1 & 2.
 - The Department of Defense will not create a new policy for recruiting.
 - The current policy of not requiring an applicant to declare his/her sexual orientation remains in effect.
 - Sexual orientation alone is not a bar to military service or continued service.
 - The requirement for briefings given to applicants for enlistment and appointment regarding personal conduct in the Military Services and separation policy remains in effect. Previous provisions pertaining to homosexual conduct as a basis for discharge have been deleted.

16. Topic: Re-Accession

- Training guidance: Tiers 1 & 2.
 - Prior Service members discharged on the basis of homosexual conduct who seek reentry are evaluated according to the same criteria as other Service members seeking reentry, which may include their past record of performance, characterization of service, and needs of the Service.
 - In considering requests for reentry for those previously separated on the basis of homosexual conduct, the fact that the basis for separation was homosexual conduct is not considered to the detriment of the applicant, and those personnel who have DD Form 214 documents that show an honorable discharge (or an uncharacterized discharge for those occurring during initial training) and a separation code reflecting homosexual conduct are to be considered for reentry.
 - Services have discretion to determine whether to change reentry codes in some uniform manner or to issue guidance to ensure that a disqualifying reentry code on a DD Form 214 will not prohibit consideration of a qualified candidate for reentry.
 - Services shall not require all Service members to first petition a Board for Correction of Military Records to change adverse reentry codes prior to applying for reentry as this may substantially delay consideration of applications.
 - Prior service personnel—whether applying for reentry or not—who seek a change to adverse reentry codes or discharge characterizations or other redress may petition their Service Board for Correction of Military Records and Discharge Review Boards for relief under existing procedures.

17. Topic: Release from Service Commitments

- Training guidance: Tiers 1 & 2.
 - The Department of Defense does not establish a specific policy permitting the early discharge of Service members based upon opposition to repeal or to serving or living with gay and lesbian Service members.
 - Service members may request to be voluntarily discharged under the Military Department Secretary's plenary authority. As under current policy, such discretionary discharge may only be granted when the Military Department Secretary has determined the early separation would be in the best interest of the Service.
 - Service members are not guaranteed a certain legal or policy landscape for the duration of their service commitment.
 - If a chaplain is unable to reconcile serving with or caring for gay and lesbian Service members with his or her faith, the chaplain may request that the relevant endorsing agency withdraw its ecclesiastical endorsement for him or her. This would trigger an administrative separation under DoDI 1304.28.

18. Topic: Re-Accession (Claims for Compensation and Other Redress)

- Training guidance: Tier 1 & 2.
 - There is no change to existing policy regarding compensation, separation pay, or other redress for Service members previously discharged on the basis of homosexual conduct.
 - Lawful standards in effect at the time of a Service member's separation are not changed with retroactive effect.
 - Service members separated on the basis of homosexual conduct (or any other reason) may petition for redress through the Service Boards for the Correction of Military Records or Service Discharge Review Boards under existing procedures and standards.

19. Topic: Separation for Homosexual Conduct

- Training guidance: Tiers 1 & 2.
 - Service members are no longer subject to administrative separation on the basis of homosexual conduct (homosexual acts, statements, or marriage).
 - Sexual misconduct, regardless of sexual orientation, that violates a Service standard, rule, regulation, policy or law, will still be considered grounds for administrative or legal action, to include possible discharge.
 - The Department of Defense and the Services are updating training modules regarding administrative separation to remove references to homosexual conduct as a basis for separation.

20. Topic: Key Policy Features

- Training guidance: Tiers 1, 2 & 3.
 - Sexual orientation remains a personal and private matter. Service members and applicants to military service will not be asked or required to reveal their sexual orientation.
 - Sexual orientation is not a bar to service entry or continued service.
 - Service members will not be subject to administrative separation for otherwise lawful homosexual acts, statements, or marriage.
 - The Military Services do not tolerate harassment or violence against any Service member, for any reason.

21. Topic: Frequently Asked Questions

Consist of issues and answers to a range of questions derived from the Working Group's engagement of the force.

- Training guidance: Tiers 1 & 2.
 - Provide standardized responses to the range of issues associated with repeal.
 - Reinforce expectations of exemplary conduct and professionalism in the force.
 - Reinforce DoD policies and directives to address practical issues for commanders and leaders.

22. Topic: Vignettes

Consist of hypothetical, policy-related teaching scenarios for training created to assist commanders and leaders implement the change in policy. Not meant to provide "correct" outcomes, but serve to illustrate approaches to the range of issues associated with repeal.

- Training guidance: Tiers 1 & 2.
 - Reinforce expectations of exemplary conduct and professionalism in the force.
 - Achieve minimum disruption through practical examples.
 - Ensure common examples of personal and professional behavior.
 - Ensure leaders and commanders have significant practice applying the change in policy with fact-based scenarios.

C

RECOMMENDED LEADERSHIP IMPLEMENTATION GUIDE

This Leadership Implementation Guide is a tool to help leaders at all levels address practical issues associated with a repeal of the Don't Ask, Don't Tell law and policy.

Key Implementation Message

Based on engagements with the force and the assessment of the potential effect of repeal, the Working Group distills the key message for risk mitigation and successful implementation to **Leadership-Professionalism-Respect**.

Leadership. The clear message from the Working Group's assessment is "leadership matters most." Leaders at all levels of the chain of command set the example for members in the unit and must be fully committed to DoD policy to sustain unit effectiveness, readiness, and cohesion.

Professionalism. Leaders must emphasize Service members' fundamental professional obligations and the oath to support and defend the Constitution that is at the core of their military service. In the profession of arms, adherence to military policy and standards of conduct is essential to unit effectiveness, readiness, and cohesion.

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

A clear focus on **Leadership-Professionalism-Respect** will enable any change in policy to be executed with minimum disruption to the force. Strong and supportive leadership rather than over-regulation will ensure successful implementation. Leadership guiding principles are:

- Leadership matters most. Leaders at all levels are responsible for mission accomplishment, unit cohesion, and the care and treatment of all those under their command.
- Leaders are responsible for ensuring that personnel are evaluated on individual merit, fitness, and capability.
- Sexual orientation is considered a personal and private matter. All members of the unit must be treated with respect and dignity.

- Service members will not be required to change their personal views and religious beliefs. They must, however, continue to respect and serve with others who hold different views and beliefs.
- All Service members will be held to the same standards of conduct. Harassment, bullying, or victimization of any kind is unprofessional and will not be tolerated.

