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February 26, 1996

Dear Representative:

We are writing to urge your support for H.R. 2959, legislation which would repeal Section 567 of S.1124, the National Defense Authorization Act of 1996 which was signed into law February 10, 1996. This provision mandates the separation and discharge of any service member who is HIV-positive.

The American Bar Association adopted policy in 1988 opposing discrimination against persons with HIV. We are as committed today as we were eight years ago to the concept that individuals with HIV seropositivity who are "otherwise qualified" should not be discriminated against in employment by reason of the fact that they are, or are regarded as being, infected with the HIV virus.

Congress also has recognized this important principle of non-discrimination in the "Rehabilitation Act of 1973" and the "Americans with Disabilities Act of 1990". Under both laws and subsequent court interpretations, individuals who are HIV-positive or have AIDS have been protected from employment discrimination and from a targeted denial of benefits.

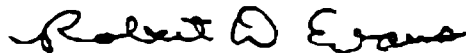
Medical evidence and experience continue to prove that there is no legitimate reason to discriminate against HIV-positive individuals. The Department of Defense (DoD) has consistently reiterated its policy of non-discrimination toward service members with HIV seropositivity who are otherwise qualified to perform military duties. DoD does not support this change in policy; the Chairman of the Joint Chiefs of Staffs and other commanders assert that Section 567 is unnecessary as a matter of sound military policy because there already exists an appropriate and sufficient system for determining the fitness for duty of HIV-positive personnel.

National Defense Authorization  
Act of 1996  
February 26, 1996  
Page 2

The Reagan, Bush and Clinton Administrations have all agreed with senior military officials that military readiness and cost effectiveness are best served by retention of able-bodied service members who are HIV-positive. Even though HIV-positive service members are non-worldwide deployable, they, like other non-worldwide deployable members who have chronic illnesses (e.g., those with diabetes, asthma, heart disease or cancer, and pregnant mothers) still serve vital and appropriate functions in the military by bringing valuable training and experience to the stateside duties to which they are assigned.

There is no new evidence to suggest a need to reverse DoD policy. Arbitrarily singling out service members for dismissal and denying benefits to their dependents based upon HIV seropositivity is discriminatory and serves no compelling interest. Speedy passage of H.R.2959 is urgently needed to rectify this inequity and prevent the wasteful discharge of capable service members. The American Bar Association urges your co-sponsorship and full support for this bill.

Sincerely,



Robert D. Evans

## **DEFENSE AUTHORIZATION BILL INTERNAL TALKING POINTS**

The President will sign the National Defense Authorization Act for 1996 because it strengthens our national defense, improves the quality of life of our service men and women and their families, and funds vital defense programs.

The President is strongly opposed to a provision in the bill which requires the discharge of any military personnel who is HIV-positive. The President believes that this provision is clearly discriminatory and wholly unwarranted. He fully supports legislative efforts to repeal this provision and, in the meantime, is committed to ensuring full benefits for these servicemen and their families.

### **1. Benefits of the Bill**

- **Pay Increase and Bonuses:** The bill authorizes full increase in pay and allowances for military personnel, as the President urged -- 2.4% increase in basic pay and allowance for subsistence and 5.2% increase in basic allowance for housing. The bill also extends crucial bonuses to retain skilled personnel in aviation, nuclear power, nursing and hazardous field duty.
- **Procurement Reform:** As the President urged, the bill simplifies the purchase of commercially-available goods and services; streamlines and clarifies procurement integrity laws; simplifies acquisition of information technology like computers and telecommunications equipment. These reforms are consistent with the Administration's efforts under the National Performance Review to create government that works better and costs less by adopting best practices of successful private sector companies.
- **Military Housing:** The bill provides new authority to acquire and improve military housing by using private expertise and capital. This is an important step to improve the quality of life and keep our best people in the service.
- **Military Construction in Bosnia:** The bill authorizes necessary military construction of special importance to mission in Bosnia, including headquarters, barracks, airfields, railroads, bridges and roads.
- **Assist Prosecution of War Crimes in Bosnia and Rwanda:** The bill approves the President's proposal to allow U.S. to extradite indicted war criminals and provide evidence to International War Crimes Tribunals for the Former Yugoslavia and Rwanda.
- **Corrects Most Deficiencies of Bill President Vetoed 12/28/96:** This revised bill corrects three major problems that led to the President's veto -- which Congress upheld. The bill:
  - (i) no longer mandates deployment of 50-state "Star Wars" missile defense system by 2003 which would have put us on collision course with ABM Treaty; (ii) no longer requires Presidential certification/waiver to assign US armed forces to UN missions; (iii) no longer mandates supplemental budget requests to fund overseas military contingency operations.

