



OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE

WASHINGTON, D.C. 20301-1400

APR 1993

Ref: 93-F-0826

# 463

PUBLIC AFFAIRS

Mr. Laurence Jolidon II  
Editor/Reporter  
USA Today  
1000 Wilson Boulevard  
Arlington, VA 22229

Dear Mr. Jolidon:

This responds to your Freedom of Information Act (FOIA) request of April 1, 1993, which was received in this Directorate on April 1, 1993.

The enclosed documents are provided as responsive to your request for PERSEREC reports concerning homosexuals in the military.

Included in this interim release are several draft PERSEREC reports and the September 1991 final PERSEREC report. You should be aware that the draft PERSEREC reports do not reflect official DoD policy. These draft reports are pre-decisional, deliberative documents and not policy changes. While they therefore qualify to be exempt under the FOIA's deliberative exemption five, the Office of the Assistant Secretary of Defense for Force Management and Personnel (ASD(FM&P)), as a matter of discretion, has elected to release them in this instance.

These documents have been previously released to other requesters, including members of the news media, in response to previous FOIA requests, and are therefore considered to be in the public domain. The documents are also located in our public reading room, and are available for public inspection. Consequently, any significant interest beyond that already satisfied by previous releases is considerably diminished. Public domain documents in our public reading room are released to subsequent requesters, regardless of fee category status, at the cost of reproduction of the information. This is based on the aforementioned diminished interest point, and a concept of equity to the general public, wherein the cost to reproduce publicly available documents should be borne by the requester and not the public at large.

The chargeable costs of processing your request consisted of 390 pages of office machine reproduction at \$.15 per page.

Please indicate the reference number above on a check or money order made payable to the U.S. Treasurer in the amount of \$58.50. Send the payment within 30 days to this office at the address indicated below.

Office of the Assistant Secretary of Defense  
(Public Affairs)  
Directorate for Freedom of Information  
and Security Review  
Pentagon, Room 2C757  
Washington, DC 20301-1400.

Sincerely,

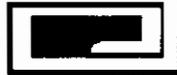


W. M. McDonald  
Director  
Freedom of Information  
and Security Review

Enclosures:  
As stated

PERS-TR-91-008

**PERSEREC**



**HOMOSEXUALITY AND  
PERSONNEL SECURITY**

**Theodore R. Sarbin**

**September 1991**

Approved for Public Distribution: Distribution Unlimited

**DEFENSE  
PERSONNEL SECURITY  
RESEARCH AND EDUCATION CENTER**  
99 Pacific Street, Building 455-E  
Monterey, California 93940-2481

## HOMOSEXUALITY AND PERSONNEL SECURITY

Prepared by  
Theodore R. Sarbin, Ph.D.

Released by  
Roger P. Denk  
Director

Defense Personnel Security Research and Education Center  
Monterey, California 93940-2481

## Preface

In 1987 the Office of the Secretary of Defense (Policy) invited PERSEREC to reevaluate the current adjudicative guidelines contained in DoD's *Personnel Security Program* (5200.2-R) concerning sexual behavior and personnel security. In particular, PERSEREC was given the task of examining the relationship between homosexuality and personnel security.

This report poses two major questions: (1) Are homosexuals security risks by virtue of membership in the class *homosexual*? and (2) Are homosexuals vulnerable to blackmail if their homosexuality is kept a secret? The author, after an examination of various social constructions of homosexuality, a brief exploration of the scientific status of homosexuality, and a discussion of the concept of personal secrets, concludes that homosexuals, provided that their homosexuality can be safely disclosed, are no more security risks than heterosexuals. He suggests that security personnel continue to use the case-by-case approach in deciding whether to grant clearances, but that they be given special training to help eliminate any possible bias against homosexuals.

This report is intended for security professionals and all those interested in personnel security matters. We hope it will be a vehicle for stimulating discussion which will eventually lead to the ultimate goal of improving personnel security.

This work does not deal with the Department of Defense policy that excludes homosexuals from military service. The exclusion policy is separate from those policies that apply to a civilian being investigated for a clearance.

We are grateful to Michael A. Sterlacci, Assistant General Counsel, Office of General Counsel, DoD, for invaluable assistance and advice on legal issues.

Roger P. Denk  
Director

## **Homosexuality and Personnel Security**

Theodore R. Sarbin, Ph.D.

### **Summary**

#### Background and Issue

Legal challenges and changing folkways have been instrumental in the formation of public policy in regard to the granting of security clearances to homosexual men and women. In this report, we examine data from many sources to illuminate the problems associated with establishing a nexus between sexual orientation and personnel security.

#### Objectives

The research objective was to prepare a review of (1) changing folkways and court decisions, (2) the current scientific status of sexual orientation, including biological, psychological, and sociological studies, (3) the changing social constructions of homosexuality, and (4) the problems associated with applying current case-by-case policies when adjudicators and/or policy makers are not privy to the findings of contemporary science. The review provides the background for a reexamination of current personnel security practices.

#### Approach

From recent scientific publications, legal studies and other relevant literature, we summarized findings that were pertinent to answering two questions: (1) Are homosexual men and women inherently untrustworthy and therefore not eligible for security clearance? (2) Are such persons more likely to be targets of blackmail by agents of a foreign power?

## Results

Few data have been put forward to support the belief that being homosexual predisposes a person to unreliability, disloyalty, or untrustworthiness. Scores of studies have made clear that large individual differences in moral beliefs are to be found among heterosexuals and homosexuals. It is invalid to generalize from sexual orientation to trustworthiness. Life styles of homosexuals are as varied as the life styles of heterosexuals.

## Conclusions/Recommendations

Homosexuals have been targets of discriminatory policies. The residues of earlier constructions of homosexuality (sin, crime, or illness) may influence personnel security specialists to treat homosexuals as a morally suspect class. Given that homosexuals (like heterosexuals) are a diverse group, fairness and personnel efficiency require a case-by-case policy.

The current case-by-case policy is appropriate to the task of determining eligibility for security clearance. However, the implementation of the policy needs to be examined in light of the fact that investigators, adjudicators and other personnel security specialists are drawn from the general population and large segments of the population continue to view homosexuality as sin, crime, or illness, constructions that might bias eligibility decisions. The work of investigators and adjudicators should be monitored to ensure that practice follows policy.

## Table of Contents

Preface .....	i
Summary .....	ii
Introduction .....	1
The Construction of Morally Suspect Classes .....	2
Cognitive Processes in Premise Formation .....	8
Induction .....	8
Construction .....	8
Social Construction of Homosexuality .....	11
The Morality Construction--Good and Evil as Fundamental Categories .....	11
The Legal Construction--Sexual Deviance as Criminal Behavior .....	13
The Sickness Construction--The Medicalization of Deviance .....	14
The Minority Group Construction--Homosexuals as a Non-Ethnic Minority Group .....	16
Scientific Status of the Homosexuality Concept .....	19
Biological Studies .....	20
Psychological Studies .....	23
Sociological Studies .....	23
Implications .....	25
Personal Secrets .....	28
Concluding Remarks .....	31
References .....	33
Appendix .....	37

## Introduction

Who can be entrusted with the nation's secrets? This overarching question guides the activities of governmental agencies charged with selecting trustworthy personnel. The primary operating assumption in efforts to answer this question is that not all persons are equally trustworthy: some are more likely to breach a trust than others.

The objective of this study is to explore whether homosexual men and women are at greater risk for engaging in espionage or other security violations than persons not so identified. The problem is complex. We must consider not only the character of persons who might engage in treasonous acts but also the contexts which influence such acts. Does the potential spy respond to inducements offered by foreign intelligence agents? What is the evidence that supports the claim that homosexuals are likely targets for blackmail by foreign agents? Are recruitment efforts of foreign intelligence agents directed specifically toward homosexual men and women? Are homosexual men and women more likely than heterosexuals to volunteer their services as spies? What are the facts that would support the hypothesis that being homosexual implies emotional instability and, therefore, unreliability and high risk for betrayal?

In the absence of systematically gathered data to answer these and related questions, it has been the practice to generalize from anecdotes. In the scientific arena, anecdotes play an important part: they provide the raw material for constructing hypotheses. Like anecdotes, hypotheses have no truth value until subjected to empirical test. In situations where anecdotes and untested hypotheses are employed as the basis for action, there is ordinarily a tacit recognition of the limited utility of anecdotes as sources of generalizations. Additional anecdotes may alter generalizations coined on the basis of earlier anecdotes.

In an effort to throw some light on these matters, I have organized the inquiry by attempting to answer two separate but related questions:

- 1) Is a person a security risk by virtue of membership in the class *homosexual*?

---

\* I am using the term *homosexual* in the conventional way as if persons could be sorted into two non-overlapping classes *heterosexual* and *homosexual*. In a later section of this essay, I point to the observations of scientists that *heterosexual* and *homosexual* are not exclusive categories and that gradations or dimensions of sexuality are more valid descriptors. A more complete historical and sociological account would consider the multiple referents for the word *homosexual*--does the word refer to gender orientation, to sexual practice, to identity, to role, to atypical social categories, etc? The multiple referents serve to create a criterial distinction for personnel security specialists. For purposes of adjudication, the distinction is sometimes drawn between *homosexual acts* and *homosexual identity*. A person who engages in homosexual acts as a result of immaturity or intoxication is not necessarily assigned to a morally suspect class. A person who describes his/her sexual orientation as *homosexual*--even in the absence of evidence that he/she engaged in homosexual acts--is suspect.

- 2) Is a person with same-gender orientation a security risk because he or she is vulnerable to coercion and blackmail?

To address the first question, I employ as a general framework the construction of judgmental or suspect classes. To address the second question, I locate the answer in the general context of personal secrets and attendant risks associated with disclosure or discovery.

I shall first examine the basis for the hypothesis that membership in certain socially defined classes renders a person more likely to engage in trust-violating conduct. Examples of such socially defined classes are the following: persons with unsatisfactory credit histories; persons with psychiatric histories; and persons with alcohol or drug abuse problems. The justifications for constructing such categories come from many sources: among them, generalizations about irresponsibility based upon unsatisfactory or problematic performances in nonsecurity-related settings. Membership in the class *homosexual* has also been employed with various justifications as a criterion for unsuitability in employment and ineligibility in security screening.

To develop our study, it is necessary first to describe the nature of the socially defined class. Subsequently, we can ask if membership in the class *homosexual* is predispositional to untrustworthiness.

#### The Construction of Morally Suspect Classes

Trust and trustworthiness are complex features of human life. Even a casual consideration of what constitutes trustworthiness reveals its complexity. Immediately, we think of family, occupational, or other social conflict situations where the actors must choose between betraying and honoring a trust, and the risk of potential negative consequences for choosing one rather than another line of action. The fact that trust is central to some social interactions and peripheral to others adds to the complexity.

Although traditional psychometric theory would direct us to seek a character trait, a disposition, or a personality element located within the brain or the psyche, efforts to measure trustworthiness and related characteristics have yielded very little. Tests have been constructed to assess a related characteristic *honesty*, but they are of little value. In most cases, they fail to meet acceptable standards of validity and reliability (Sackett, Burris, & Callahan, 1988). Because of the ambiguity in defining trust and trustworthiness, as well as the contextual nature of acts that meet the requirements of trustworthiness, a useful psychological test is not likely to be devised. Without objective,

---

In a purely sociological analysis, I would discuss male and female homosexuality separately. Public attitudes toward gay men are not the same as public attitudes toward lesbians. In this personnel security analysis, separate discussions of male and female homosexuals are unnecessary.

quantitative procedures for sorting persons, we are forced to make use of qualitative methods.

Taxonomic sorting, i.e., sorting people into classes or taxonomies, is a universal human activity. We sort individuals into men and women, tall and short, fast and slow, hostile and benign, good and bad, and so forth. Efficient functioning, if not survival, depends upon creating and using taxonomies that are useful. Without constructing and using classes, we would be adrift in a sea of unsorted, meaningless stimulus-events. Almost from the cradle, human beings acquire the skill to sort persons into classes based on gender, kinship, age, school grade, size, race, ethnicity, physique, and so forth. The criteria for such classes are public and communicable. In addition, human beings make use of a subset, *morally suspect classes*, that have as their defining attribute the presence of morally undesirable characteristics.

I am using the term *suspect class* as a *psychological* concept. It should not be confused with the technical meaning of the term as used in constitutional law. The juridical use of *suspect class* is that of a class of persons whose rights are at risk in virtue of membership in classes the current criteria for which are race, alienage, national origin, gender, and illegitimacy. Governmental actions affecting such suspect classes are subject to heightened or strict scrutiny by the courts. Whether or not homosexuals make up a suspect or quasi-suspect class has been a contested issue in the courts. Although some courts have been willing to grant the status of suspect or quasi-suspect class to homosexuals, higher courts have regularly reversed such actions. To repeat, in this inquiry I am using *suspect class* in a *psychological* sense. Where there is the possibility of confusing the two meanings, I have added the qualifier, "morally," to indicate the psychological meaning. The meaning is quite different from the meaning of *suspect class* in legal briefs.

Assignment to a morally suspect class carries the attribution of negative traits such as dishonesty, unreliability, untrustworthiness, cowardice, etc. For example, persons who violate propriety norms regarding aggression against children are assigned to a legally defined class *child abusers*. Because of the severity of societal and moral rules about beating children, any person who publicly violates such rules is likely to be assigned not only to the class *child abusers* but to a wider class, not necessarily articulated, the defining characteristics of which reflect *generalized badness*. Thus, assignment to the class *child abusers* renders the person a member of a morally suspect class, i.e., he/she would be suspected of other moral deviations, among them, untrustworthiness. It is important to note that the criteria for suspect classes are not constant. At one time, being assigned to the class *left-handed* resulted in the concurrent assignment to the class *evil*. Residues of this folk belief remain in our language--*sinister* may serve as a reference for left-handedness or as a term to denote a moral judgment.

In the selection of men and women for certain tasks, efficiency is sought by assigning potential job-holders to occupational classes. Classes such as clerical workers, mechanics, computer-operators, administrators, and so on, are commonplace. The defining characteristics of such classes are skills and aptitudes. The selection process is governed by procedures designed to assess skills and aptitudes. When selecting personnel for jobs that involve access to government secrets, the selection process has an additional dimension. A different kind of class is created, the defining characteristics of which are not skills and aptitudes, but *moral* descriptors such as honesty, reliability, and trustworthiness. Selecting personnel who can be entrusted with the nation's secrets, then, calls for taxonomic sorting on moral dimensions. Actual or potential members of the work force who are presumed to be morally flawed make up a suspect class: *not trustworthy*. In this sense, a suspect class is a class whose members are objects of suspicion. A concrete example of the use of suspect class in making inferences about a person would be the following. A bearded, unkempt, leather-jacketed, booted motorcyclist enters a middle-class restaurant. Some patrons and staff would automatically look upon the person with suspicion, expecting that his conduct would violate conventional or moral rules. Such an inference follows from assigning the person to a previously formulated suspect class *motorcycle gangs* with the implication that membership in such gangs renders one morally suspect.

Nonconforming sexual orientation, in some places and during certain historical periods, has served as the criterion for assigning persons to a morally suspect class. Certain forms of nonconforming sexual conduct have been incorporated into criminal statutes and/or psychiatric vocabularies. Not only legal and psychiatric attributions of badness, but folk attributions of generalized moral deviation, including untrustworthiness, are commonly noted. That is to say, folk beliefs arising from historical and cultural antecedents attribute generalized moral deficiencies to persons whose sexual orientations are nonconforming. I should add quickly, however, not all nonconforming sexual conduct leads to the assignment of persons to suspect classes. For example, in certain subcultures male promiscuity is not taken as the basis for assigning persons to morally flawed suspect classes.

In recent years, the folk belief has been challenged. Men and women who identify themselves as homosexual have raised the question whether they should be assigned to a suspect class. The civil rights movement, changing folkways, and some legal decisions have supported efforts to modify or eliminate the assignment of homosexuals to a morally suspect class (Barnett, 1973).<sup>\*</sup> Among the legal decisions that may have

---

<sup>\*</sup>This analysis is not intended to follow the form of a Law Review article in which all pertinent cases and legal precedents are examined. Rather, I identify a few noteworthy cases to illustrate the complexity of the constitutional issues. The complexity is reflected in the fact that the legal codes of half the States contain no prohibition against consensual sodomy. The U.S. Supreme Court apparently regarded this issue as a state's rights issue when it refused to invalidate a Georgia law prohibiting consensual sodomy (*Bowers v. Hardwick*, 478 U.S. 186 (1986)).

influenced the softening of discriminatory practices in public employment is the case of *Norton v. Macy* (417 F.2d 1161 (D.C. Cir. 1969)). The plaintiff had been fired on the grounds of "immorality" because he had engaged in homosexual conduct. The court ruled that alleged or proven immoral conduct is not grounds for separation from public employment unless it can be shown that such behavior has demonstrable effects on job performance. Judge David Bazelon's decision included a statement that may have influenced recent employment and security policies in government service. He said (in part):

The notion that it could be an appropriate function of the federal bureaucracy to enforce the majority's conventional codes of conduct in the private lives of its employees is at war with elementary concepts of liberty, privacy, and diversity.

Another case that has received wide attention was tried in 1987 in the United States District Court for the Northern District of California. The case was filed in 1984 on behalf of an organization of Silicon Valley (California) employees known as High Tech Gays. Three members of the group had been denied security clearance because of the policy of intensive and expanded scrutiny of homosexuals. According to DoD policies at the time, identification as homosexual of a prospective employee was sufficient reason for expanded clearance investigations. The ruling handed down by Judge Thelton E. Henderson declared that the DoD policy was founded on prejudice and stereotypes, the basis for the policy being the unwarranted claim that homosexual men and women were emotionally unstable and, therefore, potential targets for blackmail. Judge Henderson ruled that homosexuals were a "quasi-suspect class" (in the juridical sense) and that government policies violated the constitutional guarantee of equal protection under the law (*High Tech Gays v. DISCO*, 668 F.Supp. 1361 (N.D.Cal. 1987)).

The complexities of the juristic concept *suspect class* is illustrated in the contrary opinions of the District Court and the Appeals Court. On appeal, the Ninth Circuit Court of Appeals heard arguments and decided in favor of the Department of Defense. The opinion, written by Circuit Judge Melvin Brunetti, rejected Judge Henderson's conclusions that homosexuals are a "quasi-suspect" class and that claims of discrimination must be examined with "heightened scrutiny" or "strict scrutiny." In rejecting Judge Henderson's conclusions, Judge Brunetti argued that heightened or strict scrutiny could be applied only to government actions that discriminated against persons based on race, gender, alienage, national origin, or illegitimacy. The opinion goes on to say that in order to be perceived as a suspect or quasi-suspect class, homosexuals must (1) have suffered a history of discrimination, (2) exhibit obvious or immutable characteristics that define them as a discrete class, and (3) show that they are a minority or politically powerless. Judge Brunetti held that the first criterion was met, that homosexuals have suffered a history of discrimination. The other two criteria were not met, according to the ruling. In the court's opinion, homosexuality is not an immutable characteristic, and homosexuals are not powerless as witnessed by numerous anti-discrimination statutes.

In reversing the District Court, the Appeals Court supplemented its ruling by referring to the observation that "Courts traditionally have been reluctant to intrude upon the authority of the Executive in military or national security affairs" (895 F. 2d, 563, 570-74 (1990)). Judge Brunetti suggested that the plaintiffs could find relief through legislative action.

A recent Supreme Court decision addressed another aspect of the rights of persons who hold nonconforming sexual orientations. In 1982, John Doe, described as a covert electronics technician for the CIA, voluntarily told an Agency security officer that he was a homosexual. The Agency conducted a thorough investigation which included a polygraph examination designed to uncover whether he had disclosed classified information. Although Doe passed the test, he was dismissed on the grounds that he was a national security risk. The Court held that it is legitimate for courts to review the constitutionality of the CIA's dismissal of employees. The effect of this decision is that Doe can now appeal to the Federal courts to sustain his argument that his constitutional rights had been violated because no evidence was presented to show that he could not be trusted with national security secrets (*Webster v. Doe*, 486 U.S. 592 (1988)). The decision was silent regarding the treatment of homosexuals as a suspect class.

Similar to the case of *Webster v. Doe*, cited above, is the case of *Julie Dubbs v. CIA* (1989). The plaintiff, an openly gay woman, was employed as a technical illustrator at SRI International, a private research institute. In the course of employment at SRI, her job called for a Top Secret security clearance from the Department of Defense and a Sensitive Compartmented Information (SCI) clearance from the CIA. The Department of Defense granted the Top Secret clearance, but the CIA denied the SCI clearance.

The plaintiff filed suit against the CIA in United States District Court, Northern District of California, in 1985, claiming that the action of the CIA followed from an unconstitutional blanket policy of denying clearances to homosexual persons. The District Court ruled in favor of the CIA. On appeal, the Ninth Circuit Court reversed the ruling and remanded the issue to the District Court for further proceedings.

In August 1990, District Court Judge Eugene F. Lynch handed down a ruling which stated, in essence, that if the CIA does in fact have a blanket policy, it must present evidence at a trial to justify such a policy and to establish that the policy was *rationally* related to government interests (*Dubbs v. CIA*, No. C-85-4379 EFL N.D.Cal (1990)).

These cases illustrate the proposition that the government must have a legitimate purpose for differentiating between heterosexual and homosexual persons, and further, that the government must be able to show that the differentiation serves that purpose. It is interesting to comment on the rationale offered by the Government in the High Tech Gays case. The Court accepted the reasoning that expanded security investigations for homosexuals were justified in that homosexuals were specifically targeted by hostile

foreign intelligence services as candidates for blackmail or coercion. The recent history of espionage in the United States would suggest that heterosexuals are also targeted by foreign intelligence agents (see below, p. 29).

Law and custom tend to influence each other. As court decisions and legislative statutes have influenced employability, government agencies have dropped exclusionary personnel practices. For example, the Civil Service Commission in 1976 and 1977 amended its regulations so that no person could be denied Federal employment on the basis of sexual orientation (*Singer v. Civil Service Commission*, 503 F.2d 247 (9th Cir. 1976); 429 U.S. 1034 (1977)). Another example of changing times is the National Security Agency's recent move to grant some homosexuals, under certain conditions, access to sensitive compartmented information (SCI), one of the highest designations of sensitive information (Rosa, 1988). The Director of Central Intelligence Directive 1/14 (1986) stipulates that SCI clearances be granted only to individuals who are "stable, of excellent character and discretion, and not subject to undue influence or duress through exploitable personal conduct" (p. 10). Homosexual conduct is to be considered as one of many factors in determining an individual's trustworthiness. The wording of the guidelines is that homosexuality *per se* is not grounds for denial unless the person's conduct leads to inferences about reliability, integrity, discretion, and loyalty.

Another indicator of changing attitudes is the deletion of the term *homosexual* from DoD's *Personnel Security Program* (DoD 5200.2.R), the official guide to adjudicators and others charged with granting or withholding security clearances. (In a later section, I point to ambiguously worded criteria that make possible the implicit use of homosexuality as a basis for inferences regarding trustworthiness.)

The foregoing remarks reflect some of the responses to challenges raised by homosexual men and women. The examples cited above are directly related to efforts to remove homosexuals from a discriminatory class--a class which contains the feature: morally flawed and not trustworthy. It is clear that some of the court rulings and agency regulations were not directed to eligibility for security clearance but rather to suitability for employment. For many civilian jobs in government and in defense industries, suitability and security status overlap.

To return to the problem of selecting personnel for access to government secrets, we must address the question: are there demonstrable supports for the belief that assignment to the class *homosexual* should imply concurrent assignment to a morally flawed suspect class? Contained in the descriptor *morally flawed* are such implications as *not trustworthy* and/or *not loyal*. To attempt an answer to this question requires, first, a brief excursion into how classes are formed and utilized in making inferences; second, a review of the legal and social history of homosexuality relevant to the practice of assigning homosexuals to a suspect class; and third, a review of the biological and social scientific literature on homosexuality.

## Cognitive Processes in Premise Formation

Making judgments about people requires cognitive work. Judgments are not automatic and immediate, they are the end result of silent actions by human beings who are accustomed to using the logic of the syllogism. They begin from a major premise (not usually articulated), then assign the case under review to the minor premise. The conclusion follows from the joining of the two premises. In the simplest case, the major premise could be: All shifty-eyed persons are liars. The minor premise, based on observation, is: Jones is a shifty-eyed person. The conclusion follows: Jones is a liar. The logic is valid. Whether or not Jones is a liar is dependent on the truth-value of the major premise. Was the major premise derived from observation and was it empirically checked? Or was the major premise constructed out of unconfirmed beliefs, hypotheses, speculations, analogies, etc.? Human beings who are faced with the task of forming inferences about others make use of two general methods for formulating major premises: induction and construction (Sarbin, Taft, & Bailey, 1960).

### Induction

Observation and experience, the basis of induction, is the empirical method for constructing classes that would be useful in ordinary decision-making. It is the method that has advanced science and technology. Connections are established between classes of events. For example, amorphous clouds can be sorted into classes: nimbus, stratus, and cumulus. The utility of the classes has been established by correlating the presence of classes with wind and weather patterns. Mariners, aviators, and farmers make predictions from inductively derived premises that connect classes of clouds with other meteorological conditions. Research on personality and character by and large attempts to establish inductions that would allow predictions of future conduct from measurements taken from past or present assessments. Except for gross classifications, such as *psychopathic inferiority*, *sociopathy*, and *undersocialized*, we have few empirically tested generalizations that would be helpful in making predictions about a person's moral choices. It would be most practical if adjudicators (or anyone) could make inferences about a particular person from reliable inductions of the form: all church-going persons are honest, or all Cretans are liars. Such inductions are not available. Unless we are to avoid all decision-making until we can create inductively derived premises, we are constrained to employ premises that do not have the benefit of empirical confirmation.

### Construction

Most of our judgments about others (and ourselves) flow only partly from inductive generalizations and mostly from constructions. The beliefs we hold about human nature are more theory-driven than data-driven. Human beings, having the gift of language and the talent to use syllogisms, can and do construct all manner of beliefs

about human behavior. When combined into an informal system, the beliefs can serve as an implicit theory of character.

The constructed beliefs that comprise a person's theory of character develop from two main sources: (1) deductive statements that reflect the implicit fashioning of beliefs, imaginings, and attitudes, and (2) authority.

(1) Beliefs that serve as the basis for an individual's theory of character may come from immersion in scientific or folk theories of personality. An investigator or adjudicator might absorb some of the elements of psychoanalytic theory and hold beliefs about the structure of character disorders. He or she would then be prepared to employ premises derived from psychoanalysis. Others might advance premises based on unsophisticated folk theories, e.g., people who appear to fit the prevailing stereotypes of "criminals" are unreliable; a weak handshake betokens a weak character; a tidy desk denotes a well-ordered mind. Needless to say, some individuals borrow premises, often absurd, from the contents of astrological charts. Many persons hold beliefs that scientifically inclined observers would label superstitions.

Some premises are constructed as the result of analogical reasoning. Mr. Smith has a theory of character derived from an analogy. A fellow worker who had a "weak lower jaw" was fired for embezzling funds. From this experience, Smith constructed the premise: people with weak jaws are predisposed to dishonesty. The fellow-worker was used as a model in Smith's silent construction of a premise: if a person has one characteristic in common with the model, then he will have all the other characteristics of that model. Research on judging personality makes clear that human beings, in the absence of confirmed inductions, construct and employ implicit theories of personality (Rosenberg, 1977). Incorporated into such implicit theories are theories of character. Many characterological assumptions can be traced to immersion in codes of morality that are contained in religious beliefs. In a later section, I indicate the content of beliefs arising from theological sources and I suggest that such beliefs, acquired before the age of reflection, may be grounds for an individual's theory of character, a theory that would generate premises about the character of persons identified as homosexual.

(2) The other source for the construction of a theory of character is authority. Teachers, supervisors, political leaders, and other figures in positions of authority may impart to a novice a ready-made theory of character. The authority's theory may be a mix of inductions and constructions.

Authorities often support their theories of character by referring to tradition as a form of validity. "It's always been done this way" is used as an argument to support a particular premise for making character judgments when empirical support is lacking. Another strategy employed to justify a particular theory of character is to claim that it is supported by "professional judgment."

I have presented the foregoing discussion in the interest of establishing that investigators, adjudicators, and case controllers, in common with people generally, do not process information in a mechanical way but engage in the practice of clinical inference. The inferences they make about homosexuals or heterosexuals flow from premises generated by their belief systems. Such belief systems do not arise in a vacuum; they are influenced by hard facts when available, and by creative imaginations when hard facts are not available. To help understand the source of beliefs that assign homosexuals to a suspect class, an exposition of the various social constructions of homosexuality is in order.

## Social Construction of Homosexuality

A word about the notion of *social construction*. Meanings are not given in nature. Meanings are assigned to events by human beings who communicate with each other. The construction or interpretation of any phenomenon is influenced by concurrent historical contexts: political, economic, religious, and scientific.

The observations of historians (see, for example, Bullough, 1976) and the reports of ethnographers (see, for example, Ford and Beach, 1951; Marshall & Suggs, 1971; and Devereaux, 1963) support the notion that the constructions placed on same-gender sexuality are social. As Kinsey remarked, "only the human mind invents categories." At certain times, and in many societies, most variations in the expression of sexuality have been regarded as normal. It is the application of moral rules and legal statutes that determines whether same-gender orientation and conduct is classified as acceptable, tolerable, offensive, or criminal. Such rules and statutes are the products of custom, supported by the power vested in authority. As the historical record shows with abundant clarity, forms of authority change. In early times, moral rules were enforced by men and women enacting priestly roles. Later, ruling classes imposed their own fluctuating standards on the enforcement of moral rules. In western democracies, rules are constructed through consensus or legislation, and rules favoring the majority are tempered so that rights of minorities are not obliterated.

How has this variability been construed? Tracing the history of social constructions of deviant conduct points unmistakably to the influence of beliefs prevailing at any particular time. A full historical account is beyond the scope of this paper, but for our purposes it is sufficient to demonstrate that observed variability in sexual conduct has been construed differently at different times in Western history. My point of departure is influenced by the position of contemporary science: that observations ("facts") are raw materials for constructing meanings (Spector & Kitsuse, 1987). The construction of meanings is not given in the observations, but is the product of cognitive work, taking into account political, social and religious contexts. In the past several hundred years, four constructions have been offered to account for variations in sexual orientation. Evidence of these constructions is abundant in contemporary life, although each construction was initially formulated in a different historical period.

### The Morality Construction--Good and Evil as Fundamental Categories

Moral rules as represented in religious writings are the source of the long-held construction of prohibition of nonprocreative sexual conduct. Masturbation, lascivious conduct, and nonprocreative sex were proscribed. "You shall not lie with a man as with a woman, that is an abomination" (Leviticus 18:22). "Neither the immoral, nor idolaters,

nor adulterers, nor abusers of themselves with mankind, will inherit the Kingdom of God" (I Corinthians 6:9).

The history of religious attempts to control sex makes clear the notion of variability in attitudes. Struggles between advocates of different theological doctrines have been reflected in attitudes toward sex. In the formation of attitudes, two ideas stand out in the literature; first, the inferior status of women, and, second, child-bearing as a requirement for maintaining a collectivity. In a far-reaching review, Law (1988) provides evidence and argument to support the proposition that the condemnation of homosexuality is more an unwitting reaction to the violation of traditional gender norms than to nonconforming sexual practices. When a man adopts the female role in a sexual relationship, he gives up his masculinity for the inferiority that is supposed to be associated with being a woman. This constituted, for some Church authorities, an abomination, a sin against nature (Bullough 1976). The negative judgments originally associated with men adopting female roles have diffused to all homosexual roles.

According to Bullough (1976), early doctrine held that sex served only one purpose: procreation. This doctrine was supported by the claim that such was God's intention in creating the world of nature. Therefore, sex for pleasure was suspect, especially same-gender sex, since this is obviously nonprocreational. The appellation *sins against nature* appears frequently in doctrinal arguments (Bullough, 1976). Since same-gender sex was nonprocreative, it was classified as a sin against nature.

In western religious traditions, Good and Evil are the categories that provide the background for declaring value judgments on sexual nonconformity. Arising from primitive taboos, the powerful image of "sin" was employed to define the unwanted conduct. Certain religious leaders who take the Bible as the unquestioned moral authority are contemporary advocates of the belief that nonconforming sexual behavior is sinful. The attribution of sinfulness carries multiple meanings: among some groups, sin is explained as voluntary acceptance of Satanic influence; among others sin is believed to produce a flawed or spoiled identity. Societal reactions to sin include ostracism, corporal punishment, imprisonment and, in more draconian times, torture, stoning, hanging, burning at the stake, and even genocide.

Sin is an attribution, a construction made by others or by oneself. Its force lies in its attachment to entrenched religious doctrine. Like taboos, the concept of sin is acquired by people before they reach the age of reflection. The argument that sin is a social construction is nowhere better illustrated than in the debates of theologians about the doctrine of original sin and in how to establish criteria for sinful conduct: under what conditions should an action be regarded as a venial sin or as a mortal sin?

## The Legal Construction--Sexual Deviance as Criminal Behavior

Arising from religious precepts, legislative acts were introduced to control nonprocreative sexual behavior. The creation of the vocabulary for anal intercourse, for example, brought together a set of concepts that interwove law and morality. Ruse (1988), referring to the relationship of religious teaching to laws designed to control sexual behavior, commented:

"Sodomy" obviously comes from the name of the doomed city of the plain, and "buggery" is a corruption of "bougrerie," named after so-called "Bulgarian" heretics... . They believed that physical things are evil, and thus refused to propagate the species, turning, therefore, to other sexual outlets. Hence banning buggery struck a two-fold blow for morality: against unnatural vice and against heretical religion (p. 246).

As early as 1533 in England, buggery, which had been established in religion as a sin against nature, was declared a crime. In the ensuing three decades, the statute was repealed and reenacted several times. In 1563, in the reign of Elizabeth I, the law against buggery became firmly established. Criminal codes provided severe punishment for persons accused of nonconforming sexual conduct (Bullough, 1976). The language of such statutes is not uniform. *Buggery, sodomy, lewdness, perversion, lasciviousness*, and even *immorality* are terms that have been employed in different statutes and at various times to denote the proscribed criminal conduct.

The underlying categories of the legal construction of nonconforming sexuality are continuous with those of the religious construction: good and evil. With the secularization of morality, sin was no longer an appropriate descriptor for unwanted conduct. The transition from *sins against nature* to *crimes against nature* was an accomplishment of the secularization and attempted legalization of morality. Crime, the secular equivalent of sin, became the preferred descriptive term.

To make rational the use of the crime concept in the context of sexual behavior, it had to be consonant with accepted legal usage, as in crimes against the person, crimes against property, crimes against the Crown, etc. The linguistic formula "crimes against..." presupposes a victim. In following this logic, early practitioners of jurisprudence created *crimes against nature* as the label for unwanted sexual conduct. In so doing, they implied that "nature" was the victim.

In most of the criminal codes, and in the Uniform Code of Military Justice, the concept of *crimes against nature* appears frequently when sexual behavior is proscribed. The concept is sometimes rendered by the employment of language which includes the adjective *unnatural*. Clearly, the authors of statutes that proscribe *crimes against nature* were not using "nature" as a descriptor for flora and fauna, mountains and valleys, oceans and deserts. When "nature" is the victim, something else is intended.

The statutory language, as we mentioned before, is derived from the religious idiom *sins against nature*. "Nature" is employed in the sense used by the early Greek philosophers, as the force or essence that resides within things. Thus, it is in the nature of a hen's egg to develop into a chicken, for water to run downhill, etc. This concept of nature served as the main explanatory principle, employed as an all-purpose answer for causality questions. With the development of empirical science, such all-purpose answers became superfluous, they gave way to questions directed toward uncovering how events influenced each other, and answers were formulated according to laws and principles constructed through observation and experiment. At the present time, the legal concept *crimes against nature* has no scientific status. It is a rhetorical device to control nonprocreative sex.

### The Sickness Construction--The Medicalization of Deviance

The nineteenth century witnessed the social construction of deviant conduct as sickness. Although the medical model of deviance had its origins in the sixteenth century, it was not until the growth and success of technology and science in the nineteenth century that medical practitioners created elaborate theories to account for unwanted conduct. Many of the fanciful early theories of crime and craziness were given credibility because they were uttered by physicians and, therefore, presumed to be scientific. The prestige conferred upon the practitioners of science and technology blanketed the medical profession. It was during the latter half of the century that medical scientists initiated the movement to medicalize not only poorly understood somatic dysfunctions, but all human behavior. Conduct that in the past had been assigned to moralists or to the law now came under the purview of medical authority. Deviant conduct of any kind became topics of interest for doctors. The brain had already been given its place as the most important coordinating organ of the body, and the "mind" was somehow located in the brain. Therefore, any item of behavior that was nonconformant with current norms could be attributed to faulty brain apparatus, flawed mental structures, or both. In the absence of robust psychological theories, the observation and study of nonconforming behavior led physicians to assimilate theories of social misconduct to theories of somatic disease. The creation and elaboration of disease theories was based upon the all-encompassing notion that every human action could be accounted for through the application of the laws of chemistry and physics. In this context, homosexuality and other nonprocreative forms of sexual conduct were construed as sickness. To be sure, the medicalization of nonconforming sexual conduct failed to replace entirely the older moral and criminal constructions; and in many cases persons suffering from such "illnesses" continued to be punished.

It is interesting to note that the term *homosexuality* itself did not appear in English writings until the 1890s. Like most medical terms, it was created out of Greek and Latin roots. Prior to that time, labels for nonconforming sexual conduct in the English language had been free of medical connotations, as, for example, the words *sodomy*,

*buggery, perversion, corruption, lewdness, and wantonness.* One outcome of the medicalization of nonconforming sexual conduct was the inclusion of homosexuality in textbooks of psychiatry and medical psychology. Homosexuality was officially listed as an illness in the 1933 precursor to the 1952 Diagnostic and Statistical Manual of the American Psychiatric Association (DSM-I). In the 1930s and 1940s any person who admitted being homosexual was likely to be referred to a psychiatrist for diagnosis and treatment, the goal of the treatment being the elimination of the homosexual interest. But even during this period the father of psychoanalysis, Freud, expressed the opinion that homosexuality was not an illness. In 1935 Freud wrote a letter to the troubled mother of a homosexual which is worth quoting in its entirety (Bieber et al., 1962), as it anticipates and eloquently summarizes the prevailing current scientific and medical views on homosexuality.

April 9, 1935

Dear Mrs. \_\_\_\_\_

I gather from your letter that your son is a homosexual. . . . Homosexuality is assuredly no advantage, but it is nothing to be ashamed of, no vice, no degradation, it cannot be classified as an illness; we consider it to be a variation of the sexual function produced by a certain arrest of sexual development....By asking me if I can help, you mean, I suppose, if I can abolish homosexuality and make normal heterosexuality take its place. The answer is, in a general way, we cannot promise to achieve it. In a certain number of cases we succeed in developing the blighted germs of heterosexual tendencies which are present in every homosexual, in the majority of cases it is no more possible. It is a question of the quality and the age of the individual. The result of treatment cannot be predicted.

What analysis can do for your son runs in a different line. If he is unhappy, neurotic, torn by conflicts, inhibited in his social life, analysis may bring him harmony, peace of mind, full efficiency, whether he remains a homosexual or gets changed.

Sincerely yours with kind wishes,

Freud

Homosexuality as a social construction is nowhere better illustrated than in the arbitrary manner in which it was included and ultimately excluded from the medical lexicon. In 1974, the diagnosis of homosexuality was deleted from the Diagnostic Manual of the American Psychiatric Association under pressure from many psychiatrists who argued that homosexuality was more correctly construed as a nonconforming life style rather than as a mental disease.

Although the mental health professions do not speak with one voice, the currently prevailing view was advanced by Marmor (1975), at that time president of the American

Psychiatric Association: "...there is no reason to assume that there is a specific psychodynamic structure to homosexuality anymore than there is to heterosexuality" (p. 1514).

The American Psychological Association passed a resolution in 1975 declaring that:

Homosexuality per se implies no impairment in judgment, stability, reliability or general social or vocational capabilities..  
..The Association deplors all public and private discrimination in such areas as employment, housing, public accommodation, and licensing....The Association supports and urges the enactment of civil rights legislation...that would offer citizens who engage in homosexuality the same protections now guaranteed to others on the basis of race, creed, color, etc.

Substantially the same resolution was enacted by the American Psychiatric Association in 1976.

The available data on the psychological functioning of persons identified as homosexuals lead to an unambiguous conclusion: that the range of variation in personal adjustment is no different from that of heterosexuals (Ohlson, 1974). A review of 14 major studies, beginning with Hooker's in-depth investigations (1957, 1965), gave no support to the hypothesis that same-gender orientation was a sickness (Freedman, 1976). Employing various adjustment criteria, the studies uncovered no correlations that would support a mental illness construction. Siegleman (1978, 1979), in two studies comparing psychological adjustment of homosexual men and women and heterosexual men and women in Britain, found no significant difference between the homosexual and heterosexual groups, substantially replicating the results of earlier studies in the U.S. The conclusion had been stated earlier in the famous Wolfenden Report of 1957, the basis for the repeal of sodomy statutes in England:

Homosexuality cannot legitimately be regarded as a disease because in many cases it is the only symptom and is compatible with full mental health (p. 32).

#### The Minority Group Construction--Homosexuals as a Non-Ethnic Minority Group

The civil libertarian movements of the 1960s and 1970s paved the way for an alternative construction of homosexual conduct. I have already noted that the earlier work of Kinsey and his associates (1948) had received wide publicity. This work helped to strengthen the notion that sexual status and behavior could not be sorted into a simple two-valued model of normal and abnormal. The recognition that perhaps at least 10

percent of the adult population consistently adopted nonconforming sexual roles (i.e., homosexual behavior) was instrumental in formulating a construction of same-gender sexuality as the defining property of a non-ethnic, nonracial minority group. Individuals came together to support each other in their choice of life style. They comprised a group. They shared with other minority groups experiences of discrimination, harassment, and rejection (Sagarin, 1971).

The model for conceptualizing homosexuals as a minority group was provided first by ethnic and racial minorities, later by non-ethnic minorities: women, the aged, and physically disabled or handicapped persons. Another development that encouraged the use of the minority construction arose from claims that homosexual men and women could satisfactorily perform an infinite variety of occupational and recreational roles: one could have nonconforming sexual attitudes and still meet high performance standards as teachers, physicians, fire fighters, novelists, professional athletes, movie actors, policemen, politicians, judges and so on.

It would be instructive to review the features that define a minority group. It is obvious that *minority* in this context carries no quantitative meaning. Women make up more than 50 percent of the population, yet they meet the criteria of a minority group. The most useful shorthand definition of minority group is: people who share the experience of being the objects of discrimination on the basis of stereotypes, ethnocentric beliefs, and prejudice held by members of the nonminority group. Well-known examples are mid-nineteenth century Irish immigrants in Boston, American Indians for nearly four centuries, Black soldiers and sailors prior to the 1948 anti-segregation orders, Asian-Americans before the repeal of the exclusion acts, Mexican-Americans in California and the Southwest, Jews in Nazi Germany and elsewhere.

Similarities to more widely recognized minority groups are not hard to find. Prejudice against persons with nonconforming sexual orientations is like racial prejudice in that stereotypes are created. Such stereotypes are often exaggerations of social types that feature some unwanted conduct, style of speech, manner, or style that purportedly differs from the prototype of the majority. The personality of an individual identified as a member of a minority group is construed not from his acts, but from his suspected or actual membership in the minority group. Racial and ethnic slurs help to maintain the partition between the minority group and the majority. *Wops, Guineas, Japs, Spics, Kikes, Beaners, Polacks, Sambos*, and other pejoratives have only recently been discouraged as terms to denote the supposed social and moral inferiority of selected minority groups. *Fag, fairy, queer, homo*, and *pervert* serve similar functions for persons who want to communicate that the homosexual is "inferior." At the same time, the slur is intended to characterize a social type that exemplifies a negatively valued prototype--the feminized male.

To recapitulate: The fact that at least four constructions can be made of the same phenomenon is evidence that the particular value placed on nonconforming sexual

orientation is influenced by historical forces. The same act may be construed as sin, as crime, as sickness, or as an alternate form of being.

The belief systems of governmental agents charged with adjudicating security clearances are like those of the general population--the belief systems are dependent on which construction the agents employ in establishing premises. If they choose the construction that emphasizes sin, crime, or sickness, then they will likely assign homosexual men and women to a morally suspect class.\* If they choose the construction that homosexuality is an alternate form of being and that homosexuals comprise a minority group, then it is indeterminate whether any specific candidate will be assigned to such a morally suspect class.

Belief systems may be sharpened, modified, or rejected as a result of efforts to take into account new information. Such information may be drawn from findings reported by biological and social scientists. In many governmental areas, for example public health, nuclear energy, agriculture, and defense, policy formulations take into account the findings of research scientists. A synoptic review of recent and contemporary research may provide information that could help clarify public policy in regard to the granting or withholding of security clearances to persons identified as homosexual.

---

\*The adjudicator's task is complicated by the fact that sodomy is no longer in the criminal codes of half the States. In this connection, a recent (Colasanto, 1989) Gallup Poll indicated increasing support for decriminalizing consensual homosexual activity. Eighty-three percent of a national sample expressed an opinion. Of these, 56 percent favored decriminalization, 44 percent were opposed. In taking into account an alleged act of sodomy, the adjudicator must determine whether or not to regard the act as an unprosecuted felony. Further complicating the decision process is the fact that consensual sodomy is seldom, if ever, prosecuted in civilian courts. In fact, sodomy laws are virtually unenforceable against persons, homosexual or heterosexual, who discreetly practice consensual sodomy. In a 5 to 4 decision, the Supreme Court refused to strike down a Georgia statute prohibiting consensual sodomy (*Bowers v. Hardwick*, 478 U.S. 186 (1986)).

## Scientific Status of the Homosexuality Concept

In the past two decades, with advances in biotechnology, psychology, ethnology, and methods of social analysis, numerous systematic researches have yielded findings relevant to the formulation of law and public policy.

Advances in methodology stimulated a renewed interest in genetic research. The study of twins has been a fruitful source of genetic hypotheses. Kallman (1952) reported a concordance rate of 100 percent for homosexuality for 40 pairs of identical twins. That is, when one of a pair of identical twins was identified as homosexual, the other was also found to be homosexual. This occurred even when the twins had been raised apart. The author of the study cautioned that the data are not conclusive in supporting the genetic hypothesis--the twins may have responded to the same socializing influences. In this connection, Marmor (1975), a well-known psychiatrist, claimed that the "most prevalent theory concerning the cause of homosexuality is that which attributes it to a pathogenic family background."

Perhaps the most thorough research undertaken to advance the frontiers of knowledge about sexuality was that of Alfred Kinsey (Kinsey, Pomeroy, & Martin, 1948; Kinsey, Pomeroy, Martin, & Gebhard, 1953). A zoologist, Kinsey organized his research program along ethological and epidemiological lines. The variable of interest for Kinsey was frequency of sexual acts. The raw data for his studies were obtained through structured intensive interviews. In contemporary scientific fashion, quantitative analysis guided his work and influenced his conclusions. He employed a rating scale that allowed him to rate subjects from 0 to 6 on a dimension: heterosexual-homosexual. (A category "x" was used to identify persons with no "socio-sexual" response, mostly young children.) From the interview data, he compiled ratings for a large sample of respondents. The rating of 0 was assigned to men who were exclusively heterosexual, and 6 to men who were exclusively homosexual. The rating 1 was assigned to men who were predominantly heterosexual, and 5 to men who were predominantly homosexual, and so on.

Kinsey reported many significant findings, among them that 50 percent of the white male population were exclusively heterosexual and 4 percent were exclusively homosexual throughout adult life, but 46 percent had some homosexual experience throughout adult life. Between the ages of 16 and 65, 10 percent of the men met Kinsey's criterion of "more or less exclusively homosexual (rating 5 and rating 6)."

The process of gathering data on the prevalence of homosexuality is replete with many technical difficulties. Fay et al (1989) point to these difficulties and review survey data gathered in 1970 and 1988. They conclude that Kinsey's studies may have overestimated the prevalence of homosexual behavior. "...our analyses indicate that roughly one fifth of adult American males (in 1970) had at least one homosexual experience...." They

go on to qualify this 20 percent prevalence rate "...given the response bias that one can reasonably assume to operate, this new figure might be taken as a lower bound."

In the fashion of ethological research, Kinsey was primarily concerned with presenting prevalence statistics. Whether the dimension was based on nature or nurture, or a combination of these, was not an important concern.

### Biological Studies

During the past 30 years, increasing knowledge in molecular biology, endocrinology, embryology, and developmental neurology has made it possible to state with confidence that male and female brains are structurally different in certain areas concerned with glandular and sexual functions, especially in the hypothalamus and related subcortical systems (Kelly, 1985). The actions of the various sex hormones in the differentiation of male and female anatomy have been charted. Developmentally, there is a built-in bias toward differentiating an organism into a female, i.e., nature makes females. On the basis of extensive research, Money and Erhardt (1972) concluded: "...in the total absence of male gonadal [sex] hormones, the fetus always continues to differentiate the reproductive anatomy of the female." This process takes place regardless of the basic masculinity (XY chromosomes) or femininity (XX chromosomes) of the fetus. The bias is counteracted approximately 50 percent of the time by the action of male hormones. The discovery of this built-in mechanism toward femaleness sparked additional research that ultimately illuminated the phenomenon of same-gender attraction. It has been recognized for some time that parts of the brain are glandular and secrete neurohormonal substances that have far-reaching effects. Not unlike the better-known sex hormones, the androgens and estrogens, these brain neurohormonal substances also appear to have profound effects on development.

From a review of ethnographic reports, historical sources, biographies, and literary works, it is apparent that some same-gender orientation is universally observed (Bullough, 1976; Howells, 1984; Marshall & Suggs, 1971). The world-wide prevalence of *exclusive* same-gender orientation is estimated as three to five percent in the male population, regardless of social tolerance, as in the Philippines, Polynesia and Brazil, intolerance as in the United States, or repression as in the Soviet Union (Mihalek, 1988). This constancy in the face of cultural diversity suggests that biological factors should not be discounted as a fundamental source of homosexual orientation.

From these observations, as well as intensive analysis of more than 300 research reports, Ellis and Ames (1987) have advanced a multi-factorial theory of sexuality, including same-gender attraction. They conclude that current scientific findings support the view that hormonal and neurological variables operating during the gestation period are the main contributors to sexual orientation. For the ultimate formation of sexual

identity, the Ellis-Ames theory does not exclude psychosocial experience as a potential modifier of the phenotypical expression of biological development.

From their review of current research, Ellis and Ames propose that sexuality be studied through the consideration of five dimensions. These are: *genetic* (the effects of sex chromosomes, XX and XY, and various anomalous karyotypes); *genital* (effects of internal and external genitalia, the male-female differentiation, which begins in the first month of embryonic life); *nongenital morphological* (effects of secondary sex characteristics--body build, voice, hair distribution); *neurological* (male and female brain differentiation and associated sex-typical actions--including social influences and the formation of sex-typed roles). Most of the events shaping the developing organism's sexuality along these dimensions occur between the first and fifth months of intrauterine life. These events are controlled by the interaction of delicate balances between the various male and female hormones and their associated enzyme systems. Development of the embryo can be influenced by several factors affecting the internal environment of the mother, such as genetic hormonal background, pharmacological influences and immunological conditions, not to mention the psycho-physiological effects arising from the social environment. Disturbances in any one or any combination of these factors can result in alterations in sexual development called inversions. These inversions are failures of the embryo to differentiate fully in any of the other sexual dimensions (genital, morphological, neurological, or behavioral) according to chromosomal patterns. These anomalies of embryonic development are central to the later development of sexual orientation and behavior such as same-sex attraction, bisexuality, and other nonconforming patterns. As support for their theory, Ellis and Ames cite various experiments with animals in which permanent changes in sexual behavior have been induced by glandular and other treatments. The changes noted in these experimental animals are similar to those in humans with known anomalies of endocrine and enzyme systems.

Adult sexual orientation, then, has its origins, if not its expression, in embryonic development. Ellis and Ames conclude that:

Complex combinations of genetic, hormonal, neurological, and environmental factors operating prior to birth largely determine what an individual's sexual orientation will be, although the orientation itself awaits the onset of puberty to be activated, and may not entirely stabilize until early adulthood (p. 251).

The conclusions are consistent with those of John Money (1988), a leading researcher on the psychobiology of sex. According to Money, in his recent review and summary of current knowledge on homosexuality, data from clinical and laboratory sources indicate that:

In all species, the differentiation of sexual orientation or status as either bisexual or monosexual (i.e., exclusively heterosexual or homosexual) is a sequential process. The prenatal state of this process, with a possible brief neonatal extension, takes place under the aegis of brain hormonalization. It continues postnatally under the aegis of the senses and social communication of learning (p.49).

This brief overview of scientific findings from biological sources instructs us that the phenomena that we label sexuality are complex, and that we must assign credibility to the notion that overt and fantasy expressions of sexuality are influenced by multiple antecedents. Of special importance is the recognition of the interplay of biological and social factors. The leading scientific authorities agree that these expressions are best described in terms of gradations or dimensions, rather than by the rigidly bound, mutually exclusive categories, *heterosexual* and *homosexual*.

Because in daily speech we employ *heterosexual* and *homosexual* without qualifiers, it requires sustained cognitive effort to consider gradations and overlap. If we were to adopt policies that took scientific findings into account, we would be required to modify the use of a two-category system and incorporate the idea of continuous dimensions. To use an overworked metaphor, black and white are anchoring points for an achromatic color dimension, and between these anchoring points are innumerable shades of grey. Other dimensions come into play when considering chromatic stimuli, such as hue, saturation, brightness and texture. Similarly, the multidimensional concept of sexuality is contrary to the assertions of earlier generations of theologians, moralists, and politicians whose construal of sexuality was achieved under the guidance of two-valued logic in which narrowly defined heterosexual orientation and conduct were assigned to the category *normal* and any departures from the customary were assigned to the category *abnormal*.

In this connection, after detailed analysis of the sexual histories of thousands of people, Kinsey (1948) concluded that the class *human beings* does not represent two discrete populations, *heterosexual* and *homosexual*, and that the world:

is not to be divided into sheep and goats....It is a fundamental of taxonomy that nature rarely deals with discrete categories. Only the human mind invents categories and tries to force facts into separate pigeonholes. The living world is a continuum in each and every one of its aspects. The sooner we learn this concerning human sexual behavior the sooner we shall reach a sound understanding of the realities of sex (p. 639).

## Psychological Studies

Scores of studies have been reported in the literature on the adjustment of homosexual men and women. To be sure, none of the studies attempted to answer the specific question: are homosexuals greater security risks than heterosexuals? On various psychological tests, including the well-known Minnesota Multiphasic Personality Inventory, the Adjective Check List, and the Rorschach test, among others, the range of variation in personal adjustment is the same for heterosexuals and homosexuals. None of the carefully controlled studies concluded that homosexuals were suffering from a "mental illness." Gonsoriak (1982) and Siegelman (1987) independently reviewed the available research literature and concluded that good adjustment and poor adjustment are unrelated to sexual orientation.

Can any inferences be drawn from the massive volume of research generated in the effort to discover whether homosexuals are different from heterosexuals on adjustment criteria? Although definitions of adjustment vary from study to study, one element appears common to most, if not all, definitions: social maturity. This concept embraces a number of features. Socially mature people are likely to be caring, to have stable interpersonal relations, to be concerned with maintaining an acceptable social and moral identity. Caring for persons with whom one is bonded is probably related to caring for others who make up relevant collectivities, including one's country. The research is unequivocal that identifying oneself as heterosexual or homosexual carries no implication of social maturity.

## Sociological Studies

A number of studies have been reported that lead to the inference that many undisclosed homosexuals have served in the military and received good proficiency ratings and honorable discharges (Bell, 1973; Williams & Weinberg, 1971; Harry, 1984). It is reasonable to assume that civilians who have not disclosed their homosexual status also perform their jobs efficiently and, if they have security clearances, do not violate the trust.

The broad categories *heterosexual* and *homosexual* conceal multiple types. At the conclusion of an extensive sociological investigation, Bell and Weinberg (1978) commented that persons identified as homosexual are "a remarkably diverse group." After studying intensive protocols on a large number of adults, these investigators concluded:

...we do not do justice to people's sexual orientation when we refer to it by a singular noun. There are "homosexualities" and there are "heterosexualities" each involving a variety of interrelated dimensions. Before one can say very much about a person on the basis of his or her sexual orientation, one must make a comprehensive appraisal of the relationships among a host of features pertaining

to the person's life and decide very little about him or her until a more complete and highly developed picture appears.

The data in the Bell and Weinberg study lead to the conclusion that the concepts *homosexuality* and *heterosexuality* are too broad to be worthwhile. When subjected to statistical reduction, the data yielded five types. The typology is not too different from one that could be constructed for heterosexuals. The five types are labeled: Close-coupled, Open-coupled, Functionals, Dysfunctionals, and Asexuals. The Close-Coupled were similar to what might be called happily married among heterosexuals. Partners of this type look to each other for their interpersonal and sexual satisfactions. They are not conflicted about being members of a minority group. They would fit the usual criteria of social maturity. The Open-Coupled preferred a stable couple relationship, but one of the partners sought sexual gratification outside of the couple relationship. In most cases, Open-Coupled accepted their homosexual identity, but had qualms about seeking other outlets. In terms of their general adjustment, they were not unlike most homosexuals or most heterosexuals. The Functionals are more like the stereotype of the swinging singles. Their lives are oriented around sex. They are promiscuous and open, frequenting gay bars and bathhouses, and have been arrested for violating "homosexual" ordinances. They are self-centered and give the impression of being happy and exuberant. The Dysfunctionals fit the stereotype of the tormented homosexual. They have difficulties in many spheres, social, occupational, sexual. This type displayed the poorest adjustment. Among the males, there were more instances of criminal activity such as robbery, assault, and extortion. The Asexuals are characterized by lack of involvement with others. They are loners and describe themselves as lonely. They lead quiet, withdrawn, apathetic lives.

To recapitulate: In this section of the report I have presented a synopsis of contemporary research drawn from biological, psychological, and sociological sources. One conclusion stands out: knowing that a person is homosexual tells very little about his or her character. It is worth adding: knowing that a person is heterosexual tells very little about his or her character.

---

\*The use of the background investigation (BI) is consistent with this conclusion.

## Implications

The official guides for personnel security specialists are Director of Central Intelligence Directive (DCID 1/14) (1986) and the *Personnel Security Program*, (5200.2-R) already mentioned, issued by the Department of Defense and revised in January, 1987. In both of these documents, the criteria for granting or denying clearances are spelled out. The main thrust of these guidelines is that every candidate for a clearance is handled on a case-by-case basis. An implication of this policy is that information referring to sexual orientation by itself would not be systematically employed as a criterion to withhold security clearance.

Adjudicators, like everyone else, do not put aside their belief systems when they engage in clinical inference on the basis of ambiguous and incomplete cues. Under conditions where a criterion is stated in clear and unambiguous terms, there is little room for the operation of personal bias or social prejudice. For example, in following the rule that no convicted felon should be granted a security clearance, the adjudicator's personal beliefs about the rehabilitation effects of imprisonment are irrelevant. When criteria are stated in language that is the least bit ambiguous or value-laden, then opportunities arise for interpretation according to personal belief systems. In Appendix E of DoD 5200.2-R, the following appears: "Background Investigation (BI) and Special Background Investigation (SBI) shall be considered as devoid of significant adverse information unless they contain information listed below: ... (2) All indications of moral turpitude, heterosexual promiscuity, aberrant, deviant, or bizarre sexual behavior...." A later section of the *Personnel Security Program*, in considering "sexual misconduct" as a basis for denying security clearances, contains the following: "Acts of sexual misconduct or perversion indicative of moral turpitude, poor judgment, or lack of regard for the laws of society."

Although the term *homosexual* is meticulously avoided in DoD 5200.2R (heterosexual but not homosexual promiscuity is included as adverse information), the ambiguity of language such as "moral turpitude," "sexual misconduct," and "aberrant, deviant, or bizarre," would allow a reader of the guidelines a considerable degree of discretion in interpreting homosexual orientation as being an instance of "moral turpitude," "sexual misconduct," or "aberrant deviant, or bizarre." The value-laden term *perversion* also makes possible the assignment of homosexual men and women to a suspect class. *Perversion* is no longer employed as a diagnostic term in medical or psychological vocabularies. At one time, it was used as a catch-all for any nonprocreative sexual activity, including masturbation, oral-genital contact between husband and wife, and attending sexually explicit movies, among other behaviors.

The effectiveness of the case-by-case approach to security determinations is dampened if attention is not given to the fact that adjudicators are practicing the art of clinical inference. They acquire skills in converting masses of data to a two-valued determination *satisfying guidelines* and *not satisfying guidelines*. By extension, these two

outcomes lead to the ultimate inference *trustworthy* and *untrustworthy*. Ambiguous and value-laden language, as indicated above, allows for the importation of private belief systems into the mix of major premises that guide the inference process. *Moral turpitude* is a prime exemplar. It has no standard reference other than that derived from social constructions that regard nonconforming sexual orientation as sin, crime, or sickness.

Most of us in the general population have been socialized by parents, teachers, peers, and religious leaders to interpret nonconforming sexual orientation as sinful, criminal, or sick. Investigators and adjudicators are drawn from the general population. It is reasonable to suppose that incorporated into their personal theories of character are belief systems that would lead to identifying homosexuals as members of a suspect class, such identification being derived from sin, crime, or sickness constructions. The minority-group construction, for a long time privately advocated by individuals, has been presented to the public as a result of increased consciousness about civil rights. A person who subscribes to the construction of homosexuality as an alternate life style practiced by a minority group, would not consider homosexual identity or homosexual acts as indicative of the vague and value-laden category *moral turpitude*. This does not mean that he or she would downgrade the moral significance of such acts as incest, child molestation, rape, or other acts involving violence or coercion, acts that are sometimes included in the general descriptor *moral turpitude*.

A personal theory of character, like any theory, is not an incidental or ornamental feature of an individual's psychological make-up. A theory, whether in science or in daily life, is organized to facilitate understanding, to simplify, to reduce confusion, to provide guidance until data are gathered and converted into hard facts. A personal theory of character also has purposes, one of which is to facilitate, in the absence of facts, the sorting of individuals into moral categories. The use of theories to express personal prejudice may influence the practitioners of the art of clinical inference to make decisions in which information irrelevant to trustworthiness is given significant status. We are reminded of the theories of character advocated during various historical periods; theories designed to establish the superiority of a particular race or ethnic group.

In DoD 5200.2-R, under the heading, Criteria for Application of Security Standards, the general instruction to personnel security officials and practitioners is that the ultimate decision must be based on "an overall common sense determination based upon all available facts." In DCID 1/14, the same formula appears: "The ultimate determination of whether the granting of access is clearly consistent with the interest of national security shall be an overall common sense determination based on all available information" (p. 5). As I mentioned before, in the absence of empirically derived correlations, judgments are theory-driven rather than fact-driven. Common sense could mean the employment of commonly held theories of character which could influence decisions in which homosexuality was included in the compendium of "facts." The hypothesis could be entertained that under such conditions common sense could be interpreted as common prejudice.

Not only in the interest of fairness, but also in the interest of efficiency, attention should be directed to improving the inferential skills of adjudicators and other specialists so that in applying guidelines they can recognize and delimit the contribution of personal theories of character to their judgments.

At the beginning of this report, I pointed to two sets of problems: (1) Is a person a security risk by virtue of membership in the class homosexual? (2) Is a person of homosexual orientation a security risk because he or she is vulnerable to coercion and blackmail? The previous pages have focused on the first question. The remainder of the report is directed to the issue of vulnerability to blackmail. To illuminate the problem of blackmail, I make use of the concept *personal secrets*.

## Personal Secrets

The previous discussion centered on the problem of determining whether a homosexual man or woman should be granted a security clearance. I did not consider the observation that trustworthiness is a characteristic that is subject to contextual influences. Blackmail--the threat of disclosure of a personal secret--sometimes leads a trustworthy person to betray a trust. The risk of exposure is central to understanding the conduct of any person whose adjustment, achievements, and career advancements are dependent on maintaining secrets about the self. Such secrets cover a much wider field than sexual orientation. Secrets about the self are maintained to avoid making public one's inferiority, stupidity, or moral weakness. Persons hold secret such autobiographical items as unprosecuted felonies, illegal drug use, problem drinking, prior bankruptcies, race or ethnic origins, and spouse abuse. Many people employ secrecy to conceal from others certain disapproved psychological characteristics such as obsessions, phobias, compulsions, fetishism, and other behaviors that appear not to be under self-control. Actions that authority figures might label sexual misconduct become part of the secret self. Most adults conceal from public scrutiny such facts as fornication with a minor, adulterous relationships, bigamy, illicit sexual liaisons, compulsive masturbation, impotence and other sexual dysfunctions, and so on.

Self secrets of the kind listed above have one element in common: the person is open to the possibility of being stigmatized, of being forced to display a symbolic brand for all to see.

To be vulnerable (in the sense of being vulnerable to coercion by agents of a foreign power) is to risk disclosure of a personal secret. The power of the potential blackmailer who is privy to another's personal secrets is generated because of the extraordinary sanctions that follow the disclosure. Shame, dishonor, disgrace, ostracism, imprisonment or other legal penalties, and loss of employment are the outcomes that the secret-holder must consider.

The strategy of secrecy may be augmented by other strategies to avoid the degradation of identity, the loss of self. Disinformation, masking and disguise, and outright lying help maintain the secret self.

If a homosexual person makes public, or is ready to make public, his or her sexual orientation, then vulnerability virtually disappears. In civilian settings, the sanctions for disclosure of sexual status are no longer draconian; in fact, in many instances, sanctions are absent. Thus, publicly announced homosexuals are not likely to be targets of blackmail. Whether concealing adultery, personal failings, or a criminal or immoral past, the degree of the threat of coercion is related to the quality of the protection a person gives his or her personal secrets. Where homosexuality is officially taboo, the person is at risk if his or her secrecy strategy is not airtight.

Being homosexual no longer carries the automatic risk of vulnerability save in situations where it is expressly forbidden.

Counterintelligence sources report that foreign intelligence agencies make inquiries regarding homosexuals in order to exploit vulnerability. SGT Clayton Lonetree told investigators that his Soviet handler, "Uncle Sasha," made inquiries about embassy staff who were potentially vulnerable to exploitation in order to maintain their personal secrets. The handler included homosexuals in his shopping list.

John Donnelly, Director of the Defense Investigative Service (1987), reported an anecdote in which foreign agents attempted to coerce into espionage a woman who was an undisclosed lesbian. The coercion involved disclosing her homosexuality. She refused to cooperate and reported the attempt to appropriate authorities, thus revealing her personal secret.