This guide, along with vignettes and Frequently Asked Questions (FAQs), are available to provide leaders and Service members with the facts about repeal, but it cannot account for every situation that might occur. Leaders are expected to use their judgment and knowledge of regulations and standards to ensure a smooth post-repeal transition with minimum disruption to the force. Leaders, both officer and enlisted, are essential to implementing this change in policy fairly and consistently.

Summary of the Working Group's Report

What follows is a very brief summary of the work of the Comprehensive Review Working Group and the Report provided by its Co-Chairs to the Secretary of Defense.

Leaders should review the Working Group's Report to obtain a complete account of Co-Chairs' assessment and recommendations.

Mission

On March 2, 2010, the Secretary of Defense established a working group to undertake a comprehensive review of the impacts of repeal, should it occur, of Section 654 of Title 10 of the United States Code, commonly known as the Don't Ask, Don't Tell law. The Working Group's assignment from the Secretary was two-fold: 1) assess the impact of repeal of Don't Ask, Don't Tell on military readiness, military effectiveness, unit cohesion, recruiting, retention, and family readiness; and 2) recommend appropriate changes, if necessary, to existing regulations, policies, and guidance in the event of repeal. The Secretary of Defense also directed the Working Group to develop a plan of action to support implementation of a repeal of Don't Ask, Don't Tell.

The Secretary of Defense directed the Working Group to "thoroughly, objectively and methodically examine all aspects of this question," and include, most importantly, the views of men and women in uniform.

Engagement of the Force

During the course of its review, the Working Group, among other things:

- solicited the views of nearly 400,000 active duty and reserve component Service members with an extensive and professionally-developed survey, which prompted 115,052 responses—one of the largest surveys in the history of the U.S. military;

- solicited the views of over 150,000 spouses of active duty and reserve component Service members, because of the influence and importance families play in the lives of Service members and their decisions to join, leave, or stay in the military, and received 44,266 responses;
- created an online inbox for Service members and their families to offer their views, through which a total of 72,384 entries were received;
- conducted 95 face-to-face “information exchange forums” at 51 bases and installations around the world, where the Working Group interacted with over 24,000 Service members;
- conducted 140 smaller focus group sessions with Service members and their families.

What the Working Group Heard

Survey Results. The results of the Service member survey revealed a widespread attitude among a solid majority of Service members that repeal of Don’t Ask, Don’t Tell will not have a negative impact on their ability to conduct their military mission. The results of the survey are best represented by the answers to three questions:

- When asked about how having a Service member in their immediate unit who said he or she is gay would affect the unit’s ability to “work together to get the job done,” 70% of Service members predicted it would have a positive, mixed, or no effect. (Question 68a.)
- When asked “in your career, have you ever worked in a unit with a co-worker that you believed to be homosexual,” 69% of Service members reported that they had. (Question 36.)
- When asked about the actual experience of serving in a unit with a co-worker who they believed was gay or lesbian, 92% stated that the unit’s “ability to work together” was “very good,” “good,” or “neither good nor poor.” (Question 47a.)

Consistently, the survey results revealed a large group of around 50–55% of Service members who thought that repeal of Don’t Ask, Don’t Tell would have mixed or no effect; another 15–20% who said repeal would have a positive effect; and about 30% who said it would have a negative effect. When spouses were asked about whether repeal of Don’t Ask, Don’t Tell would affect their preference for their Service member’s future plans to stay in the military, 74% said repeal would have no effect, while only 12% said “I would want my spouse to leave earlier.”

These survey results did reveal a significant minority—around 30% overall (and 40–60% in the Marine Corps and in various combat arms specialties)—who predicted in some form and to some degree negative views or concerns about the impact of a repeal

of Don't Ask, Don't Tell. However, there were a number of other factors that still led the Co-Chairs to conclude that the risk of repeal to overall military effectiveness is low.

Frequently raised issues. In the Working Group's other engagements with the force (information exchange forums, focus groups, online inbox, confidential online communications), certain issues and concerns were raised repeatedly. Three of these are summarized below:

Standards of conduct. Many Service members raised the possibility of inappropriate conduct that might take place in the event of repeal, including unprofessional relationships between Service members; public displays of affection; inappropriate dress and appearance; and acts of violence, harassment, and disrespect.

Moral and religious concerns. A large number of Service members raised religious and moral objections to homosexuality or to serving alongside someone who is gay. Some feared repeal of Don't Ask, Don't Tell might limit their individual freedom of expression and free exercise of religion, or require them to change their personal beliefs about the morality of homosexuality. Some of the most intense and sharpest divergence of views about Don't Ask, Don't Tell was found among the chaplains corps.

Privacy. A large number of Service members expressed discomfort with sharing bathroom facilities or living quarters with those they know to be gay or lesbian.

Assessment

Based on all they saw and heard, the assessment of the Co-Chairs of the Working Group was that, when coupled with the prompt implementation of the recommendations they provided, the risk of repeal of Don't Ask, Don't Tell to overall military effectiveness is low. The Co-Chairs concluded that, while a repeal of Don't Ask, Don't Tell will likely, in the short term, bring about some limited and isolated disruption to unit cohesion and retention, they do not believe this disruption will be widespread or long-lasting, and can be adequately addressed by the recommendations they offered. The Co-Chairs stated that longer term, with a continued and sustained commitment to core values of leadership, professionalism, and respect for all, they are convinced that the U.S. military can adjust and accommodate this change, just as it has others in history.

Summary of Working Group Recommendations

The most significant policy change resulting from repeal is that Service members will no longer be separated solely on the basis of homosexual conduct (acts, statements, same-sex marriage).

The Working Group provided a number of recommendations for other policies in the event of repeal. These recommendations were based on the conclusion that repeal will work best if it is accompanied by a message and policies that promote fair and equal

treatment of all Service members, minimize differences among Service members based on sexual orientation, and disabuse Service members of any notion that, with repeal, gay and lesbian Service members will be afforded some type of special treatment.

A brief summary of post-repeal policy guidance based on the Working Group's recommendations follows. Leaders should review the Working Group report and Support Plan for Implementation and subsequent DoD and Service-level policy guidance to ensure they understand current policies in full. Leaders must also stay aware of future changes and developments related to implementation of repeal.