### **2. HIV Provision**

The Act contains a provision requiring the discharge of all military personnel living with the Human Immunodeficiency Virus (HIV). The President -- together with Defense Secretary Perry and Chairman of the Joint Chiefs Shalikashvili [see attached statement] -- strongly opposes this provision because it is:

- **Unnecessary:** Requires discharge regardless of whether there is any medical or military necessity; a physical evaluation system is already in place to determine fitness for duty of HIV-positive personnel.

- Discriminatory: Singles out military personnel living with HIV and differentiates them from those suffering from other illnesses or disabilities for which discharge is not required.
- Punitive: Service members discharged pursuant to this provision would not receive benefits to which they would otherwise be entitled had they continued to serve until it became medically necessary for them to retire.
- Wasteful: Wastes the government's investment in the training of discharged individuals; disrupts the military programs in which they play integral role.
- Unconstitutional: After consulting with the Department of Justice, the President has concluded that the provision violates the equal protection clause by requiring separation of physically able service members living with HIV without furthering any legitimate military purpose.

### **3. Administration Actions on HIV Provision**

- Seek Immediate Repeal: The President is fully supporting efforts in Congress to repeal this provision.
- Ensure Full Benefits to Affected Personnel: The President has directed the Departments of Defense, Veterans Affairs and Transportation to take any necessary steps to ensure that affected service members and their families receive the full benefits to which they are entitled, including health care coverage for families, disability retirement pay and transition benefits such as job training. [See attached Presidential Directive.]
- Decline to Defend Provision in Court: The President has directed the Attorney General to decline to defend this provision in any court.

#### **Attachments:**

- Statement by Defense Secretary Perry and Chairman of the Joint Chiefs Shalikashvili
- Presidential Directive



# NEWS RELEASE

OFFICE OF ASSISTANT SECRETARY OF DEFENSE  
(PUBLIC AFFAIRS)

WASHINGTON, D.C. - 20301

**PLEASE NOTE DATE**

**IMMEDIATE RELEASE**

February 9, 1996

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**Joint Statement by Secretary of Defense William J. Perry and  
Chairman of the Joint Chiefs of Staff, General John M. Shalikashvili**

Section 567 of S.1124, the National Defense Authorization Act for Fiscal Year 1996, requires the separation from the armed forces of any member who is HIV-positive.

This provision will require the discharge of over 1000 service members who, although they have tested HIV-positive, are currently deemed fit to perform their duties. While non-deployable, they join other service members in that category.

To discharge all of these service members arbitrarily as section 567 mandates would be both unwarranted and unwise.

Section 567 is unnecessary as a matter of sound military policy because there is already in place a physical evaluation system to determine the fitness for duty of HIV-positive personnel.

Discharging service members deemed fit for duty would waste the government's investment in the training of these individuals and be disruptive to the military programs in which they play an integral role.

There are service members who suffer from diseases that make them non-deployable, but who are still permitted to serve their country so long as they meet uniform retention standards. Decisions on their retention are made on an individual basis in accordance with current regulations. Section 567 singles out those members who are HIV-positive and requires discharge regardless of their ability to perform. This violates a standard traditionally used by the services for retention and thus undermines a fair policy of evaluating retention on medical and service issues on an individual basis.

**- END -**

THE WHITE HOUSE  
Office of the Press Secretary

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For Immediate Release

February 9, 1996

February 9, 1996

MEMORANDUM FOR THE SECRETARY OF DEFENSE  
THE SECRETARY OF TRANSPORTATION  
THE SECRETARY OF VETERANS AFFAIRS

SUBJECT: Benefits for Military Personnel Involuntarily  
Separated from the Armed Services as a Result  
of HIV

The National Defense Authorization Act for Fiscal Year 1996 (S. 1124) contains a provision I strongly oppose, which requires the discharge of all military personnel living with the Human Immunodeficiency Virus (HIV), regardless of whether there is any medical necessity for such discharge. This provision is clearly discriminatory and wholly unwarranted. It is also highly punitive. Service members discharged pursuant to this provision would not receive the benefits to which they would otherwise be entitled had they continued to serve until it became medically necessary for them to retire.

Consequently, I will give my full support to legislative efforts to repeal this provision.

In the meantime, I am committed to ensuring full benefits to these service members and their families to ameliorate the unfair burden this legislation will place on them. I am therefore directing you, in consultation with the Office of Management and Budget and such other agencies as may be appropriate, to take all necessary steps, consistent with applicable law, to ensure that these service members and their families receive the full benefits they are entitled to, including, among other things, disability retirement pay, health care coverage for their families, and transition benefits such as vocational education.

This memorandum is for the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable by any party against the United States, its agencies or instrumentalities, its officers or employees, or any person.