A review of a KGB training manual (1962) does not single out homosexuals as persons to be cultivated for exploitation. Rather, the manual identifies occupational types as potential targets: government officials, scientists, engineers, businessmen, etc. The perception of Americans as reflected in the manual is that they can be exploited through ideology or money. Ideology in this context does not necessarily mean subscribing to Marxist doctrine. A person is said to be ideologically compatible if he or she is sympathetic to the Soviet bloc or harbors resentment against the American economic or political system. Americans are perceived to be greedy capitalists, so money is expected to be the major motivator in recruitment operations.

A declaration in a legal brief by John F. Donnelly (1987) suggests that hostile intelligence agencies are interested in *any person who might be vulnerable*--not only homosexuals. "Hostile intelligence agencies, with great consistency, consider sexuality to be a potentially exploitable vulnerability. This does not mean that hostile intelligence agencies always seek out homosexuals to target. Rather, they usually spot individuals with the desired access and then assess them in order to determine the most effective approach. They then attempt to segregate those with alcohol or drug problems, financial problems, a known disregard for security, and/or those who can be exploited sexually" (p.11).

No statistics are available to demonstrate the degree of success in recruiting spies through the threat of exposure of personal secrets. In developing a data bank on known spies, PERSEREC found that most Americans who attempt to sell government secrets are not recruited, they are volunteers.

---

\*The anecdote was reported in the context of the KGB's practice of exploiting homosexuals who had not publicly acknowledged their sexual identity. The anecdote could also be employed to illustrate the claim that homosexuals are patriotic.

The PERSEREC data bank currently includes 117 cases of American citizens who between 1945 and the present committed or attempted to commit espionage. Only six have been identified as homosexual.\* Their motives appear to be the same as for persons not identified as homosexual: primarily money, secondarily, resentment. All were volunteers except one, who was recruited as an accomplice by a heterosexual friend. None was a target of blackmail, although one offender claimed to have been coerced.

---

\*Brief resumes of these cases are in the Appendix.

## Concluding Remarks

In preparation for this report, I reviewed approximately 100 books and journal articles. My conclusion is that the concept *homosexuality* is not very useful. Persons who are labeled homosexuals are, as Bell and Weinberg put it, a diverse group. No generalizations are possible in regard to life style, personality type, or character development.

Are men and women identified as homosexual greater security risks than persons identified as heterosexual? Certainly in civilian contexts, there is no basis for holding the belief that homosexuals as a group are less trustworthy or less patriotic than heterosexuals. The fear of the secret being exposed makes one a potential target for blackmail. I should add that homosexuals, in this respect, are no different from heterosexuals who fear exposure of adultery or other illegal or moral lapses.

In considering the relationship of homosexuality to security, it would be appropriate to look for the origins of the discriminatory policies. In the 1940s, in wartime and thereafter, the government undertook the task of identifying and removing men and women from government positions who were considered disloyal. That the concept of loyalty was abused is a matter of historical record. Note the disciplinary action of the Senate in regard to the irresponsible conduct of Senator Joseph McCarthy. Loyalty programs were targeted to identify men and women who were sympathetic to communist ideology. The FBI, the government agency principally responsible for enforcing the loyalty screening program, broadened nonloyalty criteria to include nonconforming sexual orientation. In 1953, FBI Director J. Edgar Hoover ordered his operatives to enforce the newly created Federal Employee Security Program which included as adverse information such ostensibly nonloyal items as derogatory personal habits, conditions and acts (Hoover, 1954-55). "Sexual perversion" was included as an item of "nonsubversive derogatory character." Even before the publication of the new program, Hoover reported that the FBI had identified numerous "sex deviates in government service." Without citing evidence, Hoover declared that homosexuals are security risks and should be separated from government service. Over 600 "security separations" were reported for a 16-month period beginning in 1953. The charge was "perversion" and included employees from such nonsensitive government agencies as the Post Office and the Department of Agriculture (New York Times, 1955).

Once begun, bureaucratic policies and procedures are resistant to change. Although no empirical data have been developed to support any connection between homosexuality and security, it is reasonable to assume that Hoover's beliefs have continued to influence more recent personnel security practice. As I pointed out in the body of this report, homosexuality *per se* is not explicitly mentioned in the directives. Other categories, among them moral turpitude, are provided and they are sufficiently ambiguous to allow investigators and adjudicators to read homosexuality as disloyalty. Whatever the basis of Hoover's beliefs, he was not privy to the wealth of scientific

information currently available. Such information (a digest of which is included in earlier pages) raises serious questions about the validity of including homosexuals in a morally suspect class. It is true that most people, including investigators, adjudicators, and policy-makers, have not been exposed to contemporary biological, psychological, and sociological research findings. In the absence of such knowledge and influenced by the legacy of Hoover's combining homosexuality and disloyalty, some personnel security practitioners are likely to persist in the practice of lumping all homosexuals into one morally suspect class. The practice entails employing premises that flow from the adoption of social constructions of homosexuality that emphasize sin, crime, or sickness.

Policy-makers might give thought to endorsing and expanding training programs in which adjudicators and other personnel security specialists receive instruction in current scientific information about sexual orientation, and also in recognizing the sources of their premises and inference strategies. Prior to 1988, adjudicators were trained on the job by other adjudicators. They were drawn from the general population. It is not unreasonable to suppose that the belief-systems of adjudicators reflect the variety of belief-systems of the general population. [An interesting research project might be undertaken to assess beliefs and attitudes of adjudicators. This would provide empirical data on prior beliefs about the trustworthiness of homosexuals.] Adjudicators now receive uniform training. It would be helpful to know to what extent the uniform training reduces or eliminates bias. It is important to note that adjudicators have some degree of choice in examining and interpreting data. Even with concrete guidelines, the variability of human personality makes it necessary to add a human factor. If adjudicators were to operate as computers programmed to follow guidelines and did not employ clinical judgment, then they would be superfluous to the whole enterprise. A computer could be programmed with an algorithm that would weight the data and churn out expert judgments.

I have made the point that the current policy of reviewing every applicant for clearance on a case-by-case basis meets the requirements of fairness and efficiency. The wide variation in homosexual life styles, like the wide variation in heterosexual life styles, demands a case-by-case approach. The policy is not sufficient, however, to ensure fairness in practice. As I have argued before, the effects of long-standing bias against homosexuals may bypass the intent of the case-by-case policy. In addition to providing instruction to investigators and adjudicators as indicated above, it would be wise to issue memoranda at regular intervals emphasizing the basis of the case-by-case approach, even providing examples, heterosexual and homosexual, of personnel who would be considered security risks. The educational impact would be strengthened if the memoranda included empirical data that supported the risk classifications.

A final word. The review and analysis of the literature on homosexuality leads to one conclusion: sexual orientation is unrelated to moral character. Both patriots and traitors are drawn from the class *American citizen* and not specifically from the class *heterosexual* or the class *homosexual*.

## References

- Barnett, W. (1973). *Sexual freedom and the Constitution*. Albuquerque, NM: U. of New Mexico Press.
- Bell, A. P. (1973). Homosexualities: Their range and character. *Nebraska Symposium on Motivation, 21*, 1-26.
- Bell, A. P., & Weinberg, M. S. (1978). *Homosexualities*. New York: Simon & Schuster.
- Ben Shalom v. Marsh. 703 F. Suppl. 1372 (E. D. Wisc. 1989).
- Berube, A. (1990). *Coming out under fire*. New York: Free Press.
- Bieber, I., Dain, H. J., Dince, P. R., Drellich, M. G., Grand, H. G., Gundlach, R. H., Kremer, M. W., Rifkin, A. H., Wilbur, C. B., & Bieber, T. B. (1962). *Homosexuality, a psychoanalytic study*. New York, NY: Basic Books.
- Bullough, V. L. (1976). *Sexual variance in society and history*. Chicago, IL: University of Chicago Press.
- Colasanto, D. (1989, Oct. 25). In reversal, public increases support for gays' civil rights. *San Jose Mercury News*.
- Department of Defense. (1987). *Department of Defense personnel security program regulation (DoD 5200.2-R)*. Washington, DC: Office of the Deputy Under Secretary of Defense for Policy.
- Devereaux, G. (1963). Institutionalized homosexuality of the Mohave Indians. In H. Ruitenbeck (Ed.), *The problem of homosexuality*. New York: Dutton.
- Director of Central Intelligence. (1986). Directive No. 1/14, *Minimum Personnel Security Standards and Procedures Governing Eligibility for Access to Sensitive Compartmented Information*. Washington, DC: Author.
- Donnelly, John F. Declaration filed September 2, 1987. *High Tech Gays et al. v. Defense Industrial Security Clearance Office*, 56 U.S. L.W. 2144 (1987).
- Donnelly, John F. *High Tech Gays et al. v. Defense Industrial Security Clearance Office*, 56 U.S. L.W. 2144 (1987), p. 4.
- Dubbs v. CIA, 866 F.2d 1114 (1989).

- Ellis, L., & Ames, M. A. (1987). Neurohormonal functioning and sexual orientation: A theory of homosexuality-heterosexuality. *Psychological Bulletin*, 101(2), 233-258.
- Fay, R. F., Turner, C. F., Klassen, A. D., & Gagnon, J. H. (1989). Prevalence and pattern of same-gender sexual contact among men. *Science*, 243, 338-348.
- Ford, C. S., & Beach, F. A. (1951). *The patterns of sexual behavior*. New York: Harper & Brothers.
- Freedman, M. (1976). *Homosexuality and psychological functioning*. Belmont, CA: Brooks/Cole.
- Gonsorick, J. C. (1982). Results of psychological testing on homosexual populations. *American Behavioral Scientist*, 25, 385-396.
- Harry, J. (1984). Homosexual men and women who served their country. *Journal of Homosexuality*, 10(1-2), 117.
- High Tech Gays et al. v. Defense Industrial Security Clearance Office, 56 U.S. L.W. 2144 (1987).
- Hooker, E. (1957). The adjustment of the male overt homosexual. *Journal of Projective Techniques*, 21, 18.
- Hooker, E. (1965). Male homosexuals and their worlds. In J. Marmor (Ed.), *Sexual inversions*. New York: Basic Books.
- Hoover, J. E. (1954-55). Role of the FBI in the Federal Employee Security Program. *Northwestern University Law Review*, 49, 333-336.
- Howells, K. (Ed.). (1984). *The psychology of sexual diversity*. Oxford: Basil Blackwell.
- Humphrey, M.A. (1990). *My country, my right to serve*. New York: Harper Collins.
- Kallman, F. J. (1952). A comparative twin study on the genetic aspects of male homosexuality. *Journal of Nervous and Mental Diseases*, 115, p. 283.
- Kelly, D. D. (1985). Sexual differentiation of the nervous system. In E. Kandel and J. Schwartz (Eds.), *Principles of neural science, 2nd edition*. New York: Elsevier.
- KGB. (1962). *Training for Recruitment of Americans in the USA and in Third Countries*. (FBI, Trans.). Moscow: Author.

- Kinsey, A., Pomeroy, W., & Martin, C. (1948). *Sexual behavior in the human male*. Philadelphia: W. B. Saunders.
- Kinsey, A., Pomeroy, W., Martin, C., & Gebhard, P. (1953). *Sexual behavior in the human female*. Philadelphia: W. B. Saunders.
- Lambert, W. (1991, January 25). Gay GIs told, serve now, face discharge later. *Wall Street Journal*, B1.
- Law, S. A. (1988). Homosexuality and the social meaning of gender. *Wisconsin Law Review*, Volume 1988, No. 2, 187-235.
- List of security separations. (1955, January 4). *New York Times*, p. 14.
- Marmor, J. (1975). Homosexuality and sexual orientation disturbances. In A. M. Freedman, H. I. Kaplan, & B. J. Sadock (Eds.), *Comprehensive textbook of psychiatry-II*. Baltimore, MD: Williams & Wilkins.
- Marshall, D. S., & Suggs, R. C. (Eds.). (1971). *Human sexual behavior*. New York: Basic Books.
- Mihalek, G. J. (1988). Sexuality and gender, an evolutionary perspective. *Psychiatric Annals*. 18(1).
- Money, J. (1988). *Gay, straight & in-between*. New York: Oxford University Press.
- Money, J., & Erhardt, A. A. (1972). *Man and woman, boy and girl*. Baltimore, MD: Johns Hopkins University Press.
- Norton v. Macy. 417 F.2d 1161 (D.C. Cir. 1969).
- Ohlson, E. L. (1974). A preliminary investigation into the self-disclosing ability of male homosexuals. *Psychology*, 11, 21-25.
- Rosa, P. M. (1988, July 12). Homosexuals no longer face automatic ban as security risks. *The Morning Call*.
- Rosenberg, S. (1977). New approaches to analysis of personal constructs in person perception. In A. W. Landfield (Ed.), *Nebraska Symposium on Motivation 1976: Personal construct psychology* (pp. 179-242). Lincoln, NE: University of Nebraska Press.
- Ruse, M. (1988). *Homosexuality, a philosophic inquiry*. New York: Blackwell.

- Sackett, P. R., Ferris, L. R., & Callahan, C. (1988). Integrity testing for personnel selection: An update. *Personnel Psychology*, 42, 492-529.
- Sagarin, E. (Ed.) (1971). *The other minorities*. Waltham, MA: Ginn.
- Sarbin, T. R., Taft, R., & Bailey, D. E. (1960). *Clinical inference and cognitive theory*. New York: Holt, Rinehart & Winston.
- Siegleman, M. (1978). Psychological adjustment of homosexual and heterosexual men: A cross-national replication. *Archives of Sexual Behavior*, 7, 1-11.
- Siegleman, M. (1979). Adjustment of homosexual and heterosexual women: A cross-national replication. *Archives of Sexual Behavior*, 8(2), 121-125.
- Siegleman, M. (1987). Kinsey and others: Empirical input. In L. Diamant (Ed.), *Male and female homosexuals: Psychological approaches*. New York: Hemisphere.
- Singer v. U.S. Civil Service Commission, 503 F.2d 247 (9th Cir. 1976).
- Singer v. U.S. Civil Service Commission, 429 U.S. 1034 (1977).
- Spector, M., & Kitsuse, J. I. (1987). *Constructing social problems*. New York: Aldine-de Gruyter.
- Webster v. John Doe, 48 S.Ct. (1988).
- Williams, C. I., & Weinberg, M. S. (1971). *Homosexuals and the military*. New York: Harper and Row.
- Wolfenden Report (1963; orig. 1957). *Report of the Committee on Homosexual Affairs and Prostitution*. New York: Stein and Ray.

**Appendix**

**Biographical Sketches of Known Spies with a Homosexual Orientation**

## Biographical Sketches of Known Spies with a Homosexual Orientation

The following brief sketches were written from sources in the public domain, mostly newspaper articles.

RAYMOND G. DeCHAMPLAIN, Master Sergeant USAF, age 39, was arrested in 1971 in Bangkok, Thailand, on charges of espionage and other military violations. At the time of his arrest, he had served in the Air Force for over 20 years. He was known among his coworkers as a homosexual, but they did not report his activities to the commanding officer. He was known as an incompetent worker and heavily in debt. He was married to a Thai woman who left him shortly after the marriage, ostensibly because of his sexual orientation. DeChamplain alleged that he had been blackmailed by Soviet agents. It was known that he had been introduced to a Soviet agent at a party in 1967, but it was not until four years later that he volunteered to engage in espionage. He delivered a large number of documents to the KGB for which he received \$3800. He was convicted at court-martial and sentenced to 15 years hard labor, later reduced to 7 years. Primary motivation: money.

LEE EDWARD MADSEN, Yeoman Third Class, USN, age 24, was arrested in 1979 on charges of selling classified documents. He had been assigned to Strategic Warning Staff at the Pentagon. He turned over sensitive documents to an undercover agent for \$700. He was quoted as saying to an investigator that he had stolen the documents "to prove that I could be a man and still be gay." He was sentenced to 8 years hard labor. Primary motivation: money, with a mix of ego-needs.

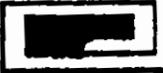
WILLIAM H. MARTIN, Intelligence Analyst, NSA, age 29, and BERNON F. MITCHELL, Intelligence Analyst, NSA, age 31, defected to the Soviet Union in 1960. They turned over detailed information concerning organization and structure of NSA and cryptographic codes. Primary motivation: unknown, probably a combination of financial needs and resentment of treatment of homosexuals in the United States.

JAMES A. MINTKENBAUGH, Sergeant, USA, age 45, was arrested by the FBI in 1965 for espionage. He had been recruited by Robert L. Johnson, Sergeant, USA. Both participated in providing information to the KGB on missile sites, military installations, and intelligence activities. Among Mintkenbaugh's assignments was spotting other homosexuals in the American community in Berlin. Johnson's wife tipped off the FBI. He was sentenced to 25 years hard labor. Primary motivation: money.

JEFFREY L. PICKERING, USN, age 25, mailed a five-page secret document to the Soviet Embassy in Washington, D. C. He had been in the Marines from 1965 to 1973, then joined the Navy fraudulently using a forged birth certificate and a new name. Evidence suggests that he saw himself as playing a part in a spy thriller. He was sentenced to 5 years in prison. Primary motivation: money and ego-needs.



Received

**PERSEREC** 

**PRESERVICE ADJUSTMENT OF HOMOSEXUAL  
AND HETEROSEXUAL MILITARY ACCESSIONS:  
IMPLICATIONS FOR  
SECURITY CLEARANCE SUITABILITY**

**Michael A. McDaniel**

**January 1989**

**DRAFT**

**DEFENSE  
PERSONNEL SECURITY  
RESEARCH AND EDUCATION CENTER  
99 Pacific Street, Building 455-E**



PERS-TR-89-004

January 1989

**Preservice Adjustment of Homosexual  
and Heterosexual Military Accessions:  
Implications for Security Clearance Suitability**

**Prepared by  
Michael A. McDaniel**

**Reviewed by  
Carson Eoyang  
Director**

**Defense Personnel Security Research and Education Center  
Monterey, California 93940-2481**



## Preface

The differences between homosexuals and others in society have long been subjects of great debate. More often than not, the controversy has suffered from a paucity of scientific research that could illuminate and inform the issues. This study is a limited effort to address the question: How do homosexuals differ from non-homosexuals in preservice adjustment characteristics? By exploring these differences, which may have direct security implications, this research helps increase our knowledge base pertaining to the suitability of homosexuals for positions of trust. This technical report is a revision of an earlier draft report entitled "The Suitability of Homosexuals for Positions of Trust" (November, 1987).

Carson K. Eoyang  
Director



**Preservice Adjustment of Homosexual  
and Heterosexual Military Accessions:  
Implications for Security Clearance Suitability**

Prepared by  
Michael A. McDaniel

**Summary**

Problem

Homosexuality is a topic of considerable debate and litigation in the national security community. The debate centers around the suitability of homosexuals for positions that require national security clearances.

Objective

The objective of the present study was to determine whether homosexuality is an indicator that a person possesses characteristics, separate from sexual orientation, that make one unsuitable for positions of trust. Specifically, this paper attempts to answer the question: How do homosexuals differ from heterosexuals in background characteristics relevant to security suitability?

Approach

To answer this question, background data were drawn from the Educational and Biographical Information Survey (EBIS) (Means & Perelman, 1984). This self-report inventory contains questions regarding educational experiences, drug and alcohol use, criminal activities, and driving record. Military accessions who were discharged from the service for homosexuality were compared with other military accessions on preservice background characteristics relevant to security suitability.



## Results

The data indicate that the suitability of homosexuals relative to heterosexuals depends upon the background area examined and the sex of the comparison group:

- o In general, homosexuals showed better preservice adjustment than heterosexuals in areas relating to school behavior.
- o Homosexuals also displayed greater levels of cognitive ability than heterosexuals.
- o Homosexuals, however, showed less preservice adjustment than heterosexuals in the area of drug and alcohol use.
- o With the exception of drug and alcohol use, homosexuals resemble those who successfully adjust to military life more so than those who are discharged for unsuitability.
- o Although male homosexuals tend to be better than or as equally adjusted as male heterosexuals with respect to the indices examined, female homosexuals tend to score lower on preservice adjustment indices than female heterosexuals. However, females as a whole tended to show better preservice adjustment than males, and female homosexuals tended to have better preservice adjustment than most heterosexual male accessions.

## Conclusion

The discussion section of this report lists several limitations of this study. Although these limitations should be carefully considered, the preponderance of the evidence presented in this study indicates that homosexuals show preservice suitability-related adjustment that is as good or better than the average heterosexual.



## Table of Contents

Preface . . . . .	i
Summary . . . . .	ii
List of Tables . . . . .	v
Introduction . . . . .	1
Approach . . . . .	3
Results . . . . .	7
Results for the Major School Problems Scale . . . . .	7
Results for the Drug and Alcohol Scale . . . . .	9
Results for the Employment Experience Scale . . . . .	11
Results for the Felonies Scale . . . . .	11
Results for the Minor School Problems Scale . . . . .	14
Results for the Drunk and Disorderly Scale . . . . .	16
Results for the AFQT Percentile . . . . .	16
Discussion . . . . .	19
Limitations of the Present Study . . . . .	19
Conclusion . . . . .	21
References . . . . .	23



## List of Tables

1.	Major School Problems Background Scale . . . . .	8
2.	Drugs and Alcohol Background Scale . . . . .	10
3.	Employment Experience Background Scale . . . . .	12
4.	Felonies Background Scale . . . . .	13
5.	Minor School Problems Background Scale . . . . .	15
6.	Drunk and Disorderly Background Scale . . . . .	17
7.	AFQT Percentile. . . . .	18



## Introduction

Homosexuality is a topic of considerable debate and litigation in the national security community (National Security Institute, 1987). Questions in the national security/homosexuality debate include:

1. Does the homosexuality of a security clearance holder present an exploitable vulnerability for hostile intelligence agencies?
2. Does the presence of a homosexual in a military or nonmilitary work group cause the group work performance or security climate to decay?
3. Is homosexuality an indicator that a potential security clearance holder possesses characteristics, separate from sexual orientation, that make one unsuitable for positions of trust?

This paper primarily addresses the third question. Specifically, this paper attempts to answer the question: How do homosexuals differ from heterosexuals in background characteristics relevant to security suitability? Thus, this paper has a narrow focus and does not address all questions concerning the suitability of homosexuals for employment in positions that require national security clearances.

A major problem in resolving the issue of the suitability of homosexuals for positions of trust is the paucity of research available on this topic. Recently, Ellis and Ames (1987) reviewed the literature on the origins of sexual orientation. After reviewing the literature on experiential, social-environmental, genetic, and physiological explanations of the causal determinants of sexual orientation, they concluded that the evidence best supports the position that sexual orientation is largely determined by genetic, neurological, hormonal, and environmental factors prior to birth. However, regardless of the origin of sexual orientation, there is little research addressing the suitability of homosexuals for positions of trust. This report is an attempt to address this research gap.



## Approach

This study focuses on the question, "With reference to the types of background data normally collected in security-related background investigations, how do homosexuals and heterosexuals differ?" To answer this question, background data were drawn from the Educational and Biographical Information Survey (EBIS) (Means & Perelman, 1984). This self-report inventory contains questions regarding educational experiences, drug and alcohol use, criminal activities, and driving record. The EBIS data differ from most background investigation data, such as that collected by the Defense Investigative Service, in that the information was collected in a structured format (i.e., multiple choice questions), does not contain interview data or data from official sources such as police departments or credit agencies (i.e., all information was self reported), and contains more school adjustment questions than is obtained in most background investigations. However, the data set does tap the most common data domains in background investigations, and thus appears well suited for the present inquiry.

During the spring of 1983, the EBIS was administered to approximately 34,000 military applicants and 40,000 new recruits from all four services. The applicants who did not enter the military were categorized by gender. The military personnel were classified by gender, education, military career changes, and level of security clearance. Military discharge data on the EBIS respondents were obtained from the Defense Manpower Data Center. For this analysis, all military personnel who were discharged for homosexuality were separated from all other military accessions. The definition for all analysis groups in this study are:

### Homosexuals:

Military personnel who were discharged for homosexuality. This group was further divided by gender.

### Applicants Not Entering Service:

Military applicants who did not enter the military service. These persons took the EBIS as military applicants and either declined service entry or were refused admission. This group was divided by gender.

### All Other Accessions:

All military accessions, except those discharged as homosexuals. Separate analyses were conducted by gender, education (high school diploma or not), military career changes, and level of security clearance. The categories of military career change were:



- 1) those discharged for unsuitability for reasons other than homosexuality,
- 2) those released from service,
- 3) those who sought immediate reenlistment in the military service,
- 4) those enlisted personnel who were granted entry into officer training programs,
- 5) those who received medical discharges, and
- 6) those who were still in the military, but who did not fit any of the above categories (these were labelled "not separated").

For the clearance level categorization, the military personnel were divided into those without a Secret or higher clearance (these were labelled "no clearance"), those with a Secret clearance, those with a Top Secret clearance but no SCI access, and those with a Top Secret clearance with SCI access or eligibility for SCI access.

Statistical methods were used to cluster the EBIS background data into meaningful clusters. The EBIS data formed seven clusters of background data that provided a useful summary of the recruits' preservice behavior. Six clusters are described below. The seventh background area, Grades and Socio-Economic Status, was not examined in this paper since it is not an area that is normally examined in security-related background investigations. For the remaining six categories, the items in each cluster were summed to yield six scale scores.

The scale contents were:

1. Major School Problems:  
Suspension from school, fighting in school, trouble in schools for being disorderly, using bad language, and smoking.
2. Drugs and Alcohol:  
Use of marijuana, stimulants, depressants, cocaine, heroin, other narcotics, other drugs, alcohol, cigarettes.
3. Job Experience:  
Reasons for leaving past jobs. Length of past full-time and part-time work.
4. Criminal Felonies:  
Adult and juvenile arrests and convictions.
5. Minor School Problems:  
Missing school, missing class, thoughts about quitting school.



6. Drunk & Disorderly:

Problems with alcohol, disorderly conduct, drunk driving, drug-related arrest, assault, misdemeanors.

The six background scales were standardized and expressed as percentiles. The higher the percentile for a group of persons the more favorable is the group's past life experience. The scales were standardized so that the average male military accessions are at the 50th percentile. Those groups with a percentile of greater than 50 had fewer preservice difficulties than the average male military accession. Those groups with a percentile of less than 50, on the average, had more preservice adjustment problems than the average male military accession. In each military group examined, there is considerable variability around each group's mean percentile. Thus, for example, if homosexuals are at the 45th percentile in a background domain, it means that on the average the homosexuals had more preservice adjustment problems than the male accessions. However, there will be substantial overlap in the distribution of the two groups such that some homosexuals will be more suitable than most of the male recruits.

In addition to the six background scales, the analysis groups were compared on Armed Forces Qualification Test (AFQT) percentiles. The AFQT is a measure of cognitive ability. The AFQT percentile reflects the scaling of the AFQT determined by DoD and was not normed so that all male accessions were at the 50th percentile.

In these analyses, the percentile standing of homosexuals on a given background scale is compared with the percentile standings of various other groups. In these comparisons, a difference of five percentile points was considered a meaningful difference. While this is a somewhat arbitrary decision rule, it appears to be a reasonable one. Those who wish to adopt a different decision rule may easily do so by examining the percentiles presented in the tables.



## Results

The six background scales appear to be relatively independent. The Major and Minor School Problems scales are the most similar item clusters. The Major School Problems scale appears to tap more serious problems in school, while the Minor School Problems scale is composed of less serious indicators of school adjustment.

The Drugs and Alcohol scale is distinguished from the Drunk and Disorderly scale in that the Drugs and Alcohol scale measures frequency of drug use, while the Drunk and Disorderly scale taps the amount of trouble one gets into as a result of drug and alcohol use. Both the Drunk and Disorderly scale and the Drugs and Alcohol scale have moderate correlations with all other scales. Since the six background scales were relatively distinct, it is most meaningful to compare the homosexuals and other groups on each of the six scales.

### Results for the Major School Problems Scale

Table 1 displays the results for the background scale "Major School Problems." This scale reflects serious school problems including suspension from school, fighting in school, trouble in school for being disorderly, using bad language, and smoking. Those with SCI clearances showed better adjustment than the Top Secret clearance holders without SCI access, who in turn showed better adjustment than the Secret clearance holders, who in turn showed better adjustment than those with no clearance. This monotonic relationship between level of adjustment and clearance level supports the hypothesis that the Major School Problems scale is a relevant background scale for accessing preservice adjustment.

In accordance with the 5-percentile definition of a meaningful difference, only differences of that magnitude or larger are noted. Given that male and female homosexuals showed meaningfully different levels of preservice adjustment in this area, they are discussed separately.

On the whole, the homosexuals showed better preservice adjustment on the Major School Problems scale than most other comparison groups. On the average, male homosexuals showed better preservice adjustment (59th percentile) on the Major School Problems scale than did the group of male military accessions (50th percentile). Male homosexuals on the average displayed substantially greater preservice adjustment on this dimension than the average heterosexual person discharged for unsuitability (40th percentile), and those without high school diplomas (32nd percentile). The male homosexuals had fewer major school problems than heterosexuals who were discharged for unsuitability, released from service, and who received medical discharges. Male homosexuals (59th percentile) also had better levels of preservice



TABLE 1

Major School Problems Background Scale.  
Comparison of Homosexuals with Other Groups.  
Higher Scores Indicate Better Adjustment.

<u>Comparison Groups<sup>1</sup></u>	<u>N</u>	<u>Percentile</u>
Homosexuals	166	61
Males	113	59
Females	53	66
Applicants Not Entering Service <sup>2</sup>	16,357	56
Males	12,525	52
Females	3,720	71
All Other Accessions	48,302	53
Males	42,095	50
Females	6,207	73
High School Graduate	43,233	56
GED and Nongraduates	5,069	32
Military Career Changes <sup>3</sup>		
Unsuitability Discharges	8,468	40
Release From Service	6,855	53
Immediate Reenlistment	4,023	57
Officer	277	75
Medical	1,838	49
Not Separated	24,970	57
Clearance Category		
No Clearance	27,347	50
Secret	18,181	56
Top Secret (no SCI)	1,152	64
SCI	1,622	68

<sup>1</sup>Homosexuals were defined as those released from military service for homosexuality.  
Applicants not entering service were those military applicants who completed the EBIS but did not join the service.

<sup>2</sup>The gender of 112 military applicants who did not enter service is unknown.

<sup>3</sup>A total of 1,871 persons had military career changes which are not one of those in the table.



adjustment than those without clearances (50th percentile), and showed no meaningful difference in preservice adjustment from those holding Secret clearances. Male homosexuals, however, showed meaningfully less preservice adjustment on the Major School Problems dimension than enlisted personnel who entered officer training, and Top Secret and SCI clearance holders.

Regardless of sexual orientation, females showed better levels of preservice adjustment on Major School Problems scale than males. Female accessions were at the 73rd percentile, while female applicants not entering the service were at the 71st percentile. However, in contrast to the male homosexuals who had fewer preservice adjustment problems in this area than the average male accession, female homosexuals had more preservice adjustment problems than the average female accession (66th percentile vs. 73rd percentile). Although female homosexuals showed poorer preservice adjustment on the Major School Problems scale than heterosexual females, the homosexual females showed better adjustment than most other comparison groups including those with Top Secret and SCI clearances.

#### Results for the Drug and Alcohol Scale

Table 2 displays the results for the background scale "Drugs and Alcohol." This scale primarily measures admissions concerning the quantity of drugs and alcohol consumed by the respondent. The higher the clearance level the greater the preservice adjustment on the drug and alcohol scale. This monotonic relationship between level of adjustment and clearance level supports the belief that the Drug and Alcohol scale is a relevant background scale for accessing preservice adjustment.

In contrast to the Major School Problems scale, homosexuals showed worse preservice adjustment on the Drugs and Alcohol scale than most other comparison groups. The difference between male and female homosexuals on the Drugs and Alcohol scale was small (43rd vs. 45th percentile). The homosexuals appear to use about as much drugs and alcohol as the non-high school graduates (41st percentile) and the unsuitability discharges (43rd percentile).

Homosexuals showed meaningfully less preservice adjustment on the Drugs and Alcohol dimension than all male accessions, all female accessions, high school graduates, those released from the service, those who sought immediate reenlistment, those who entered officer training, medical discharges, and those who did not separate. All levels of clearance holders showed better levels of preservice adjustment on the Drugs and Alcohol scale than did the homosexuals.



TABLE 2

Drugs and Alcohol Background Scale.  
Comparison of Homosexuals with Other Groups.  
Higher Scores Indicate Better Adjustment.

<u>Comparison Groups</u> <sup>1</sup>	<u>N</u>	<u>Percentile</u>
Homosexuals	166	44
Males	113	43
Females	53	45
Applicants Not Entering Service <sup>2</sup>	16,357	58
Males	12,525	55
Females	3,720	64
All Other Accessions	48,302	51
Males	42,095	50
Females	6,207	58
High School Graduate	43,233	52
GED and Nongraduates	5,069	41
Military Career Changes <sup>3</sup>		
Unsuitability Discharges	8,468	43
Release From Service	6,855	51
Immediate Reenlistment	4,023	57
Officer	277	58
Medical	1,838	51
Not Separated	24,970	53
Clearance Category		
No Clearance	27,347	50
Secret	18,181	52
Top Secret (no SCI)	1,152	53
SCI	1,622	57

<sup>1</sup>Homosexuals were defined as those released from military service for homosexuality.  
Applicants not entering service were those military applicants who completed the EBIS but did not join the service.

<sup>2</sup>The gender of 112 military applicants who did not enter service is unknown.

<sup>3</sup>A total of 1,871 persons had military career changes which are not one of those in the table.



### Results for the Employment Experience Scale

Table 3 displays the results for the background scale "Employment Experience." This scale primarily measures the amount of one's job experience and the conditions under which one terminated employment. The level of preservice adjustment on this scale does not monotonically covary across clearance levels. This suggests that this scale may have less relevance for security suitability than other scales.

Whereas male homosexuals showed a meaningfully lower level of preservice adjustment on the Employment Experience scale than female homosexuals, the two homosexuals groups are discussed separately.

The male homosexuals showed less preservice adjustment on this scale (48th percentile) than those who sought immediate reenlistment and those who did not separate. Male homosexuals were not, however, meaningfully different from any of the groups holding security clearances. In general, there was little differentiation in employment experience adjustment among any of the comparison groups. This was probably due to the limited amount of job experience for those who enter the military.

Female homosexuals (58th percentile) showed the same level of preservice adjustment on the employment experience scale as heterosexual females. Females, regardless of their sexual orientation, showed better levels of preservice adjustment on this scale than most other comparison groups, including those with Secret clearances, Top Secret clearances and those with SCI access.

### Results for the Felonies Scale

Table 4 displays the results for the background scale "Felonies." This scale measures the number of felony arrests and convictions. Those with SCI clearances showed better adjustment than the Top Secret clearance holders without SCI access, who in turn showed better adjustment than the Secret clearance holders, who in turn showed better adjustment than those with no clearance. This monotonic relationship between level of adjustment and clearance level supports the hypothesis that the Felonies scale is a relevant background scale for accessing preservice adjustment.

Since male homosexuals showed meaningfully lower levels of preservice adjustment than female homosexuals on the Felonies scale, the comparison is discussed separately.



**TABLE 3**

**Employment Experience Background Scale.  
Comparison of Homosexuals with Other Groups.  
Higher Scores Indicate Better Adjustment.**

<u>Comparison Groups<sup>1</sup></u>	<u>N</u>	<u>Percentile</u>
Homosexuals	166	51
Males	113	48
Females	53	58
Applicants Not Entering Service <sup>2</sup>	16,357	59
Males	12,525	56
Females	3,720	66
All Other Accessions	48,302	51
Males	42,095	50
Females	6,207	58
High School Graduate	43,233	52
GED and Nongraduates	5,069	46
Military Career Changes <sup>3</sup>		
Unsuitability Discharges	8,468	46
Release From Service	6,855	52
Immediate Reenlistment	4,023	53
Officer	277	50
Medical	1,838	44
Not Separated	24,970	53
Clearance Category		
No Clearance	27,347	51
Secret	18,181	51
Top Secret (no SCI)	1,152	49
SCI	1,622	52

<sup>1</sup>Homosexuals were defined as those released from military service for homosexuality. Applicants not entering service were those military applicants who completed the EBIS but did not join the service.

<sup>2</sup>The gender of 112 military applicants who did not enter service is unknown.

<sup>3</sup>A total of 1,871 persons had military career changes which are not one of those in the table.



**TABLE 4**

**Felonies Background Scale.  
Comparison of Homosexuals with Other Groups.  
Higher Scores Indicate Better Adjustment.**

<u>Comparison Groups<sup>1</sup></u>	<u>N</u>	<u>Percentile</u>
Homosexuals	166	51
Males	113	47
Females	53	59
Applicants Not Entering Service <sup>2</sup>	16,357	48
Males	12,525	46
Females	3,720	58
All Other Accessions	48,302	51
Males	42,095	50
Females	6,207	59
High School Graduate	43,233	52
GED and Nongraduates	5,069	44
Military Career Changes <sup>3</sup>		
Unsuitability Discharges	8,468	46
Release From Service	6,855	51
Immediate Reenlistment	4,023	52
Officer	277	56
Medical	1,838	50
Not Separated	24,970	52
Clearance Category		
No Clearance	27,347	49
Secret	18,181	53
Top Secret (no SCI)	1,152	57
SCI	1,622	58

<sup>1</sup>Homosexuals were defined as those released from military service for homosexuality. Applicants not entering service were those military applicants who completed the EBIS but did not join the service.

<sup>2</sup>The gender of 112 military applicants who did not enter service is unknown.

<sup>3</sup>A total of 1,871 persons had military career changes which are not one of those in the table.



Male homosexuals (47th percentile) showed worse preservice adjustment than high school graduates, those who obtained immediate reenlistment, those who entered officer training, and those who did not separate. Male homosexuals also showed lower levels of preservice adjustment than those who held clearances.

In contrast to the male homosexuals, female homosexuals had better levels of adjustment on the Felonies dimension than most comparison groups. Female homosexuals showed better adjustment on the Felonies scale than high school graduates, non-high school graduates, unsuitability discharges, those released from service, those who received immediate reenlistment, medical discharges, those not separated, and those with Secret clearances. There was no meaningful difference in preservice adjustment on the Felonies dimension between female homosexuals and Top Secret and SCI clearance holders.

### Results for the Minor School Problems Scale

Table 5 displays the results for the Minor School Problems background scale. This scale measures minor school problems such as missing class and thoughts about quitting school. The higher the clearance level the greater the preservice adjustment on the Minor School Problems scale. This monotonic relationship between level of adjustment and clearance level supports the contention that the Minor School Problems scale is a relevant background scale for accessing preservice adjustment.

Because male homosexuals showed lower preservice adjustment on this dimension than female homosexuals, the comparisons are discussed separately.

Male homosexuals (52nd percentile) showed little difference from most comparison groups including those with Secret clearances. Homosexuals had lower levels of preservice adjustment than high school graduates, those who entered officer training, and Top Secret (nonSCI) and SCI clearance holders. Male homosexuals had higher levels of preservice adjustment on the Minor School Problems dimension than non-high school graduates, heterosexual unsuitability discharges, and medical discharges.

Females, regardless of sexual orientation, showed higher levels of preservice adjustment on the Minor School Problems scale than most other comparison groups, with female homosexuals (58th percentile) showing less preservice adjustment than female accessions (63rd percentile). Female homosexuals had fewer preservice adjustment problems in this area than non-high school graduates, unsuitability discharges, those released from service, medical discharges, and those without clearances.



TABLE 5

Minor School Problems Background Scale.  
Comparison of Homosexuals with Other Groups.  
Higher Scores Indicate Better Adjustment.

<u>Comparison Groups<sup>1</sup></u>	<u>N</u>	<u>Percentile</u>
Homosexuals	166	54
Males	113	52
Females	53	58
Applicants Not Entering Service <sup>2</sup>	16,357	50
Males	12,525	47
Females	3,720	61
All Other Accessions	48,302	52
Males	42,095	50
Females	6,207	63
High School Graduate	43,233	59
GED and Nongraduates	5,069	9
Military Career Changes <sup>3</sup>		
Unsuitability Discharges	8,468	37
Release From Service	6,855	51
Immediate Reenlistment	4,023	55
Officer	277	89
Medical	1,838	47
Not Separated	24,970	56
Clearance Category		
No Clearance	27,347	48
Secret	18,181	55
Top Secret (no SCI)	1,152	64
SCI	1,622	68

<sup>1</sup>Homosexuals were defined as those released from military service for homosexuality. Applicants not entering service were those military applicants who completed the EBIS but did not join the service.

<sup>2</sup>The gender of 112 military applicants who did not enter service is unknown.

<sup>3</sup>A total of 1,871 persons had military career changes which are not one of those in the table.



### Results for the Drunk and Disorderly Scale

Table 6 displays the results for the Drunk and Disorderly scale. This scale includes items regarding drunk driving arrests, drug-related arrests, and misdemeanors. Those with SCI clearances showed better adjustment than the Top Secret clearance holders without SCI access, who in turn showed better adjustment than the Secret clearance holders, who in turn showed better adjustment than those with no clearance. This relationship between level of adjustment and clearance level supports the contention that the Drunk and Disorderly scale is a relevant background scale for accessing preservice adjustment.

Male and female homosexuals showed approximately equal levels of preservice adjustment on this scale. When homosexuals showed meaningful differences with other comparison groups, the differences typically indicated that the homosexuals had higher levels of preservice adjustment.

### Results for the AFQT Percentile

Table 7 presents the results for the AFQT analyses. The AFQT can be viewed as a measure of general cognitive ability. The AFQT has a DoD-dictated norming standard which was used in this analysis. Consequently, the male accession percentile is not 50. The higher the clearance level, the greater the average AFQT percentile. Although cognitive ability is not a topic explored in the typical background investigation, this monotonic relationship between AFQT and clearance level supports the contention that the AFQT Percentile is a relevant background characteristic for accessing preservice adjustment.

Male and female homosexuals showed similar levels of AFQT scores which tend to be higher than those for other comparison groups. Female homosexuals showed greater cognitive ability than unsuitability discharges, those released from service, those who received immediate reenlistment, and medical discharges. Male homosexuals showed greater cognitive ability than all these groups and also showed greater cognitive ability than male and female accessions, accessions regardless of educational status, and Secret clearance holders. Those enlisted personnel who entered officer training and SCI clearance holders, however, showed greater levels of cognitive ability than homosexuals.



**TABLE 6**

**Drunk and Disorderly Background Scale.  
Comparison of Homosexuals with Other Groups.  
Higher Scores Indicate Better Adjustment.**

<u>Comparison Groups<sup>1</sup></u>	<u>N</u>	<u>Percentile</u>
Homosexuals	166	56
Males	113	56
Females	53	55
Applicants Not Entering Service <sup>2</sup>	16,357	51
Males	12,525	48
Females	3,720	63
All Other Accessions	48,302	52
Males	42,095	50
Females	6,207	62
High School Graduate	43,233	53
GED and Nongraduates	5,069	45
Military Career Changes <sup>3</sup>		
Unsuitability Discharges	8,468	46
Release From Service	6,855	50
Immediate Reenlistment	4,023	55
Officer	277	59
Medical	1,838	52
Not Separated	24,970	53
Clearance Category		
No Clearance	27,347	49
Secret	18,181	55
Top Secret (no SCI)	1,152	58
SCI	1,622	61

---

<sup>1</sup>Homosexuals were defined as those released from military service for homosexuality. Applicants not entering service were those military applicants who completed the EBIS but did not join the service.

<sup>2</sup>The gender of 112 military applicants who did not enter service is unknown.

<sup>3</sup>A total of 1,871 persons had military career changes which are not one of those in the table.



**TABLE 7**

**AFQT Percentile.  
Comparison of Homosexuals with Other Groups.  
Higher Scores Indicate Higher Ability.**

<u>Comparison Groups<sup>1</sup></u>	<u>N</u>	<u>Percentile</u>
Homosexuals	164	63
Males	111	64
Females	53	62
Applicants Not Entering Service <sup>2</sup>	---	---
Males	---	---
Females	---	---
All Other Accessions	48,055	58
Males	41,863	58
Females	6,192	60
High School Graduate	43,028	58
GED and Nongraduates	5,027	58
Military Career Changes <sup>3</sup>		
Unsuitability Discharges	8,441	55
Release From Service	6,708	53
Immediate Reenlistment	4,022	54
Officer	273	85
Medical	1,833	56
Not Separated	24,917	61
Clearance Category		
No Clearance	27,173	56
Secret	18,122	59
Top Secret (no SCI)	1,144	66
SCI	1,616	72

<sup>1</sup>Homosexuals were defined as those released from military service for homosexuality.

<sup>2</sup>AFQT data for applicants not entering service were not available.

<sup>3</sup>A total of 1,861 persons had military career changes which are not one of those in the table.



## Discussion

This study indicates that the suitability of homosexuals relative to heterosexuals depends upon the preservice background area examined and the sex of the comparison group. In general, homosexuals showed better preservice adjustment than heterosexuals in areas relating to school behavior. Homosexuals also showed greater levels of cognitive ability than heterosexuals. Homosexuals, however, showed less adjustment than heterosexuals in the area of drug and alcohol use. Male homosexuals also showed less adjustment than several comparison groups on the Felonies scale. Except for preservice drug and alcohol use (and homosexual males adjustment on the Felonies scale), homosexuals more closely resemble those who successfully adjust to military life than those who are discharged for unsuitability. While male homosexuals appeared to have better or equal preservice adjustment patterns than male heterosexuals, female homosexuals tended to have somewhat poorer preservice adjustment patterns than female heterosexuals. However, females as a whole tended to show higher levels of preservice adjustment than males, and female homosexuals tended to have higher levels of preservice adjustment than most heterosexual male accessions.

One may question the appropriateness of the background scales used in this analysis. It could be argued that one or more of these background areas are irrelevant to suitability for positions of trust. For example, the Defense Investigative Service no longer devotes extensive investigative resources to collecting school-related background information. Two lines of evidence, however, support the relevance of these background areas for employment suitability. First, with the possible exception of the school adjustment clusters, the background areas have similar content to those used by DoD background investigators. Second, the results for these background scales showed a meaningful pattern of relationships across comparison groups. Those enlisted personnel who entered officer training had higher levels of preservice adjustment than other successful accessions who had higher levels of preservice adjustment than heterosexuals discharged for unsuitability. Except for the Employment Experience scale, those with SCI access had higher levels of preservice adjustment than those with non-SCI Top Secret clearances, who had fewer preservice adjustment problems than Secret clearance holders, who had higher levels of preservice adjustment than those who did not have a Secret or higher clearance.

### Limitations of the Present Study

While this report makes a significant contribution to understanding homosexual suitability for positions of trust, the study suffers from several limitations. Five caveats are offered:



- o First, the paper has a limited focus. It does not address the issue of homosexuality as a vulnerability that may be exploitable by hostile intelligence agencies. Nor does it address the consequences of mixing homosexual and heterosexual persons in the same work group.
- o Second, the definitions used in this study for homosexual and heterosexual are not perfect. Some of those who received discharges for homosexuality may be heterosexuals who falsely professed to homosexuality to gain a prompt release from military service. Also, it is very likely that some members of the heterosexual group examined in this analysis were homosexuals. Only those homosexuals who were discharged from the military service for homosexuality were counted as homosexuals for this analysis. In addition, the homosexuality/heterosexuality dichotomy used in this study is an arbitrary one. Many people are neither exclusively homosexual nor exclusively heterosexual.
- o Third, homosexuals who choose to join the military may be very different from the population of young adult homosexuals who are potential military accessions and may be very different from civilian homosexuals who seek national security clearances.
- o Fourth, the calculation of the percentiles presented in the tables implicitly assumes that the background scales scores are normally distributed. All of the background scales showed at least some departures from a normal distribution.
- o Fifth, relative to all other comparison groups in this analysis (viz., 42,095 male military accessions), the number of homosexuals was small (113 males and 53 females). Less confidence should be placed in conclusions drawn from smaller samples. Data collected on another group of homosexuals and heterosexuals will likely be somewhat different from the results in this study solely due to random sampling error.



## Conclusion

In summary, this report has provided limited but cogent evidence regarding the preservice suitability of homosexuals who may apply for positions of trust. Although this study has several limitations, the preponderance of the evidence presented indicates that homosexuals show preservice suitability-related adjustment that is as good or better than the average heterosexual. Thus, these results appear to be in conflict with conceptions of homosexuals as unstable, maladjusted persons. Given the critical importance of appropriate policy in the national security area, additional research attention to this area is warranted.



## References

- Ellis, L., & Ames, M. A. (1987). Neurohormonal functioning and sexual orientation: A theory of homosexuality-heterosexuality. Psychological Bulletin, 101, 233-258.
- Means, B., & Perelman, L. S. (1984). The development of the Educational and Background Information Survey. FR-PRD-84-3. Alexandria, VA: Human Resources Research Organization.
- National Security Institute (1987). Court rules for gays. NSI Advisory, 3, 4.

**PERSEREC**



**NONCONFORMING SEXUAL ORIENTATION  
IN THE MILITARY AND SOCIETY**

**Theodore R. Sarbin**

**Kenneth E. Karols**

**December 1988**

**DRAFT**

**DEFENSE  
PERSONNEL SECURITY  
RESEARCH AND EDUCATION CENTER  
99 Pacific Street, Building 455-E**

**REPORT DOCUMENTATION PAGE**

Form Approved  
OMB No 0704-0188

1a REPORT SECURITY CLASSIFICATION <b>UNCLASSIFIED</b>		1b RESTRICTIVE MARKINGS	
2a SECURITY CLASSIFICATION AUTHORITY		3 DISTRIBUTION / AVAILABILITY OF REPORT	
2b DECLASSIFICATION / DOWNGRADING SCHEDULE			
4 PERFORMING ORGANIZATION REPORT NUMBER(S) <b>PERS-TR-89-002</b>		5 MONITORING ORGANIZATION REPORT NUMBER(S)	
6a NAME OF PERFORMING ORGANIZATION <b>PERSEREC (Defense Personnel Security Research &amp; Education Center)</b>	6b OFFICE SYMBOL (if applicable)	7a NAME OF MONITORING ORGANIZATION	
6c ADDRESS (City, State, and ZIP Code) <b>99 Pacific Street, Bldg. 455-E Monterey, California 93940</b>		7d ADDRESS (City, State, and ZIP Code)	
8a NAME OF FUNDING / SPONSORING ORGANIZATION	8b OFFICE SYMBOL (if applicable)	9 PROCUREMENT INSTRUMENT IDENTIFICATION NUMBER	
8c ADDRESS (City, State, and ZIP Code)		10 SOURCE OF FUNDING NUMBERS	
		PROGRAM ELEMENT NO	PROJECT NO
		TASK NO	WORK UNIT ACCESSION NO
11 TITLE (Include Security Classification) <b>Nonconforming Sexual Orientations in the Military and Society</b>			
12 PERSONAL AUTHOR(S) <b>Sarbin, Theodore R., and Karols, Kenneth E.</b>			
13a TYPE OF REPORT <b>Technical Report</b>	13b TIME COVERED FROM _____ TO _____	14 DATE OF REPORT (Year, Month Day) <b>1988 December</b>	15 PAGE COUNT <b>26</b>
16 SUPPLEMENTARY NOTATION			
17 COSAT CODES		18 SUBJECT TERMS (Continue on reverse if necessary and identify by block number)	
FIELD	GROUP	SUB-GROUP	
		<b>Sexual Orientation; Sexual Preference; Gender; Homosexuality; Heterosexuality; Military History</b>	
19 ABSTRACT (Continue on reverse if necessary and identify by block number) The issues around gender and sexual orientation are examined in the light of recent court decisions. The current scientific status of the concept of homosexuality is reviewed. The authors then examine this concept in terms of four major historical constructs: moral, legal, medical and minority group. Regulatory policies and the Department of Defense are reviewed and analyzed. The report concludes by proposing a heuristic model for understanding the changing moral and legal valuation of social acts.			
20 DISTRIBUTION AVAILABILITY OF ABSTRACT <input checked="" type="checkbox"/> UNCLASSIFIED UNLIMITED <input type="checkbox"/> SAME AS RPT <input type="checkbox"/> DTIC USERS		21 ABSTRACT SECURITY CLASSIFICATION <b>UNCLASSIFIED</b>	
22a NAME OF RESPONSIBLE INDIVIDUAL <b>Carson K. Eoyang</b>		22b TELEPHONE (Include Area Code) <b>(408) 646-2448</b>	22c OFFICE SYMBOL

**Nonconforming Sexual Orientations  
in the Military and Society**

Prepared by  
Theodore R. Sarbin, Ph.D.  
and  
Kenneth E. Karols, M.D., Ph.D.

Released by  
Carson K. Eoyang, Director

Defense Personnel Security Research and Education Center

## Preface

The Defense Personnel Security Research and Education Center (PERSEREC) performs research and analyses in support of DoD's personnel security programs. One of its top priority projects approved by OSD is to validate existing criteria for personnel security clearance determinations and to develop more objective, uniform, and valid adjudication standards, e.g., clarify relationships between risk and various personal characteristics.

In exploring the range of antecedent conditions related to trust violation, PERSEREC is examining such factors as drug and alcohol abuse, credit history, psychiatric disorders, and nonconforming sexual behaviors. In this context, a comprehensive review of the scientific literature on homosexuality was undertaken to illuminate the relationship between homosexuality and security. It quickly became apparent that security risk per se is also related to a larger problem; namely, the suitability of homosexuals for military service. This report provides a historical review of the various social constructions that have been placed on homosexuality, the effects of legal decisions and changing folkways, and a summary of the scientific literature. Current employment practices within DoD are reviewed in the light of conclusions drawn from this study.

This study was initiated to obtain the broadest range of scientific input in the formulation and revision of agency policy. No single study, either formally sponsored or not, is necessarily reflective of current or future policy; each is considered on its merits in the entire context of the social, legal, scientific, military, and political ramifications as it may affect national security. Finally, the knowledge and insight derived from an accumulation of rigorous studies and analyses will contribute to the development of appropriate policy.

Carson K. Eoyang  
Director, PERSEREC

## Nonconforming Sexual Orientations in the Military and Society

Theodore R. Sarbin, Ph.D.  
and  
Kenneth E. Karols, M.D., Ph.D.

### Summary

#### Background and Issue

Custom and law change over time, and the military cannot isolate itself from the changes occurring in the wider society, of which it is an integral part. It is timely to review current societal perspectives on homosexuality and the relationship of societal change to military service.

#### Objectives

The research objective was to write a paper that reviews (1) changing folkways and court decisions, (2) the current scientific status of atypical sexual orientation, and (3) the history of changing social constructions of nonconforming sexual behavior. These reviews provide the background for an examination of current personnel practices.

#### Approach

From current scientific publications, legal studies, and social science literature, we abstracted findings pertinent to the issue of whether homosexuals are suitable for military service, and by extension, suitable for security clearance. The authors bring to the task different but overlapping frameworks: social psychology and forensic psychiatry.

#### Results

The product of our efforts is a scholarly document that examines public attitudes, recent legal decisions, and the findings from biological science. The development of modern technology in endocrinology, neurology, embryology, psychology, and ethnology has made possible more precise studies of the influence of biological factors

on the formation of sexual orientation. In addition to data supporting a biological factor in the causal nexus, we have examined recent and contemporary studies that lead to the inference that homosexual men and women as a group are not different from heterosexual men and women in regard to adjustment criteria or job performance. An important feature of our report is a historical analysis of four distinct constructions placed on homosexual conduct: sin, crime, sickness, and minority group behavior.

### Conclusions/Recommendations

We conclude that the time is ripe for engaging in empirical research to test the hypothesis that men and women of atypical sexual orientation can function appropriately in military units. We suggest a general framework for developing research programs. The findings from such research could be employed by policy makers as they continue their efforts to improve the effectiveness of recruitment, selection, and training programs.

## Table of Contents

Preface .....	i
Summary .....	ii
Introduction .....	1
Judicial Trends and Shifting Folkways .....	3
Scientific Status of the Homosexuality Concept .....	7
The Social Construction of Sexual Deviance .....	11
The Morality Construction--Good and Evil as Fundamental Categories. ....	12
The Legal Construction--Sexual Deviance as Criminal Behavior. ....	13
The Sickness Construction--The Medicalization of Deviance .....	15
The Minority Group Construction--Homosexuals as a Non-Ethnic Minority Group. ....	17
Regulatory Policies in the Military .....	19
The Traditional View in the Light of Previous Discussion .....	24
Resistance to Change .....	27
Summary and Implications .....	33
References .....	39
List of Appendixes .....	45

## Introduction

Given continuing manpower needs in the armed forces and also social pressures to remove traditional barriers that exclude homosexual men and women from military service, it is timely to review current perspectives on homosexuality. As context for this review, we examine three kinds of relevant information: (1) judicial trends and shifting folkways, (2) contemporary scientific contributions, and (3) historical and current social constructions of homosexuality.

Inferences drawn from these formulations will serve as a background for examining the currency of existing military codes and for considering the potential outcomes of maintaining or modifying these codes.

It is a common practice to employ the concept of sexual preference in discussions of same-gender and opposite-gender issues. The use of "preference" is misleading except for persons who are bisexual, that is, those to whom either gender is acceptable as a sex partner. For most other cases, the gender choice of sex partner is not a matter of "preference." The desired gender of the sex partner is fixed or at least firmly conditioned by biological preparation and habits laid down early in life. Embryological events and the subsequent reinforcement history of gender-related acts create a condition that might better be labeled sexual orientation or sexual status.

## Judicial Trends and Shifting Folkways

It is beyond the scope of this paper to review in detail the numerous decisions handed down by the courts in recent years that demonstrate the effects of social movements dedicated to advancing civil rights (Barnett, 1973). Such decisions, together with legislative acts in various jurisdictions, have signalled a breakthrough in the conceptual reconstruction of persons whose sexual orientations are nonconforming to majority custom and expectations. A celebrated case was that of Norton v. Macy (1969). The plaintiff had been fired on the grounds of immorality because he had engaged in homosexual conduct. The court ruled that alleged or proven immoral conduct is not grounds for separation from public employment unless it can be shown that such behavior has demonstrable effects on job performance. Judge David Bazelon's decision included a statement that has softened discriminatory employment practices, and may have influenced more recent decisions affecting personnel in the military services. He said (in part):

The notion that it could be an appropriate function of the federal bureaucracy to enforce the majority's conventional codes of conduct in the private lives of its employees is at war with elementary concepts of liberty, privacy, and diversity (1969).

Other judicial decisions since Norton have propelled society to acknowledge that discriminatory practices toward homosexuals are not consonant with constitutional guarantees of individual autonomy and equal protection. A case that drew national media attention in 1975 is that of Sergeant Leonard P. Matlovich ("Homosexual Sergeant", 1975). Matlovich was dismissed from the Air Force with a less than honorable discharge after he voluntarily admitted that he was a homosexual. A 12-year veteran who served in combat in Vietnam, he had been awarded Bronze Star and Purple Heart medals and had an exemplary performance record up to the time he was dismissed. The bases for his separation from military service were the codified Department of Defense and Air Force regulations that persons who admitted to homosexual orientation or conduct could not serve in the Air Force. In 1978, the United States Court of Appeals in Washington, DC, ruled that the Air Force had acted improperly in discharging Sergeant Matlovich without specifying appropriate reasons other than being homosexual. In 1981, the same court awarded him back pay and a retroactive promotion (Guevarra, 1988).

The more recent case of Sergeant Perry Watkins (Henry, 1988) may have profound implications for future legal challenges. Watkins entered the service in 1967 at age 19, admitting on a preinduction medical form that he had homosexual tendencies. At that time, the Army discharged soldiers for engaging in homosexual acts, but not for "homosexuality." The distinction between homosexual acts and homosexuality is difficult to draw. The authors of the regulation probably employed a notion that was

influenced by the dichotomy: acts and dispositions. The abstract term, "homosexuality," could be employed to denote that a person might be disposed to act in certain ways, but would not necessarily engage in such overt actions.

In 1981, the regulation was modified to include sexual orientation, regardless of conduct. On the basis of this regulation, Watkins was dismissed from the service in 1984 after a series of court actions. In February, 1988, a three-judge panel of the United States Court of Appeals for the Ninth Circuit ruled two to one that the Army's discrimination against homosexuals was unconstitutional. The Court held that the regulation violated the constitutional guarantee of equal rights under the law. The language of the court compared discrimination against homosexuals with racial discrimination. Writing the majority opinion, Judge William Norris included the following analogy:

For much of our history, the military's fear of racial tension kept black soldiers separated from whites. Today it is unthinkable that the judiciary would defer to the Army's prior 'professional' judgment that black and white soldiers had to be segregated to avoid interracial tensions.

Three months after rendering its decision, the same court granted the Army's petition for a rehearing (Bishop, 1988). As of this writing (October 1988), the rehearing is being conducted in San Francisco before a panel of 11 judges (Egelko, 1988).

Besides judicial rulings that impinge directly on the right of homosexuals to employment in the military services, a number of court decisions have provided additional context for examining discrimination in civilian employment. One of the more recent cases was tried in the Federal District Court in San Francisco in 1987. The case was filed in 1984 on behalf of an organization of Silicon Valley (California) workers known as High Tech Gays. Three members of this group brought the suit after they had been denied security clearances because of the policy of intensive and extensive scrutiny of homosexuals. Identification of a prospective employee as homosexual was sufficient reason, according to Department of Defense policies, for expanded and intensive clearance investigations. The ruling handed down by Judge Thelton E. Henderson declared that the policies of the Department of Defense were founded on prejudice and stereotypes, the basis for the policy being the unwarranted claim that homosexual men and women were emotionally unstable and, therefore, candidates for blackmail. Judge Henderson ruled that the policies violated the guarantee of equal protection under the law. If upheld by higher courts, the equal protection guarantee would eliminate sexual orientation as a basis for differential background investigations when a man or woman applies for security clearance in the private sector (High Tech Gays v. Defense Industrial Security Clearance Office, 1987). A stay on this order has been granted since the matter is under judicial review.

Since law and custom tend to influence each other, it is instructive to note shifts in social practice in dealing with discrimination against homosexuals. In 1977, the U.S. Commission on Civil Rights took jurisdiction of cases in which discrimination on the basis of sexual orientation had been alleged, such as police harassment of homosexual men and women (1977). The Civil Service Commission in 1975 and 1976 amended its regulations so that no person would be denied Federal employment on the basis of sexual orientation (see Singer v. Civil Service Commission, 1975, 1977). The National Security Agency has recently moved to grant homosexuals sensitive compartmented information (SCI) security clearances (Rosa, 1988), one of the highest classifications for access to sensitive information. In June 1988, the Veterans Administration (VA) modified its rules with regard to benefits for veterans discharged for homosexuality. Those discharged prior to 1980 had as a rule been given a less than honorable discharge characterization which resulted in denial of most benefits. The VA has now upgraded those discharges. "The new rule was proposed as a matter of fairness" (Maze, 1988).

In 1978, it was reported that nearly a quarter of America's largest corporations on the Fortune 500 list had instituted policies to guarantee equal opportunity to homosexual employees (Vetri, 1980). Another sign of the changing folkways is the granting of recognition to political groups supporting equal rights for homosexuals (Vetri, 1980). Many universities have adopted nondiscriminatory policies in hiring, housing, and opportunities for advancement. Municipalities by the score have adopted nondiscrimination ordinances. In the State of California, municipalities and counties are no longer using the category of sexual orientation in the hiring of police officers. This appears to be the outcome of the current legal and social climate. Sexual orientation is not (in California at least) considered a legitimate BFOQ (bonafide occupational qualification) and few, if any, employers are willing to risk legal challenge by discriminating against homosexuals. Although there is no specific State legislation in California prohibiting employment discrimination on the basis of sexual orientation, discrimination based on sexual orientation in services is prohibited by the Unruh Civil Rights Act, and in other areas by Civil Code sections 51.7, 52 and 52.1, as well as by Penal Code section 422.6-422.9 and 1170.75. California Attorney General Van de Kamp has also interpreted the labor code as protecting homosexuals from discrimination.

A recent Supreme Court decision, which addressed another aspect of the rights of persons who hold nonconforming sexual orientations, may be seen as a further indicator of change. In Webster v. Doe, (1988), the Court held that it is legitimate for courts to review the constitutionality of the CIA's dismissal of employees. In 1982, "John Doe," described as a covert electronics technician, voluntarily told an Agency security officer that he was a homosexual. The Agency conducted a thorough investigation, including a polygraph examination designed to uncover whether he had disclosed classified information. Although Doe passed the test, he was dismissed by then director William J. Casey on the grounds that he was a national security risk. The effect of this Supreme Court decision is that Doe can now appeal to the Federal courts to sustain

his argument that his constitutional rights had been violated because there was no evidence that he could not be trusted with national security secrets (Stuart, 1988).

To be sure, traditional attitudes are resistant to change. Not all legal rulings and social practices are favorable to policies supporting nondiscrimination on the basis of sexual orientation. Nonetheless, the instances cited above are more than straws in the wind. One interpretation to place on these judicial decisions is that folkways are shifting from intolerance to indifference, if not to open-hearted tolerance. This shift in folkways is reflected, in part, in the repeal of vaguely written and differentially enforced sodomy statutes in nearly half the States, thus decriminalizing homosexual conduct (not to mention decriminalizing unconventional but widely practiced forms of heterosexual conduct). In this connection, it is instructive to refer to a study conducted by Geis and associates (1976) to throw some light on the claim that decriminalization of sodomy between consenting adults would increase the incidence of sex crimes. A survey was conducted in seven States that had decriminalized private homosexual behavior between consenting adults. Decriminalization appeared not to have increased the number of sex crimes nor the amount of private homosexual conduct.

## Scientific Status of the Homosexuality Concept

For nearly a century, sexuality has been an object of intensive scientific study. In the past two decades, with the advent of advances in biotechnology, psychology, ethnology, and methods of social analysis, numerous systematic researches have yielded findings relevant to the formulation of law and public policy.

The emergence of scientific medicine in the nineteenth century brought with it the practice of assigning medical causes to conduct that had earlier been construed as sin or crime. In this context, scientific theories were formulated to explain homosexual behavior in terms of heredity and degenerative disease of the central nervous system. The pioneers in the scientific study of sexuality, Richard von Kraft-Ebing (1880/1922) and Havelock Ellis (1915) argued that homosexuality was an inborn condition. An alternate view was advanced by Sigmund Freud (1905/1938) and other psychoanalytic writers who traced the cause of homosexual conduct to faulty psychosocial development resulting in an arrest or a fixation at an early stage. The power structure of the family, typically a dominant but seductive mother and a weak father, was offered as the major cause of nonconforming sexual orientation. Thus, from the beginnings of scientific inquiry, theories of sexuality reflected different emphases: biological vs. psychosocial, or nature vs. nurture. Contemporary theories reflect these contrary orientations (Kolodny, Masters, and Johnson, 1979).

In the 1920s, with advances in endocrinology and biochemistry, new theories appeared that related sexual behavior to levels of sex hormones. Little solid evidence has been presented, however, to support a hypothesized link between homosexual conduct and circulating hormone levels in adults.