- **Standards of Conduct:** Service standards of conduct must be sexual orientation neutral. All members are responsible for upholding and maintaining the high standards of the U.S. military at all times and in all places.
- **Privacy and Cohabitation:** Berthing or billeting assignments or the designation of bathroom facilities based on sexual orientation are prohibited. Commanders retain the authority to alter berthing or billeting assignments or accommodate privacy concerns (to include concerns regarding privacy in bathing facilities) on an individualized, case-by-case basis, in the interests of morale, good order and discipline, and consistent with performance of mission.
- **Moral and Religious Concerns:** Service members will not be required to change their personal views and religious beliefs; they must, however, continue to respect and serve with others who hold different views and beliefs. Consistent with existing policies, in the context of their religious ministry chaplains are not required to take actions inconsistent with their religious beliefs, but must still care for all Service members.
- **Benefits:** For the time being, all Service members not in a Federally-recognized marriage will be treated as “single” for the purposes of benefits eligibility. The Department of Defense is studying ways to extend additional benefits to Service members to improve personal readiness, especially during deployments and other stressful times.
- **Equal Opportunity:** Sexual orientation is not specified as a class eligible for complaint resolution processes under the MEO Program. Sexual orientation is treated under the same general principles of MEO policy that apply to all Service members. Sexual orientation may not, in and of itself, be a factor in accession, promotion, or other personnel decision-making, and gay and lesbian Service members, like all Service members, are evaluated only on individual merit, fitness, and capability.

Command and Supervisory Responsibilities and Guidance

- Remember the key implementation message of **Leadership-Professionalism-Respect** at all times when interacting with the people in your unit.

- You will encounter situations that are not covered in this guidance. Many Service members have strong personal opinions about the repeal of Don't Ask, Don't Tell, which will likely cause spirited debate and raise difficult questions. Key to successful implementation is the application of well-informed and firm leadership and a common-sense approach. You are encouraged to seek further advice and guidance from your chain of command, legal advisors, and appropriate command staffs.
- Commanders and leaders at every level must work to reinforce the dignity and respect of all Service members within Service cultures, courtesies, traditions, and core values. We promote these values best by living them.
- Uniform, dress, and appearance standards are not modified with the repeal of the Don't Ask, Don't Tell legislation. All Services will continue to enforce their respective standards as prescribed by their traditions and values.
- Service members will refrain from unwanted discussions of sexual desires, practices, and experiences that could cause offense to others. These types of discussions are unprofessional and are not conducive to ensuring or maintaining a unit's morale, cohesion, and good order and discipline.
- Commanders and supervisors at all levels have the authority and the responsibility to maintain good order, discipline, and morale within their units. They are accountable for their actions in all cases.
 - As indicated above, some specialty areas, especially in the combat arms, expressed more concerns about repeal than other specialties. However, this is not to say all combat units oppose repeal while all support units are in favor of repeal. Each unit and individual Service member is unique. Leaders must take the time to get to know their people and the concerns of their particular unit in order to guard against stereotypes negatively impacting the cohesion and effectiveness of their unit.
- Leaders must never use their position of authority to inappropriately or illegally benefit or disadvantage another person for any reason. Misconduct involving abuse of position, trust, or rank is particularly egregious and will be dealt with swiftly and severely.
- As a general rule, leaders intervene in the private lives of their subordinates only where it is necessary in the interest of accomplishing the mission or to ensure the health and well-being of the force.
- Typically, early and effective counseling can curtail unprofessional conduct. More serious cases may warrant administrative action, non-judicial punishment, or court-martial.
- Devotion to our values, our culture of mutual respect, and our obedience to lawful orders is one reason why we remain the world's greatest military power.

- Personal privacy is a concern for many Service members. Service members accept living and working conditions that are often austere, primitive, and characterized by forced intimacy with little or no privacy. Leaders continue to have the discretion to grant privacy requests (e.g., related to latrines, showers, billeting) where necessary in the interest of maintaining morale, good order and discipline, and consistent with performance of mission.
- Commanders' leadership and personal commitment to implementation must be visible and unequivocal. Commanders are expected to exemplify standards of professional conduct and build on their Service cultures to ensure all Service members are respected, treated fairly, and valued for their contributions and performance.
- Misconduct must be addressed quickly, appropriately, and in proportion to the seriousness of the offense. A leader's initial response may constitute a formal warning, official censure, or other disciplinary action. In particularly serious cases, or where an individual persists with or has a history of acts of social misconduct, formal disciplinary or administrative action should be taken.
- Service members have the right to reveal their sexual orientation or keep it private. Leaders must ensure that unit members are respectful and do not refer to individuals or groups in a derogatory way. This includes gay and lesbian individuals as well as people who have moral or religious concerns with repeal, all of whom could be stereotyped in a negative way.
- Military life is fundamentally different from civilian life. The military society is characterized by its own laws, rules, customs, and traditions. Service members accept numerous restrictions on personal behavior, which require them to routinely subjugate personal desires and well-being for the good of the unit. While the traditions and standards of military service may not be acceptable in much of civilian society, they are necessary to accomplish the duties of military service. Repeal of Don't Ask, Don't Tell does not alter this fundamental characteristic of military service. Leaders must exemplify and develop in others the ability to put Service before self to execute the mission.
- The bonds of trust among individual Service members are important to the combat effectiveness of a unit. Leaders must continue to create within their units strong bonds of trust in training to ensure success in the field.
- The standards of conduct for members of the military regulate a Service member's life 24 hours a day, 7 days a week. The consistent, unwavering application of the standards of conduct is necessary because Service members must be ready at all times for worldwide deployment.

D

FREQUENTLY ASKED QUESTIONS AND VIGNETTES

Frequently Asked Questions (FAQs) and training vignettes were developed as an efficient and effective way to get information rapidly to the force. The Leadership Implementation Guide in Appendix C and the FAQs and vignettes in this appendix are designed to give the Services a basis from which they can develop education and training materials.

The FAQs can be adapted to many audiences, to include Service members, families, and the public. The vignettes were developed as tools for leaders and trainers to address some of the areas of concern the Working Group heard in its engagements with the force. The FAQs and vignettes are not all-inclusive. The Services should review the content and subject areas represented in this appendix to ensure they address Service-specific areas of concern and that the language is appropriate for their Service culture. Service Headquarters Training representatives, Service academy and war college academic faculty, Office of the Under Secretary of Defense for Personnel & Readiness (OUSDP&R) representatives, and Defense Equal Opportunity Management Office (DEOMI) personnel assisted in the creation of these tools.

As the Department of Defense and the Services adapt the FAQs and the vignettes for their use, they should continue to work with DEOMI training specialists. In addition, the Department of Defense and the Services should consider creating an online resource where Service members and their families can ask questions not covered in the tools provided. The Working Group used the following framework to create the FAQs and vignettes and recommends that the Department of Defense and the Services follow similar guidance when working with these products.