WILLIAM J. CLINTON

# # #

# Army Sergeant With HIV Feels Deserted by Policy

*Widowed by Disease, Pentagon Worker Faces Loss of Career, Child's Benefits in Defense Bill*

By Dana Priest  
Washington Post Staff Writer

Marie, a staff sergeant who has been in the Army 10 years, figures she has done what has been expected of her, and more. She has worked hard, spent months away from her family on assignments, "given 110 percent" to her job and is in line for an important promotion.

Except now she expects to be forced out of the Army.

That is because last week Congress passed and President Clinton agreed to sign a defense bill that includes a provision to discharge service members with the AIDS virus, regardless of whether they are sick or can still perform their jobs.

Marie, who is 34 and has a daughter in elementary school, was infected by her late husband before he knew he had the disease.

"I'm widowed from it, I have a child and now I'm going to lose my job," she said in a three-hour interview yesterday at a friend's home in Northern Virginia. "No one's looking at the work I've done. No one's looking at the commitment I made. . . . I signed a contract to uphold freedom of speech, freedom of religion, I defend the Constitution. It feels like the United States has turned its back on me."

Marie noted that she was being forced from her profession for having HIV, the virus that causes AIDS, just when many people this week applauded basketball star Earvin "Magic" Johnson's return to professional play despite having the virus.

Afraid of being stigmatized, she will not allow her full name to be used in this article—Marie is her middle name. She has not told her daughter or most of her co-workers she is HIV-positive and only informed her mother last month, although she was diagnosed five years ago and informed her Army supervisors.

"It's my family I'm concerned about," she said.

The HIV measure in the defense bill was introduced by Rep. Robert K. Dornan (R-Calif.), a conservative presidential aspirant and former combat pilot who has become a lightning rod for anger among AIDS activists and others, including Marie.

Dornan has attracted their criticism for comments such as one he made on the House floor in November, when he defended the provision by saying AIDS "is spread by human God-given free will," and then listing what he described as the three ways service members get AIDS: "Rolling up your white, khaki or blue uniform

sleeve and sticking a contaminated, filthy needle in your arm . . . heterosexual sex with prostitutes . . . and having unprotected [homosexual] sex with strangers in some hideaway or men's room somewhere."

"I feel outraged" at Dornan, said Marie. "I can't go out into the public and talk about my disease because the American people don't understand this disease. How can I feel safe if I have a leader on Capitol Hill who says things like this."

"Everything I worked for he's taking away from me, everything I know," she said. "I've left my family to go to school, I've left my family to go overseas. I did it because that was what the military expected of me. If I didn't want to make it my career, I wouldn't have done it. I love my family."

There are 1,049 male and female service members who have the AIDS virus. They have been allowed to continue to work and to reenlist as long as they are able to perform their jobs. But the military tests personnel for HIV about every two years, and those with the virus are prohibited from being sent to overseas posts or into combat. Marie went abroad before being infected.

"It sounds like a tragic case," Dornan said of Marie in an interview yesterday. But, he added, AIDS sufferers put an undue burden on other service members who have to fill in for them overseas. "She can't go to Bosnia. She can't go to Haiti. She can't go to Somalia. She can't go anywhere in this world. . . and she obviously had unprotected sex with someone whose entire background she didn't know. . . . She should be a good patriot and take her honorable discharge."

Defense Department statistics show that half of the service members with the AIDS virus are married.

Several high-ranking military officials and military organizations have supported Dornan's provision because they believe HIV-positive service members are a drain on military readiness. In 1993, Adm. Frank B. Kelso II, then chief of naval operations, wrote Dornan to say that retaining HIV-positive service members "imposes significant problems for all services, especially the Navy. Assignment limitations cause significant disruption in the sea/shore rotation for all our personnel."

Clinton is set to sign the defense bill early next week. After he does, Marie, who works on personnel issues at the Pentagon, will be discharged within six months. She will retain her medical benefits but will not be entitled to retirement bene-

fits or the kind of substantial disability pay she could have gotten had she remained in the Army until she became too sick to work. She will also lose the health insurance she has for her daughter.

White House officials said they hope to have some alternative to the provision ready when Clinton signs the bill. Among the options under consideration is to have Clinton sign an executive order that would allow service members to retain health insurance for their dependents or to support legislation to repeal the provision.

# Attorney Protests Filming Of Shackled Bomb Suspect

By Lois Romano  
Special to The Washington Post

OKLAHOMA CITY, Jan. 31—An attorney for Terry Lynn Nichols, accused in the April 19 bombing of the federal building here, complained bitterly to a judge that a television pool this morning was allowed to film his client with "shackled hands and feet" and disseminate the tape for statewide and national broadcast.