Advances in methodology stimulated a renewed interest in genetic research. The study of twins has been a fruitful source of genetic hypotheses. Kallman (1952) reported a concordance rate of 100 percent for "homosexuality" for 40 pairs of identical twins. That is, when one of a pair of identical twins was identified as homosexual, the other was also found to be homosexual. This occurred even when the twins had been raised apart. The author of the study cautioned that the data are not conclusive in supporting the genetic hypothesis--the twins may have responded to the same socializing influences. In this connection, Marmor (1975), a well-known psychiatrist, claimed that the "most prevalent theory concerning the cause of homosexuality is that which attributes it to a pathogenic family background."

Perhaps the most thorough research undertaken to advance the frontiers of knowledge about sexuality was that of Alfred Kinsey (Kinsey, Pomeroy, & Martin, 1948; Kinsey, Pomeroy, Martin, & Gebhard, 1953). A zoologist, Kinsey organized his research program along ethological and epidemiological lines. The variable of interest for Kinsey was sexual acts. The raw data for his studies were obtained through structured

intensive interviews. In contemporary scientific fashion, quantitative analysis guided his work and influenced his conclusions. He employed a rating scale that allowed him to rate subjects from 0 to 6. (A category "x" was used to identify persons with no "socio-sexual" response, mostly young children.) From the interview data, he compiled ratings on the hetero-homosexual dimension for a large sample of respondents. The rating of 0 was assigned to men who were exclusively heterosexual, and 6 to men who were exclusively homosexual. The rating 1 was assigned to men who were predominantly heterosexual, and 5 to men who were predominantly homosexual, and so on. (The Kinsey scale is reproduced in Appendix C.)

Kinsey reported many significant findings, among them that 50 percent of the white male population were exclusively heterosexual and 4 percent were exclusively homosexual throughout adult life. Forty-six percent had some homosexual experience throughout adult life. Between the ages of 16 and 65, 10 percent of the men met Kinsey's criterion of "more or less exclusively homosexual."

In the fashion of ethological research, Kinsey was primarily concerned with presenting prevalence statistics. Whether the dimension was based on nature or nurture, or a combination of these, was not an important concern.

During the past 30 years, increasing knowledge in molecular biology, endocrinology, embryology, and developmental neurology has made it possible to state with confidence that male and female brains are structurally different in certain areas concerned with glandular and sexual functions, especially in the hypothalamus and related subcortical systems (Kelly, 1985). The actions of the various sex hormones in the differentiation of male and female anatomy have been charted. Developmentally, there is a built-in bias toward differentiating an organism into a female, i.e., "nature makes females." On the basis of extensive research, Money and Erhardt (1972) concluded: "...in the total absence of male gonadal [sex] hormones, the fetus always continues to differentiate the reproductive anatomy of the female." This process takes place regardless of the basic masculinity (XY chromosomes) or femininity (XX chromosomes) of the fetus. The bias is counteracted approximately 50 percent of the time by the action of male hormones. The discovery of this built-in mechanism toward femaleness sparked additional research that ultimately illuminated the phenomenon of same-gender attraction. It has been recognized for some time that parts of the brain are glandular and secrete neurohormonal substances that have far-reaching effects. Not unlike the better-known sex hormones, the androgens and estrogens, these brain neurohormonal substances also appear to have profound effects on development.

From a review of ethnographic reports, historical sources, biographies, and literary works, it is apparent that some same-gender orientation is universally observed (Bullough, 1976; Howells, 1984; Marshall & Suggs, 1971). The world-wide prevalence of exclusive same-gender orientation is estimated as three to five percent in the male

population, regardless of social tolerance, as in the Philippines, Polynesia and Brazil, intolerance as in the United States, or repression as in the Soviet Union (Mihalek, 1988). This constancy in the face of cultural diversity suggests that biological factors may be the fundamental source of homosexual orientation.

From these observations, as well as intensive analysis of more than 300 research reports, Ellis and Ames (1987) have advanced a multi-factorial theory of sexuality, including same-gender attraction. They conclude that current scientific findings support the view that hormonal and neurological variables operating during the gestation period are the main contributors to sexual orientation. For the ultimate formation of sexual identity, the Ellis-Ames theory does not exclude psychosocial experience as a potential modifier of the phenotypical expression of biological development.

From their review of current research, Ellis and Ames propose that sexuality be studied through the consideration of five dimensions. These are: genetic (the effects of sex chromosomes, XX and XY, and various anomalous karyotypes); genital (effects of internal and external genitalia, the male-female differentiation, which begins in the first month of embryonic life); nongenital morphological (effects of secondary sex characteristics--body build, voice, hair distribution); neurological (male and female brain differentiation and associated sex-typical actions--social influences and the formation of sex-typed roles). Most of the events shaping the developing organism's sexuality along these dimensions occur between the first and fifth months of intrauterine life. These events are controlled by the interaction of delicate balances between the various male and female hormones and their associated enzyme systems. Development of the embryo can be influenced by several factors affecting the internal environment of the mother, such as genetic hormonal background, pharmacological influences and immunological conditions, not to mention the psychophysiological effects arising from the social environment. Disturbances in any one or any combination of these factors can result in alterations in sexual development called inversions. These inversions are failures of the embryo to differentiate fully in any of the other sexual dimensions (genital, morphological, neurological, or behavioral) according to chromosomal patterns. These anomalies of embryonic development are central to the later development of sexual orientation and behavior such as same-sex attraction, bisexuality, and other nonconforming patterns. As support for their theory, Ellis and Ames cite various experiments with animals in which permanent changes in sexual behavior have been induced by glandular and other treatments. The changes noted in these experimental animals are similar to those in humans with known anomalies of endocrine and enzyme systems.

Adult sexual orientation, then, has its origins, if not its expression, in embryonic development. Ellis and Ames conclude that:

complex combinations of genetic, hormonal, neurological, and environmental factors operating prior to birth largely determines what an individual's sexual orientation will be, although the orientation itself awaits the onset of puberty to be activated, and may not entirely stabilize until early adulthood (p. 251).

The conclusions are consistent with those of John Money (1988), a leading researcher on the psychobiology of sex. According to Money, in his recent review and summary of current knowledge on homosexuality, data from clinical and laboratory sources indicate that:

in all species, the differentiation of sexual orientation or status as either bisexual or monosexual (i.e., exclusively heterosexual or homosexual) is a sequential process. The prenatal state of this process, with a possible brief neonatal extension, takes place under the aegis of brain hormonalization. It continues postnatally under the aegis of the senses and social communication of learning (p.49).

Our brief overview of scientific findings instructs us that the phenomena that we label sexuality are complex, and that we must assign credibility to the notion that overt and fantasy expressions of sexuality are influenced by multiple antecedents. The leading authorities agree that these expressions are best described in terms of gradations or dimensions, rather than by the rigidly-bound, mutually exclusive categories, "heterosexual" and "homosexual." Of special importance is the recognition of the interplay of biological and social factors.

## The Social Construction of Sexual Deviance

The foregoing account summarizes the current scientific knowledge about sexual orientation and conduct. The most obvious conclusion emerging from this review is variability in sexual orientation, role, identity, life style, and conduct. The recognition of such variability dictates that we construct our beliefs and our policies on the recognition of gradations of continuous dimensions, rather than on the notion of discrete categories. To use an overworked metaphor, black and white are anchoring points for an achromatic color dimension, and between these anchoring points are innumerable shades of grey. Other dimensions come into play when considering chromatic stimuli, such as hue, saturation, brightness and texture. Similarly, the multidimensional concept of sexuality is contrary to the assertions of earlier generations of theologians, moralists, and politicians whose construal of sexuality was achieved under the guidance of two-valued logic in which narrowly defined heterosexual orientation and conduct were assigned to the category, "normal," and any departures from the customary were assigned to the category, "abnormal."

We have already alluded to the research of Alfred Kinsey (1948, 1953), a turning point in the history of the social construction of sexuality. After detailed analysis of the sexual histories of thousands of people, Kinsey (1948) concluded that the class "human beings" does not represent two discrete populations, heterosexual and homosexual, and that the world:

is not to be divided into sheep and goats....It is a fundamental of taxonomy that nature rarely deals with discrete categories. Only the human mind invents categories and tries to force facts into separate pigeonholes. The living world is a continuum in each and every one of its aspects. The sooner we learn this concerning human sexual behavior the sooner we shall reach a sound understanding of the realities of sex (p. 639).

The observations of historians (see, for example, Bullough, 1976) and the reports of ethnographers (see, for example, Ford and Beach, 1951; Marshall & Suggs, 1971; and Devereaux, 1963) support the notion that the constructions placed on same-gender sexuality are social. As Kinsey remarked, "only the human mind invents categories." At certain times, and in many societies, most variations in the expression of sexuality have been regarded as normal. It is the application of moral rules and legal statutes that determines whether same-gender orientation and conduct is classified as acceptable, tolerable, offensive, or criminal. Such rules and statutes are the products of custom, supported by the power vested in authority. As the historical record shows with abundant clarity, forms of authority change. In early times, moral rules were enforced by men and women enacting priestly roles. Later, ruling classes imposed

their own fluctuating standards on the enforcement of moral rules. In modern times, rules are constructed through consensus or legislation, and in the case of democracies, rules favoring the majority are tempered so that rights of minorities are not obliterated.

How has this variability been construed? Tracing the history of social constructions of deviant conduct points unmistakably to the influence of concurrent belief systems. A full historical account is beyond the scope of this paper, but for our purposes, it is sufficient to demonstrate that observed variability in sexual conduct has been construed differently at different times in Western history. Our point of departure is a contemporary one: that observations ("facts") are raw materials for constructing meanings (Spector & Kitsuse, 1987). The construction of meanings is not given in the observations, but is the product of cognitive work, taking into account political, social and religious contexts. In the past several hundred years, four constructions have been offered to account for variations in sexual orientation. Evidence of these constructions is abundant in contemporary life, although each construction was initially formulated in a different historical period.

#### The Morality Construction--Good and Evil as Fundamental Categories.

Judeo-Christian moral rules as represented in the Bible are the source of the long-held construction of prohibition of nonprocreative sexual conduct. Masturbation, lascivious conduct, and nonprocreative sex were proscribed. "You shall not lie with a man as with a woman, that is an abomination" (Leviticus 18:22). "Neither the immoral, nor idolaters, nor adulterers, nor abusers of themselves with mankind, will inherit the Kingdom of God" (I Corinthians 6:9).

The history of religious attempts to control sex makes clear the notion of variability in attitudes. Struggles between advocates of different theological doctrines have been reflected in attitudes toward sex. In the formation of attitudes, two ideas stand out; first, the inferior status of women, and, second, child-bearing as a requirement for maintaining a collectivity. In a penetrating review, Law (1988) provides evidence and argument to support the proposition that the condemnation of homosexuality is more an unwitting reaction to the violation of traditional gender norms than to nonconforming sexual practices. When a man adopts the female role in a sexual relationship, he gives up his masculinity for the inferiority that is associated with being a woman. This constituted, for some Church authorities, an abomination, a sin against nature (Bullough 1976). Except for the occasional advocacy of celibacy,\* early doctrine

---

\*It is curious that so many religious thinkers have held celibacy as the highest moral goal. Celibacy, especially if lifelong, as practiced by priests, monks and nuns, denies not only sexual behavior but the sexual impulse itself. If one accepts the logic behind

held that sex served only one purpose: procreation. This doctrine was supported by the claim that such was God's intention in creating the world of nature. Therefore, sex for pleasure was suspect, especially same-gender sex, since this is obviously non-procreational. The appellation, "sins against nature," appears frequently in doctrinal arguments (Bullough, 1976). Since same-gender sex was nonprocreative, it clearly was a sin against nature.

In the Judeo-Christian traditions, Good and Evil are the categories that provide the background for declaring value judgments on sexual nonconformity. Arising from primitive taboos, the powerful image of "sin" was employed to define the unwanted conduct. Fundamentalist preachers who take the Scriptures as the literal revealed Word of God are contemporary advocates of the belief that nonconforming sexual behavior is sinful. The attribution of sinfulness carries multiple meanings: among some groups, sin is explained as voluntary acceptance of Satanic influence; among others sin is believed to produce a flawed or spoiled identity. Societal reactions to sin include ostracism, corporal punishment, imprisonment and in more draconian times, torture, stoning, hanging, burning at the stake, and even genocide.

Sin is an attribution, a construction made by others or by oneself. Its force lies in its attachment to entrenched religious doctrine. Like taboos, the concept of sin is acquired by people before they reach the age of reflection. The argument that sin is a social construction is nowhere better illustrated than in the debates of theologians who have puzzled over the criteria for sinful conduct: under what conditions should an action be regarded as a venial sin or as a mortal sin?

#### The Legal Construction--Sexual Deviance as Criminal Behavior.

Arising from religious precepts, legislative acts were introduced to control nonprocreative sexual behavior. Ruse (1988), commenting on the relationship of laws designed to control sexual behavior to Judeo-Christian religious teachings says:

the very terms used for anal intercourse show their origins in a philosophy which intertwines law and Judaeo-Christian morality. "Sodomy" obviously comes from the name of the doomed city of the plain, and "buggery" is a corruption of "bougrerie," named after so-called "Bulgarian" heretics who were guilty of a form of Manichean heresy, Albigensianism. They believed that physical things are evil, and thus refused

---

the banning of nonprocreational sex acts, life-long celibacy would have to be construed as "unnatural" and therefore sinful behavior.

to propagate the species, turning therefore to other sexual outlets. Hence banning buggery struck a two-fold blow for morality: against unnatural vice and against heretical religion (p. 246).

As early as 1533 in England, buggery, which had been established in religion as a sin against nature, was declared a crime. In the ensuing three decades, the statute was repealed and reenacted several times. In 1563, in the reign of Elizabeth I, the law against buggery became firmly established. Criminal codes provided severe punishment for persons accused of nonconforming sexual conduct (Bullough, 1976). The language of such statutes is not uniform. Buggery, sodomy, lewdness, perversion, lasciviousness, and even immorality are terms that have been employed in different statutes and at various times to denote the proscribed criminal conduct.

The underlying categories of the legal construction of nonconforming sexuality are continuous with those of the religious construction: good and evil. With the secularization of morality, sin was no longer an appropriate descriptor for unwanted conduct. The transition from "sins against nature" to "crimes against nature" was an accomplishment of the secularization and attempted legalization of morality. Crime, the secular equivalent of sin, became the preferred descriptive term.

To make rational the use of the crime concept in the context of sexual behavior, it had to be consonant with accepted legal usage, as in crimes against the person, crimes against property, crimes against the Crown, etc. The linguistic formula "crimes against..." presupposes a victim. In following this logic, early practitioners of jurisprudence created "crimes against nature" as the label for unwanted sexual conduct. In so doing, they implied that "nature" was the victim.

In most of the criminal codes, and in the Uniform Code of Military Justice, the concept of "crimes against nature" appears frequently when sexual behavior is proscribed. The concept is sometimes rendered by the employment of language which includes the adjective, "unnatural." Clearly, the authors of statutes that proscribe "crimes against nature" were not using "nature" as a descriptor for flora and fauna, mountains and valleys, oceans and deserts. When "nature" is the victim, something else is intended.

The statutory language, as we mentioned before, is derived from the religious idiom, "sins against nature." "Nature" is employed in the sense used by the early Greek philosophers, as the force or essence that resides within things. Thus, it is in the nature of a hen's egg to develop into a chicken, for water to run downhill, etc. This concept of nature served as the main explanatory principle, employed as an all-purpose answer for "why" questions. With the development of empirical science, "why" questions became superfluous, they gave way to "how" questions, and answers were formulated

according to laws and principles constructed through observation and experiment. At the present time, the legal concept, "crimes against nature," is defensible only as a rhetorical device to control nonprocreative sex. It has no scientific status.\*

### The Sickness Construction--The Medicalization of Deviance

The nineteenth century witnessed the social construction of deviant conduct as sickness. Although the medical model of deviance had its origins in the sixteenth century, it was not until the growth and success of technology and science in the nineteenth century that medical practitioners created elaborate theories to account for unwanted conduct. Many of the fanciful early theories of crime and craziness were given credibility because they were uttered by physicians and, therefore, presumed to be scientific. The prestige conferred upon the practitioners of science and technology blanketed the medical profession. It was during the latter half of the century that medical scientists initiated the movement to "medicalize" not only poorly understood somatic dysfunctions, but all human behavior. Conduct that in the past had been assigned to moralists or to the law now came under the purview of medical authority. Deviant conduct of any kind became topics of interest for doctors. The brain had already been given its place as the most important coordinating organ of the body, and the "mind" was somehow located in the brain. Therefore, any item of behavior that was nonconformant with current norms could be attributed to faulty brain apparatus, flawed mental structures, or both. In the absence of robust psychological theories, the observation and study of nonconforming behavior led physicians to assimilate theories of social misconduct to theories of somatic disease. The creation and elaboration of disease theories was based upon the all-encompassing notion that every human action could be accounted for through the application of the laws of chemistry and physics. In this context, homosexuality and other nonprocreative forms of sexual conduct were construed as sickness. To be sure, the medicalization of nonconforming sexual conduct failed to replace entirely the older moral and criminal constructions, and in many cases persons suffering from such illnesses continued to be punished.

It is interesting to note that the term, "homosexuality," itself did not appear in English writings until the 1890s. Like most medical terms, it was created out of Greek and Latin roots. Prior to that time, labels for nonconforming sexual conduct in the English language had been free of medical connotations, as, for example, the words sodomy, buggery, perversion, corruption, lewdness, and wantonness. One outcome of the medicalization of nonconforming sexual conduct was the inclusion of homosexuality in textbooks of psychiatry and medical psychology. Homosexuality was officially listed

---

\*This is not to gainsay the use of this metaphor to connote such events as nuclear war and the pollution of our atmosphere and our rivers, lakes and oceans.

as an illness in the 1933 precursor to the 1952 Diagnostic and Statistical Manual of the American Psychiatric Association (DSM-I). In the 1930s and 1940s any person who admitted being homosexual was likely to be referred to a psychiatrist for diagnosis and treatment--the goal of the treatment being the elimination of the homosexual interest. But even during this period the father of psychoanalysis, Freud, expressed the opinion that homosexuality was not an illness. In 1935 Freud wrote a letter to the troubled mother of a homosexual which is worth quoting in its entirety (Bieber et al., 1962), as it anticipates and eloquently summarizes the prevailing current scientific and medical views on homosexuality.

April 9, 1935

Dear Mrs. \_\_\_\_\_

I gather from your letter that your son is a homosexual. . . . Homosexuality is assuredly no advantage, but it is nothing to be ashamed of, no vice, no degradation, it cannot be classified as an illness; we consider it to be a variation of the sexual function produced by a certain arrest of sexual development....By asking me if I can help, you mean, I suppose, if I can abolish homosexuality and make normal heterosexuality take its place. The answer is, in a general way, we cannot promise to achieve it. In a certain number of cases we succeed in developing the blighted germs of heterosexual tendencies which are present in every homosexual, in the majority of cases it is no more possible. It is a question of the quality and the age of the individual. The result of treatment cannot be predicted.

What analysis can do for your son runs in a different line. If he is unhappy, neurotic, torn by conflicts, inhibited in his social life, analysis may bring him harmony, peace of mind, full efficiency, whether he remains a homosexual or gets changed.

Sincerely yours with kind wishes,

Freud

Homosexuality as a social construction is nowhere better illustrated than in the arbitrary manner in which it was included and ultimately excluded from the medical lexicon. In 1974, the diagnosis of homosexuality was deleted from the Diagnostic Manual of the American Psychiatric Association under pressure from many psychiatrists who argued that homosexuality was more correctly construed as a nonconforming life style rather than as a mental disease. This was essentially a political decision, taken by majority vote of the Association.

Although the mental health professions do not speak with one voice, the currently prevailing view was advanced by Marmor (Freedman, Kaplan & Sadock, 1975), at that time president of the American Psychiatric Association: "...there is no reason to assume that there is a specific psychodynamic structure to homosexuality anymore than there is to heterosexuality" (p. 1514). The American Psychological Association passed a resolution in 1975 declaring that:

homosexuality per se implies no impairment in judgment, stability, reliability or general social or vocational capabilities. ...The Association deplors all public and private discrimination in such areas as employment, housing, public accommodation, and licensing....The Association supports and urges the enactment of civil rights legislation...that would offer citizens who engage in homosexuality the same protections now guaranteed to others on the basis of race, creed, color, etc.

Substantially the same resolution was enacted by the American Psychiatric Association in 1976.

The available data on the psychological functioning of persons identified as homosexuals lead to an unambiguous conclusion: that the range of variation in personal adjustment is no different from that of heterosexuals (Ohlson, 1974). A review of 14 major studies, beginning with Hooker's in-depth investigation (1957, 1965), gave no support to the hypothesis that same-gender orientation was a sickness (Freedman, 1976). Employing various adjustment criteria, the studies uncovered no correlations that would support a mental illness construction. Siegleman (1978 & 1979), in two studies comparing psychological adjustment of homosexual men and women and heterosexual men and women in Britain, found no significant difference between the homosexual and heterosexual groups, substantially replicating the results of earlier studies in the U.S. The conclusion had been stated earlier in the famous Wolfenden Report of 1957, the basis for the repeal of sodomy statutes in England:

homosexuality cannot legitimately be regarded as a disease because in many cases it is the only symptom and is compatible with full mental health (p. 32).

#### The Minority Group Construction--Homosexuals as a Non-Ethnic Minority Group.

The civil libertarian movements of the 1960s and 1970s paved the way for an alternative construction of homosexual conduct. We have already noted that the earlier work of Kinsey and his associates (1948) had received wide publicity. This work helped to strengthen the notion that sexual status and behavior could not be sorted into a simple two-valued model of normal and abnormal. The recognition that perhaps at least 10 percent of the adult population consistently adopted nonconforming sexual roles (i.e., homosexual behavior) was instrumental in formulating a construction of same-gender sexuality as the defining property of a nonethnic, nonracial minority group. Individuals came together to support each other in their choice of life style. They

comprised a group. They shared with other minority groups the painful and often humiliating experiences of discrimination, harassment, and rejection (Sagarin, 1971).

The model for conceptualizing homosexuals as a minority group was provided first by ethnic and racial minorities, later by nonethnic minorities: women, the aged, and physically disabled or handicapped persons. Another development that encouraged the use of the minority construction arose from claims that homosexual men and women could satisfactorily perform an infinite variety of occupational and recreational roles: one could have nonconforming sexual attitudes and still meet high performance standards as teachers, physicians, fire fighters, novelists, professional athletes, movie actors, policemen, politicians, judges and so on.

It would be instructive to review the features that define a minority group. It is obvious that "minority" in this context carries no quantitative meaning. Women make up more than 50 percent of the population, yet they meet the criteria of a minority group. The most useful shorthand definition of minority group is: people who share the experience of being the objects of discrimination on the basis of stereotypes, ethnocentric beliefs, and prejudice held by members of the nonminority group. Well-known examples are mid-nineteenth century Irish immigrants in Boston, American Indians for nearly four centuries, black soldiers and sailors prior to the anti-segregation orders, Asian-Americans before the repeal of the exclusion acts, Mexican-Americans in California and the Southwest, Jews in Nazi Germany and elsewhere.

Similarities to more widely recognized minority groups are not hard to find. Prejudice against persons with nonconforming sexual orientations is like racial prejudice in that stereotypes are created. Such stereotypes are often exaggerations of social types that feature some unwanted conduct, style of speech, manner, or style that purportedly differs from the prototype of the majority. The personality of an individual identified as a member of a minority group is construed not from his acts, but from his suspected or actual membership in the minority group. Racial and ethnic slurs help to maintain the partition between the minority group and the majority. Wops, Guineas, Japs, Spics, Kikes, Beaners, Polacks, Sambos, and other pejoratives have only recently been discouraged as terms to denote the social and moral inferiority of selected minority groups. Fag, fairy, queer, homo, and pervert serve similar functions for persons who want to communicate that the homosexual is "inferior." At the same time, the slur is intended to characterize a social type that exemplifies a negatively valued prototype--the feminized male.

## Regulatory Policies in the Military

In the previous pages, we have provided an overview of changing folkways, of scientific findings, and of variations in the social construction of nonconforming sexuality. Our intention was to lay the groundwork for examining current policies that pertain to the suitability for military service of men and women who are not exclusively heterosexual.

In our examination of current policies, we are constrained to use language that is not consonant with our conclusion that sexuality is a multidimensional concept. If we were writing a scientific treatise on sexuality per se, we would make precise distinctions and note differences between biological role, gender identity, sexual practices, and sexual-social role. From such a perspective, the use of two broad classes, heterosexual and homosexual, would be extremely arbitrary. Because our objective is to illuminate the dark corners of sexuality for a particular policy purpose, we must make use of the language currently employed. Unless qualified in the text, when we employ the words "homosexual" and "heterosexual," we are complying with the more common current legalistic, categorical usage.

The Office of the Secretary of Defense formulated a concise summary of official policy (Department of Defense, 1982) as follows:

Homosexuality is incompatible with military service. The presence of such members adversely affects the ability of the Armed Forces to maintain discipline, good order, and morale; to foster mutual trust and confidence among the members; to ensure the integrity of the system of rank and command; to facilitate assignment and worldwide deployment of members who frequently must live and work under close conditions affording minimal privacy; to recruit and retain members of the military services; to maintain the public acceptability of military services; and, in certain circumstances, to prevent breaches of security.

Appendix A reproduces DoD Directive 5200.2.R, which contains the current policy regarding granting clearances to homosexual men and women.

Since homosexuality is an abstract term (not unlike "heterosexuality"), the policy can only be implemented if positive criteria are formulated. Such criteria are to be found in the Uniform Code of Military Justice (UCMJ), set forth in the Manual for Courts

Martial (MCM),\* a book of rules for dealing with criminal acts. In addition, various directives of the Department of Defense guide the procedures for the administrative separation of servicemen and women who are charged with homosexuality.

In the UCMJ, offenses are spelled out in various articles. Not only are the offenses named, but the legal criteria are established. For example, sodomy, a term that has been employed to denote many forms of nonprocreative sex, is defined in Article 125 as follows:

It is unnatural carnal copulation for a person to take into the person's mouth or anus the sexual organ of another person or of an animal; or to place that person's organ in the mouth or anus of another person or an animal; or to have carnal copulation in any opening of the body, except the sexual parts, with another person; or to have carnal copulation with an animal (MCM, p. IV-90).

Any person...who engages in unnatural carnal copulation with another person of same or opposite sex or with an animal is guilty of sodomy. Penetration, however slight, is sufficient to complete the offense (MCM, p. IV-90).

Another article (Article 134) addresses "indecentcy" defined as:

that form of immorality relating to sexual impurity which is not only grossly vulgar, obscene, and repugnant to common propriety, but tends to excite lust and deprave the morals with respect to sexual relations (MCM, p. IV-131).

Although the intention of the articles is to provide clear definitions for criminal acts, some of the terms are ambiguous, for example, "unnatural," "sexual impurity," and "deprave the morals." These terms are drawn from remote sources that supplied the authors and translators of the Bible with guides to rule-making. Contemporary legal and linguistic analysis of these articles would lead to the deletion of rhetorical terms that could not be supported by empirical observation. The indecentcy article might be applied, for example, to the viewing of X-rated movies and other milder sexually stimulating materials on the grounds that they "excite lust."

---

\*Manual for Courts Martial, Executive Order 12473, 13 Jul 1984.

Both the sodomy and the indecency articles are applicable to heterosexual as well as to homosexual acts. The sodomy article, as written, proscribes heterosexual nonvaginal intercourse. For example, oral-genital contact would be a criminal offense subject to severe punishment. The article does not distinguish between married and unmarried partners. As currently used in military law, the sodomy charge is employed far more often in cases of heterosexual behavior, and the total number of such charges is small. For example, in the U.S. Army during fiscal years 1987 through April of FY 1988, there were 178 sodomy charges, 174 offenders were male and 127 victims were female, 54 of those cases being consensual (W. S. Fulton, U.S. Army Clerk of Court, personal communication, May 1988).

A review of contemporary authorities on sexology, marriage, and family relations would raise questions about the UCMJ's criminalization of oral-genital sex play, especially since this is practiced by a large percentage of the general population (Katchadourian & Lunde, 1975). Since military personnel are drawn from the general population, it is reasonable to assume that large numbers of military men and women, married and unmarried, are in violation of the sodomy statute. If enforced, Article 125 would lead to punitive actions, including courts-martial, for an untold number of military personnel.

Recent DoD statistics on separations from the armed services for "homosexuality" provide an empirical basis for reconsidering traditional policies (Appendix B). We have assembled data for the fiscal years 1985, 1986, and 1987 for the various services. The data are not strictly comparable to the data extensively reported by Williams and Weinberg (1971) because of different record-keeping methods. Nevertheless, looking back over the past 20 years or more, it is incontrovertible that there has been a dramatic decrease in the rate of punitive discharges for homosexuality.

For the Army, during the three-year period, 829 enlisted men and 11 officers were separated administratively for homosexuality. During the same period, 354 enlisted women and 3 officers were separated. More revealing and more useful for policy decisions are the percentages: for men, .046 percent (less than 5 in 10,000); for women .17 percent (17 in 10,000).

For the Navy, the numbers are higher. For the three-year period, 1825 enlisted men and 30 officers were separated. All were handled administratively except for one enlisted man and one officer who were subject to courts-martial. For women, 382 enlisted and 4 officers were separated. When reduced to percentages, .127 percent of males were administratively separated (almost 13 in 10,000), and .27 percent of women (27 in 10,000).

The Marine Corps, being a smaller service, reported 213 separations of enlisted men and 6 separations of officers. For women, 90 enlisted were separated. The

percentage for men was .04 (4 per 10,000), about the same as the Army figures. For women, the percentage was .33 (33 in 10,000), double the rate for the Army, and somewhat higher than for the Navy.

The figures for the Air Force show 644 separations of enlisted men, and 41 separations of male officers for the three-year period. For women, 220 enlisted and 7 officers were separated. The rate for men is similar to the Army and Marines, .043 percent (4.3 per 10,000), the rate for women is lower than for the other services, .01 percent (1 per 10,000).

If we look at separated homosexuals in terms of their security clearance, it becomes apparent that such homosexual service members are very likely to hold a security clearance. During the period 1981-1987, 4,914 men were separated from the Army and the Air Force on the grounds of homosexuality\*. Of these, 40 percent of the Army sample and 50 percent of the Air Force sample held Secret or Top Secret security clearances. It is reasonable to suppose that background investigations had yielded no information that would indicate that the subjects were security risks. It is interesting to note that only 28 percent of the homosexual servicemen were discharged in their first year; 72 percent continued to serve at least two years before their employment was terminated. Almost 32 percent served more than three years, and 17 percent served at least five years before they were discharged because of homosexuality. If there were a connection between being a homosexual and potential for security violations, then current methods are grossly inefficient for identifying homosexuals in a timely fashion.

Returning to the separation rates for the services during the three-year period, the Navy has the highest rates for men, the Marine Corps for women. These differential rates pose some interesting problems. Are the rates related to differential enforcement in the various services? Are the work and living conditions in one service more conducive to identifying homosexuals? Do the services vary in the use of recruitment criteria? Is one branch of the service more attractive to homosexuals?

These between-service differences, however, are not as important as the overall findings--the small proportions of separations (from 1:10,000 to 33:10,000). If we take the estimates of same-gender preference for the general population supplied by Kinsey in 1948 or Mihalek in 1988, we would expect to find separation rates in the range 300:10,000 to 1,000:10,000. That is to say, unless nearly all men and women with nonconforming sexual identities and behaviors had been screened out before or during training, the enforcement of the ban on homosexuals was simply not effective. It is difficult not to conclude that a large number of undetected homosexual men and

---

\*John Goral, Defense Manpower Data Center, April 1988, unpublished data.

women are performing their military roles satisfactorily and that their sexual conduct does not come to the attention of their commanders."

To account for the large discrepancy between the actual number of separations and the expected number of men and women who have same-gender orientation, several hypotheses may be entertained.

(1) Men and women who identify themselves as homosexual do not enter military service. This hypothesis is difficult to sustain. Harry (1984) found that homosexual and heterosexual men were equally likely to have served in the military. Homosexual women were more likely than heterosexual women to have had military service. Weinberg and Williams in a sworn affidavit state: "the vast majority of homosexuals in the Armed Forces remain undiscovered by military authorities, and complete their service with honor" (see Gibson, 1978). Ruse (1988) wrote:

Many soldiers, sailors and airmen are homosexual--and actively so. They do not get caught or prosecuted because they are discreet or lucky, or because authorities turn a blind eye. But the rules do exist, and every now and then some unfortunate gets enmeshed in the net (p. 240).

These statements imply that a large number of homosexuals serve in the Armed Forces.

(2) Men and women with same-gender interests inhibit the expression of sexuality during their tenure in the Armed Forces. This hypothesis is without foundation when we consider the age group involved and the increasing lack of celibacy among young adults.

(3) Men and women who enter military service continue to express their sexual interests. This applies to those who are exclusively heterosexual, those who are exclusively homosexual, and those who make up Kinsey's intermediate groups. They do not come to the attention of

---

\*There is the continually nagging question of the definition of "a homosexual." Do a few homosexual acts, or even one, make an otherwise heterosexual person a homosexual? Conversely, most would agree that a few heterosexual acts by an otherwise exclusively homosexual person do not make this person a heterosexual. It seems inescapable that the persons labelled "homosexual" by the military services represent all degrees of homosexual orientation and have in common only the fact of being identified by the military as engaging in some form of homosexual behavior.

authorities because they are discreet, and they enact their sexual roles in private and off military bases. Any member of the Armed Forces, heterosexual or homosexual, might engage in conduct that would violate Article 125, the sodomy statute. But if he or she were discreet, the violation is unlikely to be discovered and no administrative or judicial action would be taken.

(4) Commanders by and large exercise discretion, whenever possible dealing with infractions in an informal way and avoiding the requirement of taking official action. With the recent softening of public attitudes, this hypothesis seems plausible.

The fact that only an infinitesimal percentage of men and women are identified as homosexuals leads to an inescapable inference. Many undetected homosexuals serve in the military, enlisted and officers, men and women. This conclusion holds even if we employ the most rigorous criterion, i.e., exclusively homosexual. It would be helpful to policy-makers to know if those who were administratively separated were discovered as a result of public or indiscreet acts, inadvertently, through gossip, or through intentional self-disclosure. It would also be helpful to know if the separation was related to violating the sodomy statute or the decency statute. The latter statute is usually invoked when a person publicly engages in acts that are aesthetically or morally offensive.

On the reasonable assumption that the number of military personnel who are homosexual may be as high as 10 percent, only a minute percentage are separated from the service. This discrepancy calls into question the usefulness of Article 125. It may be that the article is simply unenforceable. When a rule, regulation, or ordinance is unenforceable, it falls into disuse. Ordinarily, the legal principle of desuetude is applied to such laws, eventually deleting them from legal codes. (In Appendix B we have included tables showing the number of separations for homosexuality, by service, from 1959 to the present. The ratio of those separated to total military population appears to be fairly stable.)

#### The Traditional View in Light of the Previous Discussion

The argument against including homosexuals in military units is usually stated in terms of organizational effectiveness and discipline. Military men and women, like many civilians, must be able to work cooperatively to achieve organizational objectives. The generally accepted wisdom is that in battle or crisis situations, simple cooperation is not enough. The soldier's morale and fighting efficiency depends upon his knowing that other members of his unit are dependable and will enact their roles according to plan.

As a result of the co-dependency fostered by training requirements, space sharing, commensalism, common goals, and mutual trust and respect, the relationships among members of combat teams are like those of primary groups. Informal covenants, rather than orders, bond the members of the group. It has been commonly assumed that the existence of deep-seated prejudice against homosexuals as a class would be a barrier to the creation and development of attitudes that would foster cohesive relations.

Although not well-publicized, the available data all point to the conclusion that preservice background characterization and subsequent job performance of homosexuals in the military is satisfactory (Williams & Weinberg, 1971; McDaniel, 1989; Zuliani, 1986; Crittenden Report, 1957). Whether the presence of men or women identified as nonconforming in sexual orientation actually influences such features of military life as discipline, group morale, integrity, etc., can be set out as a hypothesis and tested directly and indirectly. Direct testing would involve integrating men who identify themselves as holding nonconforming sexual attitudes with men who are unselected for discriminatory attitudes. The same design can be used for women. Such testing would be similar to the testing carried out by research teams when black soldiers were integrated into formerly all-white platoons, battalions, or regiments. The intensity of prejudice against homosexuals may be of the same order as the prejudice against blacks in 1948, when the military was ordered to integrate.

The order to integrate blacks was first met with stout resistance by traditionalists in the military establishment. Dire consequences were predicted for maintaining discipline, building group morale, and achieving military organizational goals. None of these predictions of doom has come true. Social science specialists helped develop programs for combating racial discrimination, so that now the military services are leaders in providing equal opportunity for black men and women. It would be wise to consider applying the experience of the past 40 years to the integration of homosexuals.

Indirect evidence to establish whether homosexuals could be satisfactorily integrated can be derived from retrospective accounts of honorably discharged men and women who were homosexuals at the time of their service. In a 1967 study conducted by the Institute of Sex Research at the University of Indiana, of 458 male homosexuals, 214 had served in the military, of whom 77 percent received Honorable Discharges. A later study reported that of 136 homosexuals who had been in the military services, 76 percent received honorable discharges (Williams and Weinberg, 1971). Another study (Harry, 1984) analyzed interview data on 1,456 respondents, men and women, who had served in the military. Homosexual and heterosexual men were equally likely to have served in the military, while homosexual women were more likely than heterosexual women to have served. Nearly 80 percent of the homosexual personnel in these samples received honorable discharges.

It is not unreasonable to expect similar findings among more recent veterans. While there would be difficulties in locating these veterans, the effort could pay off in providing information about individual and group adjustment.

The argument has been put forth by Moskos (Morrison, 1988) that the number of homosexual men and women who are separated from the current All Volunteer Force comprise most of the homosexuals who enter the military services. The argument is based on the assumption that most homosexuals would avoid entering hostile occupational environments such as the military. Because most homosexual men and women acquire skill at masking, deception, and other self-presentation techniques to conceal their nonconformity, they would not need to avoid the employment opportunities offered by the military because of fear of detection. It is unlikely that the caricature of the male homosexual, the feminized male, would volunteer for military service, or be accepted. It is, however, estimated that such feminized males make up only a small proportion of homosexuals, perhaps 10 percent.

Thus, 90 percent of male homosexuals display no overt behavioral stigmata. In the interest of survival, practiced impression management makes it possible to conceal one's sexual preference whether in military or civilian settings. Also, Harry (1984) has suggested that some homosexuals do not declare their status at the time of recruitment because they do not know they are homosexual. "The median age of 'coming out' or fully realizing one's homosexuality and becoming socially and sexually active is approximately 19 or 20....This age coincides with the age when men traditionally entered the service..." (p. 121). Thus, some persons do not know of or act out their homosexual urges until after induction. Such people are most unlikely to be screened out at the time of entry into military service.

An additional mode of gaining indirect evidence would be the study of the experience of quasi-military organizations where integration has been achieved. Prior to the 1970s, the San Francisco Sheriff's Department, like most law-enforcement agencies, had embraced the customary discriminatory policies against homosexuals. At the time the personnel numbered 500. In 1979, an active campaign was set in motion to recruit homosexuals, and 10 homosexual officers were selected. In 1980, McIntyre conducted an in-depth study of the Department and reported that the homosexual members had 'above average' job performance ratings and had higher retention rates than nonhomosexuals. After the first year, the issue of gay colleagues was of little concern either to the deputies themselves or to the administrative officers. Both homosexual and heterosexual personnel took the position that sexual preference had nothing to do with the performance of professional duties. The success of the integration, according to McIntyre's analysis, was in large measure due to top management's strong support of anti-discrimination policies.

The current status in the Sheriff's Department is that sexual orientation is not an issue for hiring or continued employment. Statistics are no longer kept on the sexual orientation of personnel. It is estimated that 40 to 50 (about 10 percent) of the Sheriff's Department may be classified as homosexual. About a quarter of the force is made up of women, of whom about 10 percent are assumed to be homosexual (R. Dyer, personal communication, April 27, 1988).<sup>\*</sup> The San Francisco Police Department initiated a similar nondiscrimination policy in 1979, as has the Los Angeles Police Department<sup>\*\*</sup>. Most if not all law enforcement agencies in California are now hiring without regard to sexual orientation. Many believe that they are mandated by law to do so, as we pointed out on page 5.

### Resistance to Change

In the foregoing analysis, we have tried to make the case that the military services should prepare for a shift in legal and public opinion on discrimination against homosexuals. Such a change in a time-honored practice is not likely to be accepted without active resistance. In the absence of compelling reasons, bureaucracies resist change. The first line of such resistance is the invocation of the concept of tradition. In general, the arguments against change contain declarations of the necessity for preserving such abstract qualities as integrity, morals, morale, pride, fidelity, and so on.

One of the more powerful reasons for rejecting change has to do with the idealized imagery of the combat soldier. Although unsupported by evidence, the belief is widely held that men must be rugged, tough, and macho to achieve success in battle. In the belief system of current traditional military authorities, homosexual men cannot be rugged, tough, and macho.<sup>\*\*\*</sup> The stereotype of homosexual men, as we mentioned earlier, centers on the feminized male who is unable to perform masculine tasks. It is interesting to note that this stereotype continues to flourish even though

---

<sup>\*</sup>San Francisco Sheriff's Department

<sup>\*\*</sup>Although the Los Angeles Police Department (LAPD) has an official policy of nondiscrimination against homosexuals and such discrimination is also forbidden in employment by the Los Angeles Municipal Code, a pervasive anti-homosexual bias is alleged to exist in the LAPD. Mitchell Grobeson, a homosexual former police sergeant claims in a five million dollar suit against the LAPD that he was discriminated against, abused, intimidated and had to resign because he feared for his life (Stewart, 1988).

<sup>\*\*\*</sup>In Classical Greece homosexuality and homosexual bonds between soldiers were considered an asset to the performance of the fighting man in terms of patriotism and military courage.

female personnel now perform all manner of military tasks except combat, and it is well known that such "macho males" as motorcyclists of the Hell's Angels type and many tough prisoners in correctional settings engage in homosexual behavior.

A recent exchange in the Navy Times reflects a criticism of current policy and a vehement defense of traditional military attitudes. Under the heading, Man the barricades: The federal court is letting 'them' in, Michelle McCormick wrote a column poking fun at the arguments offered by supporters of discriminatory policies. Representative of her facetious bits of advice to future judges is the following:

Homosexuals are likely to bother people who don't want to be bothered. The bothering that goes on now is between men and women. It is the right and natural way of things that men should bother women who would rather be left alone. But men are not accustomed to being bothered; and they shouldn't have to put up with it (Navy Times, 29 February 1988, p. 62).

Ms. McCormick's column brought forth a letter to the editor from Major Randel Webb, USMC, who strongly defended the traditional point of view. Major Webb wrote [in part]:

Clearly she accepts a main plank of the homosexual community agenda that denies their own profoundly aberrant behavior. It promotes the idea they are just like everyone else except for sexual preference. There are valid reasons homosexuals should not be accepted into the military.

Homosexuals are a politically active special interest group. The services have adopted policies opposing homosexuals primarily because they are a threat to good order and discipline.

Most people, though Ms. McCormick would probably consider them unenlightened, loath homosexuals. Their contempt is easily recognizable in the form of derision and jokes. Homosexuals would be harassed, and discriminated against. What the armed services do not need, is another political body within itself to create dissension.

There are also real problems like homosexuals demanding recognition of their marriages and thus base housing and BAQ\* at the married rate, fraternization and all of its implications, morale and retention problems that would be caused by people who leave in disgust, and reduced effectiveness of homosexual officers and NCO's handling contemptuous subordinates. ...The pointed end of the armed forces have a critical mission to prepare for and conduct war. It requires teamwork, camaraderie, and a sense of pride in being associated with other members of the unit.

These elements are achieved by several factors, among them are discipline and good order. Tolerating homosexuals in the armed forces is contrary to good order and discipline.

---

\*Basic allowance for quarters

Most of the issues raised by Major Webb, which reflect traditional anti-homosexual arguments, are reminiscent of the issues raised when black athletes (then called Negro athletes) were first allowed to participate in professional baseball. Webb's concerns are also reminiscent of the arguments advanced against the 1948 order to desegregate military establishments, and the later arguments that sought to minimize the role of women in the Armed Forces. Despite its early resistance to change, it is important to repeat that the military establishment is now looked upon as a model for racial and gender integration.

In his list of problems that would be created if homosexuals were freely admitted into the services, Major Webb failed to mention potential security risks. This has been one of the main reasons given for screening out homosexual men and women from the military, and from jobs requiring a security clearance. The argument goes that they would be candidates for blackmail if a foreign agent learned that they were homosexuals. This argument is somewhat blunted when we remind ourselves that blackmail is also an option for foreign agents who acquire knowledge about heterosexual men or women secretly engaged in adultery. Also, decriminalizing homosexual behavior has done much to decrease the danger of blackmail.

Historical support for the notion that security concerns about homosexuals are exaggerated is contained in the 1957 Crittenden Report, officially labelled Report of the Board Appointed to Prepare and Submit Recommendations to the Secretary of the Navy for the Revision of Policies, Procedures and Directives Dealing with Homosexuals (Gibson, 1978). The Report contains the following remarks:

The concept that homosexuals pose a security risk is unsupported by any factual data. Homosexuals are no more a security risk, and many cases are much less of a security risk, than alcoholics and those people with marked feelings of inferiority who must brag of their knowledge of secret information and disclose it to gain stature. Promiscuous heterosexual activity also provides serious security implications. Some intelligence officers consider a senior officer having illicit heterosexual relations with the wife of a junior officer or enlisted man is much more of a security risk than the ordinary homosexual....The number of cases of blackmail as a result of past investigations of homosexuals is negligible. No factual data exist to support the contention that homosexuals are a greater risk than heterosexuals.

In the 30 years since the Crittenden report was submitted, no new data have been presented that would refute its conclusion that homosexuals are not greater security risks than heterosexuals.

To return to the discussion of official policy as presented by Major Webb, the style of his arguments does not reflect the small but historically significant changes in practice. Webb's rhetoric supporting discrimination implies punitive measures for homosexual personnel. However, in the three-year period, 1985-87, only two of the military persons charged with sodomy were specifically identified as homosexual and separated as such by courts-martial. Since the policy changes introduced in 1981, almost 100 percent of homosexual separations have been administrative, and 55 percent of these separations have been characterized as honorable. This indicates a softening of attitudes.

The psychological and sociological literature contains abundant documentation for the correlation between tolerance of, and knowledge about, minorities. Such knowledge is most often acquired through social exposure and education (Allport, 1954; Pettigrew, 1969). The implication of this correlation is that prejudice is nurtured by ignorance. A corollary of this implication is the formula: ignorance - prejudice - avoidance - ignorance. If individuals physically or psychologically partition themselves from a certain class of people, they cannot help but remain ignorant of evidence that might disconfirm their prejudices.

The unreasoned resistance to learning about or interacting with homosexuals has led to the formulation of the concept of homophobia. Some men experience uneasy feelings when in close proximity to other men who are identified as homosexuals. It is as if such nearness could pollute one's identity. The term, homophobia, is used in parallel with terms for other phobias connoting unreasoned fear and avoidance of certain classes of objects, such as zoophobia (fear of animals), agoraphobia (fear of open spaces), mysophobia (fear of dirt), etc.

Some degree of homophobia has been a part of the conventional attitude structure of American males. It is based on entrenched religious beliefs, folklore, and stereotypes. Such attitudes are connected to the heroic and positively valued image of the powerful, virile heterosexual male and the degraded and negatively valued image of the powerless, weak, feminized, homosexual male.

One of the strong motivations reinforcing homophobia is the need to disown the possibility of having homosexual interests. Even a momentary questioning of one's sexual status might lead to the anxious consideration that "I might become one." Such a silent thought might lead the uncertain male to take action to convince himself and others that his identity is not homosexual. Such action may be violent, as in "gay bashing," or relatively benign, as in purposeful avoidance. The psychological process involved is called reaction formation. By taking a public stand against the expression of homosexual conduct by others, the man secretly unsure of his own identity conquers his doubts. Overt acts of discrimination become the means of publicly convincing

others and privately convincing himself of his highly valued masculinity (Weinberg, 1973).

Those who resist changing the traditional policies support their position with statements of the negative effects on discipline, morale, and other abstract values of military life. Buried deep in the supporting conceptual structure is the fearful imagery of homosexuals polluting the social environment with unrestrained and wanton expressions of deviant sexuality. It is as if persons with nonconforming sexual orientations were always indiscriminately and aggressively seeking sexual outlets. All the studies conducted on the psychological adjustment of homosexuals that we have seen lead to contrary inferences. The amount of time devoted to erotic fantasy or to overt sexual activity varies greatly from person to person and is unrelated to gender preference (Kinsey, Pomeroy, and Martin, 1948; Hooker, 1965; Freedman, 1976; Williams and Weinberg, 1971). In one carefully conducted study, homosexuals actually demonstrated a lower level of sexual interest than heterosexuals (Bell, 1973).

Homosexuals are like heterosexuals in being selective in their choice of partners, in observing rules of privacy, in considering appropriateness of time and place, in connecting sexuality with the tender sentiments, and so on. To be sure, some homosexuals are like some heterosexuals in not observing privacy and propriety rules. In fact, the manifold criteria that govern sexual interest are identical for homosexuals and heterosexuals, save for only one criterion: the gender of the sexual partner.

Age, gender, kinship, class membership, marital status, size and shape, social role, posture, manners, speech, clothing, interest/indifference signalling, and other physical and behavioral criteria are all differentiating cues. They serve as filters to screen out undesirable or unsuitable potential sex partners. With such an array of cues, many (in some cases, all) potential objects of interest are rejected. For most people, only a small number of potential partners meet the manifold criteria. Whether in an Army platoon or in a brokerage office, people are generally selective in their choice of intimate partners and in their expression of sexual behavior. Heterosexuals and homosexuals alike employ all these variables in selecting partners, the only difference being that the latter include same-gender as a defining criterion, the former include opposite-gender.

In recent years, traditionalists have pointed to the AIDS crisis as a cogent reason for maintaining the discriminatory policies. Clearly all responsible persons are concerned about AIDS as a critical health problem, whether in government, in the military, or in the private sector. AIDS is a serious public health problem. When the disease was first identified in 1981, it was often called the "homosexual disease" and the "gay plague." Because no preparatory information had been given the public, the belief quickly spread that AIDS was exclusively a disease of homosexuals (Quaddland and Shattes, 1987). Subsequent research and observation has confirmed that everyone is

susceptible to the disease. The highest risk groups are needle-sharing intravenous substance users and homosexual men. Currently, of 70,702\* cases in the United States, 43,679 (61.78%) are homosexual or bisexual men, 13,273 (18.77%) are intravenous drug users, 5,093 (7.20%) are intravenous drug users and also homosexual or bisexual males. Some 2,920 (4.13%) are heterosexual.

To date, the statistics tell us that AIDS is indeed at this time principally a disease of homosexual men and intravenous drug users, but changes in the epidemiological pattern are likely. In Haiti and Central Africa, AIDS is now transmitted mainly through heterosexual contact (Sulima, 1987). Currently, it is estimated by the Centers for Disease Control (CDC) that 1.0-1.5 million persons in the United States have been exposed to the Human Immunodeficiency Virus (HIV) and are "HIV positive." Most of these cases are undiagnosed and show few if any symptoms. The proportion of homosexuals to heterosexuals in the total HIV positive group is unknown.

From the data at hand, male homosexuals remain at much higher risk than do heterosexuals. Current medical diagnostic and treatment practices are rational, given contemporary medical knowledge. All military personnel are subject to HIV testing. If a person is tested positive, he or she is fully evaluated and then monitored by medical staff. Such a person continues to perform his or her duties until such time as disabling symptoms appear. Medical discharge is then the rule. Whether he or she is homosexual is not at issue. Controversy may be expected, however, in connection with recruiting. All recruits are now tested for HIV, and those who test positive are rejected. An unknown proportion of those tested positive will not develop the disease (and some of the HIV positive tests may be in error, i.e., false positives). Since AIDS is not contagious in the course of normal occupational and recreational activity, an argument could be made that HIV-positivity is not a fair criterion for rejection. The military must weigh the costs of rejecting large numbers of HIV positives (an unknown percentage of whom would not develop the disease) against the medical costs of monitoring and treatment of those who turn out to develop symptoms.

---

\*As of August 15, 1988, 39,898 (56.43%) had died. (These data were acquired via personal communication with a staff member of the Centers for Disease Control [CDC] in Atlanta.)

## Summary and Implications

An examination of recent social and political history points to the fact that the courts are slowly moving toward eliminating discrimination on the basis of nonconforming sexual orientation. Active citizen groups and lobbies provide support for advocates of nondiscrimination. Our studied conclusion is that the military services will soon be asked by the courts or the Congress to reexamine their policies and practices regarding recruitment and retention of men and women whose sexual interests deviate from the customary. This will become a burning issue if it is necessary to resort to drafting young persons for military service because of a decreasing supply of volunteers. Under prevailing social conditions, a public admission of homosexuality carries less stigma than in earlier times, and is no legal bar to most employment. Thus, unless the military is willing to adopt nondiscriminatory policies, a mere claim of homosexuality, whether true or false, would excuse any person who wants to avoid military service.

Our analysis directs us to regard people with nonconforming sexual orientation as a minority group. Our nation has a long history of successfully dealing with minority groups, particularly ethnic minorities. In the recent past, we have also learned how to integrate racial and other minority groups, notably women, into nearly every aspect of political and social life. The suggestion that we perceive homosexual men and women as a minority group follows from our analysis of contemporary scientific social and legal observations. The social construction of homosexuals as minority group members is more in tune with current behavioral science theory than the earlier constructions: sin, crime, and sickness. Our digest of the available body of scientific knowledge led to another implication: that the uncritical use of binary categories does violence to the findings reported by scientific observers. The rigid categories, heterosexual and homosexual, although necessary for certain purposes, are inadequate to reflect the complexity of the multidimensional antecedents of sexual status. Constructing a catalog of the variety of biological and socio-sexual types is less important than finding answers to questions of this form: Does atypical sexual orientation influence job performance? Studies of homosexual veterans make clear that having a same-gender or an opposite-gender orientation is unrelated to job performance in the same way as is being left- or right-handed (Williams & Weinberg, 1971).

For the purpose of military organization, however, quality of job performance may be less important than the effects of homosexuals (minority group members) on that important but ephemeral quality: group cohesion. The important question to be raised in future research must center on the claims that persons with nonconforming sexual attitudes create insurmountable problems in the maintenance of discipline, group cohesion, morale, organizational pride, and integrity.

In our study of suitability for military service, we have been governed by a silent assumption: that social attitudes are historically conditioned. In our own time, we have

witnessed far-reaching changes in attitudes toward the physically disabled, people of color, disease prevention, birth control, cohabitation of unmarried couples, and so on. We have witnessed a noticeable shift in tolerance for women and for homosexual men and women in the civilian workplace.

As a way of conceptualizing shifting social attitudes, we have developed a heuristic model. Like all models, it is intended to simplify complex propositions, graphically portraying multiple concepts so they may be perceived simultaneously. The categories on the vertical are "customary" and "different," on the horizontal, lawful and unlawful.

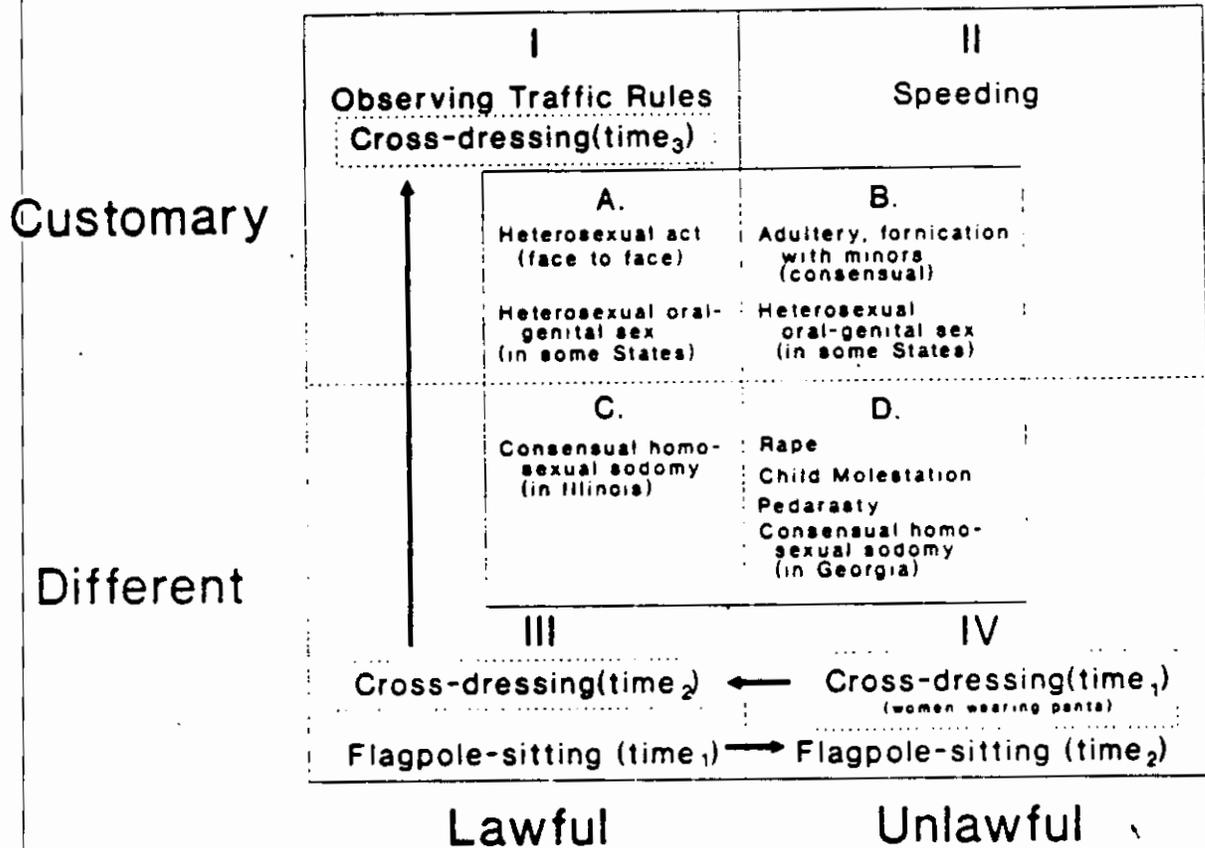


FIGURE I. Model for declaring valuations on social acts

In the spirit of a heuristic model, the categories are suggestive, not precise. The large rectangle embraces conduct in general, the interior rectangle represents sexual conduct. The horizontal line and the vertical line are boundaries between classes of conduct. The lines are broken to indicate permeability. That is to say, classification of social acts, under certain conditions, can be moved through the boundary from one cell to another.

The horizontal line separates customary ("normal") social acts from acts that are not customary, ("different"). The term "different" is superordinate to the often-used "deviant." Our current speech conventions give "different" its meaning from the notion of relative frequency. "Deviant" adds a pejorative value judgment to the meaning. "Customary" and "different" should be perceived as regions on a dimension. Some acts are more "different" than others. In the interest of simplicity, however, we write of "customary" and "different" as discrete classes. Political, economic, and moral conditions influence the sorting of social acts as customary or different.

The vertical boundary is also permeable; it separates lawful and unlawful acts. At time<sub>1</sub>, certain acts are lawful but different (Cell III). Ordinary language terms to denote such acts are "attention-getting," "eccentric," and "far-out." An example would be flagpole-sitting. Because of hazards in connection with traffic control of curious drivers, a municipality enacts an ordinance making flagpole-sitting a misdemeanor. At time<sub>2</sub>, then, flagpole-sitting has been reclassified to Cell IV, different and unlawful. Judicial decisions and legislative acts provide the criteria for reclassifying any particular social act along the horizontal axis (lawful-unlawful).

Cell I contains most of our everyday acts. We conduct ourselves according to custom and according to law. Cell II is populated by social acts that are widely practiced but unlawful, such as exceeding speed limits, jaywalking, tax evasion, driving "under the influence," etc. Cell III is populated by social acts which are currently lawful, but not widely practiced, such as flagpole-sitting, alligator-wrestling, and wearing "outlandish" costumes. In the 1930s women took to wearing trousers when trousers were considered properly part of men's attire. At that time, such "eccentric" acts were classified in Cell III, different but not unlawful. In earlier times, cross-dressing had been assigned to Cell IV. In New England, as late as the nineteenth century cross-dressing was a crime. The contents of the criminal code had been formed from Scriptural injunctions, among them:

A woman shall not wear anything that pertains to a man nor shall a man put on a woman's garment; for whoever does these things is an abomination to Yahweh your God (Deuteronomy 22:5).

The social acts that are included in Cell IV would be specified in criminal codes and in less formal codes that identify "deviance." The fact that large numbers of criminal offenses are perpetrated every day does not qualify such acts for inclusion in Cells I or II. They are not customary, even though rates of crime are on the rise.

When a criminal statute is repealed, social acts that had been classified as different and unlawful (Cell IV) are reclassified in Cell III. This was the case when the Prohibition Amendment was repealed in 1932. Subsequently, the social act of manufacturing and selling alcoholic beverages rapidly moved into Cell I, customary and lawful.

The interior rectangle is central to our interest in conceptualizing the varieties of sexual behavior. The horizontal and vertical broken lines denote permeable boundaries to create four classes. Cell A is the customary and lawful form of heterosexual congress between two consenting adults in the "missionary" position--face to face. Cell B contains those acts which are illegal but are frequently practiced. This would include (in some States) oral-genital sex play between consenting heterosexuals, adultery, and fornication with a consenting minor.\* Cell C would include such acts as socially condoned voyeurism (viewing topless dancers), fetishism, Don Juanism, collecting pornographic photographs. Cell D contains those deviant sexual behaviors that are contained in various criminal codes, such as pedophilia, bestiality, public indecency, lust murders, rape (hetero- or homosexual), and in some States, consensual sodomy (hetero- or homosexual).

For social acts in general, we have illustrated how certain acts can be reassigned as the result of changing attitudes and or legislation. The same formulation applies to the subdivision of social acts that we call sexual acts. For example, it is commonplace, i.e., "customary," now for persons to rent or buy sexually explicit videotapes. Not too long ago, such acts would have been declared "different" and unlawful. More recently, such acts were considered lawful and different (Cell C). Changing folkways regarding nudity and sexuality are influencing the public to assign such acts to Cell I. Of the acts included in Cell D, consensual sexual acts between same-gender persons continue to be unlawful in half the United States. At one time, such acts were unlawful in all the States. Changes in public attitudes and legislation have resulted in such homosexual acts between consenting adults being shifted from Cell D to Cell C. As we detailed before, in many segments of society (e.g., California law-enforcement and other public agencies, and most major corporations) sexual orientation has become a matter of indifference. For these segments of society, homosexual acts have been reclassified from Cell D to Cell C (different but lawful).

---

\*as distinct from child molestation.

It should be emphasized that although the vertical boundary is permeable, it is not permeable to all acts. Sexual acts that involve children, violence, or public indecency, i.e., criminal offenses, are not likely to be reclassified. Such offenses tear the very fabric of social order.

Our purpose in presenting this model is to make clear that the values that any society places on social acts are subject to change. The model is consistent with an underlying premise that we live in an ever-changing dynamic world. The lessons of history tell us that the legitimacy of our behaviors, customs, and laws is not permanently resistant to change. Custom and law change with the times, sometimes with amazing rapidity. The military cannot indefinitely isolate itself from the changes occurring in the wider society, of which it is an integral part.

## References

- Allport, G. W. (1954). The nature of prejudice. Cambridge, MA: Addison-Wesley.
- American Forces Press Service (1988, April 18). DoD's homosexual policy unchanged. American Forces Press Service, Press & Art Pack #16.
- Barnett, W. (1973). Sexual freedom and the Constitution. Albuquerque, NM: U. of New Mexico Press.
- Bell, A. P. (1973). Homosexualities: Their range and character. Nebraska Symposium on Motivation, 21, 1-26.
- Bell, A. P., & Weinberg, M. S. (1978). Homosexualities. New York: Simon & Schuster.
- Bieber, I., Dain, H. J., Dince, P. R., Drellich, M. G., Grand, H. G., Gundlach, R. H., Kremer, M. W., Rifkin, A. H., Wilbur, C. B., & Bieber, T. B. (1962). Homosexuality, a psychoanalytic study. New York, NY: Basic Books.
- Bishop, K. (1988, June 10). Court to rehear challenge to Army's homosexual ban. New York Times, p. A8.
- Brzek, A., & Hubalek, S. (1988). Homosexuals in Eastern Europe: Mental health and psychotherapy issues. Journal of Homosexuality, 15, 1-2.
- Bullough, V. L. (1976). Sexual variance in society and history. Chicago, IL: University of Chicago Press.
- Devereaux, G. (1963). Institutionalized homosexuality of the Mohave Indians. In Ruitenbeck, H. (Ed.), The problem of homosexuality. New York: Dutton.
- Department of Defense. (1982, January 28). DoD Directive 1332.14.
- Egelko, B. (1988, Oct. 13). Judicial panel hear arguments against Army homosexual policy. The Herald of the Monterey Peninsula, p. 74.
- Ellis, H. (1915). Studies in the psychology of sex, Vol. 2: Sexual inversion. Philadelphia: F. A. Davis.
- Ellis, L., & Ames, M.A. (1987). Neurohormonal functioning and sexual orientation: A theory of homosexuality-heterosexuality. Psychological Bulletin, 101(2), 233-258.
- Ford, C.S., & Beach, F.A. (1951). The patterns of sexual behavior. New York: Harper & Brothers.

- Freedman, A. M., Kaplan, H. I., & Sadock, B. J. (1975). Comprehensive Textbook of Psychiatry/II. Baltimore: Williams & Wilkins.
- Freedman, M. (1976). Homosexuality and psychological functioning. Belmont, CA: Brooks/Cole.
- Freud, S. (1938). The basic writings of Sigmund Freud. Brill, A.A. (trans.). New York: Modern Library. (Original work published 1905)
- Geis, G., Wright, R., Garrett, R., & Wilson, P.R. (1976). Reported consequences of decriminalization of consensual adult homosexuality in seven American States. Journal of Homosexuality, 1, 419-426.
- Gibson, E. L. (1978). Get off my ship. New York: Avon. Appendix E contains the 1957 Crittenden Report.
- Guevarra, L. (1988, February 11). U.S. Court overturns Army's ban on gays. San Francisco Chronicle.
- Harry, J. (1984). Homosexual men and women who served their country. Journal of Homosexuality, 10(1-2), 117
- Hefner, H. M. (1964, April 1). The Playboy philosophy (editorial). Playboy.
- Henry, W. A. (1988, February 22). Uniform treatment for gays. Time, p. 55.
- High Tech Gays, et. al. v. Defense Industrial Security Clearance Office, 56 U.S. L.W. 2144 (1987).
- Homosexual Sergeant. (1975, June 9). Time, pp. 18-19.
- Hooker, E. (1957). The adjustment of the male overt homosexual. Journal of Projective Techniques, 21, 18.
- Hooker, E. (1965). Male homosexuals and their worlds. In Marmor, J. (Ed.), Sexual inversions, 83-103. New York: Basic Books.
- Howells, K. (Ed.) (1984). The psychology of sexual diversity. Oxford: Basil Blackwell.
- Kallman, F.J. (1952). A comparative twin study on the genetic aspects of male homosexuality. Journal of Nervous and Mental Diseases, 115, p. 283.
- Katchadourian, H.A., & Lunde, D.T. (1975). Fundamentals of human sexuality, II edition. New York: Holt, Rinehart & Winston.