- Use language that is respectful of all perspectives and does not inadvertently refer to individuals or communities in a derogatory way. This includes gay and lesbian individuals as well as people of faith who have moral concerns with repeal, all of whom can be stereotyped in a negative way. The Working Group recommends following American Psychological Association conventions on sexual orientation and suggests using the terms “gay” (or gay men), “lesbian” (or lesbians), and “bisexual” (or bisexual individuals) instead of the term “homosexual” (or homosexuals) as the use of “homosexual” tends to be associated with more negative stereotypes. Similarly, the Working Group recommends avoiding language that stereotypes people of faith (e.g., extremist, fundamentalist, fanatic) who hold strong moral convictions about homosexuality.

- While it is critical to address the issues and concerns Service members expressed in the Working Group’s engagements with the force, this should be done without validating stereotypes and misperceptions regarding gay men and lesbians. FAQs and vignettes should be phrased to ask broad, neutral questions. Language that perpetuates a stereotype of any group, as well as hypothetical situations based on stereotype, should be avoided.
- FAQs and vignettes should be written in clear, concise, jargon-free language and cover topics and issues that are either frequent concerns in the force or have the potential for high negative impact if not addressed.
- The Working Group’s research indicates that existing policies and regulations will adequately address most of the concerns and issues regarding repeal. This research also suggests that unified leadership along with the professionalism of the force will mitigate most concerns. Therefore, the Working Group does not find it necessary to address every possible variation of repeal and recommends that the Services adapt the FAQs and vignettes to meet their needs and concerns.

Frequently Asked Questions (FAQs)

1. What is the new policy on sexual orientation in the military?

Service members will not be involuntarily separated for lawful homosexual conduct.

Sexual orientation remains a personal and private matter. Sexual orientation or homosexual conduct (statements, acts, same-sex marriage) are not a basis for separation, reassignment, or special consideration. Service members may inform others of their sexual orientation at their own discretion.

The Department of Defense will not ask Service members to identify their sexual orientation. The Department of Defense will not collect or maintain data on an individual’s sexual orientation.

2. How will repeal of Don’t Ask, Don’t Tell affect recruitment and retention policies?

If otherwise qualified, individuals may join and serve in the Military Services without regard to sexual orientation.

Sexual orientation is not a factor in recruitment or retention in the Military Services, and the Department of Defense does not have sexual orientation targets or quotas for recruiting.

3. Will Service members honorably discharged under Don't Ask, Don't Tell be allowed to reenter the Military Services?

All honorably discharged Service members have an equal opportunity to apply for reentry. Services will determine re-accession based on need and a number of other factors, but sexual orientation will not be a factor.

4. Can transgender or transsexual individuals join the Military Services?

No. Transgender and transsexual individuals are not permitted to join the Military Services. The repeal of Don't Ask, Don't Tell has no effect on these policies.

5. Does repeal of Don't Ask, Don't Tell affect benefits for partners of gay and lesbian Service members?

Gay and lesbian Service members are eligible for the same benefits as any single Service member. For example, any single Service member may extend to someone of their choosing benefits such as notification instructions on their Form 93, *Record of Emergency Data* (RED), and listing the designated individual as an SGLI beneficiary. The Department of Defense is also examining other benefits that may be included in this set.

Context: Under the Defense of Marriage Act (DOMA), the Federal Government defines marriage as a legal union between one man and one woman as husband and wife, and the word "spouse" refers only to a person of the opposite sex who is a husband or a wife. Under DOMA, married/spouse benefits cannot be extended to an unmarried partner, to include same-sex partners.

6. Does repeal of Don't Ask, Don't Tell affect the religious rights of chaplains?

No. Chaplains will continue to have freedom to practice their religion according to the tenets of their faith. In the context of their religious ministry, chaplains are not required to take actions that are inconsistent with their religious beliefs (e.g., altering the content of sermons or religious counseling, sharing a pulpit with other chaplains, or modifying forms of prayer or worship).

Chaplains of all faiths care for all Service members and facilitate the free exercise of religion for all personnel, regardless of religious affiliation of either the chaplain or the individual.

Chaplains minister to members and provide advice to commanders on matters of religion, morals, ethics, and morale in accordance with, and without compromising, the tenets or requirements of their faith. If, in a

chaplain's discharge of his/her broader duties within the unit, he/she is faced with an issue contrary to his/her individual faith, he/she may refer the Service member to other appropriate counsel.

If a chaplain is unable to discharge his/her duties as a result of a repeal, current regulations permit a chaplain to request that the relevant endorsing agency withdraw its ecclesiastical endorsement of the individual chaplain.

7. Does repeal of Don't Ask, Don't Tell affect the speech, morals, or religious rights of Service members?

No. There will not be any modifications or revisions to policy regarding Service members' protections and obligations with respect to free speech and free exercise of religion.

The Department of Defense recognizes the right of all Service members of the Military Services to hold individual beliefs consistent with their moral foundations and conscience and does not seek to change them.

Service members can continue to freely practice their religion and express their personal views within the limitations of the UCMJ and Service standards of conduct.

8. Will the Department of Defense establish a new category of early release from service commitments for Service members based on moral, religious, or other objections to the repeal of Don't Ask, Don't Tell?

No. The Department of Defense does not permit the early discharge of Service members based upon their opposition to the repeal of any new policy. This includes Don't Ask, Don't Tell or objection to serving with or living in the company of any Service member.

Existing regulations allow Service members with a service commitment to request early, voluntary discharge under their Service Secretary's plenary authority. Granting these types of requests is at the discretion of the Service Secretary and is granted only when the early separation would be in the best interest of the Service. Commanders retain their current authority under existing Service personnel management policies to assist personnel within their units who desire to separate from the Service when in the best interest of the Service, the unit, and/or the individual in question. Service members are advised to talk to their chain of command and/or seek legal assistance to ensure they understand the available options within their Service for pursuing separation for any reason.

9. Will repeal of Don't Ask, Don't Tell have health implications for the military?

No. DoD research found that there would be no increase in Service member health risk. Existing policies and procedures for HIV screening and testing, management of HIV-positive personnel, and management of the military blood supply will continue to be effective following a repeal of the law. The Service Surgeons General have examined this issue and determined there would be no increased risk.

10. Does the new policy apply equally to all Active, Reserve, and Guard components?

Yes. DoD regulations generally apply equally to all members of the Active, Reserve, and National Guard (when in Federal status) components.