Michael Tigar lodged his complaint on the second day of tense hearings to decide where to hold the trial of Nichols and Timothy James McVeigh, charged in the bombing that killed 169 people. The defendants are asking that the trial be moved out of Oklahoma, maintaining they cannot get a fair trial here because of negative media coverage, among other reasons.

Defense attorneys today attempted to illuminate the differences between national and local coverage of the bombing, in terms of the volume and intensity of the reports in Oklahoma. Scott Armstrong, of the National Security Archive in Washington, testified the coverage is "so extensive as to lead to conclusions."

The government, hoping to keep the case in state, has suggested moving the trial to Tulsa or Lawton. But

today, Judge Richard Matsch, saying it was a "waste of time" to even talk about Lawton, cast serious doubt about whether he considers it a viable option because of the estimated \$1 million it would cost to update the courthouse there.

Meanwhile, this has been a trying two days for victims' family members, many of whom wore large buttons bearing photos of their loved ones. One woman ran from the courtroom in tears when a videotape of news reports of the bombing was played.

About a dozen families held a news conference urging congressional passage of an anti-terrorism bill that would limit the number of appeals allowed in a death penalty case.

"I want to see these people [who did this] killed immediately just like my father was," said a weeping Catherine Alaniz, whose father worked in the U.S. Customs Service office in the Alfred P. Murrah Federal Building.

Families and friends of those lost in the blast continued to be annoyed by McVeigh's relaxed, often smiling demeanor in court. "We are all trying to cope," said McVeigh's attorney, Stephen Jones. "I don't think there's anything inappropriate about it. The defendant is a human being and he's acting accordingly."

## CORRECTION

An item in Saturday's Business section incorrectly reported the earnings of NHP Inc., a District-based property management firm. Its net income for 1995 was \$29.3 million, up 77 percent from 1994. Net income from continuing operations, before taxes and nonrecurring expenses, rose 28 percent last year, to \$13.9 million.



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# News

**FOR IMMEDIATE RELEASE**

Friday, Jan. 26, 1996

## **GOP EXTREMISTS PLACED DISCRIMINATORY MEASURE IN DEFENSE BILL, HRC SAYS**

### **Dornan, Lott Pushed Ugly Provision to Discharge HIV+ Troops**

*Washington* — Republican extremists are responsible for a discriminatory HIV measure in the defense spending bill expected to be passed by the Senate on Friday, the Human Rights Campaign charged. HRC called on enlightened members of Congress to roll back this unnecessary provision.

"GOP presidential candidate Bob Dornan and Senate Republican Whip Trent Lott of Mississippi pushed this outrageous measure through, despite the protests of more moderate members of their own party," said Daniel Zingale, HRC's political director. "The blame for this ugly amendment belongs squarely with them."

Rep. Dornan, of California, wrote the measure, which would force the Pentagon to discharge all service members with the virus that causes AIDS. The provision would also deny these men and women many of the valuable benefits available to service members discharged for other medical conditions.

"There is absolutely no reason to treat people with HIV any differently from service members with other chronic medical conditions, such as heart disease or diabetes," Zingale said. "This measure will remove trained, experienced, healthy and productive people from the armed forces. Even the Pentagon has said it doesn't want this provision."

A total of 1,149 service members would be affected by the measure, which calls for their discharge within six months.

White House spokesman Mike McCurry said Thursday that President Clinton has reservations about the HIV provision but plans to sign the bill. The \$265 billion authorization passed the House on Wednesday.

Currently, HIV-positive service members may serve their country as long as they can perform their duties, but they are not deployed overseas. The same policy is applied to service members with other chronic medical conditions such as diabetes, asthma, heart disease or cancer.

The Human Rights Campaign also objects to a provision in the bill that would ban abortions at overseas military hospitals. Clinton had objected to this and the HIV provision when he vetoed an earlier version of the defense bill in December. Congress then went back and removed some of the other provisions the president opposed.

The Human Rights Campaign is the largest national lesbian and gay political organization, with members throughout the country. It effectively lobbies Congress, provides campaign support and educates the public to ensure that lesbian and gay Americans can be open, honest and safe at home, at work and in the community.

## INFORMATION PAPER

### **SUBJECT: Options for Separation of HIV - Positive Members**

**Prospective DoD Guidelines:** (1) Servicemembers will not be separated before the last day of the sixth month unless the member so desires.

(2) Those eligible to retire under any provision of law, including the Temporary Early Retirement Authority (TERA), will be permitted to voluntarily retire.

