

Carolyn B. Lamm
President

AMERICAN BAR ASSOCIATION

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April 26, 2010

The Honorable Harry Reid
Senate Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Mitch McConnell
Senate Minority Leader
United States Senate
Washington, D.C. 20510

The Honorable Carl Levin
Chairman, Armed Services Committee
United States Senate
Washington, D.C. 20510

The Honorable John McCain
Ranking Member, Armed Services Committee
United States Senate
Washington, D.C. 20510

Dear Senators:

On behalf of the American Bar Association, I write to express our strong support for repeal of 10 U.S.C. §654, the statute commonly known as “Don’t Ask Don’t Tell.” Subjecting a person to discharge from military service on the basis of sexual orientation is, and always has been, a denial of the very constitutional protections that the oath administered to military members calls upon servicemembers to protect.

The ABA has a long tradition of actively opposing discrimination, such as the intolerable denial of a person’s civil rights based on solely his or her identity as a member of a minority group. Accordingly, we opposed enactment of this policy in 1993 as establishing a form of discrimination that was not based on the character of the servicemember’s contribution to the national defense. The harm we foresaw has since come to pass. More than 13,000 men and women have been dismissed from service under the law, among them highly trained specialists like pilots, sharpshooters and translators.

Despite the ABA’s opposition over the past 17 years, we have remained sensitive to the special status of our armed forces and their leadership who must use the tools at their disposal to maintain order and discipline. Our membership includes current and former judge advocates and judges, and we have enjoyed long-standing relationships with the Department of Defense and military service branches. They have collectively helped us appreciate the importance of troop morale and cohesion as elements of battle-readiness, although we have respected the currently obligated silence of those in active service.

As the policy itself makes clear, lesbian, gay, and bisexual people long have served honorably in the military. The fact that others may react negatively when they learn they

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are serving with a lesbian, gay, or bisexual servicemember is not a sufficient basis to exclude those members from the opportunity to serve their country. Meanwhile, this exclusionary policy has clearly shown its effect on readiness through the dismissal of highly trained and skilled personnel. As noted above, contrary to the asserted purpose of the policy, "Don't Ask, Don't Tell" appears already to have hampered military readiness by requiring the dismissal of hundreds of highly trained and skilled personnel. While there is no fundamental right to serve in the military, there is no sufficient reason in our view to continue to deprive these men and women of the opportunity to serve their country and to deprive the nation of their talent and skill.

We appreciate the careful consideration with which the Secretary of Defense is exploring the manner of implementation of anticipated repeal through the study due December 1, 2010. We recognize that many collateral matters will have to be sorted out upon the implementation of repeal, and the ABA stands ready to assist in the development of an intelligent plan for dealing with those matters.

Should you have any questions about our position or if the ABA can be of assistance, please contact Thomas Susman, Director of the ABA Governmental Affairs Office, at 202-662-1765 or susmant@staff.abanet.org.

Sincerely,

A handwritten signature in cursive script that reads "Carolyn B. Lamm". The signature is written in black ink and includes a long, sweeping horizontal line at the end.

Carolyn B. Lamm