Note: Leaders can clarify for Reserve and National Guard personnel which policies apply in a non-duty or Title 32 status.

11. Are there any new restrictions on duty assignments or employment?

No. There will be no special treatment or special arrangement for the assignment or employment of gay and lesbian Service members. In these matters, all Service members will be considered equally regardless of sexual orientation.

12. Will the Department of Defense build separate living or bathroom facilities for gay and straight Service members?

No. Building separate facilities would create divisions within units and inappropriately isolate a portion of the force.

13. Does a Service member have the legal right to refuse to share accommodations and/or facilities with a gay and lesbian Service member?

No. Service members do not have a legal right to reject (or select) assignment with any other Service member within shared military accommodations and facilities. In addition, Service members do not have the legal right to refuse work or duty assignments based on a moral objection to another individual's sexual orientation.

If a Service member has a concern with a billeting or work arrangement for any reason, he or she should address those concerns appropriately within their chain of command. Commanders may use discretion in personnel assignments to berthing, housing and other facilities to maintain morale, good order, and discipline based on Service policies and space available.

Accommodation requests for any reason are considered on a case-by-case basis.

Mission readiness, unit effectiveness, and good order and discipline, remain the priority. Refusal to comply with lawful orders may result in disciplinary action.

14. Does repeal affect standards of conduct?

No. Standards for personal and professional conduct apply uniformly without regard to sexual orientation.

Service members will continue to conduct themselves consistent with Service customs and traditions, and the law. Service members are expected to conduct themselves professionally at all times.

Unprofessional behavior by any Service member that fails to meet standards of conduct should be corrected by explanation, counseling, administrative action, or legal action depending on the nature, severity, or repetition of the offense.

Sexual misconduct of any kind is inconsistent with our values and will be dealt with swiftly and severely. Harassment or violence of any kind between Service members will not be tolerated.

15. Is consensual sodomy still a punishable offense under the Uniform Code of Military Justice?

Only in limited circumstances. Unrelated to Don't Ask, Don't Tell, the U.S. Supreme Court and the Court of Appeals for the Armed Forces found that private, consensual sexual activity, to include consensual sodomy, regardless of sexual orientation, is a protected liberty under the Fourteenth Amendment. Consensual sodomy can only be punished if it is prejudicial to good order and discipline or service discrediting (e.g., in public, between a superior and a subordinate), or there are other factors involved in the commission of the act such as force, coercion, or involvement of a minor. This was true before repeal and it remains true now.

16. How will the military handle discrimination towards gay and lesbian Service members?

Unlawful discrimination against any individual or group is unacceptable.

General MEO policy requires the promotion of “an environment free from personal, social, or institutional barriers that prevent Service members from rising to the highest level of responsibility possible” and prohibits the

evaluation of Service members on bases other than “individual merit, fitness, and capability.”

Complaints regarding harassment or discrimination based on sexual orientation are dealt with through the chain of command, the Inspector General, and other means established by the Services. Criminal harassment should be referred to appropriate law enforcement agencies for investigation.

17. What training will be required for Service members and their families when repeal occurs?

Service members will be informed of the change in policy and expectations for behavior. Members involved in certain functions (e.g., administrative, legal, investigative) may receive additional training focused on specific changes to their specialty. Family members will be informed of the changed policy and advised where to go to seek any specific information they need.

Further guidance is available from the chain of command, the appropriate Service policy staff, lawyers, chaplains, and medical personnel.

Vignettes

The following training vignettes consist of hypothetical, policy-related teaching scenarios that commanders and leaders can use to assist them in implementing the change in policy. They are not meant to provide all the “correct” outcomes, but serve to illustrate approaches to a sample of issues that may arise should 10 U.S.C. § 654 be repealed. The vignettes will assist leaders in addressing potential issues related to repeal in order to:

- Reinforce expectations of exemplary conduct and professionalism from all Service members.
- Achieve minimum disruption through practical examples.
- Provide commanders with common examples of personal and professional behavior.

As a general guide, Service members should attempt to resolve issues at the lowest level of the chain of command appropriate for the situation. Leaders should mentor Service members in means of resolving individual disagreements and conflict by instilling in their subordinates a willingness to properly confront and, where required, correct improper behavior.

The best way to work through most conflict is to clarify the situation and seek understanding with the other person. Most of the time, talking with a teammate will clear up the misunderstanding. If an informal meeting does not address the concern,

have a formal meeting that includes, for example, a senior mentor, outside observer, or chaplain. Try to be developmental, not punitive. If these meetings do not resolve the issue, then bring in the chain of command. Hold people accountable when they misuse their authority for any reason. If the chain of command cannot resolve the issue, then the IG and other grievance processes are available and appropriate to use when other options are exhausted.

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- 1. SITUATION: You are the Senior Non-Commissioned Officer at a high tempo recruiting office. Your top notch, high performing recruiter who has served in the military for 14 years asks to meet with you. Due to his personal religious beliefs, he tells you he cannot process an outstanding applicant who voluntarily states he is gay.**
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Issue: Accessions and Recruiting Policy. What actions should the SNCOIC do? Has the Service member committed misconduct?

Discussion: Normally, counseling and education should be your first course of action. As his supervisor, you counsel him on the new policy, informing him that sexual orientation is not a bar to military service, and his duty is to recruit the best qualified applicants within the enlistment standards set by the Service. Due to the Service member's stated religious concern, you may suggest the Service member meet with the chaplain or another spiritual advisor. If the recruiter continues to refuse to process an otherwise qualified recruit, he could be subject to disciplinary or adverse administrative action. However, if the recruiter's performance and professionalism is otherwise high, and he is able to carry out assigned duties, but still cannot resolve the conflict with his personal beliefs, the SNCOIC could work with the chain of command to explore their available options to include possible reassignment. In all situations, leaders are expected to enforce standards and correct behaviors that undermine unit cohesion. Positive leadership with a focus on professional obligations to uphold the policy while recruiting the best qualified applicants should be reinforced. Service members are expected to obey lawful orders and could be subject to discipline or adverse administrative action if they refuse orders, even if such refusal is based on strong, sincerely held, moral or religious beliefs.