**Note:** Program costs have not been calculated.

| <b>Significant Issues</b>                                                                           | <b>Option 1: Voluntary Separation</b>                                                                                                             | <b>Option 2: Disability Separation</b>                                                                           | <b>Option 3: Disability Retirement</b>                                                                                       |
|-----------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| <b>Pay/Entitlements</b><br><br>Example: E6 over 10 years of service annual pay/benefits of \$31,682 | <b>Minimizes Benefits</b><br><br>\$29,912 - lump sum                                                                                              | <br><br>\$34,854 - lump sum                                                                                      | <b>Maximizes Benefits</b><br><br>\$10,456 - annually upon VA approval to increase the rating of disability from 0% to 30%*** |
| <b>Survivor Protection</b>                                                                          | Serviceman's Group Life Insurance (SGLI)<br>Veteran's Group Life Insurance (VGLI)<br>Dependency Indemnity Compensation (VA Survivor Annuity)(DIC) | Same                                                                                                             | Same plus Survivor Benefit Plan (SBP)                                                                                        |
| <b>Health Care Coverage</b>                                                                         | Member - Yes<br>Family - No<br>(Temporary health care coverage to allow dependents to procure private insurance)                                  | Member - Yes<br>Family - No<br>(Temporary health care coverage to allow dependents to procure private insurance) | Member - Yes<br>Family - Yes                                                                                                 |
| <b>Transition Benefits *</b>                                                                        | Unemployment Compensation<br>Separation/Retirement Counseling<br>Employment Assistance<br>Relocation Assistance<br>Hiring Preference **           | Same                                                                                                             | Same                                                                                                                         |

\* and \*\* See attached papers

\*\*\* VA is reviewing the possibility of increasing the rating of individuals who are HIV Positive

**ISSUE PAPER \*\***

**SUBJECT:** Placement of discharged HIV positive military members into civilian positions in the Department of Defense

**BACKGROUND:** The 1996 Defense Authorization Bill will require the discharge of military members who test HIV-positive. One proposed option would require placement of these discharged members into the civil service. Placement into permanent Appropriated Fund positions would provide Federal Health Benefits Coverage Act (FEHBA) to discharged members and their families without a "pre-existing condition" clause. There are two avenues for placement into civilian positions in the Department of Defense: Appropriated fund (AF) positions and Nonappropriated Fund (NAF) positions. Both are discussed below:

**DISCUSSION:**

The following laws and regulations would require change to accommodate the placement of discharged military members into civilian positions:

**APPROPRIATED FUND POSITIONS:**

**Law or Executive Order**

- Title 5, Section 3304, sets merit principles requiring open, competitive examinations for hire
- Title 5, Section 3326, which restricts hiring retired military for civil service and nonappropriated fund jobs within 180 days of retirement. (applicable only to members retiring from military service)
- The Veterans Preference Act of 1944 which provides veterans preference in employment and retention in Federal jobs
- Section 806, P.L. 99-145, The Military Family Act of 1985, which provides spouses of active duty military with employment preference within DoD (AF and NAF)
- Title 5, Section 3329 which provides placement entitlement to certain involuntarily separated military reserve technicians. (The FY 1996 Defense Authorization Bill limits the entitlement for those separating on or after enactment.)
- P.L. 101-510 provides NAF only preference for certain separated members and dependents

**Administration, OPM, or DoD Policy Constraints**

- Employment ceilings (as measured by Full Time Equivalents) allocated to agencies by the Office of Management and Budget.
- DoD Priority Placement Program policies which grant priority to civil service employees facing a reduction in force and family members returning with their military and civilian sponsors from overseas.
- 5 Code of Federal Regulations 330 which provides placement priority to separated Federal employees throughout the Federal service
- Continuing drawdown of over 100,000 DoD Civilian workforce through 2001

## Concerns

- Placement priorities of other separated DoD and Federal employees
- Public perception of favoritism for a certain group
- Competitive hiring process may not permit selection of these candidates
- Limited funds to support positions even if FTE ceiling is raised

## NON APPROPRIATED FUNDS:

**BACKGROUND:** There are about 170,000 DoD NAF jobs in exchanges, military clubs, bowling facilities, athletic programs, child care centers, and other miscellaneous positions in support of the Military Morale, Welfare, and Recreation (MWR) Program and resale activities. NAF salaries are paid from revenues generated from MWR and resale activities rather than from Congressional appropriations. Therefore, except for equal opportunity requirements, the title 5 civil service appointment rules do not apply to NAF jobs.

## FACTORS BEARING ON EMPLOYMENT PREFERENCE:

**Limited Number of Appropriate Vacancies.** Most of the NAF employees are in lower level jobs such as waiter, food preparer, child care giver, clerk, and cashier. Also, the MWR program is undergoing a major drawdown. About half of all NAF positions are other than full-time. Many jobs are filled on an intermittent, part-time, or temporary basis that does not provide any benefits such as leave or insurance.