- Kelly, D.D. (1985). Sexual differentiation of the nervous system. In Kandel, E., & Schwartz, J. (Eds.), Principles of neural science, 2nd edition. New York: Elsevier.
- Kinsey, A., Pomeroy, W., & Martin, C. (1948). Sexual behavior in the human male. Philadelphia: W. B. Saunders & Co.
- Kinsey, A., Pomeroy, W., Martin, C., & Gebhard, P. (1953). Sexual behavior in the human female. Philadelphia: W. B. Saunders & Co.
- Klein, F., & Wolf, T. J. (1985). Introduction. Journal of Homosexuality, 11, 1-5.
- Kolodny, R.C., Masters, W.H., & Johnson, W.E. (1979). Textbook of sexual medicine. Boston: Little, Brown & Co.
- Krafft-Ebing, R. (von) (1922). Psychopathia Sexualis (F.J. Rebman, Trans.). Brooklyn, NY: Physicians & Surgeons Book Co. (Original work published 1880)
- Law, S. A. (1988). Homosexuality and the social meaning of gender. Wisconsin Law Review, Volume 1988, No. 2, 187-235.
- Livingood, J. M. (Ed.) (1976). National Institute of Mental Health Task Force on Homosexuality. Rockville, MD: National Institute of Mental Health.
- MacDonald, A. P. (1982). Bisexuality: Some comments on research and theory. Journal of Homosexuality, 6, 21-30.
- Marmor, J. (1975). Homosexuality and sexual orientation disturbances. In Freedman, A.M., Kaplan, H.I., & Sadock, B.J. (Eds.), Comprehensive textbook of psychiatry-II. Baltimore, MD: Williams & Wilkins.
- Marshall, D.S., & Suggs, R.C. (Eds.). (1971). Human sexual behavior. New York: Basic Books.
- Matlovich v. Secretary of the Air Force. 47 U.S. Law Week 2631, (D.C. Ct. App., Dec. 6, 1978).
- Maze, R. (1988, June 13). VA extending benefits to more homosexual veterans. Navy Times, p. 14.
- McCormick, M. (1988, February 29). Man the barricades, the federal court is letting "them" in. Navy Times, p. 62.

- McDaniel, M. A. (1989). Preservice adjustment of homosexual and heterosexual military accessions: Implications for security clearance suitability (PERS-TR-89-004). Report in preparation. Monterey, CA: Defense Personnel Security Research and Education Center.
- McIntyre, M. T. (1980). Homosexuality and the U.S. military. Master's thesis, Naval Postgraduate School, Monterey, CA.
- Mihalek, G.J. (1988, January). Sexuality and gender, an evolutionary perspective. Psychiatric Annals, 18(1).
- Money, J. (1988). Gay, straight & in-between. New York: Oxford University Press.
- Money, J., & Erhardt, A.A. (1972). Man and woman, boy and girl. Baltimore, MD: Johns Hopkins University Press.
- Morrison, D. (1988, March 5). Are homosexuals bad soldiers? National Journal, pp. 604-605.
- National Security Institute. (1987, September). Court rules for gays. National Security Institute Advisory, 3(2), p. 84.
- Norton v. Macy. 417 F.2d 1161 (D.C. Cir. 1969).
- Ohlson, E.L. (1974). A preliminary investigation into the self-disclosing ability of male homosexuals. Psychology, 11, 21-25.
- Paul, J. P. (1985). Bisexuality: Reassessing our paradigms of sexuality. Journal of Homosexuality, 11, 21-31.
- Pettigrew, T.F. (1969). Racially separate or together? Journal of Social Issues, 25, 43-69.
- Quaddland, M.C., & Shattes, W.D. (1987). AIDS sexuality and sexual control. Journal of Homosexuality, 14(1-2).
- Rosa, P.M. (1988, July 12). Homosexuals no longer face automatic ban as security risks. The Morning Call.
- Rosen, I. (Ed.) (1979). Sexual deviation. Oxford: Oxford University Press.
- Ruse, M. (1988). Homosexuality, a philosophic inquiry. New York: Blackwell.

- Sagarin, E. (Ed.) (1971). The other minorities. Waltham, MA: Ginn & Co.
- Siegleman, M. (1978). Psychological adjustment of homosexual and heterosexual men: A cross national replication. Archives of Sexual Behavior, 7, 1-11.
- Siegleman, M. (1979). Adjustment of homosexual and heterosexual women: A cross-national replication. Archives of Sexual Behavior, 8(2), 121-125.
- Singer v. U.S. Civil Service Commission, 530 F.2d 247 (9th Cir. 1975).
- Singer v. U.S. Civil Service Commission, 429 U.S. 1034 (1977).
- Spector, M. & Kitsuse, J. I. (1987). Constructing social problems. New York: Aldine-de Gruyter.
- Stein, T.J. (1976). Gay service organizations: A survey. Homosexual Counseling Journal, 3, 84-97.
- Stewart, R. W. (1988, Sept. 29). Forced to quit, gay ex-officer charges in suit. Los Angeles Times.
- Stuart, T., Jr. (1988, June 16). Dismissal of gay CIA worker is subject to review, court holds. New York Times, pp. A1, D24.
- Sulima, J.P. (1987). What every drug counsellor should know about AIDS. Washington, DC: Morrisses Communication Group.
- The Wolfenden Report (1963, orig. 1957). Report of the Committee on Homosexual Affairs and Prostitution. New York: Stein and Ray.
- U.S. Commission on Civil Rights (1977, August 15).
- Vetri, D. (1980). The legal arena: Progress for gay civil rights. Journal of Homosexuality 5, 25-34.
- Webb, R. (1988, April 4). Real problems [Letter to the editor]. Navy Times, p. 23.
- Webster, William H., Director of Central Intelligence Petitioner v. John Doe, 48 S.Ct. (1988)
- Weinberg, G. (1973). Society and the healthy homosexual. Garden City, NY: Anchor Books.

Williams, C.I., & Weinberg, M.S. (1971). Homosexuals and the military. New York: Harper and Row.

Zuliani, R.A. (1986). Annexes to Charter Task Force Final Report (Annexes A-F to part 4). Canadian Department of National Defense.

## **List of Appendixes**

- A. The Legal Status of Homosexuality
- B. Military Service Separation for Homosexuality
- C. Statistical Data on Homosexuality
- D. Bisexuality

**APPENDIX A**

**The Legal Status of  
Homosexuality**

The Legal Status of  
Homosexuality

This appendix summarizes current DoD laws and regulations which address homosexuality and homosexual behavior. There is also a brief overview of current civilian criminal law concerning homosexuality.

The appendix is organized as follows:

I.	Current DoD Policy . . . . .	2
	A. Uniform Code of Military Justice . . . . .	2
	B. DoD Regulations . . . . .	8
	C. Service Regulations . . . . .	13
	D. Security Regulations . . . . .	14
II.	Current Civilian Criminal Law . . . . .	20
	A. Overview . . . . .	20
	B. U.S. State Criminal Law . . . . .	21
	C. U.S. Federal Criminal Law . . . . .	23

## I. Current DoD Policy

The DoD policy on homosexuality announced by the Office of the Secretary of Defense is implemented through the Uniform Code of Military Justice (UCMJ) which addresses criminal acts, and through DoD directives which cover the administrative separation of service members for homosexuality. There are also specific separate regulations for each of the military services which are derived from the DoD directives.

### A. Uniform Code of Military Justice

The punitive articles in the UCMJ which address homosexual and other criminal sexual activity are:

- Article 80 - attempts
- Article 125 - sodomy
- Article 134 - assault with intent to commit sodomy
- Article 134 - indecent assault
- Article 134 - indecent acts with another

## Article 80 - Attempts

### Text

An act, done with specific intent to commit an offense under this chapter, more than mere preparation and tending, even though failing, to effect its is an attempt to commit that offense.

### Elements

- (1) That the accused did a certain overt act;
- (2) That the act was done with specific intent to commit a certain offense under the code;
- (3) That the act amounted to more than mere preparation; and
- (4) That the act apparently tended to effect the commission of the intended offense.

Explanation. To constitute an attempt there must be a specific intent to commit the offense accompanied by an overt act which directly tends to accomplish the unlawful purpose. Preparation consists of devising or arranging the means or measures necessary for the commission of the offense. The overt act required goes beyond preparatory steps and is a direct movement toward the commission of the offense.

### Maximum punishment

A person found guilty of an attempt shall be subject to the same maximum punishment authorized for the commission of the offense attempted, except that in no case shall the death penalty or confinement exceeding 20 years be adjudged.

## Article 125 - Sodomy

### Text

Any person subject to this chapter who engages in unnatural carnal copulation with another person of the same or opposite sex or with an animal is guilty of sodomy. Penetration, however slight, is sufficient to complete the offense.

### Elements

- (1) That the accused engaged in unnatural carnal copulation with a certain other person or with an animal; or
- (2) That the act was done with a child under the age of 16; or
- (3) That the act was done by force and without the consent of the other person.

Explanation. It is unnatural carnal copulation for a person to take into that person's mouth or anus the sexual organ of another person or of an animal; or to place that person's organ in the mouth or anus of another person or of an animal; or to have carnal copulation in any opening of the body, except the sexual parts, with another person; or to have carnal copulation with an animal.

### Maximum punishment

- (1) By force and without consent or with a child under the age of 16: Dishonorable discharge, total forfeiture of pay & allowances, fine, confinement at hard labor for 20 years
- (2) Other cases: Dishonorable discharge, total forfeiture of pay & allowances, fine, confinement at hard labor for 5

## **Article 134 - Assault with Intent to Commit Sodomy**

### Elements

- (1) That the accused assaulted a certain person;
- (2) That, at the time of the assault, the accused intended to commit sodomy; and
- (3) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

Explanation. Assault with intent to commit sodomy is an assault against a human being and must be committed with a specific intent to commit sodomy. Any lesser intent, or different intent, will not suffice.

### Maximum punishment

- (1) Dishonorable discharge, total forfeiture of pay & allowances, fine, confinement at hard labor for 10 years
- (2) Other cases: Dishonorable discharge, total forfeiture of pay & allowances, fine, confinement at hard labor for 5 years

## Article 134 - Indecent Assault

### Elements

- (1) That the accused assaulted a certain person not the spouse of the accused in a certain manner;
- (2) That the acts were done with the intent to gratify the lust or sexual desires of the accused; and
- (3) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

Explanation. "Indecent" signifies that form of immorality relating to sexual impurity which is not only grossly vulgar, obscene, and repugnant to common propriety, but tends to excite lust and deprave the morals with respect to sexual relations.

### Maximum punishment

- (1) Dishonorable discharge, total forfeiture of pay & allowances, fine, confinement at hard labor for 5 years

## **Article 134 - Indecent Acts with Another**

### Elements

- (1) That the accused committed a certain wrongful act with a certain person;
- (2) That the act was indecent; and
- (3) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

Explanation. "Indecent" signifies that form of immorality relating to sexual impurity which is not only grossly vulgar, obscene, and repugnant to common propriety, but tends to excite lust and deprave the morals with respect to sexual relations.

### Maximum punishment

- (1) Dishonorable discharge, total forfeiture of pay & allowances, fine, confinement at hard labor for 5 years

B. DoD Regulations

The DoD regulations covering separation from service of homosexual members consist of:

1. DoD Directive 1332.14  
Enlisted Administrative Separation
2. DoD Directive 1332.30  
Separation of Regular Commissioned Officers for Cause.

The Legal Status of  
Homosexuality

This appendix summarizes current DoD laws and regulations which address homosexuality and homosexual behavior. There is also a brief overview of current civilian criminal law concerning homosexuality.

The appendix is organized as follows:

I.	Current DoD Policy . . . . .	2
	A. Uniform Code of Military Justice . . . . .	2
	B. DoD Regulations . . . . .	8
	C. Service Regulations . . . . .	13
	D. Security Regulations . . . . .	14
II.	Current Civilian Criminal Law . . . . .	20
	A. Overview . . . . .	20
	B. U.S. State Criminal Law . . . . .	21
	C. U.S. Federal Criminal Law . . . . .	23

## I. Current DoD Policy

The DoD policy on homosexuality announced by the Office of the Secretary of Defense is implemented through the Uniform Code of Military Justice (UCMJ) which addresses criminal acts, and through DoD directives which cover the administrative separation of service members for homosexuality. There are also specific separate regulations for each of the military services which are derived from the DoD directives.

### A. Uniform Code of Military Justice

The punitive articles in the UCMJ which address homosexual and other criminal sexual activity are:

- Article 80 - attempts
- Article 125 - sodomy
- Article 134 - assault with intent to commit sodomy
- Article 134 - indecent assault
- Article 134 - indecent acts with another

## Article 80 - Attempts

### Text

An act, done with specific intent to commit an offense under this chapter, more than mere preparation and tending, even though failing, to effect its is an attempt to commit that offense.

### Elements

- (1) That the accused did a certain overt act;
- (2) That the act was done with specific intent to commit a certain offense under the code;
- (3) That the act amounted to more than mere preparation; and
- (4) That the act apparently tended to effect the commission of the intended offense.

Explanation. To constitute an attempt there must be a specific intent to commit the offense accompanied by an overt act which directly tends to accomplish the unlawful purpose. Preparation consists of devising or arranging the means or measures necessary for the commission of the offense. The overt act required goes beyond preparatory steps and is a direct movement toward the commission of the offense.

### Maximum punishment

A person found guilty of an attempt shall be subject to the same maximum punishment authorized for the commission of the offense attempted, except that in no case shall the death penalty or confinement exceeding 20 years be adjudged.

## Article 125 - Sodomy

### Text

Any person subject to this chapter who engages in unnatural carnal copulation with another person of the same or opposite sex or with an animal is guilty of sodomy. Penetration, however slight, is sufficient to complete the offense.

### Elements

- (1) That the accused engaged in unnatural carnal copulation with a certain other person or with an animal; or
- (2) That the act was done with a child under the age of 16; or
- (3) That the act was done by force and without the consent of the other person.

Explanation. It is unnatural carnal copulation for a person to take into that person's mouth or anus the sexual organ of another person or of an animal; or to place that person's organ in the mouth or anus of another person or of an animal; or to have carnal copulation in any opening of the body, except the sexual parts, with another person; or to have carnal copulation with an animal.

### Maximum punishment

- (1) By force and without consent or with a child under the age of 16: Dishonorable discharge, total forfeiture of pay & allowances, fine, confinement at hard labor for 20 years
- (2) Other cases: Dishonorable discharge, total forfeiture of pay & allowances, fine, confinement at hard labor for 5

## Article 134 - Assault with Intent to Commit Sodomy

### Elements

- (1) That the accused assaulted a certain person;
- (2) That, at the time of the assault, the accused intended to commit sodomy; and
- (3) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

Explanation. Assault with intent to commit sodomy is an assault against a human being and must be committed with a specific intent to commit sodomy. Any lesser intent, or different intent, will not suffice.

### Maximum punishment

- (1) Dishonorable discharge, total forfeiture of pay & allowances, fine, confinement at hard labor for 10 years
- (2) Other cases: Dishonorable discharge, total forfeiture of pay & allowances, fine, confinement at hard labor for 5 years

## Article 134 - Indecent Assault

### Elements

- (1) That the accused assaulted a certain person not the spouse of the accused in a certain manner;
- (2) That the acts were done with the intent to gratify the lust or sexual desires of the accused; and
- (3) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

Explanation. "Indecent" signifies that form of immorality relating to sexual impurity which is not only grossly vulgar, obscene, and repugnant to common propriety, but tends to excite lust and deprave the morals with respect to sexual relations.

### Maximum punishment

- (1) Dishonorable discharge, total forfeiture of pay & allowances, fine, confinement at hard labor for 5 years

## Article 134 - Indecent Acts with Another

### Elements

- (1) That the accused committed a certain wrongful act with a certain person;
- (2) That the act was indecent; and
- (3) That, under the circumstances, the conduct of the accused was to the prejudice of good order and discipline in the armed forces or was of a nature to bring discredit upon the armed forces.

Explanation. "Indecent" signifies that form of immorality relating to sexual impurity which is not only grossly vulgar, obscene, and repugnant to common propriety, but tends to excite lust and deprave the morals with respect to sexual relations.

### Maximum punishment

- (1) Dishonorable discharge, total forfeiture of pay & allowances, fine, confinement at hard labor for 5 years

## B. DoD Regulations

The DoD regulations covering separation from service of homosexual members consist of:

1. DoD Directive 1332.14  
Enlisted Administrative Separation
2. DoD Directive 1332.30  
Separation of Regular Commissioned Officers for Cause.

**EXTRACT FROM DOD DIRECTIVE 1332.14 - Jan. 28, 1982**  
**ENLISTED ADMINISTRATIVE SEPARATIONS**

Homosexuality (Part 1, Section H)

1. Basis

a. Homosexuality is incompatible with military service. The presence in the military environment of persons who engage in homosexual conduct or who, by their statements, demonstrate a propensity to engage in homosexual conduct, seriously impairs the accomplishment of the military mission. The presence of such members adversely affects the ability of the Military Services to maintain discipline, good order, and morale; to foster mutual trust and confidence among servicemembers, to ensure the integrity of the system of rank and command; to facilitate assignment and worldwide deployment of servicemembers who frequently must live and work under close conditions affording minimal privacy; to recruit and retain members of the Military Services; to maintain the public acceptability of military service; and to prevent breaches of security.

b. As used in this action:

(1) Homosexual means a person, regardless of sex, who engages in, desires to engage in, or intends to engage in homosexual acts;

(2) Bisexual means a person who engages in, desires to engage in, or intends to engage in homosexual and heterosexual acts; and

(3) A homosexual act means bodily contact, actively undertaken or passively permitted, between members of the same sex for the purpose of satisfying sexual desires.

c. The basis for separation may include preservice, prior service, or current service conduct or statements. A member shall be separated under this section if one or more of the following approved findings is made:

(1) The member has engaged in, attempted to engage in, or solicited another to engage in a homosexual act or acts unless there are approved further findings that:

(a) Such conduct is a departure from the member's usual and customary behavior;

(b) Such conduct under all the circumstances is unlikely to recur;

(c) Such conduct was not accomplished by use of force, coercion, or intimidation by the member during a period of military service;

(d) Under the particular circumstances of the case, the member's continued presence in the Service is consistent with the interest of the Service in proper discipline, good order, and morale; and

(e) The member does not desire to engage in or intend to engage in homosexual acts.

(2) The member has stated that he or she is a homosexual or bisexual unless there is a further finding that the member is not a homosexual or bisexual.

(3) The member has married or attempted to marry a person known to be of the same biological sex (as evidenced by the external anatomy of the persons involved) unless there are further findings that the member is not a homosexual or bisexual and that the purpose of the marriage or attempt was the avoidance or termination of military service.

**EXTRACT FROM DOD DIRECTIVE 1332.30 - Feb. 12, 1986**  
**SEPARATION OF REGULAR COMMISSIONED OFFICERS FOR CAUSE**

**DEFINITIONS**

**Bisexual.** A person who engages in, desires to engage in, or intends to engage in both homosexual and heterosexual acts.

**Homosexual.** A person, regardless of sex, who engages in, desires to engage in, or intends to engage in homosexual acts.

**Homosexual Act.** Bodily contact, actively undertaken or passively permitted, between members of the same sex for the purpose of satisfying sexual desires.

**ACTS OF MISCONDUCT OR MORAL OR PROFESSIONAL DERELICTION**

Homosexuality. The basis for separation may include preservice, prior service, or current service conduct or statements. A commissioned officer shall be separated under this provision if one or more of the following findings is made:

a. The officer has engaged in, has attempted to engage in, or has solicited another to engage in a homosexual act or acts, unless there are further findings that:

- (1) Such conduct is a departure from the officer's usual and customary behavior;
- (2) Such conduct under all the circumstances is unlikely to recur;
- (3) Such conduct was not accomplished by use of force, coercion, or intimidation by the officer during a period of military service;
- (4) Under the particular circumstances of the case, the officer's continued presence in the Service is consistent with the proper discipline, good order, and morale of the Service; and
- (5) The officer does not desire to engage in or intend to engage in homosexual acts.

b. The officer has stated that he or she is a homosexual or bisexual unless there is a further finding that the officer is not a homosexual or bisexual.

c. The officer has married or attempted to marry a person known to be of the same biological sex (as evidenced by the external anatomy of the persons involved) unless there are further findings that the officer is not a homosexual or bisexual and that the purpose of the marriage or attempt was the avoidance or termination of military service.

### CHARACTER OF DISCHARGE

A discharge shall be characterized as "Honorable" or "Under Honorable Conditions" when the sole basis for separation is homosexuality unless aggravated acts are included in the findings. A separation "Under Other Than Honorable Conditions" may be issued if there is a finding that the Service member attempted, solicited, or committed a homosexual act.

- (1) By using force, coercion, or intimidation.
- (2) With a person under 16 years of age.
- (3) With a subordinate in circumstances that violate the customary military superior-subordinate relationship.
- (4) Openly in public view.
- (5) For compensation.
- (6) Aboard a military vessel or aircraft.
- (7) In another location subject to military control under aggravating circumstances, noted in the finding, that have an adverse impact on discipline, good order, or morale comparable to the impact of such activity aboard a vessel or aircraft.

### C. Service Regulations

The individual Service Regulations concerning homosexuality are as follows:

1. U.S. Army - U.S. Army Regulation 635-200
2. U.S. Navy - SECNAVINST 1900.9C (Policy for members of naval service involved in homosexual conduct.)
  - SECNAVINST 1920.4A (Enlisted Administrative Separations)
  - SECNAVINST 1920.6A (Administrative Separations of Officers)
  - NAVMILPERSCOMINS 1910.1C
  - MILPERSMAN 3630400 (Separation by reason of homosexuality)
3. U.S. Marine Corps
  - Marine Corps Separation and Retirement Manual, 1900-16C, paragraph 6207 (Officers & Enlisted)
4. U.S. Air Force
  - Air Force Regulation 39-10 (Administrative discharge of Airmen), Chapter 5, Section 6
  - Air Force Regulation 36-2 (Separation of Officers), Chapter 3, paragraph 4
5. U.S. Coast Guard - Personnel Manual Articles:
  - 12-B-16 discharge for unsuitability
  - 12-B-18 discharge for homosexuality
  - 12-B-33 discharge processing

The service regulations, although they differ somewhat in wording, substantially repeat the DoD regulations on which they are based. For that reason they are not reproduced here.

#### D. Security Regulations

The security clearance aspects of homosexuality (and other sexual behavior) are addressed by DoD 5200-2-R, the Department of Defense Personnel Security Program Regulation. This program covers military personnel, DoD civilians, and DoD contractor civilian employees, if they are submitted for a security clearance.

Security considerations are also addressed by the Director of Central Intelligence Directive No. 1/14 (DCID 1/14 of 14 April 1986) which gives the minimum personnel security standards governing eligibility for access to Sensitive Compartmented Information (SCI clearance). This applies to DoD clearances as well as all other security clearances of that level.

**EXTRACT FROM DEPARTMENT OF DEFENSE PERSONNEL SECURITY  
PROGRAM REGULATION, DoD 5200.2-R - 16 Dec 1986**

**APPENDIX I**

**ADJUDICATION POLICY  
GENERAL**

The following adjudication policy has been developed to assist DoD adjudicators in making determinations with respect to an individual's eligibility for employment or retention in sensitive duties or eligibility for access to classified information. Adjudication policy relative to access to sensitive compartmented information is contained in DCID1/14.

While reasonable consistency in reaching adjudicative determinations is desirable, the nature and complexities of human behavior preclude the development of a single set of guidelines or policies that is equally applicable in every personnel security case. Accordingly, the following adjudication policy is not intended to be interpreted as inflexible rules of procedures. The following policy requires dependence on the adjudicator's sound judgment, mature thinking, and careful analysis as each case must be weighed on its own merits, taking into consideration all relevant circumstances, and prior experience in similar cases as well as the guidelines contained in the adjudication policy, which have been compiled from common experience in personnel security determinations.

Each adjudication is to be an overall common sense determination based upon consideration and assessment of all available information, both favorable and unfavorable, with particular emphasis being placed on the seriousness, recency, frequency and motivation for the individual's conduct; the extent to which conduct was negligent, willful, voluntary, or undertaken with knowledge of the circumstances or consequences involved; and, to the extent that it can be estimated, the probability that conduct will or will not continue in the future. The listed "Disqualifying Factors" and "Mitigating Factors" in this set of Adjudication Policies reflect the consideration of those factors of seriousness, recency, frequency, motivation, etc., to common situations and types of behavior encountered in personnel security adjudications, and should be followed whenever an individual case can be measured against this policy guidance. Common sense may occasionally necessitate deviations from this policy guidance, but such deviations should not be frequently made and must be carefully explained and documented.

The "Disqualifying Factors" provided herein establish some of the types of serious conduct under the criteria that can justify a determination to deny or revoke an individual's eligibility for access to classified information, or appointment to, or retention

in sensitive duties. The "Mitigating Factors" establish some of the types of circumstances that may mitigate the conduct listed under the "Disqualifying Factors." Any determination must include a consideration of both the conduct listed under "Disqualifying Factors" and any circumstances listed under the appropriate or corresponding "Mitigating Factors."

The adjudication policy is subdivided into sections appropriate to each of the criteria provided in paragraph 2-200 of this regulation, except 2-200.i., for which conduct under any of the "Disqualifying Factors" of the adjudication policy or any other types of conduct may be appropriately included, if it meets the definition of paragraph 2-200.i.

In all adjudications, the protection of the national security shall be the paramount determinant. In the last analysis, a final decision in each case must be arrived at by applying the standard that the issuance of the clearance or assignment to the sensitive position is "clearly consistent with the interests of national security."

#### SEXUAL MISCONDUCT

Basis: Acts of sexual misconduct or perversion indicative of moral turpitude, poor judgment, or lack of regard for the laws of society.

Disqualifying Factors (behavior falls within one or more of the following categories):

1. The conduct involves:
  - a. Acts performed or committed in open or public places.
  - b. Acts performed with a minor, or with animals.
  - c. Acts involving inducement, coercion, force, violence or intimidation of another person.
  - d. Prostitution, pandering or the commission of sexual acts for money or other remuneration or reward.
  - e. Sexual harassment.
  - f. Self mutilation, self punishment or degradation.
  - g. Conduct that involves spouse swapping, or group sex orgies.

- h. Adultery that is recent, frequent and likely to continue and has an adverse effect on good order or discipline within the workplace (e.g., officer/enlisted, supervisor/ subordinate, instructor/student).
  - i. Conduct determined to be criminal in the locale in which it occurred.
  - j. Deviant or perverted sexual behavior which may indicate a mental or personality disorder (e.g., transexualism, transvestism, exhibitionism, incest, child molestation, voyeurism, bestiality, or sodomy).
2. The conduct has been recent.
  3. The conduct increases the individual's vulnerability to blackmail, coercion or pressure.
  4. Evidence that the applicant has intention or is likely to repeat the conduct in question.

Mitigating Factors (circumstances which may mitigate qualifying information):

1. Sexual misconduct occurred on an isolated basis during or preceding adolescence with no evidence of subsequent conduct or a similar nature, and clear indication that the individual has no intention of participating in such conduct in the future.
2. Sexual misconduct was isolated, occurred more than 3 years ago, and there is clear indication that the individual has no intention of participating in such conduct in the future.
3. The individual was a minor or was the victim of force, or violence by another.
4. The individual has successfully completed professional therapy, has been rehabilitated and diagnosed by competent medical authority that misconduct is not likely to recur.
5. Demonstration that the individual's sexual misconduct can no longer form the basis for vulnerability to blackmail, coercion or pressure.

**EXTRACT FROM DIRECTOR OF CENTRAL INTELLIGENCE  
DIRECTIVE #1/14 - 14 April 1986**

**ANNEX A**

**ADJUDICATION GUIDELINES**

**PURPOSE**

This annex is designed to ensure that a common approach is followed by Intelligence Community departments and agencies in applying the standards of DCID 1/14. These guidelines apply to the adjudication of cases involving persons being considered for first-time access to Sensitive Compartmented Information (SCI) as well as those cases of persons being readjudicated for continued SCI access.

**ADJUDICATIVE PROCESS**

The adjudicative process entails the examination of a sufficient period of a man's life to make a determination that the person is not now or is not likely to become an unacceptable security risk later. SCI access adjudication is the careful weighing of a number of variables known as the "whole person" concept. The recency of occurrence of any adverse incident, together with circumstances pertaining thereto, is central to a fair and uniform evaluation. Key factors to be considered in adjudication are the maturity and responsibility of the person at the time certain acts or violations were committed as well as any repetition or continuation of such conduct. Each case must be judged on its own merits and final determination remains the responsibility of the individual SOIC. Any doubt concerning personnel having access to SCI shall be resolved in favor of the national security.

The ultimate determination of whether the granting of SCI access is clearly consistent with the interests of national security shall be an overall common sense determination based on all available information. In arriving at a decision consistent with the foregoing, the adjudicator must give careful scrutiny to the following matters:

- a. Loyalty
- b. Close relatives and associates
- c. Sexual considerations
- d. Cohabitation
- e. Undesirable character traits
- f. Financial irresponsibility

- g. Alcohol abuse
- h. Illegal drugs and drug abuse
- i. Emotional and mental disorders
- j. Record of law violations
- k. Security violations
- l. Involvement in outside activities

Adjudicative actions concerning the foregoing items are examined in greater detail below.

## SEXUAL CONSIDERATIONS

DCID 1/14 requires that, to be eligible for SCI access, individuals must be stable, of excellent character and discretion, and not subject to undue influence or duress through exploitable personal conduct.

Sexual promiscuity, prostitution, and extramarital relations are of legitimate concern to the SCI adjudicator where such conduct reflects a lack of judgment and discretion or when the conduct offers the potential for undue influence, duress or exploitation by a foreign intelligence service.

Deviant sexual behavior can be a relevant consideration in circumstances in which it indicates flawed judgment or a personality disorder, or could result in exposing the individual to direct or indirect pressure because of susceptibility to blackmail or coercion as a result of the deviant sexual behavior. Such behavior includes, but is not limited to, bestiality, fetishism, exhibitionism, necrophilia, nymphomania or satyriasis, masochism, sadism, pedophilia, transvestism, and voyeurism. Homosexual conduct is also to be considered as a factor in determining an individual's judgment, discretion, stability and susceptibility to undue influence or duress.

In examining cases involving sexual conduct of security significance, such as those described above, it is relevant to consider the age of the person, the voluntariness, and the frequency of such activities, the public nature and the recency of the conduct, as well as any other circumstances which may serve to aggravate or mitigate the nature or character of the conduct. A recommendation for disapproval is appropriate when, in view of all available evidence concerning the individual's history of sexual behavior, it appears that access to SCI could pose a risk to the national security.

## II. Current Civilian Criminal Law

### A. Overview

The most notable landmark in Western policy toward homosexuals is probably the Wolfenden Report. In 1954 the British government appointed a commission chaired by J. F. Wolfenden to consider the law and practice with regard to homosexual offenses and prostitution. The Committee published its findings in 1957 (The Wolfenden Report, 1963). It recommended (among other things) that homosexual behavior between consenting adults in private should no longer be a criminal offense. This recommendation was implemented for the most part in England in 1967 by the Sexual Offenses Act (Rosen, 1979).

Rosen points out that in England, in spite of reforms, the law remains complicated with regard to sexual offenses. Although English law does not forbid "private consenting adult (over 21) homosexual behavior" with regard to buggery (anal intercourse) or gross indecency (which is not defined), this applies only in England and Wales. Anal intercourse among heterosexuals, even if married, remains a crime throughout Britain. The cited homosexual acts continue to be illegal in Scotland, Northern Ireland and in the British Armed Forces and the Merchant Marine. With regard to female homosexual acts, Rosen states that "lesbianism has never been a crime in England, nor anywhere else so far as is known."

There have been general movements toward liberalization of such laws, especially in western Europe, in the Scandinavian countries and in West Germany. The Ninth International Congress on Criminal law and in the U.S., the American Law Institute in its Model Penal Code of 1955 recommended the decriminalization of private homosexual acts between consenting adults (Livingood, 1976). In Canadian law, consenting adult homosexual acts were prosecutable until 1967 (Zuliani, 1986).

Homosexual behavior was not considered a criminal offense in the U.S.S.R. after the revolution of 1917. In 1934 it was made a felony. The U.S.S.R. criminal code makes no mention of female homosexuality (Brzek & Hubalek, 1988). Homosexual behavior is also a criminal offense in Rumania. The other European communist countries are more liberal, and generally criminalize homosexual behavior only when other offenses such as contact with a minor are involved. In all of the communist countries there are apparently no official instructions against the employment of homosexuals except in the police and the military.

---

\*Most American sodomy laws extend prohibitions to "all persons," "any persons," and "any human being," but actual prosecutions of females under these laws is rare.

The laws of the German Democratic Republic towards homosexuals are the most liberal of the communist bloc. In spite of the extremely tolerant official attitude toward homosexuality, employing homosexuals in the police force or army of the GDR is not under consideration (Brzek & Hubalek, 1988).

#### B. U.S. State Criminal Law

The first U.S. state to decriminalize adult homosexual activities was Illinois in 1962. At that time each of the other 49 states had sodomy laws on the books. Forty-five also penalized adultery, 37 states penalized fornication and 15 states penalized cohabitation. Hefner (1964) noted that even though Illinois had decriminalized consenting adult sodomy it retained laws against adultery and fornication, creating the curious situation of permitting certain "homosexual (and other) perversions" while prohibiting some "normal" heterosexual activities. Hefner observed, "We are free in a voting booth, in a stockholders' meeting, a union hall or a house of worship, but we are not free in bed."

The next six states to join Illinois in removing criminal laws against private consenting adult homosexual acts were Colorado, Delaware, Oregon, Hawaii and Ohio (Geis et al, 1976). By 1977, homosexuality was illegal between consenting adults in only 31 states (Bell & Weinberg, 1978). Currently (1988) there are no so-called sodomy laws in 25 states. Adult consenting homosexual behavior is legal in:

Alaska	Illinois
Hawaii	Indiana
California	Oklahoma
Oregon	West Virginia
Washington	Pennsylvania
Wyoming	New York
Colorado	Delaware
New Mexico	New Jersey
Nebraska	Connecticut
South Dakota	Vermont
North Dakota	New Hampshire
Iowa	Maine
Wisconsin	

Clearly the trend is toward liberalization of the law.

In 25 states and the District of Columbia, however, sodomy laws remain in force. In some of these, such as Texas, Arkansas, Kansas, Montana and Nevada, homosexual acts between males are specified for prohibition. In most other state laws, sodomy is spoken of in broader terms as "crimes against nature" and can be applied equally to

heterosexual behavior. Generally, such sodomy laws make no distinction between married and unmarried partners.

Along with liberalized laws in half of the states, there is apparently a high level of de facto acceptance of homosexuality throughout the U.S. Most large cities have recognized homosexual areas and bars. Some cities such as New Orleans and Key West are well known "homosexual centers" in spite of being located in states where sodomy laws remain in force.\*

It is important to remember that the term, "sodomy," does not always have a standard meaning, either in common usage or in law.

The Random House College Dictionary (U.S. Government Edition), commonly used in government offices, gives the following definition:

1. unnatural, especially anal copulation
2. copulation of a human with an animal, bestiality (the word is derived from Sodom, a Biblical city referred to in Genesis 18-19, which was destroyed by God because of its wickedness.)

In California law, sodomy is "sexual conduct consisting of contact between the penis of one person and the anus of another person" (California Penal Code #285 note 24.5).

The term, sodomy, can be applied to anal intercourse, oral-genital contact, sexual contact with an animal, or any "unnatural copulation," whatever that may be. It certainly seems possible to apply this term to any of the less usual heterosexual positions of intercourse. In some cases even "heavy petting," such as hand-genital contact, can meet the legal definition of sodomy. Marriage of the partners seems to offer no immunity from prosecution for such acts.

Other terms for illegal intercourse which are sometimes encountered are buggery and pederasty. Both of these imply anal intercourse. Pederasty usually refers to anal intercourse between an adult and a male minor. It is derived from a Greek word which means "lover of boys." The word buggery has an interesting derivation from the Middle English word "bougre" or "bolgre" which meant heretic. The significance of this linguistic development was described on page 13.

---

\*The penalty for sodomy in Florida is 20 years imprisonment.

As has been pointed out, the UCMJ Article 125 definition of sodomy is particularly broad and covers homosexual acts as well as heterosexual acts even within marriage. Theoretically a large percentage of DoD military personnel might be criminals under it. In practice, it is used almost exclusively to punish acts which involve force and/or a minor or nonconsenting partner. The larger percentage of such prosecuted acts are heterosexual.

### C. U.S. Federal Criminal Law

With the exception of the UCMJ and certain laws pertaining to Indian reservations, Federal law does not proscribe homosexual behavior.

**APPENDIX B**

**Military Service Separation  
for Homosexuality**

## **Military Service Separation for Homosexuality**

Data are given for Fiscal Year 85, 86 & 87 separations for homosexuality for all four of the DoD military services.\* It is difficult to compare these data to those of earlier years, such as those reported in the Williams and Weinberg study (1971), because of differences in methods of recording and reporting data. Williams and Weinberg were unable to get exact data on the numbers and types of discharges for homosexuality for any of the armed services. It does appear that the total number of discharges for reasons of homosexuality and other sexual deviations may have decreased, and there is a remarkable decrease in the number of punitive discharges for homosexuality for all services.

---

\*John Goral, Defense Manpower Data Center, 1988, unpublished data.

## U.S. Army Discharges for Homosexuality

		FY 85		FY 86		FY 87	
		M	F	M	F	M	F
Enlisted Personnel (E)		598,579	67,980	597,516	69,153	597,278	71,133
Officer Personnel (O)		99,189	10,828	98,821	11,263	96,690	11,569
Administrative Separations	E	234	110	353	137	242	107
	O	3	0	2	3	6	0
Courts Martial Separations	E	0	0	0	0	0	0
	O	0	0	0	0	0	0
Total Homosexual Separations	E	234	110	353	137	242	107
	O	3	0	2	3	6	0
% Personnel Separated	E	0.04	0.16	0.06	0.20	0.04	0.15
	O	0.003	0	0.002	0.026	0.006	0
Number of CID Investigations	E						
	O						

\*Army CID does not keep statistics by fiscal year or by homosexuality investigations. Records are maintained by offense code. i.e., sodomy, indecent acts, etc.

## U.S. Navy Discharges for Homosexuality

		FY 85		FY 86		FY 87	
		M	F	M	F	M	F
Enlisted Personnel (E)		462,223	45,328	472,847	46,796	480,926	47,328
Officer Personnel (O)		65,379	6,991	66,602	7,370	66,736	7,379
Administrative Separations	E	653	134	621	144	550	104
	O	11	1	12	1	7	2
Courts Martial Separations	E	1	0	0	0	0	0
	O	1	0	0	0	0	0
Total Homosexual Separations	E	654	134	621	144	550	104
	O	12	1	12	1	7	2
% Personnel Separated	E	0.14	0.30	0.13	0.30	0.11	0.22
	O	0.02	0.01	0.02	0.01	0.01	0.03
Number of NIS Investigations	E	862	283	803	241	522	118
	O	41	10	32	6	33	3

## U.S. Marine Corps Discharges for Homosexuality

	FY 85		FY 86		FY 87	
	M	F	M	F	M	F
Enlisted Personnel (E)	168,809	9,041	169,369	9,246	170,338	9,140
Officer Personnel (O)	19,521	654	19,556	643	19,398	649
Administrative Separations	E 87 O 2	E 33 O 0	E 59 O 2	E 26 O 0	E 67 O 2	E 31 O 0
Courts Martial Separations	E 0 O 0	E 0 O 0	E 0 O 0	E 0 O 0	E 0 O 0	E 0 O 0
Total Homosexual Separations	E 87 O 2	E 33 O 0	E 59 O 2	E 26 O 0	E 67 O 2	E 31 O 0
% Personnel Separated	E 0.05 O 0.01	E 0.37 O 0	E 0.03 O 0.01	E 0.28 O 0	E 0.04 O 0.01	E 0.34 O 0
Number of NIS Investigations	E 177 O 1	E 77 O 4	E 120 O 4	E 84 O 2	E 137 O 7	E 47 O 2

## U.S. Air Force Discharges for Homosexuality

	FY 85		FY 86		FY 87	
	M	F	M	F	M	F
Enlisted Personnel (E)	431,017	57,586	433,972	60,694	432,578	62,666
Officer Personnel (O)	96,473	11,927	96,671	12,377	95,013	12,665
Administrative Separations	E 201 O 15	E 81 O 3	E 249 O 13	E 68 O 2	E 194 O 13	E 71 O 2
Courts Martial Separations	E 0 O 0					
Total Homosexual Separations	E 201 O 15	E 81 O 3	E 249 O 13	E 68 O 2	E 194 O 13	E 71 O 2
% Personnel Separated	E 0.04 O 0.01	E 0.10 O 0.02	E 0.05 O 0.01	E 0.10 O 0.02	E 0.04 O 0.01	E 0.10 O 0.02
Number of OSI Investigations	E 177 O 15	E 80 O 4	E 132 O 21	E 51 O 7	E 142 O 20	E 52 O 5

Williams and Weinberg (1971), in discussing discharges for the 1950s and 60s had already noted these trends in all of the armed services. They also noted that the Navy discharges a higher percentage of officers for homosexuality than do the other services. This trend is still in existence to the present, with the Navy discharging a higher percentage of both officers and enlisted men for homosexuality.

The overall discharge rate for homosexuality as reported in 1971 (Williams and Weinberg, 1971) as an estimate of "less than 1/10 of 1%," i.e. 0.001. The averaged discharge rates for the three fiscal years (85, 86, 87) cited in this report are somewhat greater:

Army	0.05% for enlisted men
	0.17% for enlisted women
	0.004% for male officers
	0.007% for female officers
Navy	0.13% for enlisted men
	0.27% for enlisted women
	0.02% for male officers
	0.02% for female officers
Marine	0.040% for enlisted men
	0.33% for enlisted women
	0.01% for male officers
	0 % for female officers
Air Force	0.043% for enlisted men
	0.1% for enlisted women
	0.01% for male officers
	0.02% for female officers

These data point to the conclusion that the percentage of people discharged for homosexuality (number of discharges for homosexuality divided by total personnel x 100) has actually increased.

**APPENDIX C**  
**Statistical Data on Homosexuality**

## Statistical Data on Homosexuality

No one knows how many homosexuals there are. The reason for this is twofold. First, there is the problem of definition, which has been discussed in the text. While it is relatively simple to define a homosexual act, it is not so with the definition of a homosexual person. Most definitions include some aspect of preference for or indulgence in homosexual acts. But how much preference, and how many acts? Along with authorities on human sexuality, we categorically reject the notion that participation in a single homosexual act defines homosexuality. An acceptable definition of homosexuality needs to contain two elements, one behavioral, the other self-definitional.

1. The person concerned prefers homosexual acts exclusively or significantly over heterosexual acts.
2. The person concerned identifies (at least privately) with being homosexual.

Second is the problem of locating homosexuals. Save for those who publicly announce their sexual orientation and those who are occasionally apprehended for homosexual conduct, there is no way to conduct population studies. Because of the social stigma traditionally attached to being homosexual, many (perhaps most) homosexuals remain hidden and are not identified except in special research studies. As a result, the data cited in any research investigation are not true population estimates. We can only construct estimates based on available data and social and demographic theory

Kinsey (1948) rated his subjects on a 0-1-2-3-4-5-6 scale (which was described on page #638\*) from exclusively heterosexual (0) to exclusively homosexual (6). Some of Kinsey's significant conclusions with regard to homosexuality are summarized in the following table:

---

\*and in Appendix D, p. D-2.

**Table 1**

**Heterosexual-Homosexual Ratings for all White Males**

Heterosexual-Homosexual Rating: Active Incidence  
(Total Population--U.S. Corrections)

Age	Cases	X	0	1	2	3	4	5	6
		%	%	%	%	%	%	%	%
5	4297	90.6	4.2	0.2	0.3	1.2	0.3	0.2	3.0
10	4296	61.1	10.8	1.7	3.6	5.6	1.3	0.5	15.4
15	4284	23.6	48.4	3.6	6.0	4.7	3.7	2.6	7.4
20	3467	3.3	69.3	4.4	7.4	4.4	2.9	3.4	4.9
25	1835	1.0	79.2	3.9	5.1	3.2	2.4	2.3	2.9
30	1192	0.5	83.1	4.0	3.4	2.1	3.0	1.3	2.6
35	844	0.4	86.7	2.4	3.4	1.9	1.7	0.9	2.6
40	576	1.3	86.8	3.0	3.6	2.0	0.7	0.3	2.3
45	382	2.7	88.8	2.3	2.0	1.3	0.9	0.2	1.8

Note: These are active incidence figures for the entire white male population, including single, married, and post-marital histories, the final figure corrected for the distribution of the population in the U.S. Census of 1940.

(from Kinsey, Pomeroy, Martin: Sexual Behavior in the Human Male, 1948).

With regard to how those data compare with data of other investigators, they state:

it is useless to compare the 2 or 3 percent figure of Havelock Ellis, or the 2 to 5 percent figure of Hirschfeld, or the 0.1 per cent figure of the Army induction centers with any of the data given above. The persons who are identified as "homosexuals" in much of the legal and social practice have rated anything between 1 and 6 on the above scale. On the other hand, there are some persons who would not rate an individual as "really homosexual" if he were anything less than a 5 or 6. Nevertheless, it should be emphasized again that there are

persons who rate 2's or 3's who, in terms of the number of contacts they have made, may have had more homosexual experience than many persons who rate 6, and the clinician, the social worker, court officials, and society in general are not infrequently concerned with persons who rate no more than 2's or 3's. Many who rate only 1 or 2 are much disturbed over their homosexual experience, and they are frequently among those who go to clinicians for help.

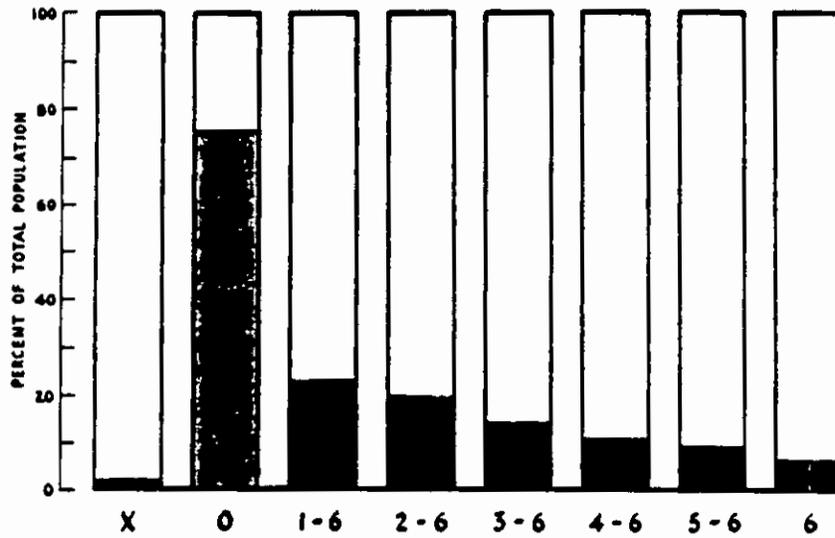
With regard to bisexuality, Kinsey stated that nearly 46 percent of the general population engages in homosexual conduct or reacts to persons of both sexes in the course of their adult life.

Kinsey's data can be confusing, especially with regard to specific rates, because he excludes pre-adolescent homosexual experiences from many of his conclusions and presents such a wealth of numbers. The following conclusions, however, stand out:

- Only 50 percent of the population is exclusively heterosexual throughout adult life.
- Only 4 percent of the population is exclusively homosexual throughout adult life.
- Of the white male population, 10 percent is more or less exclusively homosexual between ages 16 and 65.
- Throughout adult life, 46 percent have some homosexual contact.

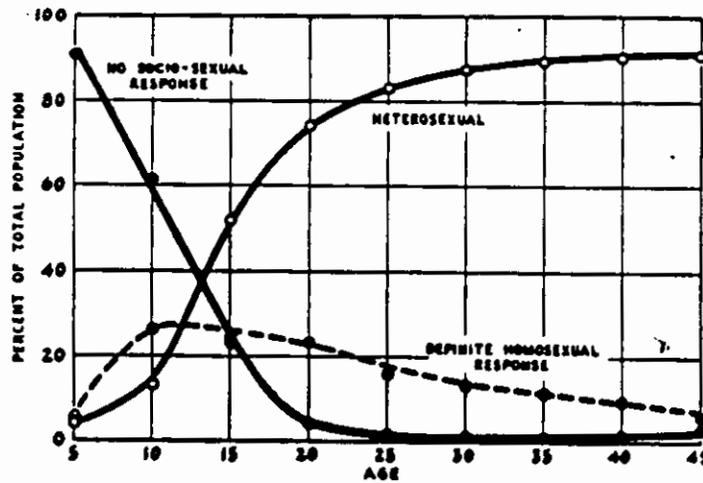
The Kinsey data are complicated, largely due to the fact that sexual behavior patterns are not fixed, but change with age. This is probably best reflected by the following two graphs, also taken from Kinsey's work:

Heterosexual-homosexual ratings in total male population  
(single and married) in any single year



Based on U.S. corrected data. Passing experiences eliminated from data by showing only ratings which have involved a period of at least three years after the males turned 16. Percent shown as "X" have virtually no socio-sexual contacts or reactions.

Development of Heterosexuality and Homosexuality  
by Age Periods



Active incidence curves, corrected for U.S. population. Males with no socio-sexual response (rating X) rapidly disappear between the ages of 5 and 20. Males whose responses are chiefly heterosexual (rating 0 or 1) rapidly increase in number until they ultimately account for 90 per cent of the whole population. Males who are more than incidentally homosexual in response or overt activity (ratings 2-6) are most abundant in pre-adolescence and through the teens, gradually becoming less abundant with advancing age.

No study since Kinsey has been as comprehensive or thorough, and most subsequent work leans strongly on that of Kinsey.

The Wolfenden report (1957) also cites Kinsey's conclusions and states that findings in Great Britain might be similar. The Wolfenden report also alludes to data from Sweden concluding that 1 percent of all men were exclusively homosexual, and 4 percent had both homosexual and heterosexual impulses.

The Canadian Forces Study on Homosexuality (Zuliani, 1986) stated that 10 percent of the general Canadian population was "non-exclusively heterosexual." This study also estimated that 10 percent of males and 5 percent of females in the general population were exclusively homosexual for at least 3 years between ages 16 and 55. Williams and Weinberg (1971) do not give any estimates of total numbers of homosexuals in the military, but state "...there must be a considerable number of homosexuals. At the least, this number must be greater than the 2000-3000 discharges per year for homosexuality" (p. 59).

In the data reported by Harry (1984), homosexual men and heterosexual men seem equally likely to have served in the military. Lesbians are more likely to have served than heterosexual women.

No hard data have been advanced to counter the conclusion that the percentage of male homosexuals in the military is significantly different from that in the general population. On the data available it is reasonable to conclude that the percentage of female homosexuality in the military is higher than in the general population.

**APPENDIX D**

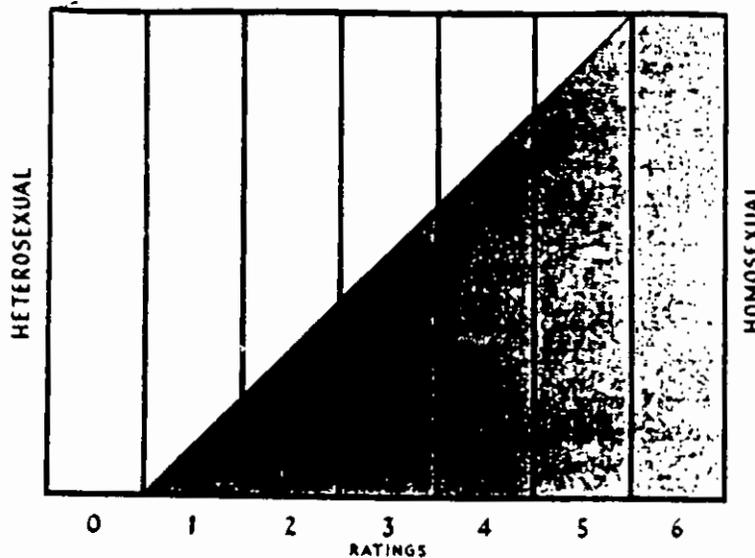
**Bisexuality**

## **Bisexuality**

The ancient Greek concept of organic bisexuality was revived with the science of embryology and the apparent early hermaphroditic characteristics of the human embryo (Marmor, 1975). Freud used this concept in formulating some of his psychoanalytic theories, and believed that there is a biologic bisexual predisposition, and that all persons go through a homoerotic phase as part of normal maturation.

Up to now there has been little consideration of bisexuality as a possible separate category. Bisexuality, that is erotic response to both sexes, has been generally included with homosexuality. This becomes clear if one considers most laws and rules concerning homosexual behavior: participation in a single homosexual act is enough to label a person a homosexual (Kinsey, 1948). The converse, however, is not true; a homosexual does not become heterosexual by engaging in sexual behavior with the opposite sex.

The Kinsey data, that 4 percent of men are exclusively homosexual, and 63 percent are exclusively heterosexual (after adolescence) leaves a very large percentage, .33 percent, who could be considered bisexual, as they exhibit varying degrees of erotic response to either sex.



Heterosexual-homosexual rating scale

Based on both psychologic reactions and overt experience, individuals rate as follows:

0. Exclusively heterosexual with no homosexual
1. Predominantly heterosexual, only incidentally homosexual
2. Predominantly heterosexual, but more than incidentally homosexual
3. Equally heterosexual and homosexual
4. Predominantly homosexual, but more than incidentally heterosexual
5. Predominantly homosexual, but incidentally heterosexual
6. Exclusively homosexual

According to the Kinsey rating of 0 to 6, persons rated (1) through (5) can be labelled bisexual. Some have confined this label only to those identified as "3", which means "equally heterosexual and homosexual" (Kinsey, 1948). This, however, seems too restrictive, and the recent trend is to broaden the definition of bisexuality to "sexual, emotional and social attraction to both sexes" (Paul, 1984). If one accepts such a definition (which seems reasonable) then bisexuality encompasses Kinsey's ratings 1-5, and there are clearly more bisexuals than homosexuals. This has been pointed out by MacDonald (1982) who also states that researchers tend to include large numbers of bisexuals in the homosexual category, which leads him to question the validity of their conclusions.

Certainly there has been little research to date on bisexuality as a separate category, but there is increasing awareness of its possible significance among scientists as well as among homosexuals themselves (Klein and Wolf, 1985).

In terms of military discharges for homosexuality, it seems likely that many of those individuals discharged as homosexuals are probably bisexual (and could be completely heterosexual except for one incident).

At present this issue is not addressed in military law or regulations. No distinction is made between homosexuality and bisexuality.

The bisexual capability exists in a large percentage of persons (perhaps 37 percent of males or more) and is probably the explanation for much of such "situational homosexuality" as is seen in prisons and other restricted environments where there is no access to members of the opposite sex. In most cases, persons participating in homosexual acts under such circumstances do not consider themselves homosexual, and return to heterosexual behavior when this becomes possible.

3D823

PERS-TR-87-006



*DRAFT...Do Not Quote or Cite*

**THE SUITABILITY OF HOMOSEXUALS  
FOR POSITIONS OF TRUST**

**Michael A. McDaniel**

September 1987

**DEFENSE  
PERSONNEL SECURITY  
RESEARCH AND EDUCATION CENTER  
99 Pacific Street, Building 455  
Monterey, California 93940-2481**

Encl. (1)

PERS-TR-87-006

September 1987

*DRAFT...Do Not Quote or Cite*

**THE SUITABILITY OF HOMOSEXUALS FOR POSITIONS OF TRUST**

Prepared by  
Michael A. McDaniel

Released by  
Carson Eoyang  
Director

Personnel Security Research and Education Center  
Monterey, California 93940-2481

**SUMMARY**

This report summarizes data analyses comparing homosexual and heterosexual military accessions relative to their preservice background. The background areas covered are those frequently addressed in background investigations initiated as part of security clearance applications. Policy concerns of the Department of Defense require this report be prepared quickly. The report is marked "draft" because it is believed that the clarity of the report and its usefulness for decision makers could be enhanced by utilizing feedback from DoD policy makers. While the report should be considered "draft", it is not anticipated that either the analyses or the conclusions will be significantly different in any future revision.

The data indicate that the suitability of homosexuals relative to heterosexuals depends upon the background area examined and the sex of the comparison group:

- In general, homosexuals showed better preservice adjustment than heterosexuals in areas relating to school behavior.
- Homosexuals also displayed greater levels of cognitive ability than heterosexuals.
- Homosexuals, however, showed less preservice adjustment than heterosexuals in the area of drug and alcohol use.
- With the exception of drug and alcohol use, homosexuals more closely resemble those who successfully adjust to military life than those who are discharged for unsuitability.
- While male homosexuals tend to be better or equally adjusted than male heterosexuals with respect to the indices examined, female homosexuals tend to score lower on preservice adjustment indices than female heterosexuals. However, females as a whole tended to show better preservice adjustment than males, and female homosexuals tended to have better preservice adjustment than most heterosexual male accessions.
- For several reasons, conclusions from the data are best viewed as tentative. First, the sample of homosexuals is small which limits confidence in the results. Second, the definitions of homosexual and heterosexual samples are subject to error. Third, the homosexuals in this analysis may differ in important ways from the population of homosexuals who join the military. Finally, the homosexuals who choose to join the military may be very different from the population of young adult homosexuals who are potential military accessions.

**TABLE OF CONTENTS**

SUMMARY . . . . . i

LIST OF TABLES . . . . . iii

INTRODUCTION . . . . . 1

APPROACH . . . . . 2

RESULTS . . . . . 5

    Results for the Major School Problems Scale . . . . . 6

    Results for the Drug and Alcohol Scale . . . . . 8

    Results for the Employment Experience Scale . . . . . 10

    Results for the Felonies Scale . . . . . 10

    Results for the Minor School Problems Scale . . . . . 13

    Results for the Drunk and Disorderly Scale . . . . . 13

    Results for the Grade and SES Scale . . . . . 16

    Results for the AFQT Percentile . . . . . 16

DISCUSSION . . . . . 19

REFERENCES . . . . . 22

LIST OF TABLES

1)	Comparison of Homosexuals With Other Groups on the Major School Problems Background Scale . . . . .	7
2)	Comparison of Homosexuals With Other Groups on the Drugs and Alcohol Background Scale . . . . .	9
3)	Comparison of Homosexuals With Other Groups on the Employment Experience Background Scale . . . . .	11
4)	Comparison of Homosexuals With Other Groups on the Felonies Background Scale . . . . .	12
5)	Comparison of Homosexuals With Other Groups on the Minor School Problems Background Scale . . . . .	14
6)	Comparison of Homosexuals With Other Groups on the Drunk and Disorderly Background Scale . . . . .	15
7)	Comparison of Homosexuals With Other Groups on the Grade and SES Background Scale . . . . .	17
8)	Comparison of Homosexuals With Other Groups on AFQT Percentile . . . . .	18

## INTRODUCTION

The suitability of homosexuals for military service and for military and civilian positions requiring government-issued security clearances is a topic of continuing debate. In 1984, a suit was filed on behalf of High Tech Gays against the Department of Defense (DoD). High Tech Gays is a 700 member organization located in the Silicon Valley area south of San Francisco. Three homosexual plaintiffs brought the suit after they lost work because of DoD policy. That policy called for an expanded security background investigation of individuals who are known to have had homosexual activity within 15 years of their application for a security clearance. Although the clearance applications were not always denied, the lengthy investigation process often led to the loss of job or reassignment by an employer, usually to a lesser job (National Security Institute, 1987).

On August 21, 1987, Federal District Court Judge Thelton E. Henderson said that DoD's policy toward security clearances for homosexuals was founded on prejudice. Judge Henderson argued that the DoD policy was based on an "archaic stereotype" that homosexuals were unstable and susceptible to blackmail. The judge ruled that the constitutional guarantee of equal protection under the law be extended to all applicants for security clearances in private industry (National Security Institute, 1987).

A major problem in resolving the issue of homosexual suitability for positions of trust is the paucity of research available on this topic. Recently, Ellis and Ames (1987) reviewed the literature on the origins of sexual orientation. After reviewing the literature on experiential, social-environmental, genetic, and physiological explanations of the causal determinants of sexual orientation, they concluded that evidence best supports the position that sexual orientation is largely determined by genetic, neurological, hormonal, and environmental factors prior to birth (i.e., prenatal). However, regardless of the origin of sexual orientation, there is little research addressing the suitability of homosexuals for positions of trust. The present report is an attempt to address this research gap.

## APPROACH

This study focuses on the question, "With reference to the types of background data normally collected in security-related background investigations, how do homosexuals and heterosexuals differ?" To answer this question, background data were drawn from the military's Educational and Biographical Information Survey (EBIS) (Means & Perelman, 1984). This self-report inventory contains questions regarding educational experiences, drug and alcohol use, criminal activities, and driving record. The EBIS data differ from most background investigation data in that the information was collected in a structured format (i.e., multiple choice questions), does not contain interview data or data from official sources such as police departments or credit agencies (i.e., all information was self reported), and contains more school adjustment questions than is obtained in most background investigations. However, the data set does tap the most common data domains in background investigations, and thus appears well suited for the present investigation.

EBIS data were available for 48,468 military personnel and for 16,357 military applicants who did not enter military service. The applicants who did not enter the military were categorized by gender. The military personnel were classified by gender, education, military career changes, and level of security clearance. For this analysis, all military personnel who were discharged for homosexuality were separated from all other military accessions. The definition for all analysis groups in this study are:

### Homosexuals :

Military personnel who were discharged for homosexuality. This group was further divided by gender.

### Applicants Not Entering Service:

Military applicants who did not enter the military service. This group was divided by gender.

### All Accessions:

All military accessions, except those discharged as homosexuals. Separate analyses were conducted by gender, education (high school diploma or not), military career changes, and level of security clearance. The categories of military career change were 1) those discharged for unsuitability for reasons other than homosexuality, 2) released from service, 3) those who sought immediate

reenlistment in the military service, 4) those who entered officer training programs, 5) those who received medical discharges, and 6) those who were still in the military, but who did not fit any of the above categories (these were labelled "not separated"). For the clearance level categorization, the military personnel were divided into those without a secret or higher clearance (these were labelled "no clearance"), those with a secret clearance, those with a top secret clearance but no SCI access, and those with a top secret clearance with SCI access or eligibility for SCI access.

For this analysis all persons discharged for homosexuality were assumed to be homosexuals and the remainder of sample members were assumed to be heterosexuals. The degree of misclassification is unknown.

Statistical methods were used to cluster the EBIS background data into meaningful clusters. The details of the clustering analysis and the relationship between the cluster data and unsuitability is presented elsewhere (McDaniel, 1987). The EBIS data formed seven clusters of background data that provided a useful summary of the recruits' preservice behavior. The clusters are defined by the following content 1) Major School Problems 2) Drug and Alcohol Use, 3) Job Experience, 4) Felonies, 5) Minor School Problems, 6) Drunk and Disorderly, and 7) Grades and Socio-Economic Status. The items in each cluster were summed to yield seven scale scores.

The scale contents were:

1. Major School Problems:

Suspension from school, fighting in school, trouble in schools for being disorderly, using bad language, and smoking.

2. Drugs and Alcohol:

Use of marijuana, stimulants, depressants, cocaine, heroin, other narcotics, other drugs, alcohol, cigarettes.

3. Job Experience:

Reasons for leaving past jobs. Length of past full-time and part-time work.

4. Criminal Felonies:

Adult and juvenile arrests and convictions.

5. Minor School Problems:

Missing school, missing class, thoughts about quitting school.

6. Drunk & Disorderly:

Problems with alcohol, disorderly conduct, drunk driving, drug-related arrest, assault, misdemeanors.

7. Grades & SES:

High school grades, school clubs, socio-economic variables.

## RESULTS

The seven background scales appear to be relatively independent. The Major and Minor School Problems scales are the most similar item clusters. The Major School Problems scale appears to tap more serious problems in school, while the Minor School Problems scale is composed of less serious indicators of school adjustment. A third school variable (Grades and SES) showed a low correlation with Major School Problems and a moderate correlation with Minor School Problems. The socio-economic variables of parents' education and income clustered with the high school grade variables.

The Drugs and Alcohol scale is distinguished from the Drunk and Disorderly scale in that the Drugs and Alcohol scale measures frequency of drug use, while the Drunk and Disorderly scale taps the amount of trouble one gets into as a result of drug and alcohol use. Both the Drunk and Disorderly scale and the Drugs and Alcohol scale have moderate correlations with all other scales with the exception of Grades and SES. Since the seven background scales were relatively distinct, it is most meaningful to compare the homosexuals and other groups on each of the seven scales.

The seven background scales were standardized and expressed as percentiles. The higher the percentile for a group of persons the more favorable is the group's past life experience. The scales were standardized so that the average male military accessions are at the 50th percentile. Those groups with a percentile of greater than 50 had fewer preservice difficulties than the average male military accession. Those groups with a percentile of less than 50, on the average, had more preservice adjustment problems than the average male military accession. In each military group examined, there is considerable variability around each group's mean percentile. Thus, for example, if homosexuals are at the 45th percentile in a background domain, it means that on the average the homosexuals had greater levels of preservice adjustment problems than the male accessions. However, there will be substantial overlap in the distribution of the two groups such that some homosexuals will be more suitable than most of the male recruits.

In addition to the seven background scales, the analysis groups were compared on Armed Forces Qualification Test (AFQT) percentiles. The AFQT percentile reflects the scaling of the AFQT determined by DoD and was not normed so that all male accessions were at the 50th percentile.

Relative to all other comparison groups in this analysis (viz., 42,095 male military accessions), the number of homosexuals was small (113 males and 53 females). One should place less confidence in conclusions drawn from smaller samples. Thus, while this study presents data on the suitability of homosexuals for employment, one should not assume that the results are definitive. Data collected on another group of homosexuals and heterosexuals will likely be somewhat different from the results in this study. Consequently, conclusions drawn from these data should be viewed as tentative "best guesses" about the true relationship between sexual preference and employment suitability. Additional caveats regarding this study are presented in the discussion.