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- 2. SITUATION: You are the Senior Non-Commissioned Officer at a high tempo recruiting office. Your top notch, high performing recruiter from Situation 1 has been doing a good job for the past couple of months after your discussion with him about Don't Ask, Don't Tell. He requested a reassignment but it was denied. The recruiter asks to see you and informs you that while he appreciates how the situation was handled, he has tried but he cannot resolve his personal beliefs with the repeal of Don't Ask, Don't Tell. He has two years remaining on his current enlistment and wants to know how he can request an early separation.**
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Issue: Release from Service Commitments. What actions should the SNCOIC do? Can the recruiter be released early from his service commitment?

Discussion: The Department of Defense does not permit the early discharge of Service members based upon their opposition to a new policy. This includes a repeal of Don't Ask, Don't Tell. Service members with a service commitment may request early, voluntary discharge under the plenary authority of their Military Department Secretary. Granting these types of requests is at the discretion of the Military Department Secretary and is granted only when the early separation would be in the best interest of the Service. Your best option would be to keep your chain of command informed of the situation and contact the legal office for advice on pursuing early separation within existing Service policy.

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- 3. SITUATION: An applicant comes into a recruiting station and says that he would like to enlist. In accordance with DoD policy, the recruiter does not ask any questions about the applicant's sexual orientation; however, the applicant reveals of his own accord that he is gay.**
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Issues: Accessions and Recruiting Policy; Collection and Retention of Sexual Orientation Data. What should the recruiter do after hearing the applicant's statement?

Discussion: Applicants will not be asked or required to reveal their sexual orientation during the accession process. If an applicant comes into a recruiting office and volunteers a statement that he or she is gay or lesbian, the recruiter should explain to the applicant that sexual orientation is considered a personal and private matter and no Service member is required to declare their sexual orientation. The recruiter should continue to administer the application unless the applicant is otherwise ineligible for service in the military.

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- 4. SITUATION: A junior officer complains to her immediate supervisor that she believes that the reason for her non-selection to a much-desired school was due to her sexual orientation. The supervisor informs the member that the panel used for the selection process had no way of knowing her orientation, but he would check into the situation and get back to her. After an informal inquiry of the panel members, the supervisor concludes that the selection process used was fair and equitable. The member is still not satisfied and wants to know what other course of action she can take. You refer her to the Commander who understands the Service member has a right to redress suspected wrongs in the selection process, but is unsure if this is a matter for the Equal Opportunity Advisor, the IG, or the chain of command.**
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Issue: Equal opportunity. The commander wonders if this is an issue under the Military Equal Opportunity Program, the IG, or something the chain of command should be made aware of to determine if the selection board acted appropriately.

Discussion: Service members should be evaluated only on individual merit. The supervisor's attempt to resolve the complaint through informal inquiry did not satisfy the Service member's concerns. The Service member should attempt to continue to resolve the complaint within the chain of command, if possible. If the complaint is not resolved within the chain of command the Service member can seek resolution through the Inspector General or other means established by the Services. In this case, the MEO program is not appropriate for resolution because sexual orientation is not specified as a class eligible for the MEO complaint resolution process.

5. SITUATION: A Service member requests emergency leave after receiving a Red Cross message concerning the critical condition of his same-sex partner.

Issue: Benefits. Is the Service member eligible for Emergency Leave?

Discussion: Yes. If the situation places a severe or unusual hardship on the Service member, he or she is eligible for Emergency Leave. The sexual orientation of the Service member's partner has no bearing on the decision.

DoDI 1327.06 states that emergency leave may be appropriate when:

- A member of the household or immediate family has died.
- The Service member's presence would contribute to the welfare of a dying member of the household or immediate family.
- Serious illness of a member of the household or immediate family imposes a demand on the Service member that must be met immediately and cannot be accomplished from the duty station or by any other means.
- The Service member's failure to return home places a severe or unusual hardship on the Service member, his or her household or immediate family.

Commanders may grant up to 30 days of emergency leave. In this situation, the leave may or may not qualify as emergency leave depending on the circumstances. The Commander should meet with the Service member to obtain information about the emergency and verify that the Service member's presence can resolve or alleviate the situation. If in doubt, the Commander should seek legal advice and consult the chain of command. If

circumstances and the military mission warrant granting emergency leave, the Commander should ensure swift processing of the request. If the situation does not fall within the guidelines of emergency leave and the mission will not be unacceptably impacted, every attempt should be made to resolve the situation swiftly and compassionately through other authorized alternatives. Considerate, professional understanding is the humane approach to granting leave requests, regardless of the situation or circumstances.

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- 6. SITUATION: You are the leading Chief Petty Officer aboard ship. A top performing Petty Officer, who is known to be a lesbian, approaches you and states she can no longer tolerate her roommate. Through positive reinforcement, counseling, and mentorship, you attempt to resolve the issue at the lowest level in the chain of command. However, you notice her performance starting to diminish and she and her roommate are making derogatory comments to co-workers about each other. The behavior has become disruptive to the entire unit and others are starting to complain. She puts in a request to be re-assigned to another berthing area onboard ship.**
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Issue: Privacy and Cohabitation. What options does the leading Chief Petty Officer have to address conflicts between roommates? What actions should the chain of command take to address this issue?

Discussion: The Chief Petty Officer must take a very active and positive leadership approach with a focus on conflict resolution and professional obligations to uphold the policy. The Chief Petty Officer should counsel the individuals and help them to resolve their personal differences. A clear message must be received by both, that respecting each other's rights within a closed space is critical to maintaining good order and discipline. Standards of conduct apply equally to all Service members and inappropriate conduct by either roommate should be corrected appropriately. If the issue cannot be resolved and alternative berthing arrangements can be made within command policy and without degrading good order and discipline of the unit, the Commander may consider reassignment of roommates.

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- 7. SITUATION: You are the admin chief of a unit personnel office. A newly commissioned Lieutenant reports to the unit with the expectation of starting his BAH at the "with dependent" rate. He informs you that he got married while executing PCS orders. He presents his marriage certificate. While reviewing the documents, you notice the Service member was married to his same-sex partner in Vermont where same-sex marriage is legal. The newly-reported member informs you he thought he would receive BAH at the "with dependent" rate once Don't Ask, Don't Tell was rescinded.**
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Issue: Benefits. What entitlements are available to same-sex partners?

Discussion: Because the Federal government does not recognize same-sex marriages, a Service member cannot claim dependency for a same-sex partner, for BAH purposes. You inform the Lieutenant that he's not entitled to BAH at the "with dependent" rate based on a marriage to a same-sex partner. However, if the Service member has a qualifying dependent such as a dependent child, then he is eligible for BAH at the "with dependent" rate. The question of benefits for unmarried partners is being studied by the DoD at this time. For further explanation of the law and current entitlements available to the Service member and his family, refer the Lieutenant to the Legal Office or Family Support Center.