**Interface with Current NAF Employment Preferences.** Statutory military spousal and separated military NAF preferences take precedence over any administrative preferences that exist.

**Health Insurance.** The Federal Employees Health Benefits Act (FEHBA) does not cover NAFs. NAF employers contract with the private health benefits insurers for eligible NAF employees and pay the full employer share of the premium with NAF profits. Unlike FEHBA, most of the plans have "pre-existing condition" clauses that would deny benefits to HIV/AIDS patients. Where not excluded, HIV/AIDS treatments could substantially increase premium rates and the profitability of NAFs.

## CONCLUSION:

- Current hiring authorities and the continuing drawdown offer limited civil service employment prospects.

## **INFORMATION PAPER\***

**Subject: Transition Assistance in the Department of Defense (DoD)**

Since 1991 the Department of Defense (DoD) has developed "Operation Transition"—an extensive proven array of services and benefits designed to equip service members who are separating or retiring voluntarily or involuntarily (to include medical disabilities associated with the HIV- infection) with 90 day pre-separation counseling and the necessary basic job search skills, and self confidence necessary to secure successful employment in our nation's civilian work force. *No data is available on the employment success of our members who have been separated while HIV positive or symptomatic AIDS.*

Each of the military Services, in conjunction with DoD, the Departments of Labor and Veterans Affairs, and state employment service agencies, has innovative transition program components designed to fit the needs of separating military members and their families. These programs include: educational benefits, information concerning government and private sector programs for job-search and job-placement assistance, and relocation assistance.

Additionally, DoD, in conjunction with the Department of Labor and the Department of Veterans Affairs also provides:

- 3 day transition assistance seminars
- job training assistance
- VA benefits and entitlements counseling
- financial counseling through workshops at 204 selected bases.

Sophisticated easy to use automated systems are a vital component of DoD's transition program. Available at 271 worldwide transition sites is the Defense Outplacement Referral System (DORS). DORS is an automated mini-resume registry and referral system that enables approximately 12,000 participating civilian employers to access departing service members and spouses who are actively seeking civilian employment. Included in the DORS program is the Transition Bulletin Board (TBB) that allows participating employers (13,500) to list job openings. These openings are electronically transmitted to military transition sites worldwide.

## **QUESTIONS AND ANSWERS**

### **Department of Defense Authorization Bill**

#### **Question**

**Why is the President signing this bill?**

#### **Answer**

The bill includes important provisions related to the operation of the Department of Defense and the support of military personnel and their families. The President continues to feel that the provision related to HIV-positive personnel is blatantly discriminatory and punitive in nature. He is actively seeking its rapid repeal so that no member of the Armed Forces is discharged under this Act.

#### **Question**

**Why didn't the President and his Administration try to defeat this bill?**

#### **Answer**

From the moment it was introduced, the Administration worked very hard to defeat this proposal. The Department of Defense testified against the proposal in the House and sent several letters of opposition to the sponsor of the amendment. The President vetoed the legislation when it was first sent to him and specifically singled out this provision as one reason for that action.

The President plans to give his full support to bipartisan efforts to repeal this repugnant provision before a single member of the Armed Forces is discharged.

#### **Question**

**Is it really likely that this could be repealed?**

#### **Answer**

There is strong bipartisan opposition to this provision. That is one reason the sponsor chose to bury it in this important bill. He knew that it could not obtain a majority on its own. We are working very closely with members of both parties to move quickly to repeal this provision. It is my belief that we can do that well before the six-month deadline for action expires.

**Question**

These service members will lose many of their benefits along with their income. Are you doing anything to help them?

**Answer**

We are examining all legal avenues to provide these individuals and their families with the best benefits we can. Of course our overriding interest is to see this provision repealed.

**Question**

Mr. Dornan says these service members are unfit to be in the military and that their own behavior led to their illness. How do you respond?

**Answer**

These are honorable men and women who have served their country well who happen to be HIV-positive. More than 80 percent of these people volunteered to enlist in the armed services. They have served, on average, for 10 years in the armed services and many have families who depend on them. Any one of us could be in their shoes.

## **TALKING POINTS**

### **DISCHARGE OF HIV-POSITIVE MILITARY PERSONNEL**

#### **Background**

The President intends to sign the conference agreement on H.R.1530, the National Defense Authorization Act. The legislation includes important reforms in military acquisition rules, an increase in pay for military personnel, and other issues vital to the national interest. It also contains a provision, opposed by the President, requiring the retirement or discharge of personnel who are HIV-positive.

#### **Key Points**

- The President and his Administration have vigorously opposed this provision. The President cited it as one of the reasons for his veto of the earlier version of this legislation.