For the purpose of analysis, a difference of five percentile points was considered a meaningful difference. While this is a somewhat arbitrary decision rule, it appears to be a reasonable one. Those who wish to adopt a different decision rule may easily do so by examining the percentiles presented in the tables.

#### Results for the Major School Problems Scale

Table 1 displays the results for the background scale "Major School Problems." This scale reflects serious school problems including suspension from school, fighting in school, trouble in school for being disorderly, using bad language, and smoking. In accordance with the 5-percentile difference definition of a meaningful difference, only differences of that magnitude or larger are noted. Given that male and female homosexuals showed meaningfully different levels of preservice adjustment in this area, they are discussed separately.

On the whole, the homosexuals showed better preservice adjustment on the Major School Problems scale than most other comparison groups. On the average, male homosexuals showed better preservice adjustment (59th percentile) on the Major School Problems scale than did the group of male military accessions (50th percentile). Male homosexuals on the average displayed substantially greater preservice adjustment on this dimension than the average heterosexual person discharged for unsuitability (40th percentile), and those without high school diplomas (32nd percentile). The male homosexuals had fewer major school problems than heterosexuals who were discharged for unsuitability, those who were released from service, and those who received medical discharges. Male homosexuals (59th percentile) also had better levels of preservice adjustment than those without clearances (50th percentile), and showed no meaningful difference in preservice adjustment from those holding secret clearances. Male homosexuals, however, showed

TABLE 1

Comparison of Homosexuals With Other Groups on the Major School  
Problems Background Scale  
Higher Scores Indicate Better Adjustment

<u>Comparison Groups<sup>1</sup></u>	<u>N</u>	<u>Percentile</u>
Homosexuals	166	61
Males	113	59
Females	53	66
Applicants Not Entering Service <sup>2</sup>	16,357	56
Males	12,525	52
Females	3,720	71
All Accessions	48,302	53
Males	42,095	50
Females	6,207	73
High School Graduate	43,233	56
GED and Nongraduates	5,069	32
Military Career Changes <sup>3</sup>		
Unsuitability Discharges	8,468	40
Release From Service	6,855	53
Immediate Reenlistment	4,023	57
Officer	277	75
Medical	1,838	49
Not Separated	24,970	57
Clearance Category		
No Clearance	27,347	50
Secret	18,181	56
Top Secret (no SCI)	1,152	64
SCI	1,622	68

---

<sup>1</sup>Homosexuals were defined as those released from military service for homosexuality. Applicants not entering service were those military applicants who completed the EBIS but not did not join the service. All data presented under the category "All Recruits" exclude military personnel discharged for homosexuality.

<sup>2</sup>The gender of 112 military applicants who did not enter service is unknown.

<sup>3</sup>A total of 1,871 persons had military career changes which are not one of those in the table.

meaningfully less preservice adjustment on the Major School Problems dimension than officers, and top secret and SCI clearance holders.

Regardless of sexual orientation, females showed better levels of preservice adjustment on Major School Problems scale than males. Female accessions were at the 73rd percentile, while female applicants not entering the service were at the 71st percentile. However, in contrast to the male homosexuals who had fewer preservice adjustment problems in this area than the average male accession, female homosexuals had more preservice adjustment problems than the average female accession (66th percentile vs. 73rd percentile). Although female homosexuals showed poorer preservice adjustment on the Major School Problems scale than heterosexual females, the homosexual females showed better adjustment than most other comparison groups including those with top secret and SCI clearances.

#### Results for the Drug and Alcohol Scale

Table 2 displays the results for the background scale "Drugs and Alcohol." This scale primarily measures admissions concerning the quantity of drugs and alcohol consumed by the respondent. An item on cigarette use is also included in this scale. In contrast to the Major School Problems scale, homosexuals showed worse preservice adjustment on the Drugs and Alcohol scale than most other comparison groups. The difference between males and female homosexuals on the Drugs and Alcohol scale was small (43rd vs. 45th percentile). The homosexuals appear to use about as much drugs and alcohol as the non-high school graduates (41st percentile) and the unsuitability discharges (43rd percentile).

Homosexuals showed meaningfully less preservice adjustment on the Drugs and Alcohol dimension than all male accessions, all female accessions, high school graduates, those released from the service, those who sought immediate reenlistment, officers, medical discharges, and those who did not separate. All levels of clearance holders showed better levels of preservice adjustment on the Drugs and Alcohol scale than did the homosexuals.

TABLE 2

Comparison of Homosexuals With Other Groups on the  
Drugs and Alcohol Background Scale  
Higher Scores Indicate Better Adjustment

<u>Comparison Groups</u> <sup>1</sup>	<u>N</u>	<u>Percentile</u>
Homosexuals	166	44
Males	113	43
Females	53	45
Applicants Not Entering Service <sup>2</sup>	16,357	58
Males	12,525	55
Females	3,720	64
All Accessions	48,302	51
Males	42,095	50
Females	6,207	58
High School Graduate	43,233	52
GED and Nongraduates	5,069	41
Military Career Changes <sup>3</sup>		
Unsuitability Discharges	8,468	43
Release From Service	6,855	51
Immediate Reenlistment	4,023	57
Officer	277	58
Medical	1,838	51
Not Separated	24,970	53
Clearance Category		
No Clearance	27,347	50
Secret	18,181	52
Top Secret (no SCI)	1,152	53
SCI	1,622	57

---

<sup>1</sup> Homosexuals were defined as those released from military service for homosexuality. Applicants not entering service were those military applicants who completed the EBIS but not did not join the service. All data presented under the category "All Recruits" exclude military personnel discharged for homosexuality.

<sup>2</sup> The gender of 112 military applicants who did not enter service is unknown.

<sup>3</sup> A total of 1,871 persons had military career changes which are not one of those in the table.

### Results for the Employment Experience Scale

Table 3 displays the results for the background scale "Employment Experience." This scale primarily measures the amount of a person's job experience and the conditions under which one terminated employment. Whereas male homosexuals showed a meaningfully lower level of preservice adjustment on the Employment Experience scale than female homosexuals, the two homosexuals groups are discussed separately.

The male homosexuals showed less preservice adjustment on this scale (48th percentile) than those who sought immediate reenlistment and those who did not separate. Male homosexuals were not, however, meaningfully different from any of the groups holding security clearances. In general, there was little differentiation in employment experience adjustment among any of the comparison groups. This was probably due to the limited amount of job experience for those who enter the military.

Female homosexuals (58th percentile) showed the same level of preservice adjustment on the employment experience scale as heterosexual females. Females, regardless of their sexual orientation, showed better levels of preservice adjustment on this scale than most other comparison groups, including those with secret clearance, top secret clearances and those with SCI access.

### Results for the Felonies Scale

Table 4 displays the results for the background scale "Felonies." This scale measures the number of felony arrests and convictions. Since male homosexuals showed meaningfully lower levels of preservice adjustment than female homosexuals on the Felonies scale, the comparison will be discussed separately.

Male homosexuals (47th percentile) showed worse preservice adjustment than high school graduates, those who obtained immediate reenlistment, officers, and those who did not separate. Male homosexuals also showed lower levels of preservice adjustment than those who held clearances.

In contrast to the male homosexuals, female homosexuals had better levels of adjustment on the Felonies dimension than most comparison groups. Female homosexuals showed better adjustment on the Felonies scale than high school graduates, non-high school graduates, unsuitability discharges, those released from service, those who received immediate reenlistment, medical discharges, those not separated, and those with secret clearances. There was no meaningful difference in preservice adjustment on the Felonies dimension between female homosexuals and top secret and SCI clearance holders.

TABLE 3

Comparison of Homosexuals With Other Groups on the  
Employment Experience Background Scale  
Higher Scores Indicate Better Adjustment

<u>Comparison Groups</u> <sup>1</sup>	<u>N</u>	<u>Percentile</u>
Homosexuals	166	51
Males	113	48
Females	53	58
Applicants Not Entering Service <sup>2</sup>	16,357	59
Males	12,525	56
Females	3,720	66
All Accessions	48,302	51
Males	42,095	50
Females	6,207	58
High School Graduate	43,233	52
GED and Nongraduates	5,069	46
Military Career Changes <sup>3</sup>		
Unsuitability Discharges	8,468	46
Release From Service	6,855	52
Immediate Reenlistment	4,023	53
Officer	277	50
Medical	1,838	44
Not Separated	24,970	53
Clearance Category		
No Clearance	27,347	51
Secret	18,181	51
Top Secret (no SCI)	1,152	49
SCI	1,622	52

---

<sup>1</sup> Homosexuals were defined as those released from military service for homosexuality. Applicants not entering service were those military applicants who completed the EBIS but did not join the service. All data presented under the category "All Recruits" exclude military personnel discharged for homosexuality.

<sup>2</sup> The gender of 112 military applicants who did not enter service is unknown.

<sup>3</sup> A total of 1,871 persons had military career changes which are not one of those in the table.

TABLE 4

Comparison of Homosexuals With Other Groups on the  
Felonies Background Scale  
Higher Scores Indicate Better Adjustment

<u>Comparison Groups<sup>1</sup></u>	<u>N</u>	<u>Percentile</u>
Homosexuals	166	51
Males	113	47
Females	53	59
Applicants Not Entering Service <sup>2</sup>	16,357	48
Males	12,525	46
Females	3,720	58
All Accessions	48,302	51
Males	42,095	50
Females	6,207	59
High School Graduate	43,233	52
GED and Nongraduates	5,069	44
Military Career Changes <sup>3</sup>		
Unsuitability Discharges	8,468	46
Release From Service	6,855	51
Immediate Reenlistment	4,023	52
Officer	277	56
Medical	1,838	50
Not Separated	24,970	52
Clearance Category		
No Clearance	27,347	49
Secret	18,181	53
Top Secret (no SCI)	1,152	57
SCI	1,622	58

---

<sup>1</sup> Homosexuals were defined as those released from military service for homosexuality. Applicants not entering service were those military applicants who completed the EBIS but did not join the service. All data presented under the category "All Recruits" exclude military personnel discharged for homosexuality.

<sup>2</sup> The gender of 112 military applicants who did not enter service is unknown.

<sup>3</sup> A total of 1,871 persons had military career changes which are not one of those in the table.

### Results for the Minor School Problems Scale

Table 5 displays the results for the Minor School Problems background scale. This scale measures minor school problems such as missing class and thoughts about quitting school. Whereas male homosexuals showed lower preservice adjustment on this dimension than female homosexuals, the comparisons are discussed separately.

Male homosexuals (52nd percentile) showed little difference from most comparison groups including those with secret clearances. Homosexuals had lower levels of preservice adjustment than high school graduates, officers, and top secret (nonSCI) and SCI clearance holders. Male homosexuals had higher levels of preservice adjustment on the Minor School Problems dimension than non-high school graduates, heterosexual unsuitability discharges, and medical discharges.

Females, regardless of sexual orientation, showed higher levels of preservice adjustment on the Minor School Problems scale than most other comparison groups, with female homosexuals (58th percentile) showing less preservice adjustment than female accessions (63rd percentile). Female homosexuals had fewer preservice adjustment problems in this area than non-high school graduates, unsuitability discharges, those released from service, medical discharges, and those without clearances.

### Results for the Drunk and Disorderly Scale

Table 6 displays the results for the Drunk and Disorderly scale. This scale includes items regarding drunk driving arrests, drug-related arrests, and misdemeanors. Male and female homosexuals showed approximately equal levels of preservice adjustment on this scale. When homosexuals showed meaningful differences with other comparison groups, the differences typically indicated that the homosexuals had higher levels of preservice adjustment.

TABLE 5

Comparison of Homosexuals With Other Groups on the  
Minor School Problems Background Scale  
Higher Scores Indicate Better Adjustment

<u>Comparison Groups<sup>1</sup></u>	<u>N</u>	<u>Percentile</u>
Homosexuals	166	54
Males	113	52
Females	53	58
Applicants Not Entering Service <sup>2</sup>	16,357	50
Males	12,525	47
Females	3,720	61
All Accessions	48,302	52
Males	42,095	50
Females	6,207	63
High School Graduate	43,233	59
GED and Nongraduates	5,069	9
Military Career Changes <sup>3</sup>		
Unsuitability Discharges	8,468	37
Release From Service	6,855	51
Immediate Reenlistment	4,023	55
Officer	277	89
Medical	1,838	47
Not Separated	24,970	56
Clearance Category		
No Clearance	27,347	48
Secret	18,181	55
Top Secret (no SCI)	1,152	64
SCI	1,622	68

---

<sup>1</sup>Homosexuals were defined as those released from military service for homosexuality. Applicants not entering service were those military applicants who completed the EBIS but not did not join the service. All data presented under the category "All Recruits" exclude military personnel discharged for homosexuality.

<sup>2</sup>The gender of 112 military applicants who did not enter service is unknown.

<sup>3</sup>A total of 1,871 persons had military career changes which are not one of those in the table.

TABLE 6

Comparison of Homosexuals With Other Groups on the  
Drunk and Disorderly Background Scale  
Higher Scores Indicate Better Adjustment

<u>Comparison Groups<sup>1</sup></u>	<u>N</u>	<u>Percentile</u>
Homosexuals	166	56
Males	113	56
Females	53	55
Applicants Not Entering Service <sup>2</sup>	16,357	51
Males	12,525	48
Females	3,720	63
All Accessions	48,302	52
Males	42,095	50
Females	6,207	62
High School Graduate	43,233	53
GED and Nongraduates	5,069	45
Military Career Changes <sup>3</sup>		
Unsuitability Discharges	8,468	46
Release From Service	6,855	50
Immediate Reenlistment	4,023	55
Officer	277	59
Medical	1,838	52
Not Separated	24,970	53
Clearance Category		
No Clearance	27,347	49
Secret	18,181	55
Top Secret (no SCI)	1,152	58
SCI	1,622	61

---

<sup>1</sup>Homosexuals were defined as those released from military service for homosexuality. Applicants not entering service were those military applicants who completed the EBIS but did not join the service. All data presented under the category "All Recruits" exclude military personnel discharged for homosexuality.

<sup>2</sup>The gender of 112 military applicants who did not enter service is unknown.

<sup>3</sup>A total of 1,871 persons had military career changes which are not one of those in the table.

### Results for the Grade and SES Scale

Table 7 displays the results for the Grades and SES (socioeconomic status) scale. This scale contains items on high school grades and parents' income and education. Male and female homosexuals had approximately the same level of preservice adjustment (62nd and 63rd percentile). Homosexuals showed better preservice adjustment than most other comparison groups. Homosexuals had higher levels of preservice adjustment on this dimension than accessions regardless of high school graduation status, unsuitability discharges, those released from service, those who received immediate reenlistment, medical discharges, those who are not separated, and secret clearance holders. Officers, however, showed higher levels of preservice adjustment than homosexuals, while there was no difference in preservice adjustment levels between homosexuals and top secret and SCI clearance holders.

### Results for the AFQT Percentile

Table 8 presents the results for the AFQT analyses. The AFQT can be viewed as a measure of general cognitive ability. The AFQT has a DoD-dictated norming standard which was used in this analysis. Consequently, the male accession percentile is not 50. Male and female homosexuals showed similar levels of AFQT scores which tend to be higher than those for other comparison groups. Female homosexuals showed greater cognitive ability than unsuitability discharges, those released from service, those who received immediate reenlistment, and medical discharges. Male homosexuals showed greater cognitive ability than all these groups and also showed greater cognitive ability than male and female accessions, accessions regardless of educational status, and secret clearance holders. Officers and SCI clearance holders, however, showed greater levels of cognitive ability than homosexuals.

TABLE 7

Comparison of Homosexuals With Other Groups on the  
Grade and SES Background Scale  
Higher Scores Indicate Better Adjustment

<u>Comparison Groups<sup>1</sup></u>	<u>N</u>	<u>Percentile</u>
Homosexuals	166	62
Males	113	62
Females	53	63
Applicants Not Entering Service <sup>2</sup>	16,357	43
Males	12,525	41
Females	3,720	50
All Accessions	48,302	51
Males	42,095	50
Females	6,207	57
High School Graduate	43,233	52
GED and Nongraduates	5,069	37
Military Career Changes <sup>3</sup>		
Unsuitability Discharges	8,468	46
Release From Service	6,855	49
Immediate Reenlistment	4,023	47
Officer	277	88
Medical	1,838	50
Not Separated	24,970	53
Clearance Category		
No Clearance	27,347	48
Secret	18,181	53
Top Secret (no SCI)	1,152	62
SCI	1,622	68

---

<sup>1</sup> Homosexuals were defined as those released from military service for homosexuality. Applicants not entering service were those military applicants who completed the EBIS but did not join the service. All data presented under the category "All Recruits" exclude military personnel discharged for homosexuality.

<sup>2</sup> The gender of 112 military applicants who did not enter service is unknown.

<sup>3</sup> A total of 1,871 persons had military career changes which are not one of those in the table.

TABLE 8

Comparison of Homosexuals With Other Groups on the  
AFQT Percentile  
Higher Scores Indicate Higher Ability

<u>Comparison Groups</u> <sup>1</sup>	<u>N</u>	<u>Percentile</u>
Homosexuals	164	63
Males	111	64
Females	53	62
Applicants Not Entering Service <sup>2</sup>	---	---
Males	---	---
Females	---	---
All Accessions	48,055	58
Males	41,863	58
Females	6,192	60
High School Graduate	43,028	58
GED and Nongraduates	5,027	58
Military Career Changes <sup>3</sup>		
Unsuitability Discharges	8,441	55
Release From Service	6,708	53
Immediate Reenlistment	4,022	54
Officer	273	85
Medical	1,833	56
Not Separated	24,917	61
Clearance Category		
No Clearance	27,173	56
Secret	18,122	59
Top Secret (no SCI)	1,144	66
SCI	1,616	72

---

<sup>1</sup> Homosexuals were defined as those released from military service for homosexuality.

<sup>2</sup> AFQT data for applicants not entering service were not available. All data presented under the category "All Recruits" exclude military personnel discharged for homosexuality.

<sup>3</sup> A total of 1,861 persons had military career changes which are not one of those in the table.

## DISCUSSION

This study indicates that the suitability of homosexuals relative to heterosexuals depends upon the preservice background area examined and the sex of the comparison group. In general, homosexuals showed better preservice adjustment than heterosexuals in areas relating to school behavior. Homosexuals also showed greater levels of cognitive ability than heterosexuals. Homosexuals, however, showed less adjustment than heterosexuals in the area of drug and alcohol use. Male homosexuals also showed less adjustment than several comparison groups on the Felonies scale. Except for preservice drug and alcohol use (and for homosexual males adjustment on the Felonies scale), homosexuals more closely resemble those who successfully adjust to military life than those who are discharged for unsuitability. While male homosexuals appeared to have better or equal preservice adjustment patterns than male heterosexuals, female homosexuals tended to have somewhat poorer preservice adjustment patterns than female heterosexuals. However, females as a whole tend to show higher levels of preservice adjustment than males, and female homosexuals tended to have higher levels of preservice adjustment than most heterosexual male accessions.

While this report makes a significant contribution to understanding homosexual suitability for positions of trust, several caveats are in order. First, the definitions of homosexual and heterosexual are not perfect. Some of those who received discharges for homosexuality may be heterosexuals who falsely professed to homosexuality to gain a prompt release from military service. Likewise, it is very unlikely that all the persons in the heterosexual comparison groups are heterosexuals. Second, the homosexuals in this analysis may differ in important ways from the population of homosexuals who join the military. Furthermore, the homosexuals who choose to join the military may be very different from the population of young adult homosexuals who are potential military accessions.

One may also question the appropriateness of the background scales used in this analysis. It could be argued that one or more of these background areas are irrelevant to suitability for positions of trust. For example, the Defense Investigative Service no longer devotes investigative resources to collecting school-related background information. Two lines of evidence, however, support the relevance of these background areas for employment suitability. First, with the possible exception of the school adjustment clusters, the background areas have similar content to those used by DoD

background investigators. Second, the results for these background scales showed a meaningful pattern of relationships across comparison groups. Officers had higher levels of preservice adjustment than successful accessions who, in turn, had higher levels of preservice adjustment than heterosexuals discharged for unsuitability. Except for the Employment Experience scale, those with SCI access had higher levels of preservice adjustment than those with non-SCI top secret clearances, who had fewer preservice adjustment problems than secret clearance holders, who had higher levels of preservice adjustment than those who did not have a secret or higher clearance.

This report is also limited in that it examines only preservice suitability areas. There may be important performance differences between homosexual and heterosexual military recruits. This report also does not consider the effect on group morale and military performance that may eventuate from mixing homosexuals and heterosexuals in the same work group. It is argued, however, that these concerns should be examined empirically. As suggested in the present data, unsuitable behaviors attributed to homosexuals may not be based on fact.

In passing, it should also be noted that this analysis has applicability to other questions of interest for accession and security policy. While largely ignored due to the focus of this report, the tables provide information that addresses multiple questions such as:

- 1) What characteristics distinguish non-high school graduates from those with diplomas?
- 2) What is the pattern of the preservice adjustment indices by gender?
- 3) What levels of preservice adjustment were attained by those who seek immediate reenlistment?
- 4) What background characteristics best differentiate among those with differing levels of security clearance?
- 5) What background characteristics should be examined to improve accession and security screening?
- 6) Are those characteristics that are associated with survival in the military also associated with issues assumed to reflect suitability for clearances?

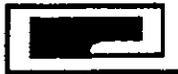
In summary, this report has provided limited but cogent evidence regarding the preservice suitability of homosexuals who may apply for positions of trust. Some of the results appear to be in sharp conflict with conceptions of homosexuals as unstable, maladjusted persons.

REFERENCES

- Ellis, L., & Ames, M. A. (1987). Neurohormonal functioning and sexual orientation: A theory of homosexuality-heterosexuality. Psychological Bulletin, 101, 233-258.
- Means, B., & Perelman, L. S. (1984). The Development of the Educational and Background Information Survey. FR-PRD-84-3. Alexandria, VA: Human Resources Research Organization.
- McDaniel, M. A. (1987). Biographical Constructs for Predicting Employee Suitability. Draft report. Defense Personnel security Research and Education Center. Monterey, CA: Author.
- National Security Institute (1987). Court Rules for Gays. NSI Advisory, 3, 4.

*What per.  
has the  
com -  
under*

**PERSEREC**



**HOMOSEXUALITY AND PERSONNEL  
SECURITY**

**Theodore R. Sarbin**

**September 1990**

**DRAFT**

**DEFENSE  
PERSONNEL SECURITY  
RESEARCH AND EDUCATION CENTER  
99 Pacific Street, Building 455-E  
Monterey, California 93940-2481**

REPORT DOCUMENTATION PAGE				Form Approved OMB No 0704-0188	
1a. REPORT SECURITY CLASSIFICATION <b>UNCLASSIFIED</b>		1b. RESTRICTIVE MARKINGS			
2a. SECURITY CLASSIFICATION AUTHORITY		3. DISTRIBUTION/AVAILABILITY OF REPORT			
2b. DECLASSIFICATION/DOWNGRADING SCHEDULE					
4. PERFORMING ORGANIZATION REPORT NUMBER(S) <b>PERS-TR-90-002</b>		5. MONITORING ORGANIZATION REPORT NUMBER(S)			
6a. NAME OF PERFORMING ORGANIZATION <b>PERSEREC (Personnel Security Research and Education Center)</b>		6b. OFFICE SYMBOL <i>(if applicable)</i>	7a. NAME OF MONITORING ORGANIZATION		
6c. ADDRESS (City, State, and ZIP Code) <b>99 Pacific Street, Suite 455-E Monterey, CA 93940</b>		7b. ADDRESS (City, State, and ZIP Code)			
8a. NAME OF FUNDING/SPONSORING ORGANIZATION		8b. OFFICE SYMBOL <i>(if applicable)</i>	9. PROCUREMENT INSTRUMENT IDENTIFICATION NUMBER		
8c. ADDRESS (City, State, and ZIP Code)		10. SOURCE OF FUNDING NUMBERS			
		PROGRAM ELEMENT NO	PROJECT NO	TASK NO	WORK UNIT ACCESSION NO
11. TITLE (Include Security Classification) <b>Homosexuality and Personnel Security</b>					
12. PERSONAL AUTHOR(S) <b>Theodore R. Sarbin, PhD</b>					
13a. TYPE OF REPORT <b>Technical Report</b>		13b. TIME COVERED FROM _____ TO _____	14. DATE OF REPORT (Year, Month, Day) <b>1990 September</b>		15. PAGE COUNT <b>50</b>
16. SUPPLEMENTARY NOTATION					
17. COSATI CODES			18. SUBJECT TERMS (Continue on reverse if necessary and identify by block number)		
FIELD	GROUP	SUB-GROUP			
19. ABSTRACT (Continue on reverse if necessary and identify by block number)  <p>This study examines the relationship between homosexuality and personnel security. It reviews legal, biological and social science literature on homosexuality. The study concludes that there are few data to support the premise that all homosexuals represent a security risk. It affirms the current guidelines that call for examination of individual security clearance decisions on a case-by-case basis. The author notes that homosexuals are often seen to constitute a morally suspect class and have been the target of discriminatory policies. The aim of the paper is to provide context for personnel security professionals as they weigh all appropriate variables in making security clearance determinations.</p>					
20. DISTRIBUTION/AVAILABILITY OF ABSTRACT <input checked="" type="checkbox"/> UNCLASSIFIED/UNLIMITED <input type="checkbox"/> SAME AS RPT <input type="checkbox"/> DTIC USERS			21. ABSTRACT SECURITY CLASSIFICATION <b>UNCLASSIFIED</b>		
22a. NAME OF RESPONSIBLE INDIVIDUAL <b>Roger P. Denk</b>		22b. TELEPHONE (Include Area Code) <b>(408) 646-2448</b>		22c. OFFICE SYMBOL	

## Preface

In 1987 the Office of the Secretary of Defense (Policy) invited PERSEREC to reevaluate the current adjudicative guidelines contained in DoD's *Personnel Security Program* (5200.2-R) concerning sexual behavior and personnel security. In particular, PERSEREC was given the task of examining the relationship between homosexuality and personnel security.

This report poses two major questions: (1) Are homosexuals security risks by virtue of membership in the class *homosexual*? and (2) Are homosexuals vulnerable to blackmail if their homosexuality is kept a secret? The author, after an examination of various social constructions of homosexuality, a brief exploration of the scientific status of homosexuality, and a discussion of the concept of personal secrets, concludes that homosexuals, provided that their homosexuality can be safely disclosed, are no more security risks than heterosexuals. He suggests that security personnel continue to use the case-by-case approach in deciding whether to grant clearances, but that they be given special training to help eliminate any possible bias against homosexuals.

This report is intended for security professionals and all those interested in personnel security matters. We hope it will be a vehicle for stimulating discussion which will eventually lead to the ultimate goal of improving personnel security.

Roger P. Denk  
Director

## Homosexuality and Personnel Security

Theodore R. Sarbin, Ph.D.

### Summary

#### Background and Issue

Legal challenges and changing folkways have been instrumental in the formation of public policy in regard to the granting of security clearances to homosexual men and women. In this report, we examine data from many sources to illuminate the problems associated with establishing a nexus between sexual orientation and personnel security.

#### Objectives

The research objective was to prepare a review of (1) changing folkways and court decisions, (2) the current scientific status of sexual orientation, including biological, psychological, and sociological studies, (3) the changing social constructions of homosexuality, and (4) the problems associated with applying current case-by-case policies when adjudicators and/or policy makers are not privy to the findings of contemporary science. The review provides the background for a reexamination of current personnel security practices.

#### Approach

From recent scientific publications, legal studies and other relevant literature, we summarized findings that were pertinent to answering two questions: (1) Are homosexual men and women inherently untrustworthy and therefore not eligible for security clearance? (2) Are such persons more likely to be targets of blackmail by agents of a foreign power?

## Results

Few data have been put forward to support the belief that being homosexual predisposes a person to unreliability, disloyalty, or untrustworthiness. Scores of studies have made clear that large individual differences in moral beliefs are to be found among heterosexuals and homosexuals. It is invalid to generalize from sexual orientation to trustworthiness. Life styles of homosexuals are as varied as the life styles of heterosexuals.

## Conclusions/Recommendations

Homosexuals have been targets of discriminatory policies. The residues of earlier constructions of homosexuality (sin, crime, or illness) may influence personnel security specialists to treat homosexuals as a morally suspect class. Given that homosexuals (like heterosexuals) are a diverse group, fairness and personnel efficiency require a case-by-case policy.

The current case-by-case policy is appropriate to the task of determining eligibility for security clearance. However, the implementation of the policy needs to be examined in light of the fact that investigators, adjudicators and other personnel security specialists are drawn from the general population and large segments of the population continue to view homosexuality as sin, crime, or illness, constructions that might bias eligibility decisions. The work of investigators and adjudicators should be monitored to ensure that practice follows policy.

## Table of Contents

Preface .....	i
Summary .....	ii
Introduction .....	1
The Construction of Suspect Classes .....	2
Cognitive Processes in Premise Formation .....	9
Induction .....	10
Construction .....	10
Social Construction of Homosexuality .....	13
The Morality Construction--Good and Evil as Fundamental Categories .....	13
The Legal Construction--Sexual Deviance as Criminal Behavior .....	15
The Sickness Construction--The Medicalization of Deviance .....	16
The Minority Group Construction--Homosexuals as a Non-Ethnic Minority Group .....	18
Scientific Status of the Homosexuality Concept .....	21
Biological Studies .....	22
Psychological Studies .....	24
Sociological Studies .....	25
Implications .....	27
Personal Secrets .....	30
Concluding Remarks .....	33
References .....	35
List of Appendixes .....	39

## Introduction

Who can be entrusted with the nation's secrets? This overarching question guides the activities of governmental agencies charged with selecting trustworthy personnel. The primary operating assumption in efforts to answer this question is that not all persons are equally trustworthy: some are more likely to breach a trust than others.

The objective of this study is to explore whether homosexual men and women are at greater risk for engaging in espionage or other security violations than persons not so identified. The problem is complex. We must consider not only the character of persons who might engage in treasonous acts but also the contexts which influence such acts. Does the potential spy respond to inducements offered by foreign intelligence agents? What is the evidence that supports the claim that homosexuals are likely targets for blackmail by foreign agents? Are recruitment efforts of foreign intelligence agents directed specifically toward homosexual men and women? Are homosexual men and women more likely than heterosexuals to volunteer their services as spies? What are the facts that would support the hypothesis that being homosexual implies emotional instability and, therefore, unreliability and high risk for betrayal?

In the absence of systematically gathered data to answer these and related questions, it has been the practice to generalize from anecdotes. In the scientific arena, anecdotes play an important part: they provide the raw material for constructing hypotheses. Like anecdotes, hypotheses have no truth value until subjected to empirical test. In situations where anecdotes and untested hypotheses are employed as the basis for action, there is ordinarily a tacit recognition of the limited utility of anecdotes as sources of generalizations. Additional anecdotes may alter generalizations coined on the basis of earlier anecdotes.

In an effort to throw some light on these matters, I have organized the inquiry by attempting to answer two separate but related questions:

- 1) Is a person a security risk by virtue of membership in the class *homosexual*?\*

---

\*I am using the term *homosexual* in the conventional way as if persons could be sorted into two non-overlapping classes *heterosexual* and *homosexual*. In a later section of this essay, I point to the observations of scientists that *heterosexual* and *homosexual* are not exclusive categories and that gradations or dimensions of sexuality are more valid descriptors. A more complete historical and sociological account would consider the multiple referents for the word *homosexual*--does the word refer to gender orientation, to sexual practice, to identity, to role, to atypical social categories, etc?

In a purely sociological analysis, I would discuss male and female homosexuality separately. Public attitudes toward gay men are not the same as public attitudes toward lesbians. In this personnel security analysis, separate discussions of male and female homosexuals are unnecessary.

- 2) Is a person with same-gender orientation a security risk because he or she is vulnerable to coercion and blackmail?

To address the first question, I employ as a general framework the construction of judgmental or suspect classes. To address the second question, I locate the answer in the general context of personal secrets and attendant risks associated with disclosure or discovery.

I shall first examine the basis for the hypothesis that membership in certain socially defined classes renders a person more likely to engage in trust-violating conduct. Examples of such socially defined classes are the following: persons with unsatisfactory credit histories; persons with psychiatric histories; and persons with alcohol or drug abuse problems. The justifications for constructing such categories come from many sources: among them, generalizations about irresponsibility based upon unsatisfactory or problematic performances in nonsecurity-related settings. Membership in the class *homosexual* has also been employed with various justifications as a criterion for unsuitability in employment and ineligibility in security screening.

To develop our study, it is necessary first to describe the nature of the socially defined class. Subsequently, we can ask if membership in the class *homosexual* is predispositional to untrustworthiness.

### The Construction of Suspect Classes

Trust and trustworthiness are complex features of human life. Even a casual consideration of what constitutes trustworthiness reveals its complexity. Immediately, we think of family, occupational, or other social conflict situations where the actors must choose between betraying and honoring a trust, and the risk of potential negative consequences for choosing one rather than another line of action. The fact that trust is central to some social interactions and peripheral to others adds to the complexity.

Although traditional psychometric theory would direct us to seek a character trait, a disposition, or a personality element located within the brain or the psyche, efforts to measure trustworthiness and related characteristics have yielded very little. Tests have been constructed to assess a related characteristic *honesty*, but they are of little value. In most cases, they fail to meet acceptable standards of validity and reliability (Sackett, Burris, & Callahan, 1988). Because of the ambiguity in defining trust and trustworthiness, as well as the contextual nature of acts that meet the requirements of trustworthiness, a useful psychological test is not likely to be devised. Without objective, quantitative procedures for sorting persons, we are forced to make use of qualitative methods.

Taxonomic sorting, i.e., sorting people into classes or taxonomies, is a universal human activity. We sort individuals into men and women, tall and short, fast and slow,

hostile and benign, good and bad, and so forth. Efficient functioning, if not survival, depends upon creating and using taxonomies that are useful. Without constructing and using classes, we would be adrift in a sea of unsorted, meaningless stimulus-events. Almost from the cradle, human beings acquire the skill to sort persons into classes based on gender, kinship, age, school grade, size, race, ethnicity, physique, and so forth. The criteria for such classes are public and communicable. In addition, human beings make use of a subset *morally suspect classes* that have as their defining attribute the presence of morally undesirable characteristics.

I am using the term *suspect class* as a *psychological* concept. It should not be confused with the technical meaning of the term as used in constitutional law. The juridical use of *suspect class* is that of a class of persons whose rights are at risk in virtue of membership in classes the criteria for which are race, alienage, national origin, gender, and illegitimacy. Governmental actions affecting such suspect classes are subject to heightened or strict scrutiny by the courts. Whether or not homosexuals make up a suspect or quasi-suspect class is currently a central issue in the courts. To repeat, in this inquiry I am using *suspect class* in a *psychological* sense. The meaning is quite different from the meaning of *suspect class* in legal briefs.

Assignment to a morally suspect class carries the attribution of negative traits such as dishonesty, unreliability, untrustworthiness, cowardice, etc. For example, persons who violate propriety norms regarding aggression against children are assigned to a legally defined class *child abusers*. Because of the severity of societal and moral rules about beating children, any person who publicly violates such rules is likely to be assigned not only to the class *child abusers* but to a wider class, not necessarily articulated, the defining characteristics of which reflect *generalized badness*. Thus, assignment to the class *child abusers* renders the person a member of a suspect class, i.e., he/she would be suspected of other moral deviations, among them, untrustworthiness. It is important to note that the criteria for suspect classes are not constant. At one time, being assigned to the class *left-handed* resulted in the concurrent assignment to the class *evil*. Residues of this folk belief remain in our language--*sinister* may serve as a reference for left-handedness or as a term to denote a moral judgment.

In the selection of men and women for certain tasks, efficiency is sought by assigning potential job-holders to occupational classes. Classes such as clerical workers, mechanics, computer-operators, administrators, and so on, are commonplace. The defining characteristics of such classes are skills and aptitudes. The selection process is governed by procedures designed to assess skills and aptitudes. When selecting personnel for jobs that involve access to government secrets, the selection process has an additional dimension. A different kind of class is created, the defining characteristics of which are not skills and aptitudes, but *moral* descriptors such as honesty, reliability, and trustworthiness. Selecting personnel who can be entrusted with the nation's secrets, then,

calls for taxonomic sorting on moral dimensions. Actual or potential members of the work force who are presumed to be morally flawed make up a suspect class: *not trustworthy*. In this sense, a suspect class is a class whose members are objects of suspicion. A concrete example of the use of suspect class in making inferences about a person would be the following. A bearded, unkempt, leather-jacketed, booted motorcyclist enters a middle-class restaurant. Some patrons and staff would automatically look upon the person with suspicion, expecting that his conduct would violate conventional or moral rules. Such an inference follows from assigning the person to a previously formulated suspect class *motorcycle gangs* with the implication that membership in such gangs renders one morally suspect.

Nonconforming sexual orientation, in some places and during certain historical periods, has served as the criterion for assigning persons to a morally suspect class. Certain forms of nonconforming sexual conduct have been incorporated into criminal statutes and/or psychiatric vocabularies. Not only legal and psychiatric attributions of badness, but folk attributions of generalized moral deviation, including untrustworthiness, are commonly noted. That is to say, folk beliefs arising from historical and cultural antecedents attribute generalized moral deficiencies to persons whose sexual orientations are nonconforming. I should add quickly, however, not all nonconforming sexual conduct leads to the assignment of persons to suspect classes. For example, in certain subcultures male promiscuity is not taken as the basis for assigning persons to morally flawed suspect classes.

In recent years, the folk belief has been challenged. Men and women who identify themselves as homosexual have raised the question whether they should be assigned to a suspect class. The civil rights movement, changing folkways, and some legal decisions have supported efforts to modify or eliminate the assignment of homosexuals to a morally suspect class (Barnett, 1973).<sup>\*</sup> Among the legal decisions that may have influenced the softening of discriminatory practices in public employment is the case of *Norton v. Macy* (1969). The plaintiff had been fired on the grounds of "immorality" because he had engaged in homosexual conduct. The court ruled that alleged or proven immoral conduct is not grounds for separation from public employment unless it can be shown that such behavior has demonstrable effects on job performance. Judge David Bazelon's decision included a statement that may have influenced recent employment and security policies in government service. He said (in part):

The notion that it could be an appropriate function of the federal bureaucracy to enforce the majority's conventional codes of conduct in the private lives of its employees is at war with elementary concepts of liberty, privacy, and diversity.

---

<sup>\*</sup>This analysis is not intended to follow the form of a Law Review article in which all pertinent cases and legal precedents are examined. Rather, I identify a few noteworthy cases to illustrate the complexity of the constitutional issues.

Another case that has received wide attention was tried in the Ninth Federal District Court in 1987. The case was filed in 1984 on behalf of an organization of Silicon Valley (California) employees known as High Tech Gays. Three members of the group had been denied security clearance because of the policy of intensive and expanded scrutiny of homosexuals. According to DoD policies at the time, identification as homosexual of a prospective employee was sufficient reason for expanded clearance investigations. The ruling handed down by Judge Thelton E. Henderson declared that the DoD policy was founded on prejudice and stereotypes, the basis for the policy being the unwarranted claim that homosexual men and women were emotionally unstable and, therefore, potential targets for blackmail. Judge Henderson ruled that homosexuals were a "quasi-suspect class" (in the juridical sense) and that government policies violated the constitutional guarantee of equal protection under the law (*High Tech Gays et al. v. DISCO*, 1987).

The complexities of the juristic concept *suspect class* is illustrated in the contrary opinions of the District Court and the Appeals Court. On appeal, the Ninth Circuit Court of Appeals heard arguments and decided in favor of the Department of Defense. The opinion, written by Circuit Judge Melvin Brunetti, rejected Judge Henderson's conclusions that homosexuals are a "quasi-suspect" class and that claims of discrimination must be examined with "heightened scrutiny" or "strict scrutiny." In rejecting Judge Henderson's conclusions, Judge Brunetti argued that heightened or strict scrutiny could be applied only to government actions that discriminated against persons based on race, gender, alienage, national origin, or illegitimacy. The opinion goes on to say that in order to be perceived as a suspect or quasi-suspect class, homosexuals must (1) have suffered a history of discrimination, (2) exhibit obvious or immutable characteristics that define them as a discrete class, and (3) show that they are a minority or politically powerless. Judge Brunetti held that the first criterion was met, that homosexuals have suffered a history of discrimination. The other two criteria were not met, according to the ruling. In the court's opinion, homosexuality is not an immutable characteristic, and homosexuals are not powerless as witnessed by numerous anti-discrimination statutes.

In reversing the District Court, the Appeals Court supplemented its ruling by referring to the observation that "Courts traditionally have been reluctant to intrude upon the authority of the Executive in military or national security affairs" (F. 2d, 1990, WL 6863, 9th Cir. Cal.). Judge Brunetti suggested that the plaintiffs could find relief through legislative action.

A recent Supreme Court decision addressed another aspect of the rights of persons who hold nonconforming sexual orientations. In 1982, John Doe, described as a covert electronics technician for the CIA, voluntarily told an Agency security officer that he was a homosexual. The Agency conducted a thorough investigation which included a polygraph examination designed to uncover whether he had disclosed classified information. Although Doe passed the test, he was dismissed on the grounds that he was a national security risk. The Court held that it is legitimate for courts to review the

constitutionality of the CIA's dismissal of employees. The effect of this decision is that Doe can now appeal to the Federal courts to sustain his argument that his constitutional rights had been violated because no evidence was presented to show that he could not be trusted with national security secrets (*Webster v. Doe*, 1988).

Similar to the case of *Webster v. Doe*, cited above, is the case of *Julie Dubbs v. CIA* (1989). The plaintiff, an openly gay woman, was employed as a technical illustrator at SRI International, a private research institute. In the course of employment at SRI, her job called for a Top Secret security clearance from the Department of Defense and a Sensitive Compartmented Information (SCI) clearance from the CIA. The Department of Defense granted the Top Secret clearance, but the CIA denied the SCI clearance.

The plaintiff filed suit against the CIA in United States District Court, Northern District of California, in 1985, claiming that the action of the CIA followed from an unconstitutional blanket policy of denying clearances to homosexual persons. The District Court ruled in favor of the CIA. On appeal, the Ninth Circuit Court reversed the ruling and remanded the issue to the District Court for further proceedings.

In August 1990, District Court Judge Eugene F. Lynch handed down a ruling which stated, in essence, that if the CIA does in fact have a blanket policy, it must present evidence at a trial to justify such a policy and to establish that the policy was rationally related to government interests.

In recent years, military personnel have turned to the courts for redress when they were dismissed on the grounds of homosexuality. In many instances, the cases have been decided in favor of the military, usually on the grounds that the military was privileged to adopt its own standards of suitability. In these cases, personnel security was not directly at issue. However, they introduced constitutional problems. An example of the complexity of the constitutional issues is the case of *Ben Shalom v. Marsh*, (703 F. Suppl. 1372 E.D. Wisc. 1989). The plaintiff was an Army Reserve sergeant who was discharged in 1976 after she publicly acknowledged being a lesbian. A District Court ordered her reinstatement in 1980, but she was not reinstated until 1987. She filed the lawsuit after her request to reenlist for another six-year term was denied on the grounds of her declaration that she was a lesbian. At no time during the litigation was there allegation of homosexual conduct. The District Court ruled that her First Amendment rights had been denied and ruled in her favor.

The decision was appealed. The United States Court of Appeals (Seventh Circuit) overruled the District Court. The reasoning offered by Judge Harlington Wood, although directed specifically to the military, has implications for personnel security in civilian settings. His remarks focus on the legitimacy of the military's regulations in regard to accepting homosexuals for enlistment.

...the Army should not be required by this court to assume the risk, a risk it would be assuming for all our citizens, that accepting admitted homosexuals into the armed forces might imperil morale, discipline, and the effectiveness of our fighting forces. The Commander-in-Chief, the Secretary of Defense, the Secretary of the Army, and the generals have made the determination about homosexuality, at least for the present, and we, as judges, should not undertake to second-guess those with the direct responsibility for our armed forces. If a change of Army policy is to be made, we should leave it to those more familiar with military matters than are judges not selected on the basis of military knowledge. We, as judges, although opponents of prejudice of any kind, should not undertake to order such a risky change with possible consequences we cannot evaluate. The Congress, as overseer of the Army and the other military branches, is also better equipped to make such determinations (*Ben Shalom v. Marsh*, 881 F.2d 454 7th Cir. 1989).

The implications in this ruling is that the Congress rather than the courts be petitioned to examine the legitimacy of the discriminatory policy and provide statutory guidance.

Law and custom tend to influence each other. As court decisions and legislative statutes have influenced employability, government agencies have dropped discriminatory personnel practices. For example, the Civil Service Commission in 1975 and 1976 amended its regulations so that no person could be denied Federal employment on the basis of sexual orientation (*Singer v. Civil Service Commission*, 1975, 1977). Another example of changing times is the National Security Agency's recent move to grant some homosexuals, under certain conditions, access to sensitive compartmented information (SCI), one of the highest designations of sensitive information (Rosa, 1988). The Director of Central Intelligence Directive 1/14 (1986) stipulates that SCI clearances be granted only to individuals who are "stable, of excellent character and discretion, and not subject to undue influence or duress through exploitable personal conduct" (p. 10). Homosexual conduct is to be considered as one of many factors in determining an individual's trustworthiness. The wording of the guidelines is that homosexuality *per se* is not grounds for denial unless the person's conduct leads to inferences about reliability, integrity, discretion, and loyalty.

Although not related to security, the 1988 decision by the Veterans Administration reflects a muting of long-held discriminatory practices. Military personnel who had been discharged for homosexuality had been denied most benefits. Prior to 1980, most of the veterans had been given less than honorable discharges and thus were not eligible for benefits. The Veterans Administration has now introduced a new ruling so that such veterans are eligible for services. The new rule was proposed "as a matter of fairness" (Maze, 1988).

Another indicator of changing attitudes is the deletion of the term *homosexual* from DoD's *Personnel Security Program* (DoD 5200.2.R), the official guide to adjudicators and others charged with granting or withholding security clearances. (In a later section, I point to ambiguously worded criteria that make possible the implicit use of homosexuality as a basis for inferences regarding trustworthiness.)

Concerned with the impact of discriminatory policy on the viability of Reserve Officer Training Programs (ROTC), four associations representing most of the nation's colleges and universities have petitioned the Secretary of Defense to change the policy. As a result of the refusal of the Department of Defense to grant commissions to cadets who admitted to being homosexual, the American Council on Education, the Association of American Universities, the American Association of State Colleges and Universities, and the National Association of State Universities and Land Grant Colleges have gone on record to note that "sexual orientation appears to be the only basis on which discrimination is condoned within ROTC or similar programs" (*Philadelphia Inquirer*, May 17, 1990). In their letter to Secretary Cheney, the four associations noted that the Pentagon's discriminatory policy often runs counter to explicit anti-discriminatory regulations established by institutions of higher learning, and in at least one instance, contrary to state law. In the long run, given the need to continue ROTC programs, Pentagon policies will have to take into account such petitions from prestigious educational associations.

A review of American history shows that changes in the law and public policy are often influenced by literary efforts. At least two books have recently been published that detail the patriotism and sometimes heroic performances of homosexual men and women who served in the Armed Forces (Berube, 1990; Humphrey, 1990). The theme of these books is to raise questions about the validity of the professional judgment of government officials that homosexuals are a morally suspect class.

The foregoing remarks reflect some of the responses to challenges raised by homosexual men and women. The examples cited above are directly related to efforts to remove homosexuals from a discriminatory class--a class which contains the feature: morally flawed and not trustworthy. It is clear that some of the court rulings and agency regulations were not directed to eligibility for security clearance but rather to suitability for employment. For many civilian jobs in government and in defense industries, suitability and security status overlap.

At this point, it is instructive to note that personnel security research has three objectives: to provide guidelines for assessing the trustworthiness of (1) employees of defense contractors, (2) civilian government employees, and (3) military personnel. In theory, the military requires no research-driven guidelines inasmuch as volunteers who are known to be homosexual are not accepted for service. This exclusionary policy is not completely effective in closing the doors to homosexual men and women. In the period 1981 to 1987, 4,914 military personnel were dismissed from the Army and Air Force on

the grounds of homosexuality. Of these, 40 percent of the Army sample and 50 per cent of the Air Force sample held Secret or Top Secret clearances. It is reasonable to suppose that background investigations had yielded no information that would lead to the inference that they were security risks. Seventy-two percent of those discharged had served at least two years. Inasmuch as homosexuals enter military service despite the official policy, the information to be presented in the following pages, primarily targeted toward civilian employees, may have relevance.

To return to the problem of selecting personnel for access to government secrets, we must address the question: are there demonstrable supports for the belief that assignment to the class *homosexual* should imply concurrent assignment to a morally flawed suspect class? Contained in the descriptor *morally flawed* are such implications as *not trustworthy* and/or *not loyal*.

To attempt an answer to this question requires, first, a brief excursion into how classes are formed and utilized in making inferences; second, a review of the legal and social history of homosexuality relevant to the practice of assigning homosexuals to a suspect class; and third, a review of the biological and social scientific literature on homosexuality.

#### Cognitive Processes in Premise Formation

Making judgments about people requires cognitive work. Judgments are not automatic and immediate, they are the end result of silent actions by human beings who are accustomed to using the logic of the syllogism. They begin from a major premise (not usually articulated), then assign the case under review to the minor premise. The conclusion follows from the joining of the two premises. In the simplest case, the major premise could be: All shifty-eyed persons are liars. The minor premise, based on observation, is: Jones is a shifty-eyed person. The conclusion follows: Jones is a liar. The logic is valid. Whether or not Jones is a liar is dependent on the truth-value of the major premise. Was the major premise derived from observation and was it empirically checked? Or was the major premise constructed out of unconfirmed beliefs, hypotheses, speculations, analogies, etc.? Human beings who are faced with the task of forming inferences about others make use of two general methods for formulating major premises: induction and construction (Sarbin, Taft, & Bailey, 1960).

---

\*Data on Navy/Marine Corps were not available. Data supplied by Defense Manpower Data Center.

## Induction

Observation and experience, the basis of induction, is the empirical method for constructing classes that would be useful in ordinary decision-making. It is the method that has advanced science and technology. Connections are established between classes of events. For example, amorphous clouds can be sorted into classes: nimbus, stratus, and cumulus. The utility of the classes has been established by correlating the presence of classes with wind and weather patterns. Mariners, aviators, and farmers make predictions from inductively derived premises that connect classes of clouds with other meteorological conditions. Research on personality and character by and large attempts to establish inductions that would allow predictions of future conduct from measurements taken from past or present assessments. Except for gross classifications, such as *psychopathic inferiority*, *sociopathy*, and *undersocialized*, we have few empirically tested generalizations that would be helpful in making predictions about a person's moral choices. It would be most practical if adjudicators (or anyone) could make inferences about a particular person from reliable inductions of the form: all church-going persons are honest, or all Cretans are liars. Such inductions are not available. Unless we are to avoid all decision-making until we can create inductively derived premises, we are constrained to employ premises that do not have the benefit of empirical confirmation.

## Construction

Most of our judgments about others (and ourselves) flow only partly from inductive generalizations and mostly from constructions. The beliefs we hold about human nature are more theory-driven than data-driven. Human beings, having the gift of language and the talent to use syllogisms, can and do construct all manner of beliefs about human behavior. When combined into an informal system, the beliefs can serve as an implicit theory of character.

The constructed beliefs that comprise a person's theory of character develop from two main sources: (1) deductive statements that reflect the implicit fashioning of beliefs, imaginings, and attitudes, and (2) authority.

(1) Beliefs that serve as the basis for an individual's theory of character may come from immersion in scientific or folk theories of personality. An investigator or adjudicator might absorb some of the elements of psychoanalytic theory and hold beliefs about the structure of character disorders. He or she would then be prepared to employ premises derived from psychoanalysis. Others might advance premises based on unsophisticated folk theories, e.g., people who appear to fit the prevailing stereotypes of "criminals" are unreliable; a weak handshake betokens a weak character; a tidy desk denotes a well-ordered mind. Needless to say, some individuals borrow premises, often absurd, from the contents of astrological charts. Many persons hold beliefs that scientifically inclined observers would label superstitions.

Some premises are constructed as the result of analogical reasoning. Mr. Smith has a theory of character derived from an analogy. A fellow worker who had a "weak lower jaw" was fired for embezzling funds. From this experience, Smith constructed the premise: people with weak jaws are predisposed to dishonesty. The fellow-worker was used as a model in Smith's silent construction of a premise: if a person has one characteristic in common with the model, then he will have all the other characteristics of that model. Research on judging personality makes clear that human beings, in the absence of confirmed inductions, construct and employ implicit theories of personality (Rosenberg, 1977). Incorporated into such implicit theories are theories of character. Many characterological assumptions can be traced to immersion in codes of morality that are contained in religious beliefs. In a later section, I indicate the content of beliefs arising from theological sources and I suggest that such beliefs, acquired before the age of reflection, may be grounds for an individual's theory of character, a theory that would generate premises about the character of persons identified as homosexual.

(2) The other source for the construction of a theory of character is authority. Teachers, supervisors, political leaders, and other figures in positions of authority may impart to a novice a ready-made theory of character. The authority's theory may be a mix of inductions and constructions.

Authorities often support their theories of character by referring to tradition as a form of validity. "It's always been done this way" is used as an argument to support a particular premise for making character judgments when empirical support is lacking. Another strategy employed to justify a particular theory of character is to claim that it is supported by "professional judgment."

I have presented the foregoing discussion in the interest of establishing that investigators, adjudicators, and case controllers, in common with people generally, do not process information in a mechanical way but engage in the practice of clinical inference. The inferences they make about homosexuals or heterosexuals flow from premises generated by their belief systems. Such belief systems do not arise in a vacuum; they are influenced by hard facts when available, and by creative imaginations when hard facts are not available. To help understand the source of beliefs that assign homosexuals to a suspect class, an exposition of the various social constructions of homosexuality is in order.

## Social Construction of Homosexuality

A word about the notion of *social construction*. Meanings are not given in nature. Meanings are assigned to events by human beings who communicate with each other. The construction or interpretation of any phenomenon is influenced by concurrent historical contexts: political, economic, religious, and scientific.

The observations of historians (see, for example, Bullough, 1976) and the reports of ethnographers (see, for example, Ford and Beach, 1951; Marshall & Suggs, 1971; and Devereaux, 1963) support the notion that the constructions placed on same-gender sexuality are social. As Kinsey remarked, "only the human mind invents categories." At certain times, and in many societies, most variations in the expression of sexuality have been regarded as normal. It is the application of moral rules and legal statutes that determines whether same-gender orientation and conduct is classified as acceptable, tolerable, offensive, or criminal. Such rules and statutes are the products of custom, supported by the power vested in authority. As the historical record shows with abundant clarity, forms of authority change. In early times, moral rules were enforced by men and women enacting priestly roles. Later, ruling classes imposed their own fluctuating standards on the enforcement of moral rules. In western democracies, rules are constructed through consensus or legislation, and rules favoring the majority are tempered so that rights of minorities are not obliterated.

How has this variability been construed? Tracing the history of social constructions of deviant conduct points unmistakably to the influence of beliefs prevailing at any particular time. A full historical account is beyond the scope of this paper, but for our purposes it is sufficient to demonstrate that observed variability in sexual conduct has been construed differently at different times in Western history. My point of departure is influenced by the position of contemporary science: that observations ("facts") are raw materials for constructing meanings (Spector & Kitsuse, 1987). The construction of meanings is not given in the observations, but is the product of cognitive work, taking into account political, social and religious contexts. In the past several hundred years, four constructions have been offered to account for variations in sexual orientation. Evidence of these constructions is abundant in contemporary life, although each construction was initially formulated in a different historical period.

### The Morality Construction--Good and Evil as Fundamental Categories

Moral rules as represented in religious writings are the source of the long-held construction of prohibition of nonprocreative sexual conduct. Masturbation, lascivious conduct, and nonprocreative sex were proscribed. "You shall not lie with a man as with a woman, that is an abomination" (Leviticus 18:22). "Neither the immoral, nor idolaters,

nor adulterers, nor abusers of themselves with mankind, will inherit the Kingdom of God" (I Corinthians 6:9).

The history of religious attempts to control sex makes clear the notion of variability in attitudes. Struggles between advocates of different theological doctrines have been reflected in attitudes toward sex. In the formation of attitudes, two ideas stand out in the literature; first, the inferior status of women, and, second, child-bearing as a requirement for maintaining a collectivity. In a far-reaching review, Law (1988) provides evidence and argument to support the proposition that the condemnation of homosexuality is more an unwitting reaction to the violation of traditional gender norms than to nonconforming sexual practices. When a man adopts the female role in a sexual relationship, he gives up his masculinity for the inferiority that is supposed to be associated with being a woman. This constituted, for some Church authorities, an abomination, a sin against nature (Bullough 1976). The negative judgments originally associated with men adopting female roles have diffused to all homosexual roles.

According to Bullough (1976), early doctrine held that sex served only one purpose: procreation. This doctrine was supported by the claim that such was God's intention in creating the world of nature. Therefore, sex for pleasure was suspect, especially same-gender sex, since this is obviously nonprocreational. The appellation *sins against nature* appears frequently in doctrinal arguments (Bullough, 1976). Since same-gender sex was nonprocreative, it was classified as a sin against nature.

In western religious traditions, Good and Evil are the categories that provide the background for declaring value judgments on sexual nonconformity. Arising from primitive taboos, the powerful image of "sin" was employed to define the unwanted conduct. Certain religious leaders who take the Bible as the unquestioned moral authority are contemporary advocates of the belief that nonconforming sexual behavior is sinful. The attribution of sinfulness carries multiple meanings: among some groups, sin is explained as voluntary acceptance of Satanic influence; among others sin is believed to produce a flawed or spoiled identity. Societal reactions to sin include ostracism, corporal punishment, imprisonment and, in more draconian times, torture, stoning, hanging, burning at the stake, and even genocide.

Sin is an attribution, a construction made by others or by oneself. Its force lies in its attachment to entrenched religious doctrine. Like taboos, the concept of sin is acquired by people before they reach the age of reflection. The argument that sin is a social construction is nowhere better illustrated than in the debates of theologians about the doctrine of original sin and in how to establish criteria for sinful conduct: under what conditions should an action be regarded as a venial sin or as a mortal sin?

## The Legal Construction--Sexual Deviance as Criminal Behavior

Arising from religious precepts, legislative acts were introduced to control nonprocreative sexual behavior. The creation of the vocabulary for anal intercourse, for example, brought together a set of concepts that interwove law and morality. Ruse (1988), referring to the relationship of religious teaching to laws designed to control sexual behavior, commented:

"Sodomy" obviously comes from the name of the doomed city of the plain, and "buggery" is a corruption of "bougrerie," named after so-called "Bulgarian" heretics... . They believed that physical things are evil, and thus refused to propagate the species, turning, therefore, to other sexual outlets. Hence banning buggery struck a two-fold blow for morality: against unnatural vice and against heretical religion (p. 246).

As early as 1533 in England, buggery, which had been established in religion as a sin against nature, was declared a crime. In the ensuing three decades, the statute was repealed and reenacted several times. In 1563, in the reign of Elizabeth I, the law against buggery became firmly established. Criminal codes provided severe punishment for persons accused of nonconforming sexual conduct (Bullough, 1976). The language of such statutes is not uniform. *Buggery, sodomy, lewdness, perversion, lasciviousness*, and even *immorality* are terms that have been employed in different statutes and at various times to denote the proscribed criminal conduct.

The underlying categories of the legal construction of nonconforming sexuality are continuous with those of the religious construction: good and evil. With the secularization of morality, sin was no longer an appropriate descriptor for unwanted conduct. The transition from *sins against nature* to *crimes against nature* was an accomplishment of the secularization and attempted legalization of morality. Crime, the secular equivalent of sin, became the preferred descriptive term.

To make rational the use of the crime concept in the context of sexual behavior, it had to be consonant with accepted legal usage, as in crimes against the person, crimes against property, crimes against the Crown, etc. The linguistic formula "crimes against..." presupposes a victim. In following this logic, early practitioners of jurisprudence created *crimes against nature* as the label for unwanted sexual conduct. In so doing, they implied that "nature" was the victim.

In most of the criminal codes, and in the Uniform Code of Military Justice, the concept of *crimes against nature* appears frequently when sexual behavior is proscribed. The concept is sometimes rendered by the employment of language which includes the adjective *unnatural*. Clearly, the authors of statutes that proscribe *crimes against nature* were not using "nature" as a descriptor for flora and fauna, mountains and valleys, oceans and deserts. When "nature" is the victim, something else is intended.

The statutory language, as we mentioned before, is derived from the religious idiom *sins against nature*. "Nature" is employed in the sense used by the early Greek philosophers, as the force or essence that resides within things. Thus, it is in the nature of a hen's egg to develop into a chicken, for water to run downhill, etc. This concept of nature served as the main explanatory principle, employed as an all-purpose answer for causality questions. With the development of empirical science, such all-purpose answers became superfluous, they gave way to questions directed toward uncovering how events influenced each other, and answers were formulated according to laws and principles constructed through observation and experiment. At the present time, the legal concept *crimes against nature* has no scientific status. It is a rhetorical device to control nonprocreative sex.

### The Sickness Construction--The Medicalization of Deviance

The nineteenth century witnessed the social construction of deviant conduct as sickness. Although the medical model of deviance had its origins in the sixteenth century, it was not until the growth and success of technology and science in the nineteenth century that medical practitioners created elaborate theories to account for unwanted conduct. Many of the fanciful early theories of crime and craziness were given credibility because they were uttered by physicians and, therefore, presumed to be scientific. The prestige conferred upon the practitioners of science and technology blanketed the medical profession. It was during the latter half of the century that medical scientists initiated the movement to medicalize not only poorly understood somatic dysfunctions, but all human behavior. Conduct that in the past had been assigned to moralists or to the law now came under the purview of medical authority. Deviant conduct of any kind became topics of interest for doctors. The brain had already been given its place as the most important coordinating organ of the body, and the "mind" was somehow located in the brain. Therefore, any item of behavior that was nonconformant with current norms could be attributed to faulty brain apparatus, flawed mental structures, or both. In the absence of robust psychological theories, the observation and study of nonconforming behavior led physicians to assimilate theories of social misconduct to theories of somatic disease. The creation and elaboration of disease theories was based upon the all-encompassing notion that every human action could be accounted for through the application of the laws of chemistry and physics. In this context, homosexuality and other nonprocreative forms of sexual conduct were construed as sickness. To be sure, the medicalization of nonconforming sexual conduct failed to replace entirely the older moral and criminal constructions, and in many cases persons suffering from such "illnesses" continued to be punished.

It is interesting to note that the term *homosexuality* itself did not appear in English writings until the 1890s. Like most medical terms, it was created out of Greek and Latin roots. Prior to that time, labels for nonconforming sexual conduct in the English language had been free of medical connotations, as, for example, the words *sodomy*,

*buggery, perversion, corruption, lewdness, and wantonness.* One outcome of the medicalization of nonconforming sexual conduct was the inclusion of homosexuality in textbooks of psychiatry and medical psychology. Homosexuality was officially listed as an illness in the 1933 precursor to the 1952 Diagnostic and Statistical Manual of the American Psychiatric Association (DSM-I). In the 1930s and 1940s any person who admitted being homosexual was likely to be referred to a psychiatrist for diagnosis and treatment, the goal of the treatment being the elimination of the homosexual interest. But even during this period the father of psychoanalysis, Freud, expressed the opinion that homosexuality was not an illness. In 1935 Freud wrote a letter to the troubled mother of a homosexual which is worth quoting in its entirety (Bieber et al., 1962), as it anticipates and eloquently summarizes the prevailing current scientific and medical views on homosexuality.

April 9, 1935

Dear Mrs. \_\_\_\_\_

I gather from your letter that your son is a homosexual. . . . Homosexuality is assuredly no advantage, but it is nothing to be ashamed of, no vice, no degradation, it cannot be classified as an illness; we consider it to be a variation of the sexual function produced by a certain arrest of sexual development....By asking me if I can help, you mean, I suppose, if I can abolish homosexuality and make normal heterosexuality take its place. The answer is, in a general way, we cannot promise to achieve it. In a certain number of cases we succeed in developing the blighted germs of heterosexual tendencies which are present in every homosexual, in the majority of cases it is no more possible. It is a question of the quality and the age of the individual. The result of treatment cannot be predicted.

What analysis can do for your son runs in a different line. If he is unhappy, neurotic, torn by conflicts, inhibited in his social life, analysis may bring him harmony, peace of mind, full efficiency, whether he remains a homosexual or gets changed.

Sincerely yours with kind wishes,

Freud

Homosexuality as a social construction is nowhere better illustrated than in the arbitrary manner in which it was included and ultimately excluded from the medical lexicon. In 1974, the diagnosis of homosexuality was deleted from the Diagnostic Manual of the American Psychiatric Association under pressure from many psychiatrists who argued that homosexuality was more correctly construed as a nonconforming life style rather than as a mental disease.

Although the mental health professions do not speak with one voice, the currently prevailing view was advanced by Marmor (1975), at that time president of the American

Psychiatric Association: "...there is no reason to assume that there is a specific psychodynamic structure to homosexuality anymore than there is to heterosexuality" (p. 1514).

The American Psychological Association passed a resolution in 1975 declaring that:

Homosexuality per se implies no impairment in judgment, stability, reliability or general social or vocational capabilities..  
..The Association deplores all public and private discrimination in such areas as employment, housing, public accommodation, and licensing....The Association supports and urges the enactment of civil rights legislation...that would offer citizens who engage in homosexuality the same protections now guaranteed to others on the basis of race, creed, color, etc.

Substantially the same resolution was enacted by the American Psychiatric Association in 1976.

The available data on the psychological functioning of persons identified as homosexuals lead to an unambiguous conclusion: that the range of variation in personal adjustment is no different from that of heterosexuals (Ohlson, 1974). A review of 14 major studies, beginning with Hooker's in-depth investigations (1957, 1965), gave no support to the hypothesis that same-gender orientation was a sickness (Freedman, 1976). Employing various adjustment criteria, the studies uncovered no correlations that would support a mental illness construction. Siegleman (1978, 1979), in two studies comparing psychological adjustment of homosexual men and women and heterosexual men and women in Britain, found no significant difference between the homosexual and heterosexual groups, substantially replicating the results of earlier studies in the U.S. The conclusion had been stated earlier in the famous Wolfenden Report of 1957, the basis for the repeal of sodomy statutes in England:

Homosexuality cannot legitimately be regarded as a disease because in many cases it is the only symptom and is compatible with full mental health (p. 32).