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- 8. SITUATION: You are the supervisor of a Service member who wants to file a complaint against a chaplain. The Service member informs you that she attended a worship service at the base chapel over the weekend and the chaplain's sermon included several direct statements that homosexuality is a sin and that marriage should be only between a man and woman. The Service member disagreed with the chaplain's remarks and felt they were discriminatory and biased and should not be allowed.**
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Issue: Moral and Religious Concerns. Can the Service member file a complaint of discrimination or harassment against the chaplain? Should chaplains revise their sermons to avoid the perception of discrimination? What alternatives are available to assist the member or the chaplain?

Discussion: Chaplains have the right to express their religious beliefs during their conduct of a service of worship or religious study. Unless a chaplain's speech is otherwise prohibited, such as publically maligning senior leaders, their sermons and/or teachings cannot be restricted, even with regard to socially controversial topics. This situation is an excellent opportunity to have a discussion with the Service member about religious respect and the proper boundaries of religious expression within the military. You could offer to meet with the Service member and the chaplain to facilitate a discussion on the topic. If either the chaplain or the Service member feels that due to their religious views, speech, or practice, they have been improperly treated, redress is available through their chain of command, existing Service policy, or the IG if necessary. Chaplains facilitate the free exercise of religion for all personnel, regardless of the religious affiliation of either the chaplain or the individual. At the same time, regulations also recognize that chaplains minister to members in accordance with, and without compromising, the tenets of their faith. These boundaries are not always clearly defined. Finally, the Service member may request assistance from the chaplain's office in finding a different religious service to attend.

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- 9. SITUATION:** You are a Senior NCO. After a company run, you witness two of your fellow Service members in the locker room joking and having a loud inappropriate conversation about gays and lesbians. The comments were directly related to their refusal to be naked and shower in front of a gay Service member.
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Issues: Standards of Conduct; Privacy. How do you address this situation? Is there a violation of the Standards of Conduct?

Discussion: Leaders at all levels are responsible for maintaining trust, cohesion, effectiveness, and readiness of the all-volunteer force. Leaders are expected to dispassionately enforce standards and correct behaviors that undermine unit cohesion. You should advise them of the Service policy and inform them that discrimination or harassment against any Service member is inappropriate. If a request is made to avoid showering with an individual, Commanders have the discretion to grant personal requests within unit policies and if the mission is not unacceptably impacted. As a general rule, the person making the request would have the burden of adapting to a different schedule. However, publicly joking about this issue is inappropriate behavior.

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- 10. SITUATION:** You are a civilian working in the housing office. A Service member, who is known to be a lesbian, recently adopted a son and reports to your office to discuss her Military Family Housing application. She requests to be assigned specific quarters that are more isolated than others, for concerns of potential harassment of her family. She also requests that her same-sex partner, who is her son's primary care provider, occupy the quarters as well.
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Issues: Benefits; Standards of Conduct. Are there guidelines for same-sex partners occupying Military Family Housing? How should the housing office consider the request for specific quarters?

Discussion: You should inform the Service member that because she has a qualifying dependent son that she is indeed authorized Military Family Housing. Local policies regarding live-in child care providers or other non-dependents living in base housing should be followed for the same-sex partner. You explain to her that in accordance with the Military Family Housing assignment policy, she will be given several options pertaining to assignment of quarters, but her special request to be assigned isolated quarters may not necessarily fall within the guidelines of "special considerations." If quarters are found inadequate for her needs, she has the option to obtain outside housing or discuss the issue with her chain of command. Since the Service member also expressed a concern about harassment, it would be appropriate to refer her to her chain of command to discuss these concerns. Harassment for any reason is not tolerated within the Department of Defense and should be appropriately reported and corrected at all times.

11. SITUATION: You are the Executive Officer of your unit. While shopping at the local mall over the weekend, you observe two junior male Service members assigned to your unit and in civilian clothes kissing and hugging in the food court.

Issue: Standards of Conduct. Is this within standards of personal and professional conduct?

Discussion: Standards of conduct regarding public displays of affection (PDA) are orientation-neutral. If the observed behavior crosses acceptable boundaries as defined in applicable standards of conduct for your unit and Service, then an appropriate correction should be made. Your assessment should be made without regard to sexual orientation.

12. SITUATION: A Service member has been observed entering, leaving, and generally “hanging around” a gay bar. The Commander is notified of the observations but isn’t sure what action, if any, she should take.

Issue: Standards of Conduct. What should the Commander do? Can the Commander take administrative disciplinary action and charge the Service member for going to a gay bar? Should she conduct a Commander’s inquiry?

Discussion: Installation Commanders can place an establishment off-limits for certain reasons, such as known or suspected criminal activity or drug use. An establishment would not be placed off-limits just for catering to gay clientele. Unless the establishment is designated off-limits by the installation Commander or there is evidence of behavior by the Service member that is counter to Service and/or Command standards of conduct, there is no prohibition against going to a gay bar. In this case, the Commander should take no action.

13. SITUATION: A Warrant Officer is watching the local TV news coverage of a gay rights parade when he notices a female Service member assigned to his unit marching in the parade in civilian clothes, carrying a handmade placard. As the television camera zooms in on the Service member’s sign, the Warrant Officer can clearly read the handwritten words “Support Gays and Lesbians in the military!” The next morning, he reports the incident to his Commander.

Issue: Standards of Conduct. Is this prohibited activity? Should the Commander inquire into what meaning this Service member had intended to convey by carrying that particular sign in the gay rights parade?

Discussion: A Service member’s participation and carrying a banner or sign in a gay rights activity would not in and of itself constitute misconduct unless the Service member’s actions are otherwise prohibited or would discredit the military. For example, participating in uniform or while on duty hours

would be prohibited unless approved by authorized command authorities. In this case, the Service member chose to carry a sign that acknowledged positive support for gay and lesbian Service members serving in the military. The parade was a local community-sanctioned event and was not a protest or dissident activity prohibited by existing policy. Furthermore, the Service member was off-duty and in civilian clothes. Participation in the parade as described is within the Service member's right of expression and consistent with good order and discipline. However, if there is any doubt about participating in any off-base event, the Commander should contact the JAG for advice.

14. SITUATION: You are the Command Master Chief of a base. A Service member with 16 years of service requests to see you about her next assignment. Due to a medical concern of her same-sex partner, she would like to request a base where she has access to the medical care she requires. She states that if she cannot get the care, she intends to turn down her next assignment. She wants to know if she can receive any assignment priority based on the needs of her partner.

