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Public Advocacy Center, Room 223

Touro Law Center

225 Eastview Drive, Central Islip NY 11722

631 650 2310

www.saltlaw.org

President Barack Obama
The White House
Washington, D.C. 20500

June 19, 2009

Dear Mr. President:

The Society of American Law Teachers – SALT – is writing to urge you to take a leadership role in seeking the repeal of Don't Ask Don't Tell and to replace it with a nondiscrimination provision that would allow gays and lesbians to serve openly in the armed forces. Throughout your campaign, you recognized that Don't Ask Don't Tell is an outdated policy that interferes with our national security and needlessly wastes taxpayer dollars. Yet, since you became Commander in Chief, the military has discharged nearly 240 members of the military under Don't Ask Don't Tell.

We agree with the positions you expressed during the presidential campaign. You acknowledged Don't Ask Don't Tell for what it is - a discriminatory statute that mandates that an individual be fired solely because of his or her sexual orientation. In direct contradiction to the statute, you stated that the only relevant criterion to service in the armed forces should be an individual's ability and willingness to defend our country. And, you promised to provide the needed leadership to achieve repeal of the statute.

America is ready for repeal. In a recent Gallup poll, over 70 percent of the American public believed that gays and lesbians should be able to serve openly in the armed forces. In a poll of veterans who served in Iraq and Afghanistan, 75% reported being "personally comfortable" with gays and lesbians. Former Chairmen of the Joint Chiefs of Staff, John Shalikoshvili and Colin Powell, among other high ranking military officials, have also recognized the time for repeal is now.

SALT urges you to provide the required leadership by asking Congress to act on the Military Readiness Enhancement Act (H.R. 1283), a bill that will repeal Don't Ask Don't Tell and replace it with a provision that prohibits discrimination based on sexual orientation in the armed forces. The House bill currently has over 140 co-sponsors and Senator Kennedy is poised to introduce a companion bill in the Senate. We encourage you to issue a statement urging Congress to act swiftly on this bill as you have done with regards to other priority legislative reform efforts. Your

Pending congressional action, we also urge you to consider using executive power to slow, if not stop completely, discharges under the statute. Both the Palm Center and Servicemembers Legal Defense Network (SLDN) have submitted proposals that outline potential executive actions that can be taken until full repeal is realized. The Palm Center's report identifies several statutory mechanisms through which the President could prohibit discharge of certain members of the armed forces in times of emergency through so-called stop-loss orders. While it is unclear whether the conditions necessary to activate this statutory authority are present, we encourage you to explore this option as a potential stop-gap measure.

SLDN's proposal focuses primarily on the statutory discretion granted the Secretary of Defense under Don't Ask Don't Tell. Congress has delegated to the Secretary of Defense the authority to develop the regulations to implement Don't Ask Don't Tell. Using this authority, the DOD has issued directives to the military departments that prescribe the initiation of an investigation, the discharge hearing process, and further define certain terms left ambiguous in the statute. SLDN has identified several changes to the regulations that, while not ending discharges under Don't Ask Don't Tell, will, at the very least, slow them and improve the lives of the gay and lesbian members currently serving. We believe these suggestions are worthy of serious consideration and should be implemented with alacrity.

We also urge you to adopt the Palm Center's and SLDN's proposal that the standard in *Witt v. Air Force* be applied in all military installations and not just those located within the Ninth Circuit. As you know, in *Witt v. Air Force*, the Ninth Circuit held that the government's application of Don't Ask Don't Tell to Major Witt violated her substantive due process rights. To remedy the violation, the court remanded the case back to the trial court and required the Air Force to prove that Major Witt's presence within the military was a detriment to the government's interest in unit cohesion, good order and morale and further that there wasn't a less intrusive means to meet these interests. As recommended by SLDN and the Palm Center, you should order the Secretary of Defense to amend the current regulations to require that these findings be made in every discharge proceeding. Given the increasing anecdotal evidence that many members serve openly within their units without incident, and that a growing number of service members believe that gays and lesbians should be able to openly serve in the armed forces, it is likely to be a difficult burden to meet and one that will slow the number of discharges under this discriminatory statute.

Additionally, we agree with other proponents of repeal that further study is unnecessary. Every study commissioned by the government, including the US Navy's Crittenden Report from 1957 and the 1993 RAND study, reveals that Don't Ask Don't Tell could be lifted without detriment to military readiness. Most allied forces working alongside U.S. troops in Afghanistan and Iraq allow individuals to serve openly regardless of sexual orientation. Studies of the militaries of Australia, Israel, Great Britain and Canada have shown that open service has no effect on enrollment or retention.

Mr. President, the time for action is now. Nearly 13,000 patriots have already been discharged under this discriminatory statute and over 65,000 gay and lesbian individuals continue to serve this country, fighting for the very liberty that they are denied. Until you act, this country will continue to lose brave and qualified Americans willing and able to defend this country.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'MMB' followed by a long, sweeping horizontal stroke.

Margaret Martin Barry
Co-President

A handwritten signature in black ink, clearly legible as 'Deborah W. Post'.

Deborah Waire Post
Co-President