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Ready, Willing, Disqualified

By Nathaniel Frank

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TWO lawsuits were filed last week against the United States military. In one, eight soldiers are challenging an Army policy that extended their tours of duty in the Middle East. They are suing to get out of military service. In the other suit, 12 gay and lesbian veterans are challenging the decade-old "don't ask, don't tell" policy that bars known gays from serving in the armed forces. They are suing to get back into the military.

The connection between the two suits may be more than coincidental. An analysis of Pentagon data reveals that the military is losing gay troops in the occupational areas where shortfalls are most dire. In addition to the "stop loss" orders that prompted last week's lawsuit, the Pentagon has recalled thousands of former troops from civilian life to fill these gaps.

Many of these recalls would have been unnecessary if the military had not fired so many gay service members. This year the Pentagon approved the recall of 72 veterans in communication and navigation, but it has expelled 115 gay troops in that category since 1998; it recalled 33 in operational intelligence but has expelled 50 gays; in combat operations control, it recalled 33 but expelled 106.

Overall, the military has announced the recall of 5,674 veterans since June, but has discharged 6,416 soldiers under its "don't ask, don't tell" policy since 1998, including 1,655 since the wars in the Middle East began. The discharges covered people in 161 occupational specialties, including linguists; intelligence personnel; nuclear, biological and chemical warfare experts; artillery specialists; and missile guidance and control operators.

The gay plaintiffs are suing on constitutional grounds. Yet the evidence suggests that the current policy should also be challenged on grounds of national security.

One of the few positions that enjoy near uniform agreement across the political spectrum is the importance of supporting the troops who put their lives on the line for our country. But thousands of these men and women are gay. And the "don't ask, don't tell" policy saddles them with peculiar burdens that apply only to a small minority

because of something that, evidence shows, has nothing to do with military service.

Some of the freshest evidence of these burdens comes from in-depth interviews I conducted this fall with dozens of gay and lesbian service members who served in Iraq and Afghanistan. The interviews suggest that many gays serve openly without incident, but that the policy itself impairs the capacity of gay troops to develop bonds of trust, minimize stress, prepare for deployment, focus on their mission and advance professionally.

Gay soldiers have tried before to get courts to overturn the "don't ask, don't tell" policy, without success. But their cases were decided before the Supreme Court last year struck down state laws criminalizing sodomy, a precedent that may lend weight to the plaintiffs in the suit filed last week. Just last month a military appeals court reversed the sodomy conviction of a heterosexual Army specialist, saying that the Supreme Court now recognizes "substantial protection" to adults in choosing how to conduct their private lives. The ruling could be the beginning of the end of the ban on gay troops.

But it should not require judicial action to end the ban on gays in the military. From a military standpoint, the policy is unwise. And politically, the moment may be near when public support of gays in the military makes Congressional action possible. Seventy-nine percent of the public now favors letting gays serve openly. For the first time, a majority of junior enlisted personnel support open gays in the military.

President Bush has positioned himself as a "compassionate conservative" who values fairness and inclusiveness. If he truly wants to disavow discrimination, he should ask Congress to place the evidence ahead of prejudice and reconsider the "don't ask, don't tell" policy. It would be the right thing both for our troops and for national security.

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