Issue: Duty Assignments. What actions should the Command Master Chief take? Can the Assignment Officer take into consideration the member's honest acknowledgement concerning her partner and assign her to the desired location? Can the member decline assignment orders without consequences?

Discussion: Service members are assigned permanent change of station orders based on the needs of the Service. Service members can share personal information with assignment personnel for consideration in making assignments. Assignment personnel then make assignments within existing Service assignment policy. In general, a Service member's sexual orientation should have no bearing on the assignments process. In this case, the same-sex partner would not qualify the Service member for assignment priority under existing DoD policy. However, the Service member can provide any information that she is comfortable sharing for consideration. The Service member could also share her concerns with the Commander who could make an input to the assignment process within existing Service regulations. If the assignment can be made within existing assignment policy and the needs of the Service, then this request could be considered. The Service member may turn down the assignment and separate if she does not have an existing service commitment that would prevent her from separating. If the Service member has further questions about assignment priority based on her situation, she should be referred to the legal office.

E

RECOMMENDED FOLLOW-ON REVIEW STRATEGIES

The Terms of Reference from the Secretary of Defense direct that the Working Group “assure appropriate ways to monitor the workforce climate and military effectiveness that support successful follow-through on implementation.” This appendix identifies methods that may be used to accomplish that task should repeal of 10 U.S.C. § 654 occur. Monitoring methodologies are currently available through a variety of resources and tools that DoD entities already use. The Working Group reviewed these existing DoD surveys and assessments; a brief summary of those instruments is provided here. As much as possible, follow-on review and monitoring should use existing processes and minimize disruption to the force that might result from establishing new, potentially burdensome reporting instruments.

There is no single, unified instrument for collecting and assessing organizational data within the Department of Defense. At present, the Department of Defense uses a variety of interrelated resources; several entities conduct analyses that could be adapted to collect data on, and monitor the success of, implementation of repeal. These entities and instruments include:

- Defense Manpower Data Center (DMDC) – “Status of Forces” Surveys. Periodic, fast, accurate assessments of attitudes and opinions of the entire DoD community. Capable of developing additional evaluations targeting specific interests.
- Defense Equal Opportunity Management Institute (DEOMI) – “Command Climate” surveys. Allows leaders to proactively assess critical organizational climate dimensions that can impact their organization.
- Inspector General – “Command Assessments.” Inspections of commands and leadership to ensure proper application and enforcement of policies.
- Sexual Assault Prevention and Response Office (SAPRO). Single point of contact for accountability and oversight of sexual assault policy, facilitates resolution of issues common to all Military Services and joint commands, submits annual report on sexual harassment, assault, and violence to the Department of Defense.

The Working Group recommends that OUSD(P&R) work with established DoD entities that specialize in surveys and assessment, and leverage their resources to conduct follow-on review and monitoring of implementation of repeal of 10 U.S.C. § 654. The list below highlights reporting instruments routinely used across the Department of Defense that could be adapted for follow-on review purposes:

- “Status of the Forces” Surveys – Defense Manpower Data Center (DMDC)
 - Provide the Department of Defense with fast, accurate assessments of attitudes and opinions of the entire DoD community to: 1) evaluate existing programs/policies, 2) establish baseline measures before implementing new programs/policies and, 3) monitor progress of programs/policies and their effects on the total force.

- Command Climate Surveys – Defense Equal Opportunity Management Institute (DEOMDoDD 1350.2: *DoD Military Equal Opportunity (MEO) Program Assessments*)
 - DoDD 1350.2: *DoD Military Equal Opportunity (MEO) Program Assessments*
 - DEOMI Organizational Climate Survey (DEOCS): The questionnaire uses shared perceptions of an organization’s members to measure climate factors associated with military equal opportunity (MEO) and civilian equal employment opportunity (EEO) issues, as well as organizational effectiveness (OE) factors. This survey allows leaders to proactively assess critical organizational climate dimensions that can impact their organization. There are 13 Climate Factors:
 1. Sexual Harassment and Sex Discrimination
 2. Differential Command Behavior Toward Minorities
 3. Positive Equal Opportunity Behaviors
 4. Racist Behaviors
 5. Religious Discrimination
 6. Age Discrimination
 7. Disability Discrimination
 8. Organizational Commitment
 9. Trust in the Organization
 10. Work Group Effectiveness
 11. Work Group Cohesion
 12. Leadership Cohesion
 13. Job Satisfaction
 - Commanders can add up to 10 locally-developed questions and five short-answer questions to their survey, helping them target specific areas of concern.

- Command Assessments – Inspector General
 - Service Inspectors General could include, as an item of specific interest in their inspection, the training of those charged with application and enforcement of the policies related to repeal, and implementation of sexual orientation-neutral policies.

- Sexual Assault Prevention and Response (SAPR)/Drug and Alcohol Program Advisor (DAPA)/Sexual Harassment
 - The Sexual Assault Prevention and Response Office (SAPRO) serves as the single point of accountability and oversight for sexual assault policy, provides guidance to the DoD components, and facilitates the resolution of issues common to all Military Services and joint commands. The objectives of DoD's Sexual Assault Prevention and Response policy are to specifically enhance and improve: 1) prevention through training and education programs, 2) treatment and support of victims, and 3) system accountability.
 - DoD Annual Report: The Department of Defense is required to submit to Congress an annual report on sexual assault in the military. The report is divided into the following major sections: DoD SAPR Program Overview, Program Highlights, Aggregate Report of Sexual Assault Incidents, Way Ahead for Program, and Strategic Observations.
 - *Annual Report on Sexual Harassment and Violence at the U.S. Military Service Academies*: The annual reports on sexual harassment and violence at the three Service academies provide data on reported sexual assaults involving cadets and/or midshipmen, as well as policies, procedures, and processes implemented in response to sexual harassment and violence during the Academic Program Year.
 - DoDI 6495.02: *SAPR Program Procedures*.
 - DoDD 6495.01: *Sexual Assault Prevention and Response (SAPR) Program*.

Support Plan for Implementation
**Report of the Comprehensive Review of the Issues Associated
with a Repeal of “Don’t Ask, Don’t Tell”**

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Mr. Floyd Stewart

Support Plan for Implementation

**Report of the Comprehensive Review of
the Issues Associated with a Repeal of
“Don’t Ask, Don’t Tell”**

November 30, 2010