### The Minority Group Construction--Homosexuals as a Non-Ethnic Minority Group

The civil libertarian movements of the 1960s and 1970s paved the way for an alternative construction of homosexual conduct. I have already noted that the earlier work of Kinsey and his associates (1948) had received wide publicity. This work helped to strengthen the notion that sexual status and behavior could not be sorted into a simple two-valued model of normal and abnormal. The recognition that perhaps at least 10

percent of the adult population consistently adopted nonconforming sexual roles (i.e., homosexual behavior) was instrumental in formulating a construction of same-gender sexuality as the defining property of a non-ethnic, nonracial minority group. Individuals came together to support each other in their choice of life style. They comprised a group. They shared with other minority groups experiences of discrimination, harassment, and rejection (Sagarin, 1971).

The model for conceptualizing homosexuals as a minority group was provided first by ethnic and racial minorities, later by non-ethnic minorities: women, the aged, and physically disabled or handicapped persons. Another development that encouraged the use of the minority construction arose from claims that homosexual men and women could satisfactorily perform an infinite variety of occupational and recreational roles: one could have nonconforming sexual attitudes and still meet high performance standards as teachers, physicians, fire fighters, novelists, professional athletes, movie actors, policemen, politicians, judges and so on.

It would be instructive to review the features that define a minority group. It is obvious that *minority* in this context carries no quantitative meaning. Women make up more than 50 percent of the population, yet they meet the criteria of a minority group. The most useful shorthand definition of minority group is: people who share the experience of being the objects of discrimination on the basis of stereotypes, ethnocentric beliefs, and prejudice held by members of the nonminority group. Well-known examples are mid-nineteenth century Irish immigrants in Boston, American Indians for nearly four centuries, Black soldiers and sailors prior to the 1948 anti-segregation orders, Asian-Americans before the repeal of the exclusion acts, Mexican-Americans in California and the Southwest, Jews in Nazi Germany and elsewhere.

Similarities to more widely recognized minority groups are not hard to find. Prejudice against persons with nonconforming sexual orientations is like racial prejudice in that stereotypes are created. Such stereotypes are often exaggerations of social types that feature some unwanted conduct, style of speech, manner, or style that purportedly differs from the prototype of the majority. The personality of an individual identified as a member of a minority group is construed not from his acts, but from his suspected or actual membership in the minority group. Racial and ethnic slurs help to maintain the partition between the minority group and the majority. *Wops, Guineas, Japs, Spics, Kikes, Beaners, Polacks, Sambos*, and other pejoratives have only recently been discouraged as terms to denote the supposed social and moral inferiority of selected minority groups. *Fag, fairy, queer, homo*, and *pervert* serve similar functions for persons who want to communicate that the homosexual is "inferior." At the same time, the slur is intended to characterize a social type that exemplifies a negatively valued prototype--the feminized male.

To recapitulate: The fact that at least four constructions can be made of the same phenomenon is evidence that the particular value placed on nonconforming sexual

orientation is influenced by historical forces. The same act may be construed as sin, as crime, as sickness, or as an alternate form of being.

The belief systems of governmental agents charged with adjudicating security clearances are like those of the general population--the belief systems are dependent on which construction the agents employ in establishing premises. If they choose the construction that emphasizes sin, crime, or sickness, then they will likely assign homosexual men and women to a morally suspect class. If they choose the construction that homosexuality is an alternate form of being and that homosexuals comprise a minority group, then it is indeterminate whether any specific candidate will be assigned to such a morally suspect class.

Belief systems may be sharpened, modified, or rejected as a result of efforts to take into account new information. Such information may be drawn from findings reported by biological and social scientists. In many governmental areas, for example public health, nuclear energy, agriculture, and defense, policy formulations take into account the findings of research scientists. A synoptic review of recent and contemporary research may provide information that could help clarify public policy in regard to the granting or withholding of security clearances to persons identified as homosexual.

---

\*The adjudicator's task is complicated by the fact that sodomy is no longer in the criminal codes of half the States. In this connection, a recent (Colasanto, 1989) Gallup Poll indicated increasing support for decriminalizing consensual homosexual activity. Eighty-three percent of a national sample expressed an opinion. Of these, 56 percent favored decriminalization, 44 percent were opposed. In taking into account an alleged act of sodomy, the adjudicator must determine whether or not to regard the act as an unprosecuted felony. Further complicating the decision process is the fact that consensual sodomy is seldom, if ever, prosecuted in civilian courts. In fact, sodomy laws are virtually unenforceable. Military personnel, however, are subject to prosecution and/or discharge according to procedures described in the Uniform Code of Military Justice.

## Scientific Status of the Homosexuality Concept

In the past two decades, with advances in biotechnology, psychology, ethnology, and methods of social analysis, numerous systematic researches have yielded findings relevant to the formulation of law and public policy.

Advances in methodology stimulated a renewed interest in genetic research. The study of twins has been a fruitful source of genetic hypotheses. Kallman (1952) reported a concordance rate of 100 percent for homosexuality for 40 pairs of identical twins. That is, when one of a pair of identical twins was identified as homosexual, the other was also found to be homosexual. This occurred even when the twins had been raised apart. The author of the study cautioned that the data are not conclusive in supporting the genetic hypothesis--the twins may have responded to the same socializing influences. In this connection, Marmor (1975), a well-known psychiatrist, claimed that the "most prevalent theory concerning the cause of homosexuality is that which attributes it to a pathogenic family background."

Perhaps the most thorough research undertaken to advance the frontiers of knowledge about sexuality was that of Alfred Kinsey (Kinsey, Pomeroy, & Martin, 1948; Kinsey, Pomeroy, Martin, & Gebhard, 1953). A zoologist, Kinsey organized his research program along ethological and epidemiological lines. The variable of interest for Kinsey was frequency of sexual acts. The raw data for his studies were obtained through structured intensive interviews. In contemporary scientific fashion, quantitative analysis guided his work and influenced his conclusions. He employed a rating scale that allowed him to rate subjects from 0 to 6 on a dimension: heterosexual-homosexual. (A category "x" was used to identify persons with no "socio-sexual" response, mostly young children.) From the interview data, he compiled ratings for a large sample of respondents. The rating of 0 was assigned to men who were exclusively heterosexual, and 6 to men who were exclusively homosexual. The rating 1 was assigned to men who were predominantly heterosexual, and 5 to men who were predominantly homosexual, and so on. (The Kinsey scale and representative statistics are reproduced in Appendix A.)

Kinsey reported many significant findings, among them that 50 percent of the white male population were exclusively heterosexual and 4 percent were exclusively homosexual throughout adult life, but 46 percent had some homosexual experience throughout adult life. Between the ages of 16 and 65, 10 percent of the men met Kinsey's criterion of "more or less exclusively homosexual (rating 5 and rating 6)."

In the fashion of ethological research, Kinsey was primarily concerned with presenting prevalence statistics. Whether the dimension was based on nature or nurture, or a combination of these, was not an important concern.

## Biological Studies

During the past 30 years, increasing knowledge in molecular biology, endocrinology, embryology, and developmental neurology has made it possible to state with confidence that male and female brains are structurally different in certain areas concerned with glandular and sexual functions, especially in the hypothalamus and related subcortical systems (Kelly, 1985). The actions of the various sex hormones in the differentiation of male and female anatomy have been charted. Developmentally, there is a built-in bias toward differentiating an organism into a female, i.e., nature makes females. On the basis of extensive research, Money and Erhardt (1972) concluded: "...in the total absence of male gonadal [sex] hormones, the fetus always continues to differentiate the reproductive anatomy of the female." This process takes place regardless of the basic masculinity (XY chromosomes) or femininity (XX chromosomes) of the fetus. The bias is counteracted approximately 50 percent of the time by the action of male hormones. The discovery of this built-in mechanism toward femaleness sparked additional research that ultimately illuminated the phenomenon of same-gender attraction. It has been recognized for some time that parts of the brain are glandular and secrete neurohormonal substances that have far-reaching effects. Not unlike the better-known sex hormones, the androgens and estrogens, these brain neurohormonal substances also appear to have profound effects on development.

From a review of ethnographic reports, historical sources, biographies, and literary works, it is apparent that some same-gender orientation is universally observed (Bullough, 1976; Howells, 1984; Marshall & Suggs, 1971). The world-wide prevalence of *exclusive* same-gender orientation is estimated as three to five percent in the male population, regardless of social tolerance, as in the Philippines, Polynesia and Brazil, intolerance as in the United States, or repression as in the Soviet Union (Mihalek, 1988). This constancy in the face of cultural diversity suggests that biological factors should not be discounted as a fundamental source of homosexual orientation.

From these observations, as well as intensive analysis of more than 300 research reports, Ellis and Ames (1987) have advanced a multi-factorial theory of sexuality, including same-gender attraction. They conclude that current scientific findings support the view that hormonal and neurological variables operating during the gestation period are the main contributors to sexual orientation. For the ultimate formation of sexual identity, the Ellis-Ames theory does not exclude psychosocial experience as a potential modifier of the phenotypical expression of biological development.

From their review of current research, Ellis and Ames propose that sexuality be studied through the consideration of five dimensions. These are: *genetic* (the effects of sex chromosomes, XX and XY, and various anomalous karyotypes); *genital* (effects of internal and external genitalia, the male-female differentiation, which begins in the first month of embryonic life); *nongenital morphological* (effects of secondary sex characteristics--body build, voice, hair distribution); *neurological* (male and female brain

differentiation and associated sex-typical actions--including social influences and the formation of sex-typed roles). Most of the events shaping the developing organism's sexuality along these dimensions occur between the first and fifth months of intrauterine life. These events are controlled by the interaction of delicate balances between the various male and female hormones and their associated enzyme systems. Development of the embryo can be influenced by several factors affecting the internal environment of the mother, such as genetic hormonal background, pharmacological influences and immunological conditions, not to mention the psycho-physiological effects arising from the social environment. Disturbances in any one or any combination of these factors can result in alterations in sexual development called inversions. These inversions are failures of the embryo to differentiate fully in any of the other sexual dimensions (genital, morphological, neurological, or behavioral) according to chromosomal patterns. These anomalies of embryonic development are central to the later development of sexual orientation and behavior such as same-sex attraction, bisexuality, and other nonconforming patterns. As support for their theory, Ellis and Ames cite various experiments with animals in which permanent changes in sexual behavior have been induced by glandular and other treatments. The changes noted in these experimental animals are similar to those in humans with known anomalies of endocrine and enzyme systems.

Adult sexual orientation, then, has its origins, if not its expression, in embryonic development. Ellis and Ames conclude that:

Complex combinations of genetic, hormonal, neurological, and environmental factors operating prior to birth largely determine what an individual's sexual orientation will be, although the orientation itself awaits the onset of puberty to be activated, and may not entirely stabilize until early adulthood (p. 251).

The conclusions are consistent with those of John Money (1988), a leading researcher on the psychobiology of sex. According to Money, in his recent review and summary of current knowledge on homosexuality, data from clinical and laboratory sources indicate that:

In all species, the differentiation of sexual orientation or status as either bisexual or monosexual (i.e., exclusively heterosexual or homosexual) is a sequential process. The prenatal state of this process, with a possible brief neonatal extension, takes place under the aegis of brain hormonalization. It continues postnatally under the aegis of the senses and social communication of learning (p.49).

This brief overview of scientific findings from biological sources instructs us that the phenomena that we label sexuality are complex, and that we must assign credibility to

the notion that overt and fantasy expressions of sexuality are influenced by multiple antecedents. Of special importance is the recognition of the interplay of biological and social factors. The leading scientific authorities agree that these expressions are best described in terms of gradations or dimensions, rather than by the rigidly bound, mutually exclusive categories, *heterosexual* and *homosexual*.

Because in daily speech we employ *heterosexual* and *homosexual* without qualifiers, it requires sustained cognitive effort to consider gradations and overlap. If we were to adopt policies that took scientific findings into account, we would be required to modify the use of a two-category system and incorporate the idea of continuous dimensions. To use an overworked metaphor, black and white are anchoring points for an achromatic color dimension, and between these anchoring points are innumerable shades of grey. Other dimensions come into play when considering chromatic stimuli, such as hue, saturation, brightness and texture. Similarly, the multidimensional concept of sexuality is contrary to the assertions of earlier generations of theologians, moralists, and politicians whose construal of sexuality was achieved under the guidance of two-valued logic in which narrowly defined heterosexual orientation and conduct were assigned to the category *normal* and any departures from the customary were assigned to the category *abnormal*.

In this connection, after detailed analysis of the sexual histories of thousands of people, Kinsey (1948) concluded that the class *human beings* does not represent two discrete populations, *heterosexual* and *homosexual*, and that the world:

is not to be divided into sheep and goats....It is a fundamental of taxonomy that nature rarely deals with discrete categories. Only the human mind invents categories and tries to force facts into separate pigeonholes. The living world is a continuum in each and every one of its aspects. The sooner we learn this concerning human sexual behavior the sooner we shall reach a sound understanding of the realities of sex (p. 639).

### Psychological Studies

Scores of studies have been reported in the literature on the adjustment of homosexual men and women. To be sure, none of the studies attempted to answer the specific question: are homosexuals greater security risks than heterosexuals? On various psychological tests, including the well-known Minnesota Multiphasic Personality Inventory, the Adjective Check List, and the Rorschach test, among others, the range of variation in personal adjustment is the same for heterosexuals and homosexuals. None of the carefully controlled studies concluded that homosexuals were suffering from a "mental illness." Gonsoriak (1982) and Siegelman (1987) independently reviewed the

available research literature and concluded that good adjustment and poor adjustment are unrelated to sexual orientation.

Can any inferences be drawn from the massive volume of research generated in the effort to discover whether homosexuals are different from heterosexuals on adjustment criteria? Although definitions of adjustment vary from study to study, one element appears common to most, if not all, definitions: social maturity. This concept embraces a number of features. Socially mature people are likely to be caring, to have stable interpersonal relations, to be concerned with maintaining an acceptable social and moral identity. Caring for persons with whom one is bonded is probably related to caring for others who make up relevant collectivities, including one's country. The research is unequivocal that identifying oneself as heterosexual or homosexual carries no implication of social maturity.

### Sociological Studies

A number of studies have been reported that lead to the inference that many undisclosed homosexuals have served in the military and received good proficiency ratings and honorable discharges (Bell, 1973; Williams & Weinberg, 1971; Harry, 1984). It is reasonable to assume that civilians who have not disclosed their homosexual status also perform their jobs efficiently and, if they have security clearances, do not violate the trust.

The broad categories *heterosexual* and *homosexual* conceal multiple types. At the conclusion of an extensive sociological investigation, Bell and Weinberg (1978) commented that persons identified as homosexual are "a remarkably diverse group." After studying intensive protocols on a large number of adults, these investigators concluded:

...we do not do justice to people's sexual orientation when we refer to it by a singular noun. There are "homosexualities" and there are "heterosexualities" each involving a variety of interrelated dimensions. Before one can say very much about a person on the basis of his or her sexual orientation, one must make a comprehensive appraisal of the relationships among a host of features pertaining to the person's life and decide very little about him or her until a more complete and highly developed picture appears.\*

The data in the Bell and Weinberg study lead to the conclusion that the concepts *homosexuality* and *heterosexuality* are too broad to be worthwhile. When subjected to statistical reduction, the data yielded five types. The typology is not too different from one that could be constructed for heterosexuals. The five types are labeled: Close-

---

\*The use of the background investigation (BI) is consistent with this conclusion.

coupled, Open-coupled, Functionals, Dysfunctionals, and Asexuals. The Close-Coupled were similar to what might be called happily married among heterosexuals. Partners of this type look to each other for their interpersonal and sexual satisfactions. They are not conflicted about being members of a minority group. They would fit the usual criteria of social maturity. The Open-Coupled preferred a stable couple relationship, but one of the partners sought sexual gratification outside of the couple relationship. In most cases, Open-Coupled accepted their homosexual identity, but had qualms about seeking other outlets. In terms of their general adjustment, they were not unlike most homosexuals or most heterosexuals. The Functionals are more like the stereotype of the swinging singles. Their lives are oriented around sex. They are promiscuous and open, frequenting gay bars and bathhouses, and have been arrested for violating "homosexual" ordinances. They are self-centered and give the impression of being happy and exuberant. The Dysfunctionals fit the stereotype of the tormented homosexual. They have difficulties in many spheres, social, occupational, sexual. This type displayed the poorest adjustment. Among the males, there were more instances of criminal activity such as robbery, assault, and extortion. The Asexuals are characterized by lack of involvement with others. They are loners and describe themselves as lonely. They lead quiet, withdrawn, apathetic lives.

To recapitulate: In this section of the report I have presented a synopsis of contemporary research drawn from biological, psychological, and sociological sources. One conclusion stands out: knowing that a person is homosexual tells very little about his or her character. It is worth adding: knowing that a person is heterosexual tells very little about his or her character.

## Implications

The official guides for personnel security specialists are Director of Central Intelligence Directive (DCID 1/14) (1986) and the *Personnel Security Program*, (5200.2-R) already mentioned, issued by the Department of Defense and revised in January, 1987. In both of these documents, the criteria for granting or denying clearances are spelled out. The main thrust of these guidelines is that every candidate for a clearance is handled on a case-by-case basis. An implication of this policy is that information referring to sexual orientation by itself would not be systematically employed as a criterion to withhold security clearance.

Adjudicators, like everyone else, do not put aside their belief systems when they engage in clinical inference on the basis of ambiguous and incomplete cues. Under conditions where a criterion is stated in clear and unambiguous terms, there is little room for the operation of personal bias or social prejudice. For example, in following the rule that no convicted felon should be granted a security clearance, the adjudicator's personal beliefs about the rehabilitation effects of imprisonment are irrelevant. When criteria are stated in language that is the least bit ambiguous or value-laden, then opportunities arise for interpretation according to personal belief systems. In Appendix E of DoD 5200.2-R, the following appears: "Background Investigation (BI) and Special Background Investigation (SBI) shall be considered as devoid of significant adverse information unless they contain information listed below: ....(2) All indications of moral turpitude, heterosexual promiscuity, aberrant, deviant, or bizarre sexual behavior...." A later section of the *Personnel Security Program*, in considering "sexual misconduct" as a basis for denying security clearances, contains the following: "Acts of sexual misconduct or perversion indicative of moral turpitude, poor judgment, or lack of regard for the laws of society."

Although the term *homosexual* is meticulously avoided in DoD 5200.2R (heterosexual but not homosexual promiscuity is included as adverse information), the ambiguity of language such as "moral turpitude," "sexual misconduct," and "aberrant, deviant, or bizarre," would allow a reader of the guidelines a considerable degree of discretion in interpreting homosexual orientation as being an instance of "moral turpitude," "sexual misconduct," or "aberrant deviant, or bizarre." The value-laden term *perversion* also makes possible the assignment of homosexual men and women to a suspect class. *Perversion* is no longer employed as a diagnostic term in medical or psychological vocabularies. At one time, it was used as a catch-all for any nonprocreative sexual activity, including masturbation, oral-genital contact between husband and wife, and attending sexually explicit movies, among other behaviors.

The effectiveness of the case-by-case approach to security determinations is dampened if attention is not given to the fact that adjudicators are practicing the art of clinical inference. They acquire skills in converting masses of data to a two-valued determination *satisfying guidelines* and *not satisfying guidelines*. By extension, these two

outcomes lead to the ultimate inference *trustworthy* and *untrustworthy*. Ambiguous and value-laden language, as indicated above, allows for the importation of private belief systems into the mix of major premises that guide the inference process. *Moral turpitude* is a prime exemplar. It has no standard reference other than that derived from social constructions that regard nonconforming sexual orientation as sin, crime, or sickness.

Most of us in the general population have been socialized by parents, teachers, peers, and religious leaders to interpret nonconforming sexual orientation as sinful, criminal, or sick. Investigators and adjudicators are drawn from the general population. It is reasonable to suppose that incorporated into their personal theories of character are belief systems that would lead to identifying homosexuals as members of a suspect class, such identification being derived from sin, crime, or sickness constructions. The minority-group construction, for a long time privately advocated by individuals, has been presented to the public as a result of increased consciousness about civil rights. A person who subscribes to the construction of homosexuality as an alternate life style practiced by a minority group, would not consider homosexual identity or homosexual acts as indicative of the vague and value-laden category *moral turpitude*. This does not mean that he or she would downgrade the moral significance of such acts as incest, child molestation, rape, or other acts involving violence or coercion, acts that are sometimes included in the general descriptor *moral turpitude*.

A personal theory of character, like any theory, is not an incidental or ornamental feature of an individual's psychological make-up. A theory, whether in science or in daily life, is organized to facilitate understanding, to simplify, to reduce confusion, to provide guidance until data are gathered and converted into hard facts. A personal theory of character also has purposes, one of which is to facilitate, in the absence of facts, the sorting of individuals into moral categories. The use of theories to express personal prejudice may influence the practitioners of the art of clinical inference to make decisions in which information irrelevant to trustworthiness is given significant status. We are reminded of the theories of character advocated during various historical periods; theories designed to establish the superiority of a particular race or ethnic group.

In DoD 5200.2-R, under the heading, Criteria for Application of Security Standards, the general instruction to personnel security officials and practitioners is that the ultimate decision must be based on "an overall common sense determination based upon all available facts." In DCID 1/14, the same formula appears: "The ultimate determination of whether the granting of access is clearly consistent with the interest of national security shall be an overall common sense determination based on all available information" (p. 5). As I mentioned before, in the absence of empirically derived correlations, judgments are theory-driven rather than fact-driven. Common sense could mean the employment of commonly held theories of character which could influence decisions in which homosexuality was included in the compendium of "facts." The hypothesis could be entertained that under such conditions common sense could be interpreted as common prejudice.

Not only in the interest of fairness, but also in the interest of efficiency, attention should be directed to improving the inferential skills of adjudicators and other specialists so that in applying guidelines they can recognize and delimit the contribution of personal theories of character to their judgments.

At the beginning of this report, I pointed to two sets of problems: (1) Is a person a security risk by virtue of membership in the class homosexual? (2) Is a person of homosexual orientation a security risk because he or she is vulnerable to coercion and blackmail? The previous pages have focused on the first question. The remainder of the report is directed to the issue of vulnerability to blackmail. To illuminate the problem of blackmail, I make use of the concept *personal secrets*.

## Personal Secrets

The previous discussion centered on the problem of determining whether a homosexual man or woman should be granted a security clearance. I did not consider the observation that trustworthiness is a characteristic that is subject to contextual influences. Blackmail--the threat of disclosure of a personal secret--sometimes leads a trustworthy person to betray a trust. The risk of exposure is central to understanding the conduct of any person whose adjustment, achievements, and career advancements are dependent on maintaining secrets about the self. Such secrets cover a much wider field than sexual orientation. Secrets about the self are maintained to avoid making public one's inferiority, stupidity, or moral weakness. Persons hold secret such autobiographical items as unprosecuted felonies, illegal drug use, problem drinking, prior bankruptcies, race or ethnic origins, and spouse abuse. Many people employ secrecy to conceal from others certain disapproved psychological characteristics such as obsessions, phobias, compulsions, fetishism, and other behaviors that appear not to be under self-control. Actions that authority figures might label sexual misconduct become part of the secret self. Most adults conceal from public scrutiny such facts as fornication with a minor, adulterous relationships, bigamy, illicit sexual liaisons, compulsive masturbation, impotence and other sexual dysfunctions, and so on.

Self secrets of the kind listed above have one element in common: the person is open to the possibility of being stigmatized, of being forced to display a symbolic brand for all to see.

To be vulnerable (in the sense of being vulnerable to coercion by agents of a foreign power) is to risk disclosure of a personal secret. The power of the potential blackmailer who is privy to another's personal secrets is generated because of the extraordinary sanctions that follow the disclosure. Shame, dishonor, disgrace, ostracism, imprisonment or other legal penalties, and loss of employment are the outcomes that the secret-holder must consider.

The strategy of secrecy may be augmented by other strategies to avoid the degradation of identity, the loss of self. Disinformation, masking and disguise, and outright lying help maintain the secret self.

If a homosexual person makes public, or is ready to make public, his or her sexual orientation, then vulnerability virtually disappears. In civilian settings, the sanctions for disclosure of sexual status are no longer draconian; in fact, in many instances, sanctions are absent. Thus, publicly announced homosexuals are not likely to be targets of blackmail. The situation is different in the military. An unknown number of men and women homosexuals slip through the gatekeeping process. To remain in the military, they adopt the strategy of secrecy. The policy that influences homosexual men and women to conceal their sexual status is potentially counterproductive in terms of security

vulnerability. Whether concealing adultery, personal failings, or a criminal or immoral past, the degree of the threat of coercion is related to the quality of the protection a person gives his or her personal secrets. Where homosexuality is officially taboo, the person is at risk if his or her secrecy strategy is not airtight.

Being homosexual no longer carries the automatic risk of vulnerability save in situations where it is expressly forbidden. Under the military policies regarding the acceptance of homosexual volunteers, persons who slip through the net, if given a security clearance, are potentially vulnerable to blackmail.

Counterintelligence sources report that foreign intelligence agencies make inquiries regarding homosexuals in order to exploit vulnerability. SGT Clayton Lonetree told investigators that his Soviet handler, "Uncle Sasha," made inquiries about embassy staff who were potentially vulnerable to exploitation in order to maintain their personal secrets. The handler included homosexuals in his shopping list.

John Donnelly, Director of the Defense Investigative Service (1987), reported an anecdote in which foreign agents attempted to coerce into espionage a woman who was an undisclosed lesbian. The coercion involved disclosing her homosexuality. She refused to cooperate and reported the attempt to appropriate authorities, thus revealing her personal secret.

A review of a KGB training manual (1962) does not single out homosexuals as persons to be cultivated for exploitation. Rather, the manual identifies occupational types as potential targets: government officials, scientists, engineers, businessmen, etc. The perception of Americans as reflected in the manual is that they can be exploited through ideology or money. Ideology in this context does not necessarily mean subscribing to Marxist doctrine. A person is said to be ideologically compatible if he or she is sympathetic to the Soviet bloc or harbors resentment against the American economic or political system. Americans are perceived to be greedy capitalists, so money is expected to be the major motivator in recruitment operations.

A declaration in a legal brief by John F. Donnelly (1987) suggests that hostile intelligence agencies are interested in *any person who might be vulnerable*--not only homosexuals. "Hostile intelligence agencies, with great consistency, consider sexuality to be a potentially exploitable vulnerability. This does not mean that hostile intelligence agencies always seek out homosexuals to target. Rather, they usually spot individuals with the desired access and then assess them in order to determine the most effective approach. They then attempt to segregate those with alcohol or drug problems, financial

---

\*The anecdote was reported in the context of the KGB's practice of exploiting homosexuals who had not publicly acknowledged their sexual identity. The anecdote could also be employed to illustrate the claim that homosexuals are patriotic.

## HOMOSEXUALITY AND PERSONNEL SECURITY

Prepared by  
Theodore R. Sarbin, Ph.D.

Released by  
Roger P. Denk  
Director

Defense Personnel Security Research and Education Center  
Monterey, California 93940-2481

problems, a known disregard for security, and/or those who can be exploited sexually" (p.11).

No statistics are available to demonstrate the degree of success in recruiting spies through the threat of exposure of personal secrets. In developing a data bank on known spies, PERSEREC found that most Americans who attempt to sell government secrets are not recruited, they are volunteers.

The PERSEREC data bank currently includes 130 cases of American citizens who attempted espionage between 1945 and the present. In approximately half of the cases, the record is silent regarding sexual orientation. Of the remainder for which sexual orientation is known, eight have been identified as homosexual.\* Their motives appear to be the same as for persons not identified as homosexual: primarily money, secondarily, resentment. All were volunteers. None of the eight was a target of blackmail, although one offender claimed to have been coerced.

---

\*Brief resumes of these cases are in Appendix B.

## Concluding Remarks

In preparation for this report, I reviewed approximately 100 books and journal articles. My conclusion is that the concept *homosexuality* is not very useful. Persons who are labeled homosexuals are, as Bell and Weinberg put it, a diverse group. No generalizations are possible in regard to life style, personality type, or character development.

Are men and women identified as homosexual greater security risks than persons identified as heterosexual? Certainly in civilian contexts, there is no basis for holding the belief that homosexuals as a group are less trustworthy or less patriotic than heterosexuals. In the military, where homosexuals maintain secrecy, the threat of coercion is present. The fear of the secret being exposed makes one a potential target for blackmail. I should add that homosexuals, in this respect, are no different from heterosexuals who fear exposure of adultery or other illegal or moral lapses.

In considering the relationship of homosexuality to security, it would be appropriate to look for the origins of the discriminatory policies. In the 1940s, in wartime and thereafter, the government undertook the task of identifying and removing men and women from government positions who were considered disloyal. That the concept of loyalty was abused is a matter of historical record. Note the disciplinary action of the Senate in regard to the irresponsible conduct of Senator Joseph McCarthy. Loyalty programs were targeted to identify men and women who were sympathetic to communist ideology. The FBI, the government agency principally responsible for enforcing the loyalty screening program, broadened nonloyalty criteria to include nonconforming sexual orientation. In 1953, FBI Director J. Edgar Hoover ordered his operatives to enforce the newly created Federal Employee Security Program which included as adverse information such ostensibly nonloyal items as derogatory personal habits, conditions and acts (Hoover, 1954-55). "Sexual perversion" was included as an item of "nonsubversive derogatory character." Even before the publication of the new program, Hoover reported that the FBI had identified numerous "sex deviates in government service." Without citing evidence, Hoover declared that homosexuals are security risks and should be separated from government service. Over 600 "security separations" were reported for a 16-month period beginning in 1953. The charge was "perversion" and included employees from such nonsensitive government agencies as the Post Office and the Department of Agriculture (New York Times, 1955).

Once begun, bureaucratic policies and procedures are resistant to change. Although no empirical data have been developed to support any connection between homosexuality and security, it is reasonable to assume that Hoover's beliefs have continued to influence more recent personnel security practice. As I pointed out in the body of this report, homosexuality *per se* is not explicitly mentioned in the directives. Other categories, among them moral turpitude, are provided and they are sufficiently ambiguous to allow investigators and adjudicators to read homosexuality as disloyalty.

Whatever the basis of Hoover's beliefs, he was not privy to the wealth of scientific information currently available. Such information (a digest of which is included in earlier pages) raises serious questions about the validity of including homosexuals in a morally suspect class. It is true that most people, including investigators, adjudicators, and policy-makers, have not been exposed to contemporary biological, psychological, and sociological research findings. In the absence of such knowledge and influenced by the legacy of Hoover's combining homosexuality and disloyalty, some personnel security practitioners are likely to persist in the practice of lumping all homosexuals into one morally suspect class. The practice entails employing premises that flow from the adoption of social constructions of homosexuality that emphasize sin, crime, or sickness.

Policy-makers might give thought to endorsing and expanding training programs in which adjudicators and other personnel security specialists receive instruction in current scientific information about sexual orientation, and also in recognizing the sources of their premises and inference strategies. One outcome of such a training program would be a reduction in biased personnel security classifications made under the control of private theories of character.\*

I have made the point that the current policy of reviewing every applicant for clearance on a case-by-case basis meets the requirements of fairness and efficiency. The wide variation in homosexual life styles, like the wide variation in heterosexual life styles, demands a case-by-case approach. The policy is not sufficient, however, to ensure fairness in practice. As I have argued before, the effects of long-standing bias against homosexuals may bypass the intent of the case-by-case policy. In addition to providing instruction to investigators and adjudicators as indicated above, it would be wise to issue memoranda at regular intervals emphasizing the basis of the case-by-case approach, even providing examples, heterosexual and homosexual, of personnel who would be considered security risks. The educational impact would be strengthened if the memoranda included empirical data that supported the risk classifications.

A final word. The review and analysis of the literature on homosexuality leads to one conclusion: sexual orientation is unrelated to moral character. Both patriots and traitors are drawn from the class *American citizen* and not specifically from the class *heterosexual* or the class *homosexual*.

---

\*In 1988, the Department of Defense Security Institute inaugurated a training program. Adjudicators participate in a two-week course designed to improve their skills. Recognition of sources of bias is one of the topics covered.

## References

- Barnett, W. (1973). *Sexual freedom and the Constitution*. Albuquerque, NM: U. of New Mexico Press.
- Bell, A. P. (1973). Homosexualities: Their range and character. *Nebraska Symposium on Motivation, 21*, 1-26.
- Bell, A. P., & Weinberg, M. S. (1978). *Homosexualities*. New York: Simon & Schuster.
- Ben Shalom v. Marsh. 703 F. Suppl. 1372 (E. D. Wisc. 1989).
- Berube, A. (1990). *Coming out under fire*. New York: Free Press.
- Bieber, I., Dain, H. J., Dince, P. R., Drellich, M. G., Grand, H. G., Gundlach, R. H., Kremer, M. W., Rifkin, A. H., Wilbur, C. B., & Bieber, T. B. (1962). *Homosexuality, a psychoanalytic study*. New York, NY: Basic Books.
- Bullough, V. L. (1976). *Sexual variance in society and history*. Chicago, IL: University of Chicago Press.
- Colasanto, D. (1989, Oct. 25). In reversal, public increases support for gays' civil rights. *San Jose Mercury News*.
- Department of Defense. (1987). *Department of Defense personnel security program regulation (DoD 5200.2-R)*. Washington, DC: Office of the Deputy Under Secretary of Defense for Policy.
- Devereaux, G. (1963). Institutionalized homosexuality of the Mohave Indians. In H. Ruitenbeck (Ed.), *The problem of homosexuality*. New York: Dutton.
- Director of Central Intelligence. (1986). Directive No. 1/14, *Minimum Personnel Security Standards and Procedures Governing Eligibility for Access to Sensitive Compartmented Information*. Washington, DC: Author.
- Donnelly, John F. Declaration filed September 2, 1987. High Tech Gays et al. v. Defense Industrial Security Clearance Office, 56 U.S. L.W. 2144 (1987).
- Donnelly, John F. High Tech Gays et al. v. Defense Industrial Security Clearance Office, 56 U.S. L.W. 2144 (1987), p. 4.
- Dubbs v. CIA, 866 F.2d 1114 (1989).

- Ellis, L., & Ames, M. A. (1987). Neurohormonal functioning and sexual orientation: A theory of homosexuality-heterosexuality. *Psychological Bulletin*, 101(2), 233-258.
- Ford, C. S., & Beach, F. A. (1951). *The patterns of sexual behavior*. New York: Harper & Brothers.
- Freedman, M. (1976). *Homosexuality and psychological functioning*. Belmont, CA: Brooks/Cole.
- Gonsorick, J. C. (1982). Results of psychological testing on homosexual populations. *American Behavioral Scientist*, 25, 385-396.
- Harry, J. (1984). Homosexual men and women who served their country. *Journal of Homosexuality*, 10(1-2), 117.
- High Tech Gays et al. v. Defense Industrial Security Clearance Office, 56 U.S. L.W. 2144 (1987).
- Hooker, E. (1957). The adjustment of the male overt homosexual. *Journal of Projective Techniques*, 21, 18.
- Hooker, E. (1965). Male homosexuals and their worlds. In J. Marmor (Ed.), *Sexual inversions*. New York: Basic Books.
- Hoover, J. E. (1954-55). Role of the FBI in the Federal Employee Security Program. *Northwestern University Law Review*, 49, 333-336.
- Howells, K. (Ed.). (1984). *The psychology of sexual diversity*. Oxford: Basil Blackwell.
- Humphrey, M.A. (1990). *My country, my right to serve*. New York: Harper Collins.
- Kallman, F. J. (1952). A comparative twin study on the genetic aspects of male homosexuality. *Journal of Nervous and Mental Diseases*, 115, p. 283.
- Kelly, D. D. (1985). Sexual differentiation of the nervous system. In E. Kandel and J. Schwartz (Eds.), *Principles of neural science, 2nd edition*. New York: Elsevier.
- KGB. (1962). *Training for Recruitment of Americans in the USA and in Third Countries*. (FBI, Trans.). Moscow: Author.
- Kinsey, A., Pomeroy, W., & Martin, C. (1948). *Sexual behavior in the human male*. Philadelphia: W. B. Saunders.

- Kinsey, A., Pomeroy, W., Martin, C., & Gebhard, P. (1953). *Sexual behavior in the human female*. Philadelphia: W. B. Saunders.
- Law, S. A. (1988). Homosexuality and the social meaning of gender. *Wisconsin Law Review*, Volume 1988, No. 2, 187-235.
- List of security separations. (1955, January 4). *New York Times*, p. 14.
- Marmor, J. (1975). Homosexuality and sexual orientation disturbances. In A. M. Freedman, H. I. Kaplan, & B. J. Sadock (Eds.), *Comprehensive textbook of psychiatry-II*. Baltimore, MD: Williams & Wilkins.
- Marshall, D. S., & Suggs, R. C. (Eds.). (1971). *Human sexual behavior*. New York: Basic Books.
- Maze, R. (1988, June 13). VA extending benefits to more homosexual veterans. *Navy Times*, p. 14.
- Mihalek, G. J. (1988). Sexuality and gender, an evolutionary perspective. *Psychiatric Annals*. 18(1).
- Money, J. (1988). *Gay, straight & in-between*. New York: Oxford University Press.
- Money, J., & Erhardt, A. A. (1972). *Man and woman, boy and girl*. Baltimore, MD: Johns Hopkins University Press.
- Norton v. Macy. 417 F.2d 1161 (D.C. Cir. 1969).
- Ohlson, E. L. (1974). A preliminary investigation into the self-disclosing ability of male homosexuals. *Psychology*, 11, 21-25.
- Rosa, P. M. (1988, July 12). Homosexuals no longer face automatic ban as security risks. *The Morning Call*.
- Rosenberg, S. (1977). New approaches to analysis of personal constructs in person perception. In A. W. Landfield (Ed.), *Nebraska Symposium on Motivation 1976: Personal construct psychology* (pp. 179-242). Lincoln, NE: University of Nebraska Press.
- Ruse, M. (1988). *Homosexuality, a philosophic inquiry*. New York: Blackwell.
- Sackett, P. R., Burris, L. R., & Callahan, C. (1988). Integrity testing for personnel selection: An update. *Personnel Psychology*, 42, 492-529.

- Sagarin, E. (Ed.) (1971). *The other minorities*. Waltham, MA: Ginn.
- Sarbin, T. R., Taft, R., & Bailey, D. E. (1960). *Clinical inference and cognitive theory*. New York: Holt, Rinehart & Winston.
- Siegleman, M. (1978). Psychological adjustment of homosexual and heterosexual men: A cross-national replication. *Archives of Sexual Behavior*, 7, 1-11.
- Siegleman, M. (1979). Adjustment of homosexual and heterosexual women: A cross-national replication. *Archives of Sexual Behavior*, 8(2), 121-125.
- Siegleman, M. (1987). Kinsey and others: Empirical input. In L. Diamant (Ed.), *Male and female homosexuals: Psychological approaches*. New York: Hemisphere.
- Singer v. U.S. Civil Service Commission, 530 F.2d 247 (9th Cir. 1975).
- Singer v. U.S. Civil Service Commission, 429 U.S. 1034 (1977).
- Spector, M., & Kitsuse, J. I. (1987). *Constructing social problems*. New York: Aldine-de Gruyter.
- Webster v. John Doe, 48 S.Ct. (1988).
- Williams, C. I., & Weinberg, M. S. (1971). *Homosexuals and the military*. New York: Harper and Row.
- Wolfenden Report (1963, orig. 1957). *Report of the Committee on Homosexual Affairs and Prostitution*. New York: Stein and Ray.

## **List of Appendixes**

- A. **Statistical Data on Homosexuality**
- B. **Biographical Sketches of Known Spies with a Homosexual Orientation**

**Appendix A**

**Statistical Data on Homosexuality**

## Statistical Data on Homosexuality

No one knows how many homosexuals there are. The reason for this is twofold. First, there is the problem of definition, which has been discussed in the text. While it is relatively simple to define a homosexual act, it is not so with the definition of a homosexual person. Most definitions include some aspect of preference for or indulgence in homosexual acts. But how much preference, and how many acts? Along with authorities on human sexuality, we categorically reject the notion that participation in a single homosexual act defines homosexuality. An acceptable definition of homosexuality needs to contain two elements, one behavioral, the other self-definitional.

1. The person concerned prefers homosexual acts exclusively or significantly over heterosexual acts.
2. The person concerned identifies (at least privately) with being homosexual.

Second is the problem of locating homosexuals. Save for those who publicly announce their sexual orientation and those who are occasionally apprehended for homosexual conduct, there is no way to conduct population studies. Because of the social stigma traditionally attached to being homosexual, many (perhaps most) homosexuals remain hidden and are not identified except in special research studies. As a result, the data cited in any research investigation are not true population estimates. We can only construct estimates based on available data and social and demographic theory.

Kinsey (1948) rated his subjects on a 0-1-2-3-4-5-6 scale from exclusively heterosexual (0) to exclusively homosexual (6). The X category is employed to identify persons with no socio-sexual interest. Some of Kinsey's significant conclusions with regard to homosexuality are summarized in the following table:

**Table 1**

**Heterosexual-Homosexual Ratings for all White Males**

Heterosexual-Homosexual Rating: Active Incidence  
(Total Population--U.S. Corrections)

<u>Age</u>	<u>Cases</u>	<u>X</u>	<u>0</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>
		<u>%</u>							
5	4297	90.6	4.2	0.2	0.3	1.2	0.3	0.2	3.0
10	4296	61.1	10.8	1.7	3.6	5.6	1.3	0.5	15.4
15	4284	23.6	48.4	3.6	6.0	4.7	3.7	2.6	7.4
20	3467	3.3	69.3	4.4	7.4	4.4	2.9	3.4	4.9
25	1835	1.0	79.2	3.9	5.1	3.2	2.4	2.3	2.9
30	1192	0.5	83.1	4.0	3.4	2.1	3.0	1.3	2.6
35	844	0.4	86.7	2.4	3.4	1.9	1.7	0.9	2.6
40	576	1.3	86.8	3.0	3.6	2.0	0.7	0.3	2.3
45	382	2.7	88.8	2.3	2.0	1.3	0.9	0.2	1.8

Note: These are active incidence figures for the entire white male population, including single, married, and post-marital histories, the final figure corrected for the distribution of the population in the U.S. Census of 1940.

(from Kinsey, Pomeroy, Martin: Sexual Behavior in the Human Male, 1948).

**Appendix B**

**Biographical Sketches of Known Spies with a Homosexual Orientation**

## **Biographical Sketches of Known Spies with a Homosexual Orientation**

The following brief sketches were written from sources in the public domain, mostly newspaper articles.

**RAYMOND G. DeCHAMPLAIN**, Master Sergeant USAF, age 39, was arrested in 1971 in Bangkok, Thailand, on charges of espionage and other military violations. At the time of his arrest, he had served in the Air Force for over 20 years. He was known among his coworkers as a homosexual, but they did not report his activities to the commanding officer. He was known as an incompetent worker and heavily in debt. He was married to a Thai woman who left him shortly after the marriage, ostensibly because of his sexual orientation. DeChamplain alleged that he had been blackmailed by Soviet agents. It was known that he had been introduced to a Soviet agent at a party in 1967, but it was not until four years later that he volunteered to engage in espionage. He delivered a large number of documents to the KGB for which he received \$3800. He was convicted at court-martial and sentenced to 15 years hard labor, later reduced to 7 years. Primary motivation: money.

**LEE EDWARD MADSEN**, Yeoman Third Class, USN, age 24, was arrested in 1979 on charges of selling classified documents. He had been assigned to Strategic Warning Staff at the Pentagon. He turned over sensitive documents to an undercover agent for \$700. A coworker reported that Madsen needed money to buy a new car. He was quoted as saying to an investigator that he had stolen the documents "to prove that I could be a man and still be gay." He was sentenced to 8 years hard labor. Primary motivation: money, with a mix of ego-needs.

**WILLIAM H. MARTIN**, Intelligence Analyst, NSA, age 29, and **BERNON F. MITCHELL**, Intelligence Analyst, NSA, age 31, defected to the Soviet Union in 1960. They turned over detailed information concerning organization and structure of NSA and cryptographic codes. Primary motivation: unknown, probably a combination of financial needs and resentment of treatment of homosexuals in the United States.

**JAMES A. MINTKENBAUGH**, Sergeant, USA, age 45, was arrested by the FBI in 1965 for espionage. He had been recruited by Robert L. Johnson, Sergeant, USA. Both participated in providing information to the KGB on missile sites, military installations, and intelligence activities. Among Mintkenbaugh's assignments was spotting other homosexuals in the American community in Berlin. Johnson's wife tipped off the FBI. He was sentenced to 25 years hard labor. Primary motivation: money.

**JOSEPH P. KAUFFMAN**, Captain, USAF, age 41, was arrested in 1961 and charged with providing classified information to East Germany on Air Force installations in Greenland and Japan. He had been recruited by East German intelligence agents. He was sentenced to 20 years in prison. On appeal, the US Court of Military Appeals

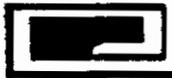
dismissed the espionage conspiracy charge and affirmed the conviction that he had failed to report attempts by agents of a foreign nation to recruit him. He had many personality problems and it is probable that he was just inept in his dealings with others. The sentence was reduced to 10 years and later to 2 years. Primary motivation: unknown.

DONALD W. KING, E2, USN, age 29, was arrested in 1989 for trying to sell technical manuals, communication systems parts and other classified materials to undercover agents. He was known to be unstable, hostile, and deceitful. He was also known to be a substance abuser. Primary motivation: money and ego-needs.

JEFFREY L. PICKERING, USN, age 25, mailed a five-page secret document to the Soviet Embassy in Washington, D. C. He had been in the Marines from 1965 to 1973, then joined the Navy fraudulently using a forged birth certificate and a new name. Under both names he was accused repeatedly of homosexual advances to other servicemen. He had attempted suicide in 1973 which resulted in his being discharged from the Marines. He reported that he would carry stolen documents in his car for "excitement."

Other evidence suggests that he saw himself as playing a part in a spy thriller, with code names and so on. Psychological evaluation after his arrest indicated suicidal tendencies and borderline personality disorder. He was sentenced to 5 years in prison. Primary motivation: money and ego-needs.

**PERSEREC**



**HOMOSEXUALITY AND  
PERSONNEL SECURITY**

**Theodore R. Sarbin**

**March 1991**

**DRAFT**

**DEFENSE  
PERSONNEL SECURITY  
RESEARCH AND EDUCATION CENTER  
99 Pacific Street, Building 455-E  
Monterey, California 93940-2481**

REPORT DOCUMENTATION PAGE				Form Approved OMB No 0704-0188		
1a REPORT SECURITY CLASSIFICATION UNCLASSIFIED			1b RESTRICTIVE MARKINGS			
2a. SECURITY CLASSIFICATION AUTHORITY		3. DISTRIBUTION/AVAILABILITY OF REPORT				
2b. DECLASSIFICATION/DOWNGRADING SCHEDULE						
4. PERFORMING ORGANIZATION REPORT NUMBER(S) PERS-TR-91-008			5. MONITORING ORGANIZATION REPORT NUMBER(S)			
6a. NAME OF PERFORMING ORGANIZATION PERSEREC (Personnel Security Research and Education Center)		6b. OFFICE SYMBOL (if applicable)	7a. NAME OF MONITORING ORGANIZATION			
6c. ADDRESS (City, State, and ZIP Code) 99 Pacific Street, Suite 455-E Monterey, CA 93940-2481			7b. ADDRESS (City, State, and ZIP Code)			
8a. NAME OF FUNDING / SPONSORING ORGANIZATION		8b. OFFICE SYMBOL (if applicable)	9. PROCUREMENT INSTRUMENT IDENTIFICATION NUMBER			
8c. ADDRESS (City, State, and ZIP Code)			10. SOURCE OF FUNDING NUMBERS			
			PROGRAM ELEMENT NO	PROJECT NO	TASK NO	WORK UNIT ACCESSION NO
11. TITLE (Include Security Classification)  Homosexuality and Personnel Security						
12. PERSONAL AUTHOR(S) Theodore R. Sarbin, PhD						
13a. TYPE OF REPORT Technical Report		13b. TIME COVERED FROM _____ TO _____		14. DATE OF REPORT (Year, Month, Day) 1991 March	15. PAGE COUNT 52	
16. SUPPLEMENTARY NOTATION						
17. COSATI CODES			18. SUBJECT TERMS (Continue on reverse if necessary and identify by block number) Personnel security; Secrets; Homosexuality; Morally suspect class; Exclusionary policy			
FIELD	GROUP	SUB-GROUP				
19. ABSTRACT (Continue on reverse if necessary and identify by block number)  This study examines the relationship between homosexuality and personnel security. It reviews legal, biological and social science literature on homosexuality. The study concludes that there are few data to support the premise that all homosexuals represent a security risk. It affirms the current guidelines that call for examination of individual security clearance decisions on a case-by-case basis. The author notes that homosexuals are often seen to constitute a morally suspect class and have been the target of discriminatory policies. The aim of the paper is to provide context for personnel security professionals as they weigh all appropriate variables in making security determinations.						
20. DISTRIBUTION/AVAILABILITY OF ABSTRACT <input checked="" type="checkbox"/> UNCLASSIFIED/UNLIMITED <input type="checkbox"/> SAME AS RPT <input type="checkbox"/> DTIC USERS			21. ABSTRACT SECURITY CLASSIFICATION UNCLASSIFIED			
22a. NAME OF RESPONSIBLE INDIVIDUAL Roger P. Denk, Director			22b. TELEPHONE (Include Area Code) (408) 646-2448		22c. OFFICE SYMBOL	

## **HOMOSEXUALITY AND PERSONNEL SECURITY**

Prepared by  
Theodore R. Sarbin, Ph.D.

Released by  
Roger P. Denk  
Director

Defense Personnel Security Research and Education Center  
Monterey, California 93940-2481

## Preface

In 1987 the Office of the Secretary of Defense (Policy) invited PERSEREC to reevaluate the current adjudicative guidelines contained in DoD's *Personnel Security Program* (5200.2-R) concerning sexual behavior and personnel security. In particular, PERSEREC was given the task of examining the relationship between homosexuality and personnel security.

This report poses two major questions: (1) Are homosexuals security risks by virtue of membership in the class *homosexual*? and (2) Are homosexuals vulnerable to blackmail if their homosexuality is kept a secret? The author, after an examination of various social constructions of homosexuality, a brief exploration of the scientific status of homosexuality, and a discussion of the concept of personal secrets, concludes that homosexuals, provided that their homosexuality can be safely disclosed, are no more security risks than heterosexuals. He suggests that security personnel continue to use the case-by-case approach in deciding whether to grant clearances, but that they be given special training to help eliminate any possible bias against homosexuals.

This report is intended for security professionals and all those interested in personnel security matters. We hope it will be a vehicle for stimulating discussion which will eventually lead to the ultimate goal of improving personnel security.

We are grateful to Michael A. Sterlacci, Assistant General Counsel, Office of General Counsel, DoD, for invaluable assistance and advice on legal issues.

Roger P. Denk  
Director

## **Homosexuality and Personnel Security**

Theodore R. Sarbin, Ph.D.

### **Summary**

#### Background and Issue

Legal challenges and changing folkways have been instrumental in the formation of public policy in regard to the granting of security clearances to homosexual men and women. In this report, we examine data from many sources to illuminate the problems associated with establishing a nexus between sexual orientation and personnel security.

#### Objectives

The research objective was to prepare a review of (1) changing folkways and court decisions, (2) the current scientific status of sexual orientation, including biological, psychological, and sociological studies, (3) the changing social constructions of homosexuality, and (4) the problems associated with applying current case-by-case policies when adjudicators and/or policy makers are not privy to the findings of contemporary science. The review provides the background for a reexamination of current personnel security practices.

#### Approach

From recent scientific publications, legal studies and other relevant literature, we summarized findings that were pertinent to answering two questions: (1) Are homosexual men and women inherently untrustworthy and therefore not eligible for security clearance? (2) Are such persons more likely to be targets of blackmail by agents of a foreign power?

## Results

Few data have been put forward to support the belief that being homosexual predisposes a person to unreliability, disloyalty, or untrustworthiness. Scores of studies have made clear that large individual differences in moral beliefs are to be found among heterosexuals and homosexuals. It is invalid to generalize from sexual orientation to trustworthiness. Life styles of homosexuals are as varied as the life styles of heterosexuals.

## Conclusions/Recommendations

Homosexuals have been targets of discriminatory policies. The residues of earlier constructions of homosexuality (sin, crime, or illness) may influence personnel security specialists to treat homosexuals as a morally suspect class. Given that homosexuals (like heterosexuals) are a diverse group, fairness and personnel efficiency require a case-by-case policy.

The current case-by-case policy is appropriate to the task of determining eligibility for security clearance. However, the implementation of the policy needs to be examined in light of the fact that investigators, adjudicators and other personnel security specialists are drawn from the general population and large segments of the population continue to view homosexuality as sin, crime, or illness, constructions that might bias eligibility decisions. The work of investigators and adjudicators should be monitored to ensure that practice follows policy.

## Table of Contents

Preface .....	i
Summary .....	ii
Introduction .....	1
The Construction of Morally Suspect Classes .....	2
Cognitive Processes in Premise Formation .....	12
Induction .....	12
Construction .....	12
Social Construction of Homosexuality .....	15
The Morality Construction--Good and Evil as Fundamental Categories .....	15
The Legal Construction--Sexual Deviance as Criminal Behavior .....	17
The Sickness Construction--The Medicalization of Deviance .....	18
The Minority Group Construction--Homosexuals as a Non-Ethnic Minority Group .....	20
Scientific Status of the Homosexuality Concept .....	23
Biological Studies .....	24
Psychological Studies .....	26
Sociological Studies .....	27
Implications .....	29
Personal Secrets .....	32
Concluding Remarks .....	35
References .....	39
List of Appendixes .....	43

## Introduction

Who can be entrusted with the nation's secrets? This overarching question guides the activities of governmental agencies charged with selecting trustworthy personnel. The primary operating assumption in efforts to answer this question is that not all persons are equally trustworthy: some are more likely to breach a trust than others.

The objective of this study is to explore whether homosexual men and women are at greater risk for engaging in espionage or other security violations than persons not so identified. The problem is complex. We must consider not only the character of persons who might engage in treasonous acts but also the contexts which influence such acts. Does the potential spy respond to inducements offered by foreign intelligence agents? What is the evidence that supports the claim that homosexuals are likely targets for blackmail by foreign agents? Are recruitment efforts of foreign intelligence agents directed specifically toward homosexual men and women? Are homosexual men and women more likely than heterosexuals to volunteer their services as spies? What are the facts that would support the hypothesis that being homosexual implies emotional instability and, therefore, unreliability and high risk for betrayal?

In the absence of systematically gathered data to answer these and related questions, it has been the practice to generalize from anecdotes. In the scientific arena, anecdotes play an important part: they provide the raw material for constructing hypotheses. Like anecdotes, hypotheses have no truth value until subjected to empirical test. In situations where anecdotes and untested hypotheses are employed as the basis for action, there is ordinarily a tacit recognition of the limited utility of anecdotes as sources of generalizations. Additional anecdotes may alter generalizations coined on the basis of earlier anecdotes.

In an effort to throw some light on these matters, I have organized the inquiry by attempting to answer two separate but related questions:

- 1) Is a person a security risk by virtue of membership in the class *homosexual*?

---

I am using the term *homosexual* in the conventional way as if persons could be sorted into two non-overlapping classes *heterosexual* and *homosexual*. In a later section of this essay, I point to the observations of scientists that *heterosexual* and *homosexual* are not exclusive categories and that gradations or dimensions of sexuality are more valid descriptors. A more complete historical and sociological account would consider the multiple referents for the word *homosexual*--does the word refer to gender orientation, to sexual practice, to identity, to role, to atypical social categories, etc? The multiple referents serve to create a criterial distinction for personnel security specialists. For purposes of adjudication, the distinction is sometimes drawn between homosexual *acts* and homosexual *identity*. A person who engages in homosexual acts as a result of immaturity or intoxication is not necessarily assigned to a morally suspect class. A person who describes his/her sexual orientation as homosexual--even in the absence of evidence that he/she engaged in homosexual acts--is suspect.

- 2) Is a person with same-gender orientation a security risk because he or she is vulnerable to coercion and blackmail?

To address the first question, I employ as a general framework the construction of judgmental or suspect classes. To address the second question, I locate the answer in the general context of personal secrets and attendant risks associated with disclosure or discovery.

I shall first examine the basis for the hypothesis that membership in certain socially defined classes renders a person more likely to engage in trust-violating conduct. Examples of such socially defined classes are the following: persons with unsatisfactory credit histories; persons with psychiatric histories; and persons with alcohol or drug abuse problems. The justifications for constructing such categories come from many sources: among them, generalizations about irresponsibility based upon unsatisfactory or problematic performances in nonsecurity-related settings. Membership in the class *homosexual* has also been employed with various justifications as a criterion for unsuitability in employment and ineligibility in security screening.

To develop our study, it is necessary first to describe the nature of the socially defined class. Subsequently, we can ask if membership in the class *homosexual* is predispositional to untrustworthiness.

### The Construction of Morally Suspect Classes

Trust and trustworthiness are complex features of human life. Even a casual consideration of what constitutes trustworthiness reveals its complexity. Immediately, we think of family, occupational, or other social conflict situations where the actors must choose between betraying and honoring a trust, and the risk of potential negative consequences for choosing one rather than another line of action. The fact that trust is central to some social interactions and peripheral to others adds to the complexity.

Although traditional psychometric theory would direct us to seek a character trait, a disposition, or a personality element located within the brain or the psyche, efforts to measure trustworthiness and related characteristics have yielded very little. Tests have been constructed to assess a related characteristic *honesty*, but they are of little value. In most cases, they fail to meet acceptable standards of validity and reliability (Sackett, Burris, & Callahan, 1988). Because of the ambiguity in defining trust and trustworthiness, as well as the contextual nature of acts that meet the requirements of trustworthiness, a useful psychological test is not likely to be devised. Without objective,

---

In a purely sociological analysis, I would discuss male and female homosexuality separately. Public attitudes toward gay men are not the same as public attitudes toward lesbians. In this personnel security analysis, separate discussions of male and female homosexuals are unnecessary.

quantitative procedures for sorting persons, we are forced to make use of qualitative methods.

Taxonomic sorting, i.e., sorting people into classes or taxonomies, is a universal human activity. We sort individuals into men and women, tall and short, fast and slow, hostile and benign, good and bad, and so forth. Efficient functioning, if not survival, depends upon creating and using taxonomies that are useful. Without constructing and using classes, we would be adrift in a sea of unsorted, meaningless stimulus-events. Almost from the cradle, human beings acquire the skill to sort persons into classes based on gender, kinship, age, school grade, size, race, ethnicity, physique, and so forth. The criteria for such classes are public and communicable. In addition, human beings make use of a subset, *morally suspect classes*, that have as their defining attribute the presence of morally undesirable characteristics.

I am using the term *suspect class* as a *psychological* concept. It should not be confused with the technical meaning of the term as used in constitutional law. The juridical use of *suspect class* is that of a class of persons whose rights are at risk in virtue of membership in classes the current criteria for which are race, alienage, national origin, gender, and illegitimacy. Governmental actions affecting such suspect classes are subject to heightened or strict scrutiny by the courts. Whether or not homosexuals make up a suspect or quasi-suspect class has been a contested issue in the courts. Although some courts have been willing to grant the status of suspect or quasi-suspect class to homosexuals, higher courts have regularly reversed such actions. To repeat, in this inquiry I am using *suspect class* in a *psychological* sense. Where there is the possibility of confusing the two meanings, I have added the qualifier, "morally," to indicate the psychological meaning. The meaning is quite different from the meaning of *suspect class* in legal briefs.

Assignment to a morally suspect class carries the attribution of negative traits such as dishonesty, unreliability, untrustworthiness, cowardice, etc. For example, persons who violate propriety norms regarding aggression against children are assigned to a legally defined class *child abusers*. Because of the severity of societal and moral rules about beating children, any person who publicly violates such rules is likely to be assigned not only to the class *child abusers* but to a wider class, not necessarily articulated, the defining characteristics of which reflect *generalized badness*. Thus, assignment to the class *child abusers* renders the person a member of a morally suspect class, i.e., he/she would be suspected of other moral deviations, among them, untrustworthiness. It is important to note that the criteria for suspect classes are not constant. At one time, being assigned to the class *left-handed* resulted in the concurrent assignment to the class *evil*. Residues of this folk belief remain in our language--*sinister* may serve as a reference for left-handedness or as a term to denote a moral judgment.

In the selection of men and women for certain tasks, efficiency is sought by assigning potential job-holders to occupational classes. Classes such as clerical workers, mechanics, computer-operators, administrators, and so on, are commonplace. The defining characteristics of such classes are skills and aptitudes. The selection process is governed by procedures designed to assess skills and aptitudes. When selecting personnel for jobs that involve access to government secrets, the selection process has an additional dimension. A different kind of class is created, the defining characteristics of which are not skills and aptitudes, but *moral* descriptors such as honesty, reliability, and trustworthiness. Selecting personnel who can be entrusted with the nation's secrets, then, calls for taxonomic sorting on moral dimensions. Actual or potential members of the work force who are presumed to be morally flawed make up a suspect class: *not trustworthy*. In this sense, a suspect class is a class whose members are objects of suspicion. A concrete example of the use of suspect class in making inferences about a person would be the following. A bearded, unkempt, leather-jacketed, booted motorcyclist enters a middle-class restaurant. Some patrons and staff would automatically look upon the person with suspicion, expecting that his conduct would violate conventional or moral rules. Such an inference follows from assigning the person to a previously formulated suspect class *motorcycle gangs* with the implication that membership in such gangs renders one morally suspect.

Nonconforming sexual orientation, in some places and during certain historical periods, has served as the criterion for assigning persons to a morally suspect class. Certain forms of nonconforming sexual conduct have been incorporated into criminal statutes and/or psychiatric vocabularies. Not only legal and psychiatric attributions of badness, but folk attributions of generalized moral deviation, including untrustworthiness, are commonly noted. That is to say, folk beliefs arising from historical and cultural antecedents attribute generalized moral deficiencies to persons whose sexual orientations are nonconforming. I should add quickly, however, not all nonconforming sexual conduct leads to the assignment of persons to suspect classes. For example, in certain subcultures male promiscuity is not taken as the basis for assigning persons to morally flawed suspect classes.

In recent years, the folk belief has been challenged. Men and women who identify themselves as homosexual have raised the question whether they should be assigned to a suspect class. The civil rights movement, changing folkways, and some legal decisions have supported efforts to modify or eliminate the assignment of homosexuals to a morally suspect class (Barnett, 1973).<sup>\*</sup> Among the legal decisions that may have

---

<sup>\*</sup>This analysis is not intended to follow the form of a Law Review article in which all pertinent cases and legal precedents are examined. Rather, I identify a few noteworthy cases to illustrate the complexity of the constitutional issues. The complexity is reflected in the fact that the legal codes of half the States contain no prohibition against consensual sodomy. The U.S. Supreme Court apparently regarded this issue as a state's rights issue when it refused to invalidate a Georgia law prohibiting consensual sodomy (*Bowers v. Hardwick*, 478 U.S. 186 (1986)).

influenced the softening of discriminatory practices in public employment is the case of *Norton v. Macy* (417 F.2d 1161 (D.C. Cir. 1969)). The plaintiff had been fired on the grounds of "immorality" because he had engaged in homosexual conduct. The court ruled that alleged or proven immoral conduct is not grounds for separation from public employment unless it can be shown that such behavior has demonstrable effects on job performance. Judge David Bazelon's decision included a statement that may have influenced recent employment and security policies in government service. He said (in part):

The notion that it could be an appropriate function of the federal bureaucracy to enforce the majority's conventional codes of conduct in the private lives of its employees is at war with elementary concepts of liberty, privacy, and diversity.

Another case that has received wide attention was tried in 1987 in the United States District Court for the Northern District of California. The case was filed in 1984 on behalf of an organization of Silicon Valley (California) employees known as High Tech Gays. Three members of the group had been denied security clearance because of the policy of intensive and expanded scrutiny of homosexuals. According to DoD policies at the time, identification as homosexual of a prospective employee was sufficient reason for expanded clearance investigations. The ruling handed down by Judge Thelton E. Henderson declared that the DoD policy was founded on prejudice and stereotypes, the basis for the policy being the unwarranted claim that homosexual men and women were emotionally unstable and, therefore, potential targets for blackmail. Judge Henderson ruled that homosexuals were a "quasi-suspect class" (in the juridical sense) and that government policies violated the constitutional guarantee of equal protection under the law (*High Tech Gays v. DISCO*, 668 F.Supp. 1361 (N.D.Cal. 1987)).

The complexities of the juristic concept *suspect class* is illustrated in the contrary opinions of the District Court and the Appeals Court. On appeal, the Ninth Circuit Court of Appeals heard arguments and decided in favor of the Department of Defense. The opinion, written by Circuit Judge Melvin Brunetti, rejected Judge Henderson's conclusions that homosexuals are a "quasi-suspect" class and that claims of discrimination must be examined with "heightened scrutiny" or "strict scrutiny." In rejecting Judge Henderson's conclusions, Judge Brunetti argued that heightened or strict scrutiny could be applied only to government actions that discriminated against persons based on race, gender, alienage, national origin, or illegitimacy. The opinion goes on to say that in order to be perceived as a suspect or quasi-suspect class, homosexuals must (1) have suffered a history of discrimination, (2) exhibit obvious or immutable characteristics that define them as a discrete class, and (3) show that they are a minority or politically powerless. Judge Brunetti held that the first criterion was met, that homosexuals have suffered a history of discrimination. The other two criteria were not met, according to the ruling. In the court's opinion, homosexuality is not an immutable characteristic, and homosexuals are not powerless as witnessed by numerous anti-discrimination statutes.

In reversing the District Court, the Appeals Court supplemented its ruling by referring to the observation that "Courts traditionally have been reluctant to intrude upon the authority of the Executive in military or national security affairs" (895 F. 2d, 563, 570-74 (1990)). Judge Brunetti suggested that the plaintiffs could find relief through legislative action.

The case of Sergeant Perry Watkins may have implications for future legal challenges. Watkins entered the service in 1967 at age 19, admitting on a preinduction medical form that he had homosexual tendencies. At that time, the Army discharged soldiers for engaging in homosexual acts, but not for "homosexuality." The distinction between homosexual acts and homosexuality is difficult to draw. The authors of the regulation probably employed a notion that was influenced by the dichotomy: acts and dispositions. The abstract term, "homosexuality," could be employed to denote that a person might be disposed to act in certain ways, but would not necessarily engage in such overt actions.

In 1981, the regulation was modified to include sexual orientation, regardless of conduct. On the basis of this regulation, Watkins was dismissed from the service in 1984 after a series of court actions. In February, 1988, a three-judge panel of the United States Court of Appeals for the Ninth Circuit ruled two to one that the Army's discrimination against homosexuals was unconstitutional. The Court held that the regulation violated the constitutional guarantee of equal rights under the law. The language of the court compared discrimination against homosexuals with racial discrimination. Writing the majority opinion, Judge William Norris included the following analogy:

For much of our history, the military's fear of racial tension kept black soldiers separated from whites. Today it is unthinkable that the judiciary would defer to the Army's prior 'professional' judgment that black and white soldiers had to be segregated to avoid interracial tensions (*Watkins v. U.S. Army*, 847 F.2d, 1329, 1339-49 (1988)).