I find the provision to be deeply offensive. It flies in the face of medical advice and singles out one group of Americans for differential treatment and discrimination.

These men and women are willing and able to continue serving their nation. This provision is an insult to their commitment. They have served an average of 10 years in the Armed Forces and more than 80 percent of them volunteered to serve their country.

- During the negotiations over the revised version of the legislation, the Administration aggressively sought to have this provision omitted from the final legislation. Sadly, these efforts were not successful.
- The overall legislation is vitaly necessary for the national security of the U.S. I fully understand the need for the President to sign this legislation.
- The Administration intends to take the following steps to mitigate the effect of the legislation on the men and women of the Armed Forces who would be adversely affected by this legislation:
  - The Administration will work closely with a members of Congress from both parties to pursue legislation to reverse this policy before it takes effect in six months.
  - The Office of National AIDS Policy, the Department of Defense, and the Department of Veterans' Affairs are working to identify all possible benefits that can be provided to these individuals and their families to ameliorate the effects of this legislation.

## STATEMENT BY THE PRESIDENT

Today I have signed into law S. 1124, the "National Defense Authorization Act for Fiscal Year 1996." This Act authorizes appropriations for Department of Defense military activities, including military construction, and defense activities of the Department of Energy. It also provides, extends, or amends various authorities relating to national defense programs and activities.

I vetoed the original version of this legislation on December 28, 1995. Since that time, Congress has addressed a number of my serious national security concerns. Specifically, the Congress deleted the provisions requiring deployment by 2003 of a costly missile defense system designed to defend against a long-range missile threat, which our Intelligence Community does not foresee existing in the next decade. Also, such a system probably could not have been implemented in consonance with the existing Anti-Ballistic Missile Treaty. Such a course of action would have prevented us from deploying the best possible technology if such a threat were to emerge.

The Congress also deleted the requirement that the President submit a supplemental appropriations request within a defined time period after commencement of certain contingency and other

operations, such as the ongoing military operations in Bosnia. The Act does, however, continue to contain unwarranted restrictions on the manner in which such operations may be funded. Also deleted is the restriction on the President's authority to make and implement decisions relating to the operational or tactical control of elements of the U.S. armed forces, a restriction which clearly infringed on the President's constitutional authority as Commander in Chief.

S. 1124 continues to contain, however, a number of provisions, identified in my earlier veto message, that will adversely affect the ability of the Department of Defense to carry out its national defense mission in the most effective and efficient manner.

The Act specifically includes two provisions affecting members of the Armed Forces and their families to which I remain strongly opposed. As I have mentioned before, I am very concerned by the provision requiring the involuntary separation of military personnel who are living with the Human Immunodeficiency Virus (HIV), when such a departure is not medically required. This provision is blatantly discriminatory, serves no valid military purpose, and highly punitive to service members and their dependents. Individuals living with HIV can and do lead full and productive

lives, provide for their families, and contribute to the well being of our nation. The men and women affected by this provision serve their country with honor and should be allowed to continue to do so. Therefore I am, today, asking the Congress to repeal this provision before a single service member is discharged from the Armed Forces. I have also directed the Secretary of Defense and the Secretary of Veterans Affairs to utilize all possible means to provide these service members and their families with additional benefits to ameliorate the burden this legislation will place on them.

The other objectionable provision restricts the ability of service women and military dependents to obtain privately-funded abortions in military facilities overseas. I remain concerned that in many countries, these U.S. facilities provide the only accessible safe source for these medical services. I will also support efforts to repeal this and a similar provision that became law in the "Department of Defense Appropriations Act, 1996."

Section 1404 of the Act expresses the sense of Congress that the Secretary of Defense should not take any steps toward dismantling or retiring specific strategic nuclear delivery systems until the START II Treaty enters into force, and it

prohibits obligating or expending funds in fiscal year 1996 for such steps. Reading the provisions of section 1404 together, I interpret the section to prohibit obligations or expenditures only before the START II Treaty enters into force. The explanation of section 1404 in the Conference Report supports this interpretation.

Notwithstanding my continuing concerns about the bill's objectionable provisions, I have approved S. 1124 because the Department of Defense needs to have the full range of authorities provided by this legislation.

Included among the Act's positive features are its provisions authorizing the Department to continue critically important defense programs and activities and to initiate a number of new programs. Among them is the Military Housing Privatization Initiative, which provides new authority to acquire and improve military housing and supporting facilities by using private expertise and capital. It also includes authorization for the full increase in pay and allowances for our military personnel, and authorization for necessary military construction and NATO infrastructure programs. Additionally, the Act continues the Department of Energy's science-based Stockpile

Stewardship program, and provides for the sale of the Elk Hills Naval Petroleum Reserve.