The decision was vacated for a rehearing *en banc* (847 F.2d 1362(1988)). Watkins had served in the Army for 14 years. In 1980, his re-enlistment was refused on the grounds that he was homosexual. Whether Watkins could continue to serve in the Army was resolved on other grounds by the Ninth Circuit Court *en banc*. Whether homosexuals should be regarded as a suspect class was not addressed (*Watkins v. U.S. Army*, 875 F.2d 699 (1989)). Judges Norris and Canby wrote concurring opinions and indicated they would address the suspect class issue. However, a panel of the Ninth Circuit subsequently ruled that homosexuals are not a suspect or quasi-suspect class (*High Tech Gays v.* 895 F.2d 563 (1990)). A petition for rehearing *en banc* was denied over the strong dissent of Judges Norris and Canby (*High Tech Gays*, 909 F.2d 375 (1990)).

A recent Supreme Court decision addressed another aspect of the rights of persons who hold nonconforming sexual orientations. In 1982, John Doe, described as a

covert electronics technician for the CIA, voluntarily told an Agency security officer that he was a homosexual. The Agency conducted a thorough investigation which included a polygraph examination designed to uncover whether he had disclosed classified information. Although Doe passed the test, he was dismissed on the grounds that he was a national security risk. The Court held that it is legitimate for courts to review the constitutionality of the CIA's dismissal of employees. The effect of this decision is that Doe can now appeal to the Federal courts to sustain his argument that his constitutional rights had been violated because no evidence was presented to show that he could not be trusted with national security secrets (*Webster v. Doe*, 486 U.S. 592 (1988)). The decision was silent regarding the treatment of homosexuals as a suspect class.

Similar to the case of *Webster v. Doe*, cited above, is the case of *Julie Dubbs v. CIA* (1989). The plaintiff, an openly gay woman, was employed as a technical illustrator at SRI International, a private research institute. In the course of employment at SRI, her job called for a Top Secret security clearance from the Department of Defense and a Sensitive Compartmented Information (SCI) clearance from the CIA. The Department of Defense granted the Top Secret clearance, but the CIA denied the SCI clearance.

The plaintiff filed suit against the CIA in United States District Court, Northern District of California, in 1985, claiming that the action of the CIA followed from an unconstitutional blanket policy of denying clearances to homosexual persons. The District Court ruled in favor of the CIA. On appeal, the Ninth Circuit Court reversed the ruling and remanded the issue to the District Court for further proceedings.

In August 1990, District Court Judge Eugene F. Lynch handed down a ruling which stated, in essence, that if the CIA does in fact have a blanket policy, it must present evidence at a trial to justify such a policy and to establish that the policy was *rationally* related to government interests (*Dubbs v. CIA*, No. C-85-4379 EFL N.D.Cal (1990)).

These cases illustrate the proposition that the government must have a legitimate purpose for differentiating between heterosexual and homosexual persons, and further, that the government must be able to show that the differentiation serves that purpose. It is interesting to comment on the rationale offered by the Government in the High Tech Gays case. The Court accepted the reasoning that expanded security investigations for homosexuals were justified in that homosexuals were specifically targeted by hostile foreign intelligence services as candidates for blackmail or coercion. The recent history of espionage in the United States would suggest that heterosexuals are also targeted by foreign intelligence agents (see below, p. 33).

In recent years, military personnel have turned to the courts for redress when they were dismissed on the grounds of homosexuality. The cases have been decided for the most part in favor of the military, usually on the grounds that the military was privileged to adopt its own standards of suitability. In these cases, personnel security was not

directly at issue. However, they introduced constitutional problems. An example of the complexity of the constitutional issues is the case of *Ben Shalom v. Marsh*, (703 F. Suppl. 1372 E.D. Wisc. 1989). The plaintiff was an Army Reserve sergeant who was discharged in 1976 after she publicly acknowledged being a lesbian. A District Court ordered her reinstatement in 1980, but she was not reinstated until 1987. She filed the lawsuit after her request to reenlist for another six-year term was denied on the grounds of her declaration that she was a lesbian. At no time during the litigation was there allegation of homosexual conduct. The District Court ruled that her First Amendment rights had been denied and ruled in her favor.

The implications in this ruling is that the Congress rather than the courts be petitioned to examine the legitimacy of the exclusionary policy and to provide statutory guidance.

The decision was appealed. The United States Court of Appeals (Seventh Circuit) overruled the District Court. The reasoning offered by Judge Harlington Wood, although directed specifically to the military, has implications for personnel security in civilian settings. His remarks focus on the legitimacy of the military's regulations in regard to accepting homosexuals for enlistment.

...the Army should not be required by this court to assume the risk, a risk it would be assuming for all our citizens, that accepting admitted homosexuals into the armed forces might imperil morale, discipline, and the effectiveness of our fighting forces. The Commander-in-Chief, the Secretary of Defense, the Secretary of the Army, and the generals have made the determination about homosexuality, at least for the present, and we, as judges, should not undertake to second-guess those with the direct responsibility for our armed forces. If a change of Army policy is to be made, we should leave it to those more familiar with military matters than are judges not selected on the basis of military knowledge. We, as judges, although opponents of prejudice of any kind, should not undertake to order such a risky change with possible consequences we cannot evaluate. The Congress, as overseer of the Army and the other military branches, is also better equipped to make such determinations (*Ben Shalom v. Marsh*, 881 F.2d 454 7th Cir. 1989)\*.

---

\*Six Circuit Courts have declared that homosexuals do not comprise a suspect or quasi-suspect class for purposes of equal protection: D.C. Circuit: *Padula v. Webster*, 822 F.2d 97, 102-03 (1987); *Dronenburg v. Zech*, 741 F.2d 1388 (1984), reh'g denied, 746 F.2d 1579 (1984); Federal Circuit: *Woodward v. United States*, 871 F.2d 1068, 1076 (1989), cert. denied, 110 S.Ct. 1295 (1990); Fifth Circuit: *Baker v. Wade*, 769 F.2d 289, 292 (1985), reh'g denied, 774 F.2d 1285 (1985), cert. denied, 478 U.S. 1022 (1986); Seventh Circuit: *Ben-Shalom v. Marsh*, 881 F.2d 454, 463-66 (1989), cert. denied, 110 S.Ct. 1296 (1990); Ninth Circuit: *High Tech Gays v. Defense Industrial Security Clearance Office*, 895 F.2d 563, 570-74 (1990), reh'g denied, 909 F.2d 375 (1990); Tenth Circuit: *Rich v. Secretary of Army*, 735 F.2d 1220, 1229 (1984); *National Gay Task Force v. Bd. of Education of City of Oklahoma*, 729 F.2d 1270, 1273 (1984), aff'd by equally divided Court, 470 U.S. 903 (1985).

From the current review of case law, the conclusion is apt that the courts have accepted as "rational" the government's position that homosexuals are not fit to serve in the military.\* It would be inappropriate to imply that such a conclusion should generalize to personnel security in civilian settings. The contention of the military that the acceptance of homosexuals into the armed forces would not be consistent with "good order and discipline" in no way demonstrates that homosexuals cannot be entrusted with the nation's secrets.

Law and custom tend to influence each other. As court decisions and legislative statutes have influenced employability, government agencies have dropped exclusionary personnel practices. For example, the Civil Service Commission in 1976 and 1977 amended its regulations so that no person could be denied Federal employment on the basis of sexual orientation (*Singer v. Civil Service Commission*, 503 F.2d 247 (9th Cir. 1976); 429 U.S. 1034 (1977)). Another example of changing times is the National Security Agency's recent move to grant some homosexuals, under certain conditions, access to sensitive compartmented information (SCI), one of the highest designations of sensitive information (Rosa, 1988). The Director of Central Intelligence Directive 1/14 (1986) stipulates that SCI clearances be granted only to individuals who are "stable, of excellent character and discretion, and not subject to undue influence or duress through exploitable personal conduct" (p. 10). Homosexual conduct is to be considered as one of many factors in determining an individual's trustworthiness. The wording of the guidelines is that homosexuality *per se* is not grounds for denial unless the person's conduct leads to inferences about reliability, integrity, discretion, and loyalty.

Although not related to security, the 1988 decision by the Veterans Administration reflects a muting of long-held discriminatory practices. Military personnel who had been discharged for homosexuality had been denied most benefits. Prior to 1980, most of the veterans had been given less than honorable discharges and thus were not eligible for benefits. The Veterans Administration has now introduced a new ruling so that such veterans are eligible for services. The new rule was proposed "as a matter of fairness" (Maze, 1988).

Another indicator of changing attitudes is the deletion of the term *homosexual* from DoD's *Personnel Security Program* (DoD 5200.2.R), the official guide to adjudicators and others charged with granting or withholding security clearances. (In a later section, I point to ambiguously worded criteria that make possible the implicit use of homosexuality as a basis for inferences regarding trustworthiness.)

---

\* Social survey methodology is available to test the validity of the professional judgments that are used to support exclusionary policies. A team of social survey experts could devise a survey instrument that would assess attitudes and experiences of military personnel. The results of a study employing survey methods could be considered by policy makers charged with improving efficiency in accession and retention policies.

The Canadian Armed Forces are currently conducting a survey designed to assess attitudes toward the proposal to discontinue exclusionary policies.

Concerned with the impact of discriminatory policy on the viability of Reserve Officer Training Programs (ROTC), four associations representing most of the nation's colleges and universities have petitioned the Secretary of Defense to change the policy. As a result of the refusal of the Department of Defense to grant commissions to cadets who admitted to being homosexual, the American Council on Education, the Association of American Universities, the American Association of State Colleges and Universities, and the National Association of State Universities and Land Grant Colleges have gone on record to note that "sexual orientation appears to be the only basis on which discrimination is condoned within ROTC or similar programs" (*Philadelphia Inquirer*, May 17, 1990). In their letter to Secretary Cheney, the four associations noted that the Pentagon's discriminatory policy often runs counter to explicit anti-discriminatory regulations established by institutions of higher learning, and in at least one instance, contrary to state law. In the long run, given the need to continue ROTC programs, [Pentagon policies will have to take into account such petitions from prestigious educational associations.]

A review of American history shows that changes in the law and public policy are often influenced by literary efforts. At least two books have recently been published that detail the patriotism and sometimes heroic performances of homosexual men and women who served in the Armed Forces (Berube, 1990; Humphrey, 1990). The theme of these books is to raise questions about the validity of the professional judgment of government officials that being homosexual renders a person unfit for military duty.

The foregoing remarks reflect some of the responses to challenges raised by homosexual men and women. The examples cited above are directly related to efforts to remove homosexuals from a discriminatory class--a class which contains the feature: morally flawed and not trustworthy. It is clear that some of the court rulings and agency regulations were not directed to eligibility for security clearance but rather to suitability for employment. For many civilian jobs in government and in defense industries, suitability and security status overlap.

At this point, it is instructive to note that personnel security research is directed toward providing guidelines for assessing the trustworthiness of three populations: (1) employees of defense contractors, (2) civilian government employees, and (3) military personnel. In theory, the military requires no research-driven guidelines inasmuch as volunteers who are known to be homosexual are not accepted for service. This exclusionary policy is not completely effective in closing the doors to homosexual men and women. In the period 1981 to 1987, 4,914 military personnel were dismissed from the Army and Air Force on the grounds of homosexuality. Of these, 40 percent of the Army sample and 50 per cent of the Air Force sample held Secret or Top Secret clearances.\* It is reasonable to suppose that background investigations had yielded no information

---

\*Data on Navy/Marine Corps were not available. Data supplied by Defense Manpower Data Center.

that would lead to the inference that they were security risks. Seventy-two percent of those discharged had served at least two years. Inasmuch as homosexuals enter military service despite the official policy, the information to be presented in the following pages, primarily targeted toward civilian employees, may be pertinent to the efforts of DoD policy makers charged with studying ways and means of making accession policies maximally effective.

To return to the problem of selecting personnel for access to government secrets, we must address the question: are there demonstrable supports for the belief that assignment to the class *homosexual* should imply concurrent assignment to a morally flawed suspect class? Contained in the descriptor *morally flawed* are such implications as *not trustworthy* and/or *not loyal*. To attempt an answer to this question requires, first, a brief excursion into how classes are formed and utilized in making inferences; second, a review of the legal and social history of homosexuality relevant to the practice of assigning homosexuals to a suspect class; and third, a review of the biological and social scientific literature on homosexuality.

---

A commentator on an earlier version of this report was critical of the suggestion that the conclusions might have some relevance to the exclusionary policy of the military establishment. The policy, argued the commentator, does not follow from moral objections but from the unique requirements of military life and "the paramount need to maintain good order and discipline." Professional judgment holds--at least in the recent past--that the inclusion of homosexual men and women in the armed forces would interfere with good order and discipline. It is understandable that policy makers would assign credibility to professional judgment when empirical data are unavailable. Professional judgments regarding personnel issues (no less than judgments regarding weapon systems) that fail to take scientific findings into account must be closely scrutinized. We are reminded that prior to President Truman's 1948 executive order, professional judgment held that good order and discipline would suffer if the armed forces were racially integrated. Likewise, professional judgment held that the integration of women into the military would affect good order and discipline.

The courts, it should be added, have traditionally deferred to the professional judgment of the military on personnel issues. The reasoning for the deference is illustrated in Judge Harlington Wood's explicit claim (see p. 8) that judges are not equipped to question the professional judgments of military authorities, if decisions based on such judgments have a rational basis.

It is beyond the scope of this report to explore the multiple meanings of "rational." However, one meaning frequently employed in legal discourse is that to be considered "rational" an argument must follow rules of logic. The rules of logic ultimately refer to the syllogism. In the classical use of the syllogism, the conclusion can contain no more truth-value than that contained in the major and minor premises. The minor premise in the exclusionary argument, that homosexuals are subject to blackmail (more so than heterosexuals), is derived from professional judgments. It is incumbent upon the courts to assess the truth-value of professional judgments in forming decisions based on the use of "rational" criteria.

Professional judgment may be challenged in the wake of recent military operations in the Middle East. The Wall Street Journal (Lambert, 1991) reported instances of homosexual military personnel declaring their sexual orientation to their commanders. Rather than being discharged, they were ordered to remain with their units and ship out to Saudi Arabia. The military experience of these men and women might test the truth-value in the professional judgment that morale and discipline suffer when homosexuals serve in the same units as heterosexuals.

## Cognitive Processes in Premise Formation

Making judgments about people requires cognitive work. Judgments are not automatic and immediate, they are the end result of silent actions by human beings who are accustomed to using the logic of the syllogism. They begin from a major premise (not usually articulated), then assign the case under review to the minor premise. The conclusion follows from the joining of the two premises. In the simplest case, the major premise could be: All shifty-eyed persons are liars. The minor premise, based on observation, is: Jones is a shifty-eyed person. The conclusion follows: Jones is a liar. The logic is valid. Whether or not Jones is a liar is dependent on the truth-value of the major premise. Was the major premise derived from observation and was it empirically checked? Or was the major premise constructed out of unconfirmed beliefs, hypotheses, speculations, analogies, etc.? Human beings who are faced with the task of forming inferences about others make use of two general methods for formulating major premises: induction and construction (Sarbin, Taft, & Bailey, 1960).

### Induction

Observation and experience, the basis of induction, is the empirical method for constructing classes that would be useful in ordinary decision-making. It is the method that has advanced science and technology. Connections are established between classes of events. For example, amorphous clouds can be sorted into classes: nimbus, stratus, and cumulus. The utility of the classes has been established by correlating the presence of classes with wind and weather patterns. Mariners, aviators, and farmers make predictions from inductively derived premises that connect classes of clouds with other meteorological conditions. Research on personality and character, by and large, attempts to establish inductions that would allow predictions of future conduct from measurements taken from past or present assessments. Except for gross classifications, such as *psychopathic inferiority*, *sociopathy*, and *undersocialized*, we have few empirically tested generalizations that would be helpful in making predictions about a person's moral choices. It would be most practical if adjudicators (or anyone) could make inferences about a particular person from reliable inductions of the form: all church-going persons are honest, or all Cretans are liars. Such inductions are not available. Unless we are to avoid all decision-making until we can create inductively derived premises, we are constrained to employ premises that do not have the benefit of empirical confirmation.

### Construction

Most of our judgments about others (and ourselves) flow only partly from inductive generalizations and mostly from constructions. The beliefs we hold about human nature are more theory-driven than data-driven. Human beings, having the gift of language and the talent to use syllogisms, can and do construct all manner of beliefs

about human behavior. When combined into an informal system, the beliefs can serve as an implicit theory of character.

The constructed beliefs that comprise a person's theory of character develop from two main sources: (1) deductive statements that reflect the implicit fashioning of beliefs, imaginings, and attitudes, and (2) authority.

(1) Beliefs that serve as the basis for an individual's theory of character may come from immersion in scientific or folk theories of personality. An investigator or adjudicator might absorb some of the elements of psychoanalytic theory and hold beliefs about the structure of character disorders. He or she would then be prepared to employ premises derived from psychoanalysis. Others might advance premises based on unsophisticated folk theories, e.g., people who appear to fit the prevailing stereotypes of "criminals" are unreliable; a weak handshake betokens a weak character; a tidy desk denotes a well-ordered mind. Needless to say, some individuals borrow premises, often absurd, from the contents of astrological charts. Many persons hold beliefs that scientifically inclined observers would label superstitions.

Some premises are constructed as the result of analogical reasoning. Mr. Smith has a theory of character derived from an analogy. A fellow worker who had a "weak lower jaw" was fired for embezzling funds. From this experience, Smith constructed the premise: people with weak jaws are predisposed to dishonesty. The fellow-worker was used as a model in Smith's silent construction of a premise: if a person has one characteristic in common with the model, then he will have all the other characteristics of that model. Research on judging personality makes clear that human beings, in the absence of confirmed inductions, construct and employ implicit theories of personality (Rosenberg, 1977). Incorporated into such implicit theories are theories of character. Many characterological assumptions can be traced to immersion in codes of morality that are contained in religious beliefs. In a later section, I indicate the content of beliefs arising from theological sources and I suggest that such beliefs, acquired before the age of reflection, may be grounds for an individual's theory of character, a theory that would generate premises about the character of persons identified as homosexual.

(2) The other source for the construction of a theory of character is authority. Teachers, supervisors, political leaders, and other figures in positions of authority may impart to a novice a ready-made theory of character. The authority's theory may be a mix of inductions and constructions.

Authorities often support their theories of character by referring to tradition as a form of validity. "It's always been done this way" is used as an argument to support a particular premise for making character judgments when empirical support is lacking. Another strategy employed to justify a particular theory of character is to claim that it is supported by "professional judgment."

I have presented the foregoing discussion in the interest of establishing that investigators, adjudicators, and case controllers, in common with people generally, do not process information in a mechanical way but engage in the practice of clinical inference. The inferences they make about homosexuals or heterosexuals flow from premises generated by their belief systems. Such belief systems do not arise in a vacuum; they are influenced by hard facts when available, and by creative imaginations when hard facts are not available. To help understand the source of beliefs that assign homosexuals to a suspect class, an exposition of the various social constructions of homosexuality is in order.

## **Social Construction of Homosexuality**

A word about the notion of *social construction*. Meanings are not given in nature. Meanings are assigned to events by human beings who communicate with each other. The construction or interpretation of any phenomenon is influenced by concurrent historical contexts: political, economic, religious, and scientific.

The observations of historians (see, for example, Bullough, 1976) and the reports of ethnographers (see, for example, Ford and Beach, 1951; Marshall & Suggs, 1971; and Devereaux, 1963) support the notion that the constructions placed on same-gender sexuality are social. As Kinsey remarked, "only the human mind invents categories." At certain times, and in many societies, most variations in the expression of sexuality have been regarded as normal. It is the application of moral rules and legal statutes that determines whether same-gender orientation and conduct is classified as acceptable, tolerable, offensive, or criminal. Such rules and statutes are the products of custom, supported by the power vested in authority. As the historical record shows with abundant clarity, forms of authority change. In early times, moral rules were enforced by men and women enacting priestly roles. Later, ruling classes imposed their own fluctuating standards on the enforcement of moral rules. In western democracies, rules are constructed through consensus or legislation, and rules favoring the majority are tempered so that rights of minorities are not obliterated.

How has this variability been construed? Tracing the history of social constructions of deviant conduct points unmistakably to the influence of beliefs prevailing at any particular time. A full historical account is beyond the scope of this paper, but for our purposes it is sufficient to demonstrate that observed variability in sexual conduct has been construed differently at different times in Western history. My point of departure is influenced by the position of contemporary science: that observations ("facts") are raw materials for constructing meanings (Spector & Kitsuse, 1987). The construction of meanings is not given in the observations, but is the product of cognitive work, taking into account political, social and religious contexts. In the past several hundred years, four constructions have been offered to account for variations in sexual orientation. Evidence of these constructions is abundant in contemporary life, although each construction was initially formulated in a different historical period.

### **The Morality Construction--Good and Evil as Fundamental Categories**

Moral rules as represented in religious writings are the source of the long-held construction of prohibition of nonprocreative sexual conduct. Masturbation, lascivious conduct, and nonprocreative sex were proscribed. "You shall not lie with a man as with a woman, that is an abomination" (Leviticus 18:22). "Neither the immoral, nor idolaters,

nor adulterers, nor abusers of themselves with mankind, will inherit the Kingdom of God" (I Corinthians 6:9).

The history of religious attempts to control sex makes clear the notion of variability in attitudes. Struggles between advocates of different theological doctrines have been reflected in attitudes toward sex. In the formation of attitudes, two ideas stand out in the literature; first, the inferior status of women, and, second, child-bearing as a requirement for maintaining a collectivity. In a far-reaching review, Law (1988) provides evidence and argument to support the proposition that the condemnation of homosexuality is more an unwitting reaction to the violation of traditional gender norms than to nonconforming sexual practices. When a man adopts the female role in a sexual relationship, he gives up his masculinity for the inferiority that is supposed to be associated with being a woman. This constituted, for some Church authorities, an abomination, a sin against nature (Bullough 1976). The negative judgments originally associated with men adopting female roles have diffused to all homosexual roles.

According to Bullough (1976), early doctrine held that sex served only one purpose: procreation. This doctrine was supported by the claim that such was God's intention in creating the world of nature. Therefore, sex for pleasure was suspect, especially same-gender sex, since this is obviously nonprocreational. The appellation *sins against nature* appears frequently in doctrinal arguments (Bullough, 1976). Since same-gender sex was nonprocreative, it was classified as a sin against nature.

In western religious traditions, Good and Evil are the categories that provide the background for declaring value judgments on sexual nonconformity. Arising from primitive taboos, the powerful image of "sin" was employed to define the unwanted conduct. Certain religious leaders who take the Bible as the unquestioned moral authority are contemporary advocates of the belief that nonconforming sexual behavior is sinful. The attribution of sinfulness carries multiple meanings: among some groups, sin is explained as voluntary acceptance of Satanic influence; among others sin is believed to produce a flawed or spoiled identity. Societal reactions to sin include ostracism, corporal punishment, imprisonment and, in more draconian times, torture, stoning, hanging, burning at the stake, and even genocide.

Sin is an attribution, a construction made by others or by oneself. Its force lies in its attachment to entrenched religious doctrine. Like taboos, the concept of sin is acquired by people before they reach the age of reflection. The argument that sin is a social construction is nowhere better illustrated than in the debates of theologians about the doctrine of original sin and in how to establish criteria for sinful conduct: under what conditions should an action be regarded as a venial sin or as a mortal sin?

## The Legal Construction--Sexual Deviance as Criminal Behavior

Arising from religious precepts, legislative acts were introduced to control nonprocreative sexual behavior. The creation of the vocabulary for anal intercourse, for example, brought together a set of concepts that interwove law and morality. Ruse (1988), referring to the relationship of religious teaching to laws designed to control sexual behavior, commented:

"Sodomy" obviously comes from the name of the doomed city of the plain, and "buggery" is a corruption of "bougrerie," named after so-called "Bulgarian" heretics... . They believed that physical things are evil, and thus refused to propagate the species, turning, therefore, to other sexual outlets. Hence banning buggery struck a two-fold blow for morality: against unnatural vice and against heretical religion (p. 246).

As early as 1533 in England, buggery, which had been established in religion as a sin against nature, was declared a crime. In the ensuing three decades, the statute was repealed and reenacted several times. In 1563, in the reign of Elizabeth I, the law against buggery became firmly established. Criminal codes provided severe punishment for persons accused of nonconforming sexual conduct (Bullough, 1976). The language of such statutes is not uniform. *Buggery, sodomy, lewdness, perversion, lasciviousness*, and even *immorality* are terms that have been employed in different statutes and at various times to denote the proscribed criminal conduct.

The underlying categories of the legal construction of nonconforming sexuality are continuous with those of the religious construction: good and evil. With the secularization of morality, sin was no longer an appropriate descriptor for unwanted conduct. The transition from *sins against nature* to *crimes against nature* was an accomplishment of the secularization and attempted legalization of morality. Crime, the secular equivalent of sin, became the preferred descriptive term.

To make rational the use of the crime concept in the context of sexual behavior, it had to be consonant with accepted legal usage, as in crimes against the person, crimes against property, crimes against the Crown, etc. The linguistic formula "crimes against..." presupposes a victim. In following this logic, early practitioners of jurisprudence created *crimes against nature* as the label for unwanted sexual conduct. In so doing, they implied that "nature" was the victim.

In most of the criminal codes, and in the Uniform Code of Military Justice, the concept of *crimes against nature* appears frequently when sexual behavior is proscribed. The concept is sometimes rendered by the employment of language which includes the adjective *unnatural*. Clearly, the authors of statutes that proscribe *crimes against nature* were not using "nature" as a descriptor for flora and fauna, mountains and valleys, oceans and deserts. When "nature" is the victim, something else is intended.

The statutory language, as we mentioned before, is derived from the religious idiom *sins against nature*. "Nature" is employed in the sense used by the early Greek philosophers, as the force or essence that resides within things. Thus, it is in the nature of a hen's egg to develop into a chicken, for water to run downhill, etc. This concept of nature served as the main explanatory principle, employed as an all-purpose answer for causality questions. With the development of empirical science, such all-purpose answers became superfluous, they gave way to questions directed toward uncovering how events influenced each other, and answers were formulated according to laws and principles constructed through observation and experiment. At the present time, the legal concept *crimes against nature* has no scientific status. It is a rhetorical device to control nonprocreative sex.

### The Sickness Construction--The Medicalization of Deviance

The nineteenth century witnessed the social construction of deviant conduct as sickness. Although the medical model of deviance had its origins in the sixteenth century, it was not until the growth and success of technology and science in the nineteenth century that medical practitioners created elaborate theories to account for unwanted conduct. Many of the fanciful early theories of crime and craziness were given credibility because they were uttered by physicians and, therefore, presumed to be scientific. The prestige conferred upon the practitioners of science and technology blanketed the medical profession. It was during the latter half of the century that medical scientists initiated the movement to medicalize not only poorly understood somatic dysfunctions, but all human behavior. Conduct that in the past had been assigned to moralists or to the law now came under the purview of medical authority. Deviant conduct of any kind became topics of interest for doctors. The brain had already been given its place as the most important coordinating organ of the body, and the "mind" was somehow located in the brain. Therefore, any item of behavior that was nonconformant with current norms could be attributed to faulty brain apparatus, flawed mental structures, or both. In the absence of robust psychological theories, the observation and study of nonconforming behavior led physicians to assimilate theories of social misconduct to theories of somatic disease. The creation and elaboration of disease theories was based upon the all-encompassing notion that every human action could be accounted for through the application of the laws of chemistry and physics. In this context, homosexuality and other nonprocreative forms of sexual conduct were construed as sickness. To be sure, the medicalization of nonconforming sexual conduct failed to replace entirely the older moral and criminal constructions, and in many cases persons suffering from such "illnesses" continued to be punished.

It is interesting to note that the term *homosexuality* itself did not appear in English writings until the 1890s. Like most medical terms, it was created out of Greek and Latin roots. Prior to that time, labels for nonconforming sexual conduct in the English language had been free of medical connotations, as, for example, the words *sodomy*,

*buggery, perversion, corruption, lewdness, and wantonness.* One outcome of the medicalization of nonconforming sexual conduct was the inclusion of homosexuality in textbooks of psychiatry and medical psychology. Homosexuality was officially listed as an illness in the 1933 precursor to the 1952 Diagnostic and Statistical Manual of the American Psychiatric Association (DSM-I). In the 1930s and 1940s any person who admitted being homosexual was likely to be referred to a psychiatrist for diagnosis and treatment, the goal of the treatment being the elimination of the homosexual interest. But even during this period the father of psychoanalysis, Freud, expressed the opinion that homosexuality was not an illness. In 1935 Freud wrote a letter to the troubled mother of a homosexual which is worth quoting in its entirety (Bieber et al., 1962), as it anticipates and eloquently summarizes the prevailing current scientific and medical views on homosexuality.

April 9, 1935

Dear Mrs. \_\_\_\_\_

I gather from your letter that your son is a homosexual. . . . Homosexuality is assuredly no advantage, but it is nothing to be ashamed of, no vice, no degradation, it cannot be classified as an illness; we consider it to be a variation of the sexual function produced by a certain arrest of sexual development....By asking me if I can help, you mean, I suppose, if I can abolish homosexuality and make normal heterosexuality take its place. The answer is, in a general way, we cannot promise to achieve it. In a certain number of cases we succeed in developing the blighted germs of heterosexual tendencies which are present in every homosexual, in the majority of cases it is no more possible. It is a question of the quality and the age of the individual. The result of treatment cannot be predicted.

What analysis can do for your son runs in a different line. If he is unhappy, neurotic, torn by conflicts, inhibited in his social life, analysis may bring him harmony, peace of mind, full efficiency, whether he remains a homosexual or gets changed.

Sincerely yours with kind wishes,

Freud

Homosexuality as a social construction is nowhere better illustrated than in the arbitrary manner in which it was included and ultimately excluded from the medical lexicon. In 1974, the diagnosis of homosexuality was deleted from the Diagnostic Manual of the American Psychiatric Association under pressure from many psychiatrists who argued that homosexuality was more correctly construed as a nonconforming life style rather than as a mental disease.

Although the mental health professions do not speak with one voice, the currently prevailing view was advanced by Marmor (1975), at that time president of the American

Psychiatric Association: "...there is no reason to assume that there is a specific psychodynamic structure to homosexuality anymore than there is to heterosexuality" (p. 1514).

The American Psychological Association passed a resolution in 1975 declaring that:

Homosexuality per se implies no impairment in judgment, stability, reliability or general social or vocational capabilities..  
..The Association deplors all public and private discrimination in such areas as employment, housing, public accommodation, and licensing....The Association supports and urges the enactment of civil rights legislation...that would offer citizens who engage in homosexuality the same protections now guaranteed to others on the basis of race, creed, color, etc.

Substantially the same resolution was enacted by the American Psychiatric Association in 1976.

The available data on the psychological functioning of persons identified as homosexuals lead to an unambiguous conclusion: that the range of variation in personal adjustment is no different from that of heterosexuals (Ohlson, 1974). A review of 14 major studies, beginning with Hooker's in-depth investigations (1957, 1965), gave no support to the hypothesis that same-gender orientation was a sickness (Freedman, 1976). Employing various adjustment criteria, the studies uncovered no correlations that would support a mental illness construction. Siegleman (1978, 1979), in two studies comparing psychological adjustment of homosexual men and women and heterosexual men and women in Britain, found no significant difference between the homosexual and heterosexual groups, substantially replicating the results of earlier studies in the U.S. The conclusion had been stated earlier in the famous Wolfenden Report of 1957, the basis for the repeal of sodomy statutes in England:

Homosexuality cannot legitimately be regarded as a disease because in many cases it is the only symptom and is compatible with full mental health (p. 32).

### The Minority Group Construction--Homosexuals as a Non-Ethnic Minority Group

The civil libertarian movements of the 1960s and 1970s paved the way for an alternative construction of homosexual conduct. I have already noted that the earlier work of Kinsey and his associates (1948) had received wide publicity. This work helped to strengthen the notion that sexual status and behavior could not be sorted into a simple two-valued model of normal and abnormal. The recognition that perhaps at least 10

percent of the adult population consistently adopted nonconforming sexual roles (i.e., homosexual behavior) was instrumental in formulating a construction of same-gender sexuality as the defining property of a non-ethnic, nonracial minority group. Individuals came together to support each other in their choice of life style. They comprised a group. They shared with other minority groups experiences of discrimination, harassment, and rejection (Sagarin, 1971).

The model for conceptualizing homosexuals as a minority group was provided first by ethnic and racial minorities, later by non-ethnic minorities: women, the aged, and physically disabled or handicapped persons. Another development that encouraged the use of the minority construction arose from claims that homosexual men and women could satisfactorily perform an infinite variety of occupational and recreational roles: one could have nonconforming sexual attitudes and still meet high performance standards as teachers, physicians, fire fighters, novelists, professional athletes, movie actors, policemen, politicians, judges and so on.

It would be instructive to review the features that define a minority group. It is obvious that *minority* in this context carries no quantitative meaning. Women make up more than 50 percent of the population, yet they meet the criteria of a minority group. The most useful shorthand definition of minority group is: people who share the experience of being the objects of discrimination on the basis of stereotypes, ethnocentric beliefs, and prejudice held by members of the nonminority group. Well-known examples are mid-nineteenth century Irish immigrants in Boston, American Indians for nearly four centuries, Black soldiers and sailors prior to the 1948 anti-segregation orders, Asian-Americans before the repeal of the exclusion acts, Mexican-Americans in California and the Southwest, Jews in Nazi Germany and elsewhere.

Similarities to more widely recognized minority groups are not hard to find. Prejudice against persons with nonconforming sexual orientations is like racial prejudice in that stereotypes are created. Such stereotypes are often exaggerations of social types that feature some unwanted conduct, style of speech, manner, or style that purportedly differs from the prototype of the majority. The personality of an individual identified as a member of a minority group is construed not from his acts, but from his suspected or actual membership in the minority group. Racial and ethnic slurs help to maintain the partition between the minority group and the majority. *Wops, Guineas, Japs, Spics, Kikes, Beaners, Polacks, Sambos*, and other pejoratives have only recently been discouraged as terms to denote the supposed social and moral inferiority of selected minority groups. *Fag, fairy, queer, homo*, and *pervert* serve similar functions for persons who want to communicate that the homosexual is "inferior." At the same time, the slur is intended to characterize a social type that exemplifies a negatively valued prototype--the feminized male.

To recapitulate: The fact that at least four constructions can be made of the same phenomenon is evidence that the particular value placed on nonconforming sexual

orientation is influenced by historical forces. The same act may be construed as sin, as crime, as sickness, or as an alternate form of being.

The belief systems of governmental agents charged with adjudicating security clearances are like those of the general population--the belief systems are dependent on which construction the agents employ in establishing premises. If they choose the construction that emphasizes sin, crime, or sickness, then they will likely assign homosexual men and women to a morally suspect class.\* If they choose the construction that homosexuality is an alternate form of being and that homosexuals comprise a minority group, then it is indeterminate whether any specific candidate will be assigned to such a morally suspect class.

Belief systems may be sharpened, modified, or rejected as a result of efforts to take into account new information. Such information may be drawn from findings reported by biological and social scientists. In many governmental areas, for example public health, nuclear energy, agriculture, and defense, policy formulations take into account the findings of research scientists. A synoptic review of recent and contemporary research may provide information that could help clarify public policy in regard to the granting or withholding of security clearances to persons identified as homosexual.

---

\*The adjudicator's task is complicated by the fact that sodomy is no longer in the criminal codes of half the States. In this connection, a recent (Colasanto, 1989) Gallup Poll indicated increasing support for decriminalizing consensual homosexual activity. Eighty-three percent of a national sample expressed an opinion. Of these, 56 percent favored decriminalization, 44 percent were opposed. In taking into account an alleged act of sodomy, the adjudicator must determine whether or not to regard the act as an unprosecuted felony. Further complicating the decision process is the fact that consensual sodomy is seldom, if ever, prosecuted in civilian courts. In fact, sodomy laws are virtually unenforceable against persons, homosexual or heterosexual, who discreetly practice consensual sodomy. In a 5 to 4 decision, the Supreme Court refused to strike down a Georgia statute prohibiting consensual sodomy (*Bowers v. Hardwick*, 478 U.S. 186 (1986)). Military personnel, however, are subject to prosecution and/or discharge according to procedures described in the Uniform Code of Military Justice.

## Scientific Status of the Homosexuality Concept

In the past two decades, with advances in biotechnology, psychology, ethnology, and methods of social analysis, numerous systematic researches have yielded findings relevant to the formulation of law and public policy.

Advances in methodology stimulated a renewed interest in genetic research. The study of twins has been a fruitful source of genetic hypotheses. Kallman (1952) reported a concordance rate of 100 percent for homosexuality for 40 pairs of identical twins. That is, when one of a pair of identical twins was identified as homosexual, the other was also found to be homosexual. This occurred even when the twins had been raised apart. The author of the study cautioned that the data are not conclusive in supporting the genetic hypothesis—the twins may have responded to the same socializing influences. In this connection, Marmor (1975), a well-known psychiatrist, claimed that the "most prevalent theory concerning the cause of homosexuality is that which attributes it to a pathogenic family background."

Perhaps the most thorough research undertaken to advance the frontiers of knowledge about sexuality was that of Alfred Kinsey (Kinsey, Pomeroy, & Martin, 1948; Kinsey, Pomeroy, Martin, & Gebhard, 1953). A zoologist, Kinsey organized his research program along ethological and epidemiological lines. The variable of interest for Kinsey was frequency of sexual acts. The raw data for his studies were obtained through structured intensive interviews. In contemporary scientific fashion, quantitative analysis guided his work and influenced his conclusions. He employed a rating scale that allowed him to rate subjects from 0 to 6 on a dimension: heterosexual-homosexual. (A category "x" was used to identify persons with no "socio-sexual" response, mostly young children.) From the interview data, he compiled ratings for a large sample of respondents. The rating of 0 was assigned to men who were exclusively heterosexual, and 6 to men who were exclusively homosexual. The rating 1 was assigned to men who were predominantly heterosexual, and 5 to men who were predominantly homosexual, and so on. (The Kinsey scale and representative statistics are reproduced in Appendix A.)

Kinsey reported many significant findings, among them that 50 percent of the white male population were exclusively heterosexual and 4 percent were exclusively homosexual throughout adult life, but 46 percent had some homosexual experience throughout adult life. Between the ages of 16 and 65, 10 percent of the men met Kinsey's criterion of "more or less exclusively homosexual (rating 5 and rating 6)."

In the fashion of ethological research, Kinsey was primarily concerned with presenting prevalence statistics. Whether the dimension was based on nature or nurture, or a combination of these, was not an important concern.

## Biological Studies

During the past 30 years, increasing knowledge in molecular biology, endocrinology, embryology, and developmental neurology has made it possible to state with confidence that male and female brains are structurally different in certain areas concerned with glandular and sexual functions, especially in the hypothalamus and related subcortical systems (Kelly, 1985). The actions of the various sex hormones in the differentiation of male and female anatomy have been charted. Developmentally, there is a built-in bias toward differentiating an organism into a female, i.e., nature makes females. On the basis of extensive research, Money and Erhardt (1972) concluded: "...in the total absence of male gonadal [sex] hormones, the fetus always continues to differentiate the reproductive anatomy of the female." This process takes place regardless of the basic masculinity (XY chromosomes) or femininity (XX chromosomes) of the fetus. The bias is counteracted approximately 50 percent of the time by the action of male hormones. The discovery of this built-in mechanism toward femaleness sparked additional research that ultimately illuminated the phenomenon of same-gender attraction. It has been recognized for some time that parts of the brain are glandular and secrete neurohormonal substances that have far-reaching effects. Not unlike the better-known sex hormones, the androgens and estrogens, these brain neurohormonal substances also appear to have profound effects on development.

From a review of ethnographic reports, historical sources, biographies, and literary works, it is apparent that some same-gender orientation is universally observed (Bullough, 1976; Howells, 1984; Marshall & Suggs, 1971). The world-wide prevalence of *exclusive* same-gender orientation is estimated as three to five percent in the male population, regardless of social tolerance, as in the Philippines, Polynesia and Brazil, intolerance as in the United States, or repression as in the Soviet Union (Mihalek, 1988). This constancy in the face of cultural diversity suggests that biological factors should not be discounted as a fundamental source of homosexual orientation.

From these observations, as well as intensive analysis of more than 300 research reports, Ellis and Ames (1987) have advanced a multi-factorial theory of sexuality, including same-gender attraction. They conclude that current scientific findings support the view that hormonal and neurological variables operating during the gestation period are the main contributors to sexual orientation. For the ultimate formation of sexual identity, the Ellis-Ames theory does not exclude psychosocial experience as a potential modifier of the phenotypical expression of biological development.

From their review of current research, Ellis and Ames propose that sexuality be studied through the consideration of five dimensions. These are: *genetic* (the effects of sex chromosomes, XX and XY, and various anomalous karyotypes); *genital* (effects of internal and external genitalia, the male-female differentiation, which begins in the first month of embryonic life); *nongenital morphological* (effects of secondary sex characteristics--body build, voice, hair distribution); *neurological* (male and female brain

differentiation and associated sex-typical actions—including social influences and the formation of sex-typed roles). Most of the events shaping the developing organism's sexuality along these dimensions occur between the first and fifth months of intrauterine life. These events are controlled by the interaction of delicate balances between the various male and female hormones and their associated enzyme systems. Development of the embryo can be influenced by several factors affecting the internal environment of the mother, such as genetic hormonal background, pharmacological influences and immunological conditions, not to mention the psycho-physiological effects arising from the social environment. Disturbances in any one or any combination of these factors can result in alterations in sexual development called inversions. These inversions are failures of the embryo to differentiate fully in any of the other sexual dimensions (genital, morphological, neurological, or behavioral) according to chromosomal patterns. These anomalies of embryonic development are central to the later development of sexual orientation and behavior such as same-sex attraction, bisexuality, and other nonconforming patterns. As support for their theory, Ellis and Ames cite various experiments with animals in which permanent changes in sexual behavior have been induced by glandular and other treatments. The changes noted in these experimental animals are similar to those in humans with known anomalies of endocrine and enzyme systems.

Adult sexual orientation, then, has its origins, if not its expression, in embryonic development. Ellis and Ames conclude that:

Complex combinations of genetic, hormonal, neurological, and environmental factors operating prior to birth largely determine what an individual's sexual orientation will be, although the orientation itself awaits the onset of puberty to be activated, and may not entirely stabilize until early adulthood (p. 251).

The conclusions are consistent with those of John Money (1988), a leading researcher on the psychobiology of sex. According to Money, in his recent review and summary of current knowledge on homosexuality, data from clinical and laboratory sources indicate that:

In all species, the differentiation of sexual orientation or status as either bisexual or monosexual (i.e., exclusively heterosexual or homosexual) is a sequential process. The prenatal state of this process, with a possible brief neonatal extension, takes place under the aegis of brain hormonalization. It continues postnatally under the aegis of the senses and social communication of learning (p.49).

This brief overview of scientific findings from biological sources instructs us that the phenomena that we label sexuality are complex, and that we must assign credibility to

the notion that overt and fantasy expressions of sexuality are influenced by multiple antecedents. Of special importance is the recognition of the interplay of biological and social factors. The leading scientific authorities agree that these expressions are best described in terms of gradations or dimensions, rather than by the rigidly bound, mutually exclusive categories, *heterosexual* and *homosexual*.

Because in daily speech we employ *heterosexual* and *homosexual* without qualifiers, it requires sustained cognitive effort to consider gradations and overlap. If we were to adopt policies that took scientific findings into account, we would be required to modify the use of a two-category system and incorporate the idea of continuous dimensions. To use an overworked metaphor, black and white are anchoring points for an achromatic color dimension, and between these anchoring points are innumerable shades of grey. Other dimensions come into play when considering chromatic stimuli, such as hue, saturation, brightness and texture. Similarly, the multidimensional concept of sexuality is contrary to the assertions of earlier generations of theologians, moralists, and politicians whose construal of sexuality was achieved under the guidance of two-valued logic in which narrowly defined heterosexual orientation and conduct were assigned to the category *normal* and any departures from the customary were assigned to the category *abnormal*.

In this connection, after detailed analysis of the sexual histories of thousands of people, Kinsey (1948) concluded that the class *human beings* does not represent two discrete populations, *heterosexual* and *homosexual*, and that the world:

is not to be divided into sheep and goats....It is a fundamental of taxonomy that nature rarely deals with discrete categories. Only the human mind invents categories and tries to force facts into separate pigeonholes. The living world is a continuum in each and every one of its aspects. The sooner we learn this concerning human sexual behavior the sooner we shall reach a sound understanding of the realities of sex (p. 639).

### Psychological Studies

Scores of studies have been reported in the literature on the adjustment of homosexual men and women. To be sure, none of the studies attempted to answer the specific question: are homosexuals greater security risks than heterosexuals? On various psychological tests, including the well-known Minnesota Multiphasic Personality Inventory, the Adjective Check List, and the Rorschach test, among others, the range of variation in personal adjustment is the same for heterosexuals and homosexuals. None of the carefully controlled studies concluded that homosexuals were suffering from a "mental illness." Gonsoriak (1982) and Siegelman (1987) independently reviewed the

available research literature and concluded that good adjustment and poor adjustment are unrelated to sexual orientation.

Can any inferences be drawn from the massive volume of research generated in the effort to discover whether homosexuals are different from heterosexuals on adjustment criteria? Although definitions of adjustment vary from study to study, one element appears common to most, if not all, definitions: social maturity. This concept embraces a number of features. Socially mature people are likely to be caring, to have stable interpersonal relations, to be concerned with maintaining an acceptable social and moral identity. Caring for persons with whom one is bonded is probably related to caring for others who make up relevant collectivities, including one's country. The research is unequivocal that identifying oneself as heterosexual or homosexual carries no implication of social maturity.

### Sociological Studies

A number of studies have been reported that lead to the inference that many undisclosed homosexuals have served in the military and received good proficiency ratings and honorable discharges (Bell, 1973; Williams & Weinberg, 1971; Harry, 1984). It is reasonable to assume that civilians who have not disclosed their homosexual status also perform their jobs efficiently and, if they have security clearances, do not violate the trust.

The broad categories *heterosexual* and *homosexual* conceal multiple types. At the conclusion of an extensive sociological investigation, Bell and Weinberg (1978) commented that persons identified as homosexual are "a remarkably diverse group." After studying intensive protocols on a large number of adults, these investigators concluded:

...we do not do justice to people's sexual orientation when we refer to it by a singular noun. There are "homosexualities" and there are "heterosexualities" each involving a variety of interrelated dimensions. Before one can say very much about a person on the basis of his or her sexual orientation, one must make a comprehensive appraisal of the relationships among a host of features pertaining to the person's life and decide very little about him or her until a more complete and highly developed picture appears.

The data in the Bell and Weinberg study lead to the conclusion that the concepts *homosexuality* and *heterosexuality* are too broad to be worthwhile. When subjected to statistical reduction, the data yielded five types. The typology is not too different from one that could be constructed for heterosexuals. The five types are labeled: Close-

---

\*The use of the background investigation (BI) is consistent with this conclusion.

coupleds, Open-coupleds, Functionals, Dysfunctionals, and Asexuals. The Close-Coupleds were similar to what might be called happily married among heterosexuals. Partners of this type look to each other for their interpersonal and sexual satisfactions. They are not conflicted about being members of a minority group. They would fit the usual criteria of social maturity. The Open-Coupleds preferred a stable couple relationship, but one of the partners sought sexual gratification outside of the couple relationship. In most cases, Open-Coupleds accepted their homosexual identity, but had qualms about seeking other outlets. In terms of their general adjustment, they were not unlike most homosexuals or most heterosexuals. The Functionals are more like the stereotype of the swinging singles. Their lives are oriented around sex. They are promiscuous and open, frequenting gay bars and bathhouses, and have been arrested for violating "homosexual" ordinances. They are self-centered and give the impression of being happy and exuberant. The Dysfunctionals fit the stereotype of the tormented homosexual. They have difficulties in many spheres, social, occupational, sexual. This type displayed the poorest adjustment. Among the males, there were more instances of criminal activity such as robbery, assault, and extortion. The Asexuals are characterized by lack of involvement with others. They are loners and describe themselves as lonely. They lead quiet, withdrawn, apathetic lives.

To recapitulate: In this section of the report I have presented a synopsis of contemporary research drawn from biological, psychological, and sociological sources. One conclusion stands out: knowing that a person is homosexual tells very little about his or her character. It is worth adding: knowing that a person is heterosexual tells very little about his or her character.

## Implications

The official guides for personnel security specialists are Director of Central Intelligence Directive (DCID 1/14) (1986) and the *Personnel Security Program*, (5200.2-R) already mentioned, issued by the Department of Defense and revised in January, 1987. In both of these documents, the criteria for granting or denying clearances are spelled out. The main thrust of these guidelines is that every candidate for a clearance is handled on a case-by-case basis. An implication of this policy is that information referring to sexual orientation by itself would not be systematically employed as a criterion to withhold security clearance.

Adjudicators, like everyone else, do not put aside their belief systems when they engage in clinical inference on the basis of ambiguous and incomplete cues. Under conditions where a criterion is stated in clear and unambiguous terms, there is little room for the operation of personal bias or social prejudice. For example, in following the rule that no convicted felon should be granted a security clearance, the adjudicator's personal beliefs about the rehabilitation effects of imprisonment are irrelevant. When criteria are stated in language that is the least bit ambiguous or value-laden, then opportunities arise for interpretation according to personal belief systems. In Appendix E of DoD 5200.2-R, the following appears: "Background Investigation (BI) and Special Background Investigation (SBI) shall be considered as devoid of significant adverse information unless they contain information listed below: ....(2) All indications of moral turpitude, heterosexual promiscuity, aberrant, deviant, or bizarre sexual behavior...." A later section of the *Personnel Security Program*, in considering "sexual misconduct" as a basis for denying security clearances, contains the following: "Acts of sexual misconduct or perversion indicative of moral turpitude, poor judgment, or lack of regard for the laws of society."

Although the term *homosexual* is meticulously avoided in DoD 5200.2R (heterosexual but not homosexual promiscuity is included as adverse information), the ambiguity of language such as "moral turpitude," "sexual misconduct," and "aberrant, deviant, or bizarre," would allow a reader of the guidelines a considerable degree of discretion in interpreting homosexual orientation as being an instance of "moral turpitude," "sexual misconduct," or "aberrant deviant, or bizarre." The value-laden term *perversion* also makes possible the assignment of homosexual men and women to a suspect class. *Perversion* is no longer employed as a diagnostic term in medical or psychological vocabularies. At one time, it was used as a catch-all for any nonprocreative sexual activity, including masturbation, oral-genital contact between husband and wife, and attending sexually explicit movies, among other behaviors.

The effectiveness of the case-by-case approach to security determinations is dampened if attention is not given to the fact that adjudicators are practicing the art of clinical inference. They acquire skills in converting masses of data to a two-valued determination *satisfying guidelines* and *not satisfying guidelines*. By extension, these two

outcomes lead to the ultimate inference *trustworthy* and *untrustworthy*. Ambiguous and value-laden language, as indicated above, allows for the importation of private belief systems into the mix of major premises that guide the inference process. *Moral turpitude* is a prime exemplar. It has no standard reference other than that derived from social constructions that regard nonconforming sexual orientation as sin, crime, or sickness.

Most of us in the general population have been socialized by parents, teachers, peers, and religious leaders to interpret nonconforming sexual orientation as sinful, criminal, or sick. Investigators and adjudicators are drawn from the general population. It is reasonable to suppose that incorporated into their personal theories of character are belief systems that would lead to identifying homosexuals as members of a suspect class, such identification being derived from sin, crime, or sickness constructions. The minority-group construction, for a long time privately advocated by individuals, has been presented to the public as a result of increased consciousness about civil rights. A person who subscribes to the construction of homosexuality as an alternate life style practiced by a minority group, would not consider homosexual identity or homosexual acts as indicative of the vague and value-laden category *moral turpitude*. This does not mean that he or she would downgrade the moral significance of such acts as incest, child molestation, rape, or other acts involving violence or coercion, acts that are sometimes included in the general descriptor *moral turpitude*.

A personal theory of character, like any theory, is not an incidental or ornamental feature of an individual's psychological make-up. A theory, whether in science or in daily life, is organized to facilitate understanding, to simplify, to reduce confusion, to provide guidance until data are gathered and converted into hard facts. A personal theory of character also has purposes, one of which is to facilitate, in the absence of facts, the sorting of individuals into moral categories. The use of theories to express personal prejudice may influence the practitioners of the art of clinical inference to make decisions in which information irrelevant to trustworthiness is given significant status. We are reminded of the theories of character advocated during various historical periods; theories designed to establish the superiority of a particular race or ethnic group.

In DoD 5200.2-R, under the heading, Criteria for Application of Security Standards, the general instruction to personnel security officials and practitioners is that the ultimate decision must be based on "an overall common sense determination based upon all available facts." In DCID 1/14, the same formula appears: "The ultimate determination of whether the granting of access is clearly consistent with the interest of national security shall be an overall common sense determination based on all available information" (p. 5). As I mentioned before, in the absence of empirically derived correlations, judgments are theory-driven rather than fact-driven. Common sense could mean the employment of commonly held theories of character which could influence decisions in which homosexuality was included in the compendium of "facts." The hypothesis could be entertained that under such conditions common sense could be interpreted as common prejudice.

Not only in the interest of fairness, but also in the interest of efficiency, attention should be directed to improving the inferential skills of adjudicators and other specialists so that in applying guidelines they can recognize and delimit the contribution of personal theories of character to their judgments.

At the beginning of this report, I pointed to two sets of problems: (1) Is a person a security risk by virtue of membership in the class homosexual? (2) Is a person of homosexual orientation a security risk because he or she is vulnerable to coercion and blackmail? The previous pages have focused on the first question. The remainder of the report is directed to the issue of vulnerability to blackmail. To illuminate the problem of blackmail, I make use of the concept *personal secrets*.

## Personal Secrets

The previous discussion centered on the problem of determining whether a homosexual man or woman should be granted a security clearance. I did not consider the observation that trustworthiness is a characteristic that is subject to contextual influences. Blackmail—the threat of disclosure of a personal secret—sometimes leads a trustworthy person to betray a trust. The risk of exposure is central to understanding the conduct of any person whose adjustment, achievements, and career advancements are dependent on maintaining secrets about the self. Such secrets cover a much wider field than sexual orientation. Secrets about the self are maintained to avoid making public one's inferiority, stupidity, or moral weakness. Persons hold secret such autobiographical items as unprosecuted felonies, illegal drug use, problem drinking, prior bankruptcies, race or ethnic origins, and spouse abuse. Many people employ secrecy to conceal from others certain disapproved psychological characteristics such as obsessions, phobias, compulsions, fetishism, and other behaviors that appear not to be under self-control. Actions that authority figures might label sexual misconduct become part of the secret self. Most adults conceal from public scrutiny such facts as fornication with a minor, adulterous relationships, bigamy, illicit sexual liaisons, compulsive masturbation, impotence and other sexual dysfunctions, and so on.

Self secrets of the kind listed above have one element in common: the person is open to the possibility of being stigmatized, of being forced to display a symbolic brand for all to see.

To be vulnerable (in the sense of being vulnerable to coercion by agents of a foreign power) is to risk disclosure of a personal secret. The power of the potential blackmailer who is privy to another's personal secrets is generated because of the extraordinary sanctions that follow the disclosure. Shame, dishonor, disgrace, ostracism, imprisonment or other legal penalties, and loss of employment are the outcomes that the secret-holder must consider.

The strategy of secrecy may be augmented by other strategies to avoid the degradation of identity, the loss of self. Disinformation, masking and disguise, and outright lying help maintain the secret self.

If a homosexual person makes public, or is ready to make public, his or her sexual orientation, then vulnerability virtually disappears. In civilian settings, the sanctions for disclosure of sexual status are no longer draconian; in fact, in many instances, sanctions are absent. Thus, publicly announced homosexuals are not likely to be targets of blackmail. The situation is different in the military. An unknown number of men and women homosexuals slip through the gatekeeping process. To remain in the military, they adopt the strategy of secrecy. The policy that influences homosexual men and women to conceal their sexual status is potentially counterproductive in terms of security

vulnerability. Whether concealing adultery, personal failings, or a criminal or immoral past, the degree of the threat of coercion is related to the quality of the protection a person gives his or her personal secrets. Where homosexuality is officially taboo, the person is at risk if his or her secrecy strategy is not airtight.

Being homosexual no longer carries the automatic risk of vulnerability save in situations where it is expressly forbidden. Under the military policies regarding the acceptance of homosexual volunteers, persons who slip through the net, if given a security clearance, are potentially vulnerable to blackmail.

Counterintelligence sources report that foreign intelligence agencies make inquiries regarding homosexuals in order to exploit vulnerability. SGT Clayton Lonetree told investigators that his Soviet handler, "Uncle Sasha," made inquiries about embassy staff who were potentially vulnerable to exploitation in order to maintain their personal secrets. The handler included homosexuals in his shopping list.

John Donnelly, Director of the Defense Investigative Service (1987), reported an anecdote in which foreign agents attempted to coerce into espionage a woman who was an undisclosed lesbian. The coercion involved disclosing her homosexuality. She refused to cooperate and reported the attempt to appropriate authorities, thus revealing her personal secret.

A review of a KGB training manual (1962) does not single out homosexuals as persons to be cultivated for exploitation. Rather, the manual identifies occupational types as potential targets: government officials, scientists, engineers, businessmen, etc. The perception of Americans as reflected in the manual is that they can be exploited through ideology or money. Ideology in this context does not necessarily mean subscribing to Marxist doctrine. A person is said to be ideologically compatible if he or she is sympathetic to the Soviet bloc or harbors resentment against the American economic or political system. Americans are perceived to be greedy capitalists, so money is expected to be the major motivator in recruitment operations.

A declaration in a legal brief by John F. Donnelly (1987) suggests that hostile intelligence agencies are interested in *any person who might be vulnerable*--not only homosexuals. "Hostile intelligence agencies, with great consistency, consider sexuality to be a potentially exploitable vulnerability. This does not mean that hostile intelligence agencies always seek out homosexuals to target. Rather, they usually spot individuals with the desired access and then assess them in order to determine the most effective approach. They then attempt to segregate those with alcohol or drug problems, financial

---

\*The anecdote was reported in the context of the KGB's practice of exploiting homosexuals who had not publicly acknowledged their sexual identity. The anecdote could also be employed to illustrate the claim that homosexuals are patriotic.

problems, a known disregard for security, and/or those who can be exploited sexually" (p.11).

No statistics are available to demonstrate the degree of success in recruiting spies through the threat of exposure of personal secrets. In developing a data bank on known spies, PERSEREC found that most Americans who attempt to sell government secrets are not recruited, they are volunteers.

The PERSEREC data bank currently includes 118 cases of American citizens who between 1945 and the present committed or attempted to commit espionage. Only seven have been identified as homosexual.\* Their motives appear to be the same as for persons not identified as homosexual: primarily money, secondarily, resentment. All were volunteers except one, who was recruited as an accomplice by a heterosexual friend. None was a target of blackmail, although one offender claimed to have been coerced.

---

\*Brief resumes of these cases are in Appendix B.

## Concluding Remarks

In preparation for this report, I reviewed approximately 100 books and journal articles. My conclusion is that the concept *homosexuality* is not very useful. Persons who are labeled homosexuals are, as Bell and Weinberg put it, a diverse group. No generalizations are possible in regard to life style, personality type, or character development.

Are men and women identified as homosexual greater security risks than persons identified as heterosexual? Certainly in civilian contexts, there is no basis for holding the belief that homosexuals as a group are less trustworthy or less patriotic than heterosexuals. In the military, where homosexuals maintain secrecy, the threat of coercion is present. The fear of the secret being exposed makes one a potential target for blackmail. I should add that homosexuals, in this respect, are no different from heterosexuals who fear exposure of adultery or other illegal or moral lapses.

In considering the relationship of homosexuality to security, it would be appropriate to look for the origins of the discriminatory policies. In the 1940s, in wartime and thereafter, the government undertook the task of identifying and removing men and women from government positions who were considered disloyal. That the concept of loyalty was abused is a matter of historical record. Note the disciplinary action of the Senate in regard to the irresponsible conduct of Senator Joseph McCarthy. Loyalty programs were targeted to identify men and women who were sympathetic to communist ideology. The FBI, the government agency principally responsible for enforcing the loyalty screening program, broadened nonloyalty criteria to include nonconforming sexual orientation. In 1953, FBI Director J. Edgar Hoover ordered his operatives to enforce the newly created Federal Employee Security Program which included as adverse information such ostensibly nonloyal items as derogatory personal habits, conditions and acts (Hoover, 1954-55). "Sexual perversion" was included as an item of "nonsubversive derogatory character." Even before the publication of the new program, Hoover reported that the FBI had identified numerous "sex deviates in government service." Without citing evidence, Hoover declared that homosexuals are security risks and should be separated from government service. Over 600 "security separations" were reported for a 16-month period beginning in 1953. The charge was "perversion" and included employees from such nonsensitive government agencies as the Post Office and the Department of Agriculture (New York Times, 1955).

Once begun, bureaucratic policies and procedures are resistant to change. Although no empirical data have been developed to support any connection between homosexuality and security, it is reasonable to assume that Hoover's beliefs have continued to influence more recent personnel security practice. As I pointed out in the body of this report, homosexuality *per se* is not explicitly mentioned in the directives. Other categories, among them moral turpitude, are provided and they are sufficiently ambiguous to allow investigators and adjudicators to read homosexuality as disloyalty.

Whatever the basis of Hoover's beliefs, he was not privy to the wealth of scientific information currently available. Such information (a digest of which is included in earlier pages) raises serious questions about the validity of including homosexuals in a morally suspect class. It is true that most people, including investigators, adjudicators, and policy-makers, have not been exposed to contemporary biological, psychological, and sociological research findings. In the absence of such knowledge and influenced by the legacy of Hoover's combining homosexuality and disloyalty, some personnel security practitioners are likely to persist in the practice of lumping all homosexuals into one morally suspect class. The practice entails employing premises that flow from the adoption of social constructions of homosexuality that emphasize sin, crime, or sickness.

Policy-makers might give thought to endorsing and expanding training programs in which adjudicators and other personnel security specialists receive instruction in current scientific information about sexual orientation, and also in recognizing the sources of their premises and inference strategies. Prior to 1988, adjudicators were trained on the job by other adjudicators. They were drawn from the general population. It is not unreasonable to suppose that the belief-systems of adjudicators reflect the variety of belief-systems of the general population. [An interesting research project might be undertaken to assess beliefs and attitudes of adjudicators. This would provide empirical data on prior beliefs about the trustworthiness of homosexuals.] Adjudicators now receive uniform training. It would be helpful to know to what extent the uniform training reduces or eliminates bias. It is important to note that adjudicators have some degree of choice in examining and interpreting data. Even with concrete guidelines, the variability of human personality makes it necessary to add a human factor. If adjudicators were to operate as computers programmed to follow guidelines and did not employ clinical judgment, then they would be superfluous to the whole enterprise. A computer could be programmed with an algorithm that would weight the data and churn out expert judgments.

I have made the point that the current policy of reviewing every applicant for clearance on a case-by-case basis meets the requirements of fairness and efficiency. The wide variation in homosexual life styles, like the wide variation in heterosexual life styles, demands a case-by-case approach. The policy is not sufficient, however, to ensure fairness in practice. As I have argued before, the effects of long-standing bias against homosexuals may bypass the intent of the case-by-case policy. In addition to providing instruction to investigators and adjudicators as indicated above, it would be wise to issue memoranda at regular intervals emphasizing the basis of the case-by-case approach, even providing examples, heterosexual and homosexual, of personnel who would be considered security risks. The educational impact would be strengthened if the memoranda included empirical data that supported the risk classifications.

A final word. The review and analysis of the literature on homosexuality leads to one conclusion: sexual orientation is unrelated to moral character. Both patriots and traitors are drawn from the class *American citizen* and not specifically from the class *heterosexual* or the class *homosexual*.

## References

- Barnett, W. (1973). *Sexual freedom and the Constitution*. Albuquerque, NM: U. of New Mexico Press.
- Bell, A. P. (1973). Homosexualities: Their range and character. *Nebraska Symposium on Motivation*, 21, 1-26.
- Bell, A. P., & Weinberg, M. S. (1978). *Homosexualities*. New York: Simon & Schuster.
- Ben Shalom v. Marsh. 703 F. Suppl. 1372 (E. D. Wisc. 1989).
- Berube, A. (1990). *Coming out under fire*. New York: Free Press.
- Bieber, I., Dain, H. J., Dince, P. R., Drellich, M. G., Grand, H. G., Gundlach, R. H., Kremer, M. W., Rifkin, A. H., Wilbur, C. B., & Bieber, T. B. (1962). *Homosexuality, a psychoanalytic study*. New York, NY: Basic Books.
- Bullough, V. L. (1976). *Sexual variance in society and history*. Chicago, IL: University of Chicago Press.
- Colasanto, D. (1989, Oct. 25). In reversal, public increases support for gays' civil rights. *San Jose Mercury News*.
- Department of Defense. (1987). *Department of Defense personnel security program regulation* (DoD 5200.2-R). Washington, DC: Office of the Deputy Under Secretary of Defense for Policy.
- Devereaux, G. (1963). Institutionalized homosexuality of the Mohave Indians. In H. Ruitenbeck (Ed.), *The problem of homosexuality*. New York: Dutton.
- Director of Central Intelligence. (1986). Directive No. 1/14, *Minimum Personnel Security Standards and Procedures Governing Eligibility for Access to Sensitive Compartmented Information*. Washington, DC: Author.
- Donnelly, John F. Declaration filed September 2, 1987. *High Tech Gays et al. v. Defense Industrial Security Clearance Office*, 56 U.S. L.W. 2144 (1987).
- Donnelly, John F. *High Tech Gays et al. v. Defense Industrial Security Clearance Office*, 56 U.S. L.W. 2144 (1987), p. 4.
- Dubbs v. CIA, 866 F.2d 1114 (1989).