I am also pleased that S. 1124 contains the Administration's proposal to allow the United States to extradite indicted war criminals and provide evidence directly to the International War Crimes Tribunals for the Former Yugoslavia and Rwanda. We hope that this will encourage others to fully cooperate with the War Crimes Tribunal.

In response to serious concerns about the outmoded approach to the acquisition and management of information technology in the Federal government, S. 1124 simplifies and strengthens the way agencies use and acquire computers and telecommunications, giving them authority and flexibility, but insisting on accountability for results. Consistent with the Administration's efforts under the National Performance Review to create a government that works better and costs less, the bill encourages agencies to adopt the best practices of successful companies in the private sector.

Moreover, the Act contains significant acquisition reform measures, sought by the Administration and undertaken with bipartisan support, that will further simplify and facilitate the purchase of commercially-available goods and services, streamline

and clarify procurement integrity laws, and substantially  
improve how bid protests for information technology are resolved.

THE WASHINGTON POST

TUESDAY, JANUARY 30, 1996

## *HIV and DoD*

**M**ORE THAN A thousand men and women in the armed forces are HIV-positive but do not yet have AIDS and are able to perform satisfactorily on the job. In all the years since the discovery of the virus in the early '80s, Defense Department policy has been the same: allow these soldiers, sailors, airmen and Marines to remain in the service—with a few restrictions on their assignments—until they are unable to work. Then give them medical discharges, disability benefits and continued medical care for themselves and their families. Because of congressional action, this humane and sensible policy will be abandoned, over the protests of department officials who strongly favor continuing current practice.

A private employer couldn't get away with this kind of discrimination. The Americans with Disabilities Act protects individuals infected with the virus but still able to work. The military, however, is exempt from this law, and Congress has chosen to take advantage of this exception. Now service personnel are to be involuntarily separated as soon as they are found to have the virus, which may be as early as 10 years before they have any sign of the disease. Because they are not in fact disabled at that point, they will not

receive medical discharges or be eligible for disability benefits. And though they may get certain health benefits for themselves, their families will not be covered.

Why was this done? It might make sense if the nation's military leaders had made the decision in order to protect the health of other service personnel. But that's not the case. The Defense Department not only finds current policies to be sufficient but specifically opposes this change. The words of Rep. Robert Dornan, who sponsored this legislation, provide a clue to its intent. The people he would drum out, he says, are only "drug dealers, people who visited whorehouses or homosexuals." That seems to be reason enough for him and, unfortunately, for a majority of his colleagues, to impose this extraordinary penalty.

This vindictive policy change is part of the comprehensive defense authorization bill, an earlier version of which has already been vetoed. The president probably has to sign this measure to keep the enormous department afloat. But he is right to condemn Rep. Dornan's handiwork and pledge every effort to get it repealed or overturned in the courts.

## *Super Bowl: The Big Picture*

**T**HE SUPER BOWL turned out better than anyone dared hope (especially anyone who had

is, what are we talking about here in terms of aspirations and role models? Before Sunday's game, a

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## FACSIMILE COVER SHEET

TO: Jennifer KleinFAX # (202) 456-2878VOICE # (202) 456-2599FROM: FRANK RUSHNumber of pages 2 (including cover sheet)

Date: \_\_\_\_\_ Time: \_\_\_\_\_

## Message:

Jennifer - On balance, I believe this is the most  
straight forward statement. It is certainly the case  
for the majority of members as things stand today. Some of  
the 1049 HIV positive members are retirement eligible and  
other may qualify for a disability retirement following  
medical assessment. Frank You may wish to give me a call.



## **INFORMATION PAPER**

**SUBJECT:** Treatment of HIV-1 Positive Members

**PURPOSE:** To describe the handling of individuals seeking entry into and those already in the military services who have the Human Immunodeficiency Virus-1 (HIV-1) currently and after the law changes

### **DISCUSSION**

**Under existing policy and law:**

- Applicants for service are tested for HIV before entry into the Service
  - Those who test positive are not accepted for entry
- Servicemembers are tested during periodic physical examinations, or Permanent Change of Station transfer.
  - Members who test positive are then given a complete physical examination annually and a complete T-cell subset evaluation at least every six months.
  - Currently, members who are HIV positive meet medical retention standards and are not separated or retired solely on the basis of HIV-1 infection.
  - Members are medically retired when the disease progresses to the point the disease impairs the member's performance of their duties.

**What changes under the new law?**

- Loss of employment.
  - Servicemembers who are HIV positive must be involuntarily separated no later than the last day of the sixth month after enactment of the law.
- No immediate annuity to offset the loss of employment.
- No medical coverage for family members of involuntarily separated servicemembers.