- Ellis, L., & Ames, M. A. (1987). Neurohormonal functioning and sexual orientation: A theory of homosexuality-heterosexuality. *Psychological Bulletin*, 101(2), 233-258.
- Ford, C. S., & Beach, F. A. (1951). *The patterns of sexual behavior*. New York: Harper & Brothers.
- Freedman, M. (1976). *Homosexuality and psychological functioning*. Belmont, CA: Brooks/Cole.
- Gonsoriek, J. C. (1982). Results of psychological testing on homosexual populations. *American Behavioral Scientist*, 25, 385-396.
- Harry, J. (1984). Homosexual men and women who served their country. *Journal of Homosexuality*, 10(1-2), 117.
- High Tech Gays et al. v. Defense Industrial Security Clearance Office, 56 U.S. L.W. 2144 (1987).
- Hooker, E. (1957). The adjustment of the male overt homosexual. *Journal of Projective Techniques*, 21, 18.
- Hooker, E. (1965). Male homosexuals and their worlds. In J. Marmor (Ed.), *Sexual inversions*. New York: Basic Books.
- Hoover, J. E. (1954-55). Role of the FBI in the Federal Employee Security Program. *Northwestern University Law Review*, 49, 333-336.
- Howells, K. (Ed.). (1984). *The psychology of sexual diversity*. Oxford: Basil Blackwell.
- Humphrey, M.A. (1990). *My country, my right to serve*. New York: Harper Collins.
- Kallman, F. J. (1952). A comparative twin study on the genetic aspects of male homosexuality. *Journal of Nervous and Mental Diseases*, 115, p. 283.
- Kelly, D. D. (1985). Sexual differentiation of the nervous system. In E. Kandel and J. Schwartz (Eds.), *Principles of neural science, 2nd edition*. New York: Elsevier.
- KGB. (1962). *Training for Recruitment of Americans in the USA and in Third Countries*. (FBI, Trans.). Moscow: Author.
- Kinsey, A., Pomeroy, W., & Martin, C. (1948). *Sexual behavior in the human male*. Philadelphia: W. B. Saunders.

- Kinsey, A., Pomeroy, W., Martin, C., & Gebhard, P. (1953). *Sexual behavior in the human female*. Philadelphia: W. B. Saunders.
- Lambert, W. (1991, January 25). Gay GIs told, serve now, face discharge later. *Wall Street Journal*, B1.
- Law, S. A. (1988). Homosexuality and the social meaning of gender. *Wisconsin Law Review*, Volume 1988, No. 2, 187-235.
- List of security separations. (1955, January 4). *New York Times*, p. 14.
- Marmor, J. (1975). Homosexuality and sexual orientation disturbances. In A. M. Freedman, H. I. Kaplan, & B. J. Sadock (Eds.), *Comprehensive textbook of psychiatry-II*. Baltimore, MD: Williams & Wilkins.
- Marshall, D. S., & Suggs, R. C. (Eds.). (1971). *Human sexual behavior*. New York: Basic Books.
- Maze, R. (1988, June 13). VA extending benefits to more homosexual veterans. *Navy Times*, p. 14.
- Mihalek, G. J. (1988). Sexuality and gender, an evolutionary perspective. *Psychiatric Annals*. 18(1).
- Money, J. (1988). *Gay, straight & in-between*. New York: Oxford University Press.
- Money, J., & Erhardt, A. A. (1972). *Man and woman, boy and girl*. Baltimore, MD: Johns Hopkins University Press.
- Norton v. Macy. 417 F.2d 1161 (D.C. Cir. 1969).
- Ohlson, E. L. (1974). A preliminary investigation into the self-disclosing ability of male homosexuals. *Psychology*, 11, 21-25.
- Rosa, P. M. (1988, July 12). Homosexuals no longer face automatic ban as security risks. *The Morning Call*.
- Rosenberg, S. (1977). New approaches to analysis of personal constructs in person perception. In A. W. Landfield (Ed.), *Nebraska Symposium on Motivation 1976: Personal construct psychology* (pp. 179-242). Lincoln, NE: University of Nebraska Press.
- Ruse, M. (1988). *Homosexuality, a philosophic inquiry*. New York: Blackwell.

- Sackett, P. R., Burris, L. R., & Callahan, C. (1988). Integrity testing for personnel selection: An update. *Personnel Psychology*, 42, 492-529.
- Sagarin, E. (Ed.) (1971). *The other minorities*. Waltham, MA: Ginn.
- Sarbin, T. R., Taft, R., & Bailey, D. E. (1960). *Clinical inference and cognitive theory*. New York: Holt, Rinehart & Winston.
- Siegleman, M. (1978). Psychological adjustment of homosexual and heterosexual men: A cross-national replication. *Archives of Sexual Behavior*, 7, 1-11.
- Siegleman, M. (1979). Adjustment of homosexual and heterosexual women: A cross-national replication. *Archives of Sexual Behavior*, 8(2), 121-125.
- Siegleman, M. (1987). Kinsey and others: Empirical input. In L. Diamant (Ed.), *Male and female homosexuals: Psychological approaches*. New York: Hemisphere.
- Singer v. U.S. Civil Service Commission, 503 F.2d 247 (9th Cir. 1976).
- Singer v. U.S. Civil Service Commission, 429 U.S. 1034 (1977).
- Spector, M., & Kitsuse, J. I. (1987). *Constructing social problems*. New York: Aldine-de Gruyter.
- Webster v. John Doe, 48 S.Ct. (1988).
- Williams, C. I., & Weinberg, M. S. (1971). *Homosexuals and the military*. New York: Harper and Row.
- Wolfenden Report (1963, orig. 1957). *Report of the Committee on Homosexual Affairs and Prostitution*. New York: Stein and Ray.

## **List of Appendixes**

- A. **Statistical Data on Homosexuality**
- B. **Biographical Sketches of Known Spies with a Homosexual Orientation**

**Appendix A**

**Statistical Data on Homosexuality**

## **Statistical Data on Homosexuality**

No one knows how many homosexuals there are. The reason for this is twofold. First, there is the problem of definition, which has been discussed in the text. While it is relatively simple to define a homosexual act, it is not so with the definition of a homosexual person. Most definitions include some aspect of preference for or indulgence in homosexual acts. But how much preference, and how many acts? Along with authorities on human sexuality, we categorically reject the notion that participation in a single homosexual act defines homosexuality. An acceptable definition of homosexuality needs to contain two elements, one behavioral, the other self-definitional.

1. The person concerned prefers homosexual acts exclusively or significantly over heterosexual acts.
2. The person concerned identifies (at least privately) with being homosexual.

Second is the problem of locating homosexuals. Save for those who publicly announce their sexual orientation and those who are occasionally apprehended for homosexual conduct, there is no way to conduct population studies. Because of the social stigma traditionally attached to being homosexual, many (perhaps most) homosexuals remain hidden and are not identified except in special research studies. As a result, the data cited in any research investigation are not true population estimates. We can only construct estimates based on available data and social and demographic theory.

Kinsey (1948) rated his subjects on a 0-1-2-3-4-5-6 scale from exclusively heterosexual (0) to exclusively homosexual (6). The X category is employed to identify persons with no socio-sexual interest. Some of Kinsey's significant conclusions with regard to homosexuality are summarized in the following table:

**Table 1**

**Heterosexual-Homosexual Ratings for all White Males**

**Heterosexual-Homosexual Rating: Active Incidence**  
**(Total Population--U.S. Corrections)**

<u>Age</u>	<u>Cases</u>	<u>X</u>	<u>0</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>
		<u>%</u>							
5	4297	90.6	4.2	0.2	0.3	1.2	0.3	0.2	3.0
10	4296	61.1	10.8	1.7	3.6	5.6	1.3	0.5	15.4
15	4284	23.6	48.4	3.6	6.0	4.7	3.7	2.6	7.4
20	3467	3.3	69.3	4.4	7.4	4.4	2.9	3.4	4.9
25	1835	1.0	79.2	3.9	5.1	3.2	2.4	2.3	2.9
30	1192	0.5	83.1	4.0	3.4	2.1	3.0	1.3	2.6
35	844	0.4	86.7	2.4	3.4	1.9	1.7	0.9	2.6
40	576	1.3	86.8	3.0	3.6	2.0	0.7	0.3	2.3
45	382	2.7	88.8	2.3	2.0	1.3	0.9	0.2	1.8

Note: These are active incidence figures for the entire white male population, including single, married, and post-marital histories, the final figure corrected for the distribution of the population in the U.S. Census of 1940.

(from Kinsey, Pomeroy, Martin: *Sexual Behavior in the Human Male*, 1948).

**Appendix B**

**Biographical Sketches of Known Spies with a Homosexual Orientation**

## Biographical Sketches of Known Spies with a Homosexual Orientation

The following brief sketches were written from sources in the public domain, mostly newspaper articles.

RAYMOND G. DeCHAMPLAIN, Master Sergeant USAF, age 39, was arrested in 1971 in Bangkok, Thailand, on charges of espionage and other military violations. At the time of his arrest, he had served in the Air Force for over 20 years. He was known among his coworkers as a homosexual, but they did not report his activities to the commanding officer. He was known as an incompetent worker and heavily in debt. He was married to a Thai woman who left him shortly after the marriage, ostensibly because of his sexual orientation. DeChamplain alleged that he had been blackmailed by Soviet agents. It was known that he had been introduced to a Soviet agent at a party in 1967, but it was not until four years later that he volunteered to engage in espionage. He delivered a large number of documents to the KGB for which he received \$3800. He was convicted at court-martial and sentenced to 15 years hard labor, later reduced to 7 years. Primary motivation: money.

LEE EDWARD MADSEN, Yeoman Third Class, USN, age 24, was arrested in 1979 on charges of selling classified documents. He had been assigned to Strategic Warning Staff at the Pentagon. He turned over sensitive documents to an undercover agent for \$700. A coworker reported that Madsen needed money to buy a new car. He was quoted as saying to an investigator that he had stolen the documents "to prove that I could be a man and still be gay." He was sentenced to 8 years hard labor. Primary motivation: money, with a mix of ego-needs.

WILLIAM H. MARTIN, Intelligence Analyst, NSA, age 29, and BERNON F. MITCHELL, Intelligence Analyst, NSA, age 31, defected to the Soviet Union in 1960. They turned over detailed information concerning organization and structure of NSA and cryptographic codes. Primary motivation: unknown, probably a combination of financial needs and resentment of treatment of homosexuals in the United States.

*what is the source for this?*

JAMES A. MINTKENBAUGH, Sergeant, USA, age 45, was arrested by the FBI in 1965 for espionage. He had been recruited by Robert L. Johnson, Sergeant, USA. Both participated in providing information to the KGB on missile sites, military installations, and intelligence activities. Among Mintkenbaugh's assignments was spotting other homosexuals in the American community in Berlin. Johnson's wife tipped off the FBI. He was sentenced to 25 years hard labor. Primary motivation: money.

DONALD W. KING, E2, USN, age 29, was arrested in 1989 for trying to sell technical manuals, communication systems parts and other classified materials to undercover agents. He was known to be unstable, hostile, and deceitful. He was also known to be a substance abuser. Primary motivation: money and ego-needs.

JEFFREY L. PICKERING, USN, age 25, mailed a five-page secret document to the Soviet Embassy in Washington, D. C. He had been in the Marines from 1965 to 1973, then joined the Navy fraudulently using a forged birth certificate and a new name. Under both names he was accused repeatedly of homosexual advances to other servicemen. He had attempted suicide in 1973 which resulted in his being discharged from the Marines. He reported that he would carry stolen documents in his car for "excitement."

Other evidence suggests that he saw himself as playing a part in a spy thriller, with code names and so on. Psychological evaluation after his arrest indicated suicidal tendencies and borderline personality disorder. He was sentenced to 5 years in prison. Primary motivation: money and ego-needs.

## HOMOSEXUALITY AND PERSONNEL SECURITY

Prepared by  
Theodore R. Sarbin, Ph.D.

Released by  
Roger P. Denk  
Acting Director

Defense Personnel Security Research and Education Center  
Monterey, California 93940-2481

## Preface

In 1987 the Office of the Secretary of Defense (Policy) invited PERSEREC to reevaluate the current adjudicative guidelines contained in DoD's *Personnel Security Program* (5200.2-R) concerning sexual behavior and personnel security. In particular, PERSEREC was given the task of examining the relationship between homosexuality and personnel security.

This report poses two major questions: (1) Are homosexuals security risks solely by virtue of membership in the class *homosexual*?, and (2) Are homosexuals vulnerable to blackmail if their homosexuality is kept a secret? The author, after an examination of various social constructions of homosexuality, a brief exploration of the scientific status of homosexuality, and a discussion of the concept of personal secrets, concludes that homosexuals, provided that their homosexuality can be safely disclosed, are no more security risks than heterosexuals. He suggests that security personnel continue to use the case-by-case approach in deciding whether to grant clearances, but that they be given special training to help eliminate any possible bias against homosexuals.

This report is intended for security professionals and all those interested in personnel security matters. We hope it will be a vehicle for stimulating discussion which will eventually lead to the ultimate goal of improving personnel security.

Roger P. Denk  
Director

## Homosexuality and Personnel Security

Theodore R. Sarbin, Ph.D.

### Summary

#### Background and Issue

Court challenges and changing folkways have been instrumental in the formation of public policy in regard to the granting of security clearances to homosexual men and women. In this report, we examine data from many sources to illuminate the problems associated with establishing a nexus between sexual orientation and personnel security.

#### Objectives

The research objective was to prepare a review of (1) changing folkways and court decisions, (2) the current scientific status of sexual orientation, including biological, psychological, and sociological studies, (3) the changing social constructions of homosexuality, and (4) the problems associated with applying current case-by-case policies when adjudicators and/or policy makers are not privy to the findings of contemporary science. The review provides the background for a reexamination of current personnel security practices.

#### Approach

From recent scientific publications, legal studies and other relevant literature, we summarized findings that were pertinent to answering two questions: (1) Are homosexual men and women inherently untrustworthy and therefore not eligible for security clearance? (2) Are such persons more likely to be targets of blackmail by agents of a foreign power?

## Results

Few data have been put forward to support the belief that being homosexual predisposes a person to unreliability, disloyalty, or untrustworthiness. Scores of studies have made clear that large individual differences in moral beliefs are to be found among heterosexuals and homosexuals. It is invalid to generalize from sexual orientation to trustworthiness. Life styles of homosexuals are as varied as the life styles of heterosexuals.

## Conclusions/Recommendations

Homosexuals constitute a suspect class: they have been targets of discriminatory policies. The residues of earlier constructions of homosexuality (sin, crime, or illness) may influence personnel security specialists to treat homosexuals as a class. Given that homosexuals (and heterosexuals) are a diverse group, fairness and personnel efficiency require a case-by-case policy.

The current case-by-case policy is appropriate to the task of determining eligibility for security clearance. However, the implementation of the policy needs to be examined in light of the fact that investigators, adjudicators and other personnel security specialists are drawn from the general population and large segments of the population continue to view homosexuality as sin, crime, or illness, constructions that might bias eligibility decisions. The work of investigators and adjudicators should be monitored to ensure that practice follows policy.

## Table of Contents

Preface .....	i
Summary .....	ii
Introduction .....	1
The Construction of Suspect Classes .....	2
Cognitive Processes in Premise Formation .....	7
Induction .....	8
Construction .....	8
Social Construction of Homosexuality .....	11
The Morality Construction--Good and Evil as Fundamental Categories ...	11
The Legal Construction--Sexual Deviance as Criminal Behavior .....	13
The Sickness Construction--The Medicalization of Deviance .....	14
The Minority Group Construction--Homosexuals as a Non-Ethnic Minority Group .....	17
Scientific Status of the Homosexuality Concept .....	19
Biological Studies .....	20
Psychological Studies .....	23
Sociological Studies .....	23
Implications .....	25
Personal Secrets .....	28
Concluding Remarks .....	31
References .....	33
List of Appendixes .....	37

## Introduction

Who can be entrusted with the nation's secrets? This overarching question guides the activities of governmental agencies charged with selecting trustworthy personnel. The primary operating assumption in efforts to answer this question is that not all persons are equally trustworthy: some are more likely to breach a trust than others.

The objective of this study is to explore whether homosexual men and women are at greater risk for engaging in espionage than persons not so identified. The problem is complex. We must consider not only the character of persons who might engage in treasonous acts but also the contexts which influence such acts. Does the potential spy respond to inducements offered by foreign intelligence agents? What is the evidence that supports the claim that homosexuals are likely targets for blackmail by foreign agents? Are recruitment efforts of foreign intelligence agents directed specifically toward homosexual men and women? Are homosexual men and women more likely than heterosexuals to volunteer their services as spies? What are the facts that would support the hypothesis that being homosexual implies emotional instability and, therefore, unreliability and high risk for betrayal?

In the absence of systematically gathered data to answer these and related questions, it has been the practice to generalize from anecdotes. In the scientific arena, anecdotes play an important part: they provide the raw material for constructing hypotheses. Like anecdotes, hypotheses have no truth value until subjected to empirical test. In situations where anecdotes and untested hypotheses are employed as the basis for action, there is ordinarily a tacit recognition of the limited utility of anecdotes as sources of generalizations. Additional anecdotes may alter generalizations coined on the basis of earlier anecdotes.

In an effort to throw some light on these matters, I have organized the inquiry by attempting to answer two separate but related questions:

- 1) Is a person a security risk solely by virtue of membership in the class *homosexual*?\*

---

\* I am using the term *homosexual* in the conventional way as if persons could be sorted into two non-overlapping classes *heterosexual* and *homosexual*. In a later section of this essay, I point to the observations of scientists that *heterosexual* and *homosexual* are not exclusive categories and that gradations or dimensions of sexuality are more valid descriptors. At this point, it would confuse the issue if I were to point to the various referents for the word *homosexual*--does the word refer

- 2) Is a person with same-gender orientation a security risk because he or she is vulnerable to coercion and blackmail?

To address the first question, I employ as a general framework the construction of judgmental or suspect classes. To address the second question, I locate the answer in the general context of personal secrets and attendant risks associated with disclosure or discovery.

I shall first examine the basis for the hypothesis that membership in certain socially defined classes renders a person more likely to engage in trust-violating conduct. Examples of such socially defined classes are the following: persons with unsatisfactory credit histories; persons with psychiatric histories; and persons with alcohol or drug abuse problems. The justifications for constructing such categories come from many sources: among them, generalizations about irresponsibility based upon unsatisfactory or problematic performances in nonsecurity-related settings. Membership in the class *homosexual* has also been employed with various justifications as a criterion for unsuitability in employment and ineligibility in security screening.

To develop our study, it is necessary first to describe the nature of the socially defined class. Subsequently, we can ask if membership in the class *homosexual* is predispositional to untrustworthiness.

### The Construction of Suspect Classes

Trust and trustworthiness are complex features of human life. Even a casual consideration of what constitutes trustworthiness reveals its complexity. Immediately, we think of family, occupational, or other social conflict situations where the actors must choose between betraying and honoring a trust, and the risk of potential negative consequences for choosing one rather than another line of action. The fact that trust is central to some social interactions and peripheral to others adds to the complexity.

Although traditional psychometric theory would direct us to seek a character trait, a disposition, or a personality element located within the brain or the psyche,

---

to gender orientation, to sexual practice, to identity, to role, to atypical social categories, etc?

In a purely sociological analysis, I would discuss male and female homosexuality separately. Public attitudes toward gay men are not the same as public attitudes toward lesbians. In this personnel security analysis, separate discussions of male and female homosexuals are unnecessary.

efforts to measure trustworthiness and related characteristics have yielded very little. Tests have been constructed to assess a related characteristic *honesty*, but they are of little value. In most cases, they fail to meet acceptable standards of validity and reliability (Sackett, Burris, & Callahan, 1988). Because of the ambiguity in defining trust and trustworthiness, as well as the contextual nature of acts that meet the requirements of trustworthiness, a useful psychological test is not likely to be devised. Without objective, quantitative procedures for sorting persons, we are forced to make use of qualitative methods.

Taxonomic sorting, i.e., sorting people into classes or taxonomies, is a universal human activity. We sort individuals into men and women, tall and short, fast and slow, hostile and benign, good and bad, and so forth. Efficient functioning, if not survival, depends upon creating and using taxonomies that are useful. Without constructing and using classes, we would be adrift in a sea of unsorted, meaningless stimulus-events. Almost from the cradle, human beings acquire the skill to sort persons into classes based on gender, kinship, age, school grade, size, race, ethnicity, physique, and so forth. The criteria for such classes are public and communicable. In addition, human beings make use of a subset *suspect classes* that have as their defining attribute the presence of morally undesirable characteristics. Assignment to a suspect class carries the attribution of negative traits such as dishonesty, unreliability, untrustworthiness, cowardice, etc. For example, persons who violate propriety norms regarding aggression against children are assigned to a legally defined class *child abusers*. Because of the severity of societal and moral rules about beating children, any person who publicly violates such rules is likely to be assigned not only to the class *child abusers* but to a wider class, not necessarily articulated, the defining characteristics of which reflect *generalized badness*. Thus, assignment to the class *child abusers* renders the person a member of a suspect class, i.e., he/she would be suspected of other moral deviations, among them, untrustworthiness. It is important to note that the criteria for suspect classes are not constant. At one time, being assigned to the class *left-handed* resulted in the concurrent assignment to the class *evil*. Residues of this folk belief remain in our language--"sinister" may serve as a reference for left-handedness or as a term to denote a moral judgment.

I am using the term *suspect class* as a *psychological* concept. It should not be confused with the technical meaning of the term as used in constitutional law. The juridical use of *suspect class* is that of a class of persons whose rights are at risk in virtue of membership in racial, gender, or religious classes. Governmental actions affecting such suspect classes are subject to extended scrutiny by the courts. Whether or not homosexuals make up a suspect or quasi-suspect class is currently a central issue in the courts. To repeat, in this inquiry I am using *suspect class* in a *psychological* sense. The meaning is quite different from the meaning of *suspect class* in legal briefs.

In the selection of men and women for certain tasks, efficiency is sought by assigning potential job-holders to occupational classes. Classes such as clerical workers, mechanics, computer-operators, administrators, and so on, are commonplace. The defining characteristics of such classes are skills and aptitudes. The selection process is governed by procedures designed to assess skills and aptitudes. When selecting personnel for jobs that involve access to government secrets, the selection process has an additional dimension. A different kind of class is created, the defining characteristics of which are not skills and aptitudes, but *moral* descriptors such as honesty, reliability, and trustworthiness. Selecting personnel who can be entrusted with the nation's secrets, then, calls for taxonomic sorting on moral dimensions. Actual or potential members of the work force who are presumed to be morally flawed make up a suspect class: *not trustworthy*. In this sense, a suspect class is a class whose members are objects of suspicion. A concrete example of the use of suspect class in making inferences about a person would be the following. A bearded, unkempt, leather-jacketed, booted motorcyclist enters a middle-class restaurant. Some patrons and staff would automatically look upon the person with suspicion, expecting that his conduct would violate conventional or moral rules. Such an inference follows from assigning the person to a previously formulated suspect class *motorcycle gangs* with the implication that membership in such gangs renders one morally suspect.

Nonconforming sexual orientation, in some places and during certain historical periods, has served as the criterion for assigning persons to a suspect class. Certain forms of nonconforming sexual conduct have been incorporated into criminal statutes and/or psychiatric vocabularies. Not only legal and psychiatric attributions of badness, but folk attributions of generalized moral deviation, including untrustworthiness, are commonly noted. That is to say, folk beliefs arising from historical and cultural antecedents attribute generalized moral deficiencies to persons whose sexual orientations are nonconforming. I should add quickly, however, not all nonconforming sexual conduct leads to the assignment of persons to suspect classes. For example, in certain subcultures male promiscuity is not taken as the basis for assigning persons to morally flawed suspect classes.

In recent years, the folk belief has been challenged. Men and women who identify themselves as homosexual have raised the question whether they should be assigned to a suspect class. The civil rights movement, changing folkways, and some legal decisions have supported efforts to modify or eliminate the assignment of homosexuals to a suspect class (Barnett, 1973). Among the legal decisions that may have influenced the softening of discriminatory practices in public employment is the case of *Norton v. Macy* (1969). The plaintiff had been fired on the grounds of "immorality" because he had engaged in homosexual conduct. The court ruled that alleged or proven immoral conduct is not grounds for separation from public employment unless it can be shown that such behavior has demonstrable effects on job performance. Judge David Bazelon's decision included a statement that may

have influenced recent employment and security policies in government service. He said (in part):

The notion that it could be an appropriate function of the federal bureaucracy to enforce the majority's conventional codes of conduct in the private lives of its employees is at war with elementary concepts of liberty, privacy, and diversity.

Another case that has received wide attention was tried in the Ninth Federal District Court in 1987. The case was filed in 1984 on behalf of an organization of Silicon Valley (California) employees known as High Tech Gays. Three members of the group had been denied security clearance because of the policy of intensive and expanded scrutiny of homosexuals. According to DoD policies at the time, identification as homosexual of a prospective employee was sufficient reason for expanded clearance investigations. The ruling handed down by Judge Thelton E. Henderson declared that the DoD policy was founded on prejudice and stereotypes, the basis for the policy being the unwarranted claim that homosexual men and women were emotionally unstable and, therefore, potential targets for blackmail. Judge Henderson ruled that homosexuals were a "quasi-suspect class" (in the juridical sense) and that policies violated the constitutional guarantee of equal protection under the law. The ruling has been appealed. If upheld by higher courts, the equal protection guarantee would do away with sexual orientation as a basis for differential background investigations--at least for employees in defense industries (*High Tech Gays et al. v. DISCO*, 1987).

A recent Supreme Court decision addressed another aspect of the rights of persons who hold nonconforming sexual orientations. In 1982, John Doe, described as a covert electronics technician for the CIA, voluntarily told an Agency security officer that he was a homosexual. The Agency conducted a thorough investigation which included a polygraph examination designed to uncover whether he had disclosed classified information. Although Doe passed the test, he was dismissed on the grounds that he was a national security risk. The Court held that it is legitimate for courts to review the constitutionality of the CIA's dismissal of employees. The effect of this decision is that Doe can now appeal to the Federal courts to sustain his argument that his constitutional rights had been violated because no evidence was presented to show that he could not be trusted with national security secrets (*Webster v. Doe*, 1988).

In recent years, military personnel have turned to the courts for redress when they were dismissed on the grounds of homosexuality. Some of the cases have been decided in favor of the military, usually on the grounds that the military was privileged to adopt its own standards of suitability. Other cases were decided in favor of the plaintiffs. An example is the case of *Ben Shalom v. Marsh*, 1989. The

plaintiff was an Army Reserve sergeant who was discharged in 1976 after she publicly acknowledged being a lesbian. A District Court ordered her reinstatement in 1980, but she was not reinstated until 1987. She filed the lawsuit after her request to reenlist for another six-year term was denied on the grounds of her homosexual status. The court ruled in her favor. The case is under appeal. Again, personnel security was not at issue. The ultimate decision of the courts, however, may have immediate and remote effects on policies influencing the assignment of homosexual men and women to positions of trust.

Law and custom tend to influence each other. As court decisions and legislative statutes have influenced employability, government agencies have dropped discriminatory personnel practices. For example, the Civil Service Commission in 1975 and 1976 amended its regulations so that no person could be denied Federal employment on the basis of sexual orientation (*Singer v. Civil Service Commission*, 1975, 1977). Another example of changing times is the National Security Agency's recent move to grant some homosexuals, under certain conditions, access to sensitive compartmented information (SCI), one of the highest designations of sensitive information (Rosa, 1988). The Director of Central Intelligence Directive 1/14 (1986) stipulates that SCI clearances be granted only to individuals who are "stable, of excellent character and discretion, and not subject to undue influence or duress through exploitable personal conduct" (p. 10). Homosexual conduct is to be considered as one of many factors in determining an individual's trustworthiness. The wording of the guidelines is that homosexuality *per se* is not grounds for denial unless the person's conduct leads to inferences about reliability, integrity, discretion, and loyalty.

Although not related to security, the 1988 decision by the Veterans Administration reflects a muting of long-held discriminatory practices. Military personnel who had been discharged for homosexuality had been denied most benefits. Prior to 1980, most of the veterans had been given less than honorable discharges and thus were not eligible for benefits. The Veterans Administration has now upgraded those discharges. The new rule was proposed "as a matter of fairness" (Maze, 1988).

Another indicator of changing attitudes is the deletion of the term *homosexual* from DoD's *Personnel Security Program* (DoD 5200.2.R), the official guide to adjudicators and others charged with granting or withholding security clearances. (In a later section, I point to ambiguously worded criteria that make possible the implicit use of homosexuality as a basis for inferences regarding trustworthiness.)

The foregoing remarks reflect some of the responses of the courts and government agencies to challenges raised by homosexual men and women. All the examples cited above are directly related to efforts to remove homosexuals from a discriminatory class--a class which contains the feature: morally flawed and not

trustworthy. It is clear that some of the court rulings and agency regulations were not directed to eligibility for security clearance but rather to suitability for employment. For many civilian jobs in government and in defense industries, suitability and security status overlap.

At this point, it is instructive to note that personnel security research has three objectives: to provide guidelines for assessing the trustworthiness of (1) employees of defense contractors, (2) civilian government employees, and (3) military personnel. In theory, the military requires no research-driven guidelines inasmuch as volunteers who are known to be homosexual are not accepted for service. This exclusionary policy is not completely effective, however, in closing the doors to homosexual men and women. In the period 1981 to 1987, 4,914 military personnel were dismissed from the Army and Air Force on the grounds of homosexuality. Of these, 40 percent of the Army sample and 50 per cent of the Air Force sample held Secret or Top Secret clearances.\* It is reasonable to suppose that background investigations had yielded no information that would lead to the inference that they were security risks. Seventy-two percent of those discharged served at least two years. Inasmuch as homosexuals enter military service despite the official policy, the information to be presented in the following pages, primarily targeted toward civilian employees, may have relevance.

To return to the problem of selecting personnel with access to government secrets, we must address the question: are there demonstrable supports for the belief that assignment to the class *homosexual* should imply concurrent assignment to a morally flawed suspect class? Contained in the descriptor *morally flawed* are such implications as *not trustworthy* and/or *not loyal*.

To attempt an answer to this question requires, first, a brief excursion into how classes are formed and utilized in making inferences; second, a review of the legal and social history of homosexuality relevant to the practice of assigning homosexuals to a suspect class; and third, a review of the biological and social scientific literature on homosexuality.

### Cognitive Processes in Premise Formation

Making judgments about people requires cognitive work. Judgments are not automatic and immediate, they are the end result of silent actions by human beings who are accustomed to using the logic of the syllogism. They begin from a major premise (not usually articulated), then assign the case under review to the minor

---

\*Data on Navy/Marine Corps were not available. Data supplied by Defense Manpower Data Center.

premise. The conclusion follows from the joining of the two premises. In the simplest case, the major premise could be: All shifty-eyed persons are liars. The minor premise, based on observation, is: Jones is a shifty-eyed person. The conclusion follows: Jones is a liar. The logic is valid. Whether or not Jones is a liar is dependent on the truth-value of the major premise. Was the major premise derived from observation and was it empirically checked? Or was the major premise constructed out of unconfirmed beliefs, hypotheses, speculations, analogies, etc.? Human beings who are faced with the task of forming inferences about others make use of two general methods for formulating major premises: induction and construction (Sarbin, Taft, & Bailey, 1960).

### Induction

Observation and experience, the basis of induction, is the empirical method for constructing classes that would be useful in ordinary decision-making. It is the method that has advanced science and technology. Connections are established between classes of events. For example, amorphous clouds can be sorted into classes: nimbus, stratus, and cumulus. The utility of the classes has been established by correlating the presence of classes with wind and weather patterns. Mariners, aviators, and farmers make predictions from inductively derived premises that connect classes of clouds with other meteorological conditions. Research on personality and character by and large attempts to establish inductions that would allow predictions of future conduct from measurements taken from past or present assessments. Except for gross classifications, such as *psychopathic inferiority*, *sociopathy*, and *undersocialized*, we have few empirically tested generalizations that would be helpful in making predictions about a person's moral choices. It would be most practical if adjudicators (or anyone) could make inferences about a particular person from reliable inductions of the form: all church-going persons are honest, or all Cretans are liars. Such inductions are not available. Unless we are to avoid all decision-making until we can create inductively derived premises, we are constrained to employ premises that do not have the benefit of empirical confirmation.

### Construction

Most of our judgments about others (and ourselves) flow only partly from inductive generalizations and mostly from constructions. The beliefs we hold about human nature are more theory-driven than data-driven. Human beings, having the gift of language and the talent to use syllogisms, can and do construct all manner of beliefs about human behavior. When combined into an informal system, the beliefs can serve as an implicit theory of character.

The constructed beliefs that comprise a person's theory of character develop from two main sources: (1) deductive statements that reflect the implicit fashioning of beliefs, imaginings, and attitudes, and (2) authority.

(1) Beliefs that serve as the basis for an individual's theory of character may come from immersion in scientific or folk theories of personality. An investigator or adjudicator might absorb some of the elements of psychoanalytic theory and hold beliefs about the structure of character disorders. He or she would then be prepared to employ premises derived from psychoanalysis. Others might advance premises based on unsophisticated folk theories, e.g., people who appear to fit the prevailing stereotypes of "criminals" are unreliable; a weak handshake betokens a weak character; a tidy desk denotes a well-ordered mind. Needless to say, some individuals borrow premises, often absurd, from the contents of astrological charts. Many persons hold beliefs that scientifically inclined observers would label superstitions.

Some premises are constructed as the result of analogical reasoning. Mr. Smith has a theory of character derived from an analogy. A fellow worker who had a "weak lower jaw" was fired for embezzling funds. From this experience, Smith constructed the premise: people with weak jaws are predisposed to dishonesty. The fellow-worker was used as a model in Smith's silent construction of a premise: if a person has one characteristic in common with the model, then he will have all the other characteristics of that model. Research on judging personality makes clear that human beings, in the absence of confirmed inductions, construct and employ implicit theories of personality (Rosenberg, 1977). Incorporated into such implicit theories are theories of character. Many characterological assumptions can be traced to immersion in codes of morality that are contained in religious beliefs. In a later section, I indicate the content of beliefs arising from theological sources and I suggest that such beliefs, acquired before the age of reflection, may be grounds for an individual's theory of character, a theory that would generate premises about the character of persons identified as homosexual.

(2) The other source for the construction of a theory of character is authority. Teachers, supervisors, political leaders, and other figures in positions of authority may impart to a novice a ready-made theory of character. The authority's theory may be a mix of inductions and constructions.

Authorities often support their theories of character by referring to tradition as a form of validity. "It's always been done this way" is used as an argument to support a particular premise for making character judgments when empirical support is lacking. Another strategy employed to justify a particular theory of character is to claim that it is supported by "professional judgment."

I have presented the foregoing discussion in the interest of establishing that investigators, adjudicators, and case controllers, in common with people generally, do not process information in a mechanical way but engage in the practice of clinical inference. The inferences they make about homosexuals or heterosexuals flow from premises generated by their belief systems. Such belief systems do not arise in a vacuum; they are influenced by hard facts when available, and by creative imaginations when hard facts are not available. To help understand the source of beliefs that assign homosexuals to a suspect class, an exposition of the various social constructions of homosexuality is in order.

## Social Construction of Homosexuality

A word about the notion of *social construction*. Meanings are not given in nature. Meanings are assigned to events by human beings who communicate with each other. The construction or interpretation of any phenomenon is influenced by concurrent historical contexts: political, economic, religious, and scientific.

The observations of historians (see, for example, Bullough, 1976) and the reports of ethnographers (see, for example, Ford and Beach, 1951; Marshall & Suggs, 1971; and Devereaux, 1963) support the notion that the constructions placed on same-gender sexuality are social. As Kinsey remarked, "only the human mind invents categories." At certain times, and in many societies, most variations in the expression of sexuality have been regarded as normal. It is the application of moral rules and legal statutes that determines whether same-gender orientation and conduct is classified as acceptable, tolerable, offensive, or criminal. Such rules and statutes are the products of custom, supported by the power vested in authority. As the historical record shows with abundant clarity, forms of authority change. In early times, moral rules were enforced by men and women enacting priestly roles. Later, ruling classes imposed their own fluctuating standards on the enforcement of moral rules. In western democracies, rules are constructed through consensus or legislation, and rules favoring the majority are tempered so that rights of minorities are not obliterated.

How has this variability been construed? Tracing the history of social constructions of deviant conduct points unmistakably to the influence of beliefs prevailing at any particular time. A full historical account is beyond the scope of this paper, but for our purposes it is sufficient to demonstrate that observed variability in sexual conduct has been construed differently at different times in Western history. My point of departure is influenced by the position of contemporary science: that observations ("facts") are raw materials for constructing meanings (Spector & Kitsuse, 1987). The construction of meanings is not given in the observations, but is the product of cognitive work, taking into account political, social and religious contexts. In the past several hundred years, four constructions have been offered to account for variations in sexual orientation. Evidence of these constructions is abundant in contemporary life, although each construction was initially formulated in a different historical period.

### The Morality Construction--Good and Evil as Fundamental Categories

Moral rules as represented in religious writings are the source of the long-held construction of prohibition of nonprocreative sexual conduct. Masturbation, las-

civious conduct, and nonprocreative sex were proscribed. "You shall not lie with a man as with a woman, that is an abomination" (Leviticus 18:22). "Neither the immoral, nor idolaters, nor adulterers, nor abusers of themselves with mankind, will inherit the Kingdom of God" (I Corinthians 6:9).

The history of religious attempts to control sex makes clear the notion of variability in attitudes. Struggles between advocates of different theological doctrines have been reflected in attitudes toward sex. In the formation of attitudes, two ideas stand out in the literature; first, the inferior status of women, and, second, child-bearing as a requirement for maintaining a collectivity. In a far-reaching review, Law (1988) provides evidence and argument to support the proposition that the condemnation of homosexuality is more an unwitting reaction to the violation of traditional gender norms than to nonconforming sexual practices. When a man adopts the female role in a sexual relationship, he gives up his masculinity for the inferiority that is supposed to be associated with being a woman. This constituted, for some Church authorities, an abomination, a sin against nature (Bullough 1976). The negative judgments originally associated with men adopting female roles has diffused to all homosexual roles.

According to Bullough (1976), early doctrine held that sex served only one purpose: procreation. This doctrine was supported by the claim that such was God's intention in creating the world of nature. Therefore, sex for pleasure was suspect, especially same-gender sex, since this is obviously non-procreational. The appellation *sins against nature* appears frequently in doctrinal arguments (Bullough, 1976). Since same-gender sex was nonprocreative, it was classified as a sin against nature.

In western religious traditions, Good and Evil are the categories that provide the background for declaring value judgments on sexual nonconformity. Arising from primitive taboos, the powerful image of "sin" was employed to define the unwanted conduct. Certain religious leaders who take the Scriptures as the unquestioned moral authorities are contemporary advocates of the belief that nonconforming sexual behavior is sinful. The attribution of sinfulness carries multiple meanings: among some groups, sin is explained as voluntary acceptance of Satanic influence; among others sin is believed to produce a flawed or spoiled identity. Societal reactions to sin include ostracism, corporal punishment, imprisonment and, in more draconian times, torture, stoning, hanging, burning at the stake, and even genocide.

Sin is an attribution, a construction made by others or by oneself. Its force lies in its attachment to entrenched religious doctrine. Like taboos, the concept of sin is acquired by people before they reach the age of reflection. The argument that sin is a social construction is nowhere better illustrated than in the debates of theologians about the doctrine of original sin and in how to establish criteria for sinful

conduct: under what conditions should an action be regarded as a venial sin or as a mortal sin?

### The Legal Construction--Sexual Deviance as Criminal Behavior

Arising from religious precepts, legislative acts were introduced to control nonprocreative sexual behavior. Ruse (1988), commenting on the relationship of laws designed to control sexual behavior to religious teachings, says:

The very terms used for anal intercourse show their origins in a philosophy which intertwines law and Judeo-Christian morality. "Sodomy" obviously comes from the name of the doomed city of the plain, and "buggery" is a corruption of "bougrerie," named after so-called "Bulgarian" heretics who were guilty of a form of Manichean heresy, Albigensianism. They believed that physical things are evil, and thus refused to propagate the species, turning therefore to other sexual outlets. Hence banning buggery struck a two-fold blow for morality: against unnatural vice and against heretical religion (p. 246).

As early as 1533 in England, buggery, which had been established in religion as a sin against nature, was declared a crime. In the ensuing three decades, the statute was repealed and reenacted several times. In 1563, in the reign of Elizabeth I, the law against buggery became firmly established. Criminal codes provided severe punishment for persons accused of nonconforming sexual conduct (Bullough, 1976). The language of such statutes is not uniform. *Buggery, sodomy, lewdness, perversion, lasciviousness*, and even *immorality* are terms that have been employed in different statutes and at various times to denote the proscribed criminal conduct.

The underlying categories of the legal construction of nonconforming sexuality are continuous with those of the religious construction: good and evil. With the secularization of morality, sin was no longer an appropriate descriptor for unwanted conduct. The transition from *sins against nature* to *crimes against nature* was an accomplishment of the secularization and attempted legalization of morality. Crime, the secular equivalent of sin, became the preferred descriptive term.

To make rational the use of the crime concept in the context of sexual behavior, it had to be consonant with accepted legal usage, as in crimes against the person, crimes against property, crimes against the Crown, etc. The linguistic formula "crimes against..." presupposes a victim. In following this logic, early practitioners of jurisprudence created *crimes against nature* as the label for unwanted sexual conduct. In so doing, they implied that "nature" was the victim.

In most of the criminal codes, and in the Uniform Code of Military Justice, the concept of *crimes against nature* appears frequently when sexual behavior is proscribed. The concept is sometimes rendered by the employment of language which includes the adjective *unnatural*. Clearly, the authors of statutes that proscribe *crimes against nature* were not using "nature" as a descriptor for flora and fauna, mountains and valleys, oceans and deserts. When "nature" is the victim, something else is intended.

The statutory language, as we mentioned before, is derived from the religious idiom *sins against nature*. "Nature" is employed in the sense used by the early Greek philosophers, as the force or essence that resides within things. Thus, it is in the nature of a hen's egg to develop into a chicken, for water to run downhill, etc. This concept of nature served as the main explanatory principle, employed as an all-purpose answer for causality questions. With the development of empirical science, such all-purpose answers became superfluous, they gave way to questions directed toward uncovering how events influenced each other, and answers were formulated according to laws and principles constructed through observation and experiment. At the present time, the legal concept *crimes against nature* has no scientific status. It is a rhetorical device to control nonprocreative sex.

### The Sickness Construction--The Medicalization of Deviance

The nineteenth century witnessed the social construction of deviant conduct as sickness. Although the medical model of deviance had its origins in the sixteenth century, it was not until the growth and success of technology and science in the nineteenth century that medical practitioners created elaborate theories to account for unwanted conduct. Many of the fanciful early theories of crime and craziness were given credibility because they were uttered by physicians and, therefore, presumed to be scientific. The prestige conferred upon the practitioners of science and technology blanketed the medical profession. It was during the latter half of the century that medical scientists initiated the movement to medicalize not only poorly understood somatic dysfunctions, but all human behavior. Conduct that in the past had been assigned to moralists or to the law now came under the purview of medical authority. Deviant conduct of any kind became topics of interest for doctors. The brain had already been given its place as the most important coordinating organ of the body, and the "mind" was somehow located in the brain. Therefore, any item of behavior that was nonconformant with current norms could be attributed to faulty brain apparatus, flawed mental structures, or both. In the absence of robust psychological theories, the observation and study of nonconforming behavior led physicians to assimilate theories of social misconduct to theories of somatic disease. The creation and elaboration of disease theories was based upon the all-encompassing

notion that every human action could be accounted for through the application of the laws of chemistry and physics. In this context, homosexuality and other nonprocreative forms of sexual conduct were construed as sickness. To be sure, the medicalization of nonconforming sexual conduct failed to replace entirely the older moral and criminal constructions, and in many cases persons suffering from such "illnesses" continued to be punished.

It is interesting to note that the term *homosexuality* itself did not appear in English writings until the 1890s. Like most medical terms, it was created out of Greek and Latin roots. Prior to that time, labels for nonconforming sexual conduct in the English language had been free of medical connotations, as, for example, the words *sodomy*, *buggery*, *perversion*, *corruption*, *lewdness*, and *wantonness*. One outcome of the medicalization of nonconforming sexual conduct was the inclusion of homosexuality in textbooks of psychiatry and medical psychology. Homosexuality was officially listed as an illness in the 1933 precursor to the 1952 Diagnostic and Statistical Manual of the American Psychiatric Association (DSM-I). In the 1930s and 1940s any person who admitted being homosexual was likely to be referred to a psychiatrist for diagnosis and treatment, the goal of the treatment being the elimination of the homosexual interest. But even during this period the father of psychoanalysis, Freud, expressed the opinion that homosexuality was not an illness. In 1935 Freud wrote a letter to the troubled mother of a homosexual which is worth quoting in its entirety (Bieber et al., 1962), as it anticipates and eloquently summarizes the prevailing current scientific and medical views on homosexuality.

April 9, 1935

Dear Mrs. \_\_\_\_\_

I gather from your letter that your son is a homosexual. . . . Homosexuality is assuredly no advantage, but it is nothing to be ashamed of, no vice, no degradation, it cannot be classified as an illness; we consider it to be a variation of the sexual function produced by a certain arrest of sexual development....By asking me if I can help, you mean, I suppose, if I can abolish homosexuality and make normal heterosexuality take its place. The answer is, in a general way, we cannot promise to achieve it. In a certain number of cases we succeed in developing the blighted germs of heterosexual tendencies which are present in every homosexual, in the majority of cases it is no more possible. It is a question of the quality and the age of the individual. The result of treatment cannot be predicted.

What analysis can do for your son runs in a different line. If he is unhappy, neurotic, torn by conflicts, inhibited in his social life, analysis may bring him harmony, peace of mind, full efficiency, whether he remains a homosexual or gets changed.

Sincerely yours with kind wishes,

Freud

Homosexuality as a social construction is nowhere better illustrated than in the arbitrary manner in which it was included and ultimately excluded from the medical lexicon. In 1974, the diagnosis of homosexuality was deleted from the Diagnostic Manual of the American Psychiatric Association under pressure from many psychiatrists who argued that homosexuality was more correctly construed as a nonconforming life style rather than as a mental disease.

Although the mental health professions do not speak with one voice, the currently prevailing view was advanced by Marmor (1975), at that time president of the American Psychiatric Association: "...there is no reason to assume that there is a specific psychodynamic structure to homosexuality anymore than there is to heterosexuality" (p. 1514).

The American Psychological Association passed a resolution in 1975 declaring that:

Homosexuality per se implies no impairment in judgment, stability, reliability or general social or vocational capabilities....The Association deplores all public and private discrimination in such areas as employment, housing, public accommodation, and licensing....The Association supports and urges the enactment of civil rights legislation...that would offer citizens who engage in homosexuality the same protections now guaranteed to others on the basis of race, creed, color, etc.

Substantially the same resolution was enacted by the American Psychiatric Association in 1976.

The available data on the psychological functioning of persons identified as homosexuals lead to an unambiguous conclusion: that the range of variation in personal adjustment is no different from that of heterosexuals (Ohlson, 1974). A review of 14 major studies, beginning with Hooker's in-depth investigations (1957, 1965), gave no support to the hypothesis that same-gender orientation was a sickness (Freedman, 1976). Employing various adjustment criteria, the studies uncovered no correlations that would support a mental illness construction. Siegleman (1978 & 1979), in two studies comparing psychological adjustment of homosexual men and women and heterosexual men and women in Britain, found no significant difference between the homosexual and heterosexual groups, substantially replicating the results of earlier studies in the U.S. The conclusion had been stated earlier in

the famous Wolfenden Report of 1957, the basis for the repeal of sodomy statutes in England:

Homosexuality cannot legitimately be regarded as a disease because in many cases it is the only symptom and is compatible with full mental health (p. 32).

### The Minority Group Construction--Homosexuals as a Non-Ethnic Minority Group

The civil libertarian movements of the 1960s and 1970s paved the way for an alternative construction of homosexual conduct. I have already noted that the earlier work of Kinsey and his associates (1948) had received wide publicity. This work helped to strengthen the notion that sexual status and behavior could not be sorted into a simple two-valued model of normal and abnormal. The recognition that perhaps at least 10 percent of the adult population consistently adopted nonconforming sexual roles (i.e., homosexual behavior) was instrumental in formulating a construction of same-gender sexuality as the defining property of a nonethnic, nonracial minority group. Individuals came together to support each other in their choice of life style. They comprised a group. They shared with other minority groups the painful and often humiliating experiences of discrimination, harassment, and rejection (Sagarin, 1971).

The model for conceptualizing homosexuals as a minority group was provided first by ethnic and racial minorities, later by nonethnic minorities: women, the aged, and physically disabled or handicapped persons. Another development that encouraged the use of the minority construction arose from claims that homosexual men and women could satisfactorily perform an infinite variety of occupational and recreational roles: one could have nonconforming sexual attitudes and still meet high performance standards as teachers, physicians, fire fighters, novelists, professional athletes, movie actors, policemen, politicians, judges and so on.

It would be instructive to review the features that define a minority group. It is obvious that *minority* in this context carries no quantitative meaning. Women make up more than 50 percent of the population, yet they meet the criteria of a minority group. The most useful shorthand definition of minority group is: people who share the experience of being the objects of discrimination on the basis of stereotypes, ethnocentric beliefs, and prejudice held by members of the nonminority group. Well-known examples are mid-nineteenth century Irish immigrants in Boston, American Indians for nearly four centuries, Black soldiers and sailors prior to the 1948 anti-segregation orders, Asian-Americans before the repeal of the exclusion acts, Mexican-Americans in California and the Southwest, Jews in Nazi Germany and elsewhere.

Similarities to more widely recognized minority groups are not hard to find. Prejudice against persons with nonconforming sexual orientations is like racial prejudice in that stereotypes are created. Such stereotypes are often exaggerations of social types that feature some unwanted conduct, style of speech, manner, or style that purportedly differs from the prototype of the majority. The personality of an individual identified as a member of a minority group is construed not from his acts, but from his suspected or actual membership in the minority group. Racial and ethnic slurs help to maintain the partition between the minority group and the majority. *Wops, Guineas, Japs, Spics, Kikes, Beaners, Polacks, Sambos*, and other pejoratives have only recently been discouraged as terms to denote the supposed social and moral inferiority of selected minority groups. *Fag, fairy, queer, homo*, and *pervert* serve similar functions for persons who want to communicate that the homosexual is "inferior." At the same time, the slur is intended to characterize a social type that exemplifies a negatively valued prototype--the feminized male.

To recapitulate: The fact that at least four constructions can be made of the same phenomenon is evidence that the particular value placed on nonconforming sexual orientation is influenced by historical forces. The same act may be construed as sin, as crime, as sickness, or as an alternate form of being.

The belief systems of governmental agents charged with assigning security clearances are like those of the general population--the belief systems are dependent on which construction the agents employ in establishing premises. If they choose the construction that emphasizes sin, crime, or sickness, then they will likely assign homosexual men and women to a suspect class. If they choose the construction that homosexuality is an alternate form of being and that homosexuals comprise a minority group, then it is indeterminate whether any specific candidate will be assigned to a suspect class.

Belief systems may be sharpened, modified, or rejected as a result of efforts to take into account new information. Such information may be drawn from findings reported by biological and social scientists. In many governmental areas, for example public health, nuclear energy, agriculture, and defense, policy formulations take into account the findings of research scientists. A synoptic review of recent and contemporary research may provide information that could help clarify public policy in regard to the granting or withholding of security clearances to persons identified as homosexual.

## Scientific Status of the Homosexuality Concept

In the past two decades, with advances in biotechnology, psychology, ethnology, and methods of social analysis, numerous systematic researches have yielded findings relevant to the formulation of law and public policy.

Advances in methodology stimulated a renewed interest in genetic research. The study of twins has been a fruitful source of genetic hypotheses. Kallman (1952) reported a concordance rate of 100 percent for homosexuality for 40 pairs of identical twins. That is, when one of a pair of identical twins was identified as homosexual, the other was also found to be homosexual. This occurred even when the twins had been raised apart. The author of the study cautioned that the data are not conclusive in supporting the genetic hypothesis--the twins may have responded to the same socializing influences. In this connection, Marmor (1975), a well-known psychiatrist, claimed that the "most prevalent theory concerning the cause of homosexuality is that which attributes it to a pathogenic family background."

Perhaps the most thorough research undertaken to advance the frontiers of knowledge about sexuality was that of Alfred Kinsey (Kinsey, Pomeroy, & Martin, 1948; Kinsey, Pomeroy, Martin, & Gebhard, 1953). A zoologist, Kinsey organized his research program along ethological and epidemiological lines. The variable of interest for Kinsey was frequency of sexual acts. The raw data for his studies were obtained through structured intensive interviews. In contemporary scientific fashion, quantitative analysis guided his work and influenced his conclusions. He employed a rating scale that allowed him to rate subjects from 0 to 6 on a dimension: heterosexual-homosexual. (A category "x" was used to identify persons with no "socio-sexual" response, mostly young children.) From the interview data, he compiled ratings for a large sample of respondents. The rating of 0 was assigned to men who were exclusively heterosexual, and 6 to men who were exclusively homosexual. The rating 1 was assigned to men who were predominantly heterosexual, and 5 to men who were predominantly homosexual, and so on. (The Kinsey scale and representative statistics are reproduced in Appendix A.)

Kinsey reported many significant findings, among them that 50 percent of the white male population were exclusively heterosexual and 4 percent were exclusively homosexual throughout adult life, but 46 percent had some homosexual experience throughout adult life. Between the ages of 16 and 65, 10 percent of the men met Kinsey's criterion of "more or less exclusively homosexual (rating 5 and rating 6)."

In the fashion of ethological research, Kinsey was primarily concerned with presenting prevalence statistics. Whether the dimension was based on nature or nurture, or a combination of these, was not an important concern.

## Biological Studies

During the past 30 years, increasing knowledge in molecular biology, endocrinology, embryology, and developmental neurology has made it possible to state with confidence that male and female brains are structurally different in certain areas concerned with glandular and sexual functions, especially in the hypothalamus and related subcortical systems (Kelly, 1985). The actions of the various sex hormones in the differentiation of male and female anatomy have been charted. Developmentally, there is a built-in bias toward differentiating an organism into a female, i.e., nature makes females. On the basis of extensive research, Money and Erhardt (1972) concluded: "...in the total absence of male gonadal [sex] hormones, the fetus always continues to differentiate the reproductive anatomy of the female." This process takes place regardless of the basic masculinity (XY chromosomes) or femininity (XX chromosomes) of the fetus. The bias is counteracted approximately 50 percent of the time by the action of male hormones. The discovery of this built-in mechanism toward femaleness sparked additional research that ultimately illuminated the phenomenon of same-gender attraction. It has been recognized for some time that parts of the brain are glandular and secrete neurohormonal substances that have far-reaching effects. Not unlike the better-known sex hormones, the androgens and estrogens, these brain neurohormonal substances also appear to have profound effects on development.

From a review of ethnographic reports, historical sources, biographies, and literary works, it is apparent that some same-gender orientation is universally observed (Bullough, 1976; Howells, 1984; Marshall & Suggs, 1971). The world-wide prevalence of *exclusive* same-gender orientation is estimated as three to five percent in the male population, regardless of social tolerance, as in the Philippines, Polynesia and Brazil, intolerance as in the United States, or repression as in the Soviet Union (Mihalek, 1988). This constancy in the face of cultural diversity suggests that biological factors should not be discounted as a fundamental source of homosexual orientation.

From these observations, as well as intensive analysis of more than 300 research reports, Ellis and Ames (1987) have advanced a multi-factorial theory of sexuality, including same-gender attraction. They conclude that current scientific findings support the view that hormonal and neurological variables operating during the gestation period are the main contributors to sexual orientation. For the ultimate formation of sexual identity, the Ellis-Ames theory does not exclude psychosocial experience as a potential modifier of the phenotypical expression of biological development.

From their review of current research, Ellis and Ames propose that sexuality be studied through the consideration of five dimensions. These are: *genetic* (the effects of sex chromosomes, XX and XY, and various anomalous karyotypes); *genital* (effects of internal and external genitalia, the male-female differentiation, which begins in the first month of embryonic life); *nongenital morphological* (effects of secondary sex characteristics--body build, voice, hair distribution); *neurological* (male and female brain differentiation and associated sex-typical actions--including social influences and the formation of sex-typed roles). Most of the events shaping the developing organism's sexuality along these dimensions occur between the first and fifth months of intrauterine life. These events are controlled by the interaction of delicate balances between the various male and female hormones and their associated enzyme systems. Development of the embryo can be influenced by several factors affecting the internal environment of the mother, such as genetic hormonal background, pharmacological influences and immunological conditions, not to mention the psycho-physiological effects arising from the social environment. Disturbances in any one or any combination of these factors can result in alterations in sexual development called inversions. These inversions are failures of the embryo to differentiate fully in any of the other sexual dimensions (genital, morphological, neurological, or behavioral) according to chromosomal patterns. These anomalies of embryonic development are central to the later development of sexual orientation and behavior such as same-sex attraction, bisexuality, and other nonconforming patterns. As support for their theory, Ellis and Ames cite various experiments with animals in which permanent changes in sexual behavior have been induced by glandular and other treatments. The changes noted in these experimental animals are similar to those in humans with known anomalies of endocrine and enzyme systems.

Adult sexual orientation, then, has its origins, if not its expression, in embryonic development. Ellis and Ames conclude that:

Complex combinations of genetic, hormonal, neurological, and environmental factors operating prior to birth largely determines what an individual's sexual orientation will be, although the orientation itself awaits the onset of puberty to be activated, and may not entirely stabilize until early adulthood (p. 251).

The conclusions are consistent with those of John Money (1988), a leading researcher on the psychobiology of sex. According to Money, in his recent review and summary of current knowledge on homosexuality, data from clinical and laboratory sources indicate that:

In all species, the differentiation of sexual orientation or status as either bisexual or monosexual (i.e., exclusively

heterosexual or homosexual) is a sequential process. The prenatal state of this process, with a possible brief neonatal extension, takes place under the aegis of brain hormonalization. It continues postnatally under the aegis of the senses and social communication of learning (p.49).

This brief overview of scientific findings from biological sources instructs us that the phenomena that we label sexuality are complex, and that we must assign credibility to the notion that overt and fantasy expressions of sexuality are influenced by multiple antecedents. Of special importance is the recognition of the interplay of biological and social factors. The leading scientific authorities agree that these expressions are best described in terms of gradations or dimensions, rather than by the rigidly bound, mutually exclusive categories, *heterosexual* and *homosexual*.

Because in daily speech we employ *heterosexual* and *homosexual* without qualifiers, it requires sustained cognitive effort to consider gradations and overlap. If we were to adopt policies that took scientific findings into account, we would be required to modify the use of a two-category system and incorporate the idea of continuous dimensions. To use an overworked metaphor, black and white are anchoring points for an achromatic color dimension, and between these anchoring points are innumerable shades of grey. Other dimensions come into play when considering chromatic stimuli, such as hue, saturation, brightness and texture. Similarly, the multidimensional concept of sexuality is contrary to the assertions of earlier generations of theologians, moralists, and politicians whose construal of sexuality was achieved under the guidance of two-valued logic in which narrowly defined heterosexual orientation and conduct were assigned to the category *normal* and any departures from the customary were assigned to the category *abnormal*.

In this connection, after detailed analysis of the sexual histories of thousands of people, Kinsey (1948) concluded that the class *human beings* does not represent two discrete populations, *heterosexual* and *homosexual*, and that the world:

is not to be divided into sheep and goats....It is a fundamental of taxonomy that nature rarely deals with discrete categories. Only the human mind invents categories and tries to force facts into separate pigeonholes. The living world is a continuum in each and every one of its aspects. The sooner we learn this concerning human sexual behavior the sooner we shall reach a sound understanding of the realities of sex (p. 639).

## Psychological Studies

Scores of studies have been reported in the literature on the adjustment of homosexual men and women. To be sure, none of the studies attempted to answer the specific question: are homosexuals greater security risks than heterosexuals? On various psychological tests, including the well-known Minnesota Multiphasic Personality Inventory, the Adjective Check List, and the Rorschach test, among others, the range of variation in personal adjustment is the same for heterosexuals and homosexuals. None of the carefully controlled studies concluded that homosexuals were suffering from a "mental illness." Gonsoriak (1982) and Siegelman (1987) independently reviewed the available research literature and concluded that good adjustment and poor adjustment are unrelated to sexual orientation.

Can any inferences be drawn from the massive volume of research generated in the effort to discover whether homosexuals are different from heterosexuals on adjustment criteria? Although definitions of adjustment vary from study to study, one element appears common to most, if not all, definitions: social maturity. This concept embraces a number of features. Socially mature people are likely to be caring, to have stable interpersonal relations, to be concerned with maintaining an acceptable social and moral identity. Caring for persons with whom one is bonded is probably related to caring for others who make up relevant collectivities, including one's country. The research is unequivocal that identifying oneself as heterosexual or homosexual carries no implication of social maturity.

## Sociological Studies

A number of studies have been reported that lead to the inference that many undisclosed homosexuals have served in the military and received good proficiency ratings and honorable discharges (Bell, 1973; Williams & Weinberg, 1971; Harry, 1984). It is reasonable to assume that civilians who have not disclosed their homosexual status also perform their jobs efficiently and, if they have security clearances, do not violate the trust.

The broad categories *heterosexual* and *homosexual* conceal multiple types. At the conclusion of an extensive sociological investigation, Bell and Weinberg (1978) commented that persons identified as homosexual are "a remarkably diverse group." After studying intensive protocols on a large number of adults, these investigators concluded:

...we do not do justice to people's sexual orientation when we refer to it by a singular noun. There are "homosexualities" and there are "heterosexualities" each involving a variety of interrelated dimensions. Before one can say very much about a person on the basis of his or her sexual orientation, one must make a comprehensive appraisal of the relationships among a host of features pertaining to the person's life and decide very little about him or her until a more complete and highly developed picture appears.\*

The data in the Bell and Weinberg study lead to the conclusion that the concepts *homosexuality* and *heterosexuality* are too broad to be worthwhile. When subjected to statistical reduction, the data yielded five types. The typology is not too different from one that could be constructed for heterosexuals. The five types are labeled: Close-coupled, Open-coupled, Functionals, Dysfunctionals, and Asexuals. The Close-Coupled were similar to what might be called happily married among heterosexuals. Partners of this type look to each other for their interpersonal and sexual satisfactions. They are not conflicted about being members of a minority group. They would fit the usual criteria of social maturity. The Open-Coupled preferred a stable couple relationship, but one of the partners sought sexual gratification outside of the couple relationship. In most cases, Open-Coupled accepted their homosexual identity, but had qualms about seeking other outlets. In terms of their general adjustment, they were not unlike most homosexuals or most heterosexuals. The Functionals are more like the stereotype of the swinging singles. Their lives are oriented around sex. They are promiscuous and open, frequenting gay bars and bathhouses, and have been arrested for violating "homosexual" ordinances. They are self-centered and give the impression of being happy and exuberant. The Dysfunctionals fit the stereotype of the tormented homosexual. They have difficulties in many spheres, social, occupational, sexual. This type displayed the poorest adjustment. Among the males, there were more instances of criminal activity such as robbery, assault, and extortion. The Asexuals are characterized by lack of involvement with others. They are loners and describe themselves as lonely. They lead quiet, withdrawn, apathetic lives.

To recapitulate: In this section of the report I have presented a synopsis of contemporary research drawn from biological, psychological, and sociological sources. One conclusion stands out: knowing that a person is homosexual tells very little about his or her character. It is worth adding: knowing that a person is heterosexual tells very little about his or her character.

---

\*The use of the background investigation (BI) is consistent with this conclusion.

## Implications

The official guides for personnel security specialists are Director of Central Intelligence Directive (DCID 1/14) (1986) and the *Personnel Security Program* (5200.2-R) already mentioned, issued by the Department of Defense and revised in January, 1987. In both of these documents, the criteria for granting or denying clearances are spelled out. The main thrust of these guidelines is that every candidate for a clearance is handled on a case-by-case basis. An implication of this policy is that information referring to sexual orientation by itself would not be systematically employed as a criterion to withhold security clearance.

Adjudicators, like everyone else, do not put aside their belief systems when they engage in clinical inference on the basis of ambiguous and incomplete cues. Under conditions where a criterion is stated in clear and unambiguous terms, there is little room for the operation of personal bias or social prejudice. For example, in following the rule that no convicted felon should be granted a security clearance, the adjudicator's personal beliefs about the rehabilitation effects of imprisonment are irrelevant. When criteria are stated in language that is the least bit ambiguous or value-laden, then opportunities arise for interpretation according to personal belief systems. In Appendix E of DoD 5200.2-R, the following appears: "Background Investigation (BI) and Special Background Investigation (SBI) shall be considered as devoid of significant adverse information unless they contain information listed below: ....(2) All indications of moral turpitude, heterosexual promiscuity, aberrant, deviant, or bizarre sexual behavior...." A later section of the *Personnel Security Program*, in considering "sexual misconduct" as a basis for denying security clearances, contains the following: "Acts of sexual misconduct or perversion indicative of moral turpitude, poor judgment, or lack of regard for the laws of society."

Although the term *homosexual* is meticulously avoided in DoD 5200.2R (heterosexual but not homosexual promiscuity is included as adverse information), the ambiguity of language such as "moral turpitude," "sexual misconduct," and "aberrant, deviant, or bizarre," would allow a reader of the guidelines a considerable degree of discretion in interpreting homosexual orientation as being an instance of "moral turpitude," "sexual misconduct," or "aberrant deviant, or bizarre." The value-laden term *perversion* also makes possible the assignment of homosexual men and women to a suspect class. *Perversion* is no longer employed as a diagnostic term in medical or psychological vocabularies. At one time, it was used as a catch-all for any nonprocreative sexual activity, including masturbation, oral-genital contact between husband and wife, and attending sexually explicit movies, among other behaviors.

The effectiveness of the case-by-case approach to security determinations is dampened if attention is not given to the fact that adjudicators are practicing the art of clinical inference. They acquire skills in converting masses of data to a two-valued determination *satisfying guidelines* and *not satisfying guidelines*. By extension, these two outcomes lead to the ultimate inference *trustworthy* and *untrustworthy*. Ambiguous and value-laden language, as indicated above, allows for the importation of private belief systems into the mix of major premises that guide the inference process. *Moral turpitude* is a prime exemplar. It has no standard reference other than that derived from social constructions that regard nonconforming sexual orientation as sin, crime, or sickness.

Most of us in the general population have been socialized by parents, teachers, peers, and religious leaders to interpret nonconforming sexual orientation as sinful, criminal, or sick. Investigators and adjudicators are drawn from the general population. It is reasonable to suppose that incorporated into their personal theories of character are belief systems that would lead to identifying homosexuals as members of a suspect class, such identification being derived from sin, crime, or sickness constructions. The minority-group construction, for a long time privately advocated by individuals, has been presented to the public as a result of increased consciousness about civil rights. A person who subscribes to the construction of homosexuality as an alternate life style practiced by a minority group, would not consider homosexual identity or homosexual acts as indicative of the vague and value-laden category *moral turpitude*. This does not mean that he or she would downgrade the moral significance of such acts as incest, child molestation, rape, or other acts involving violence or coercion, acts that are sometimes included in the general descriptor *moral turpitude*.

A personal theory of character, like any theory, is not an incidental or ornamental feature of an individual's psychological make-up. A theory, whether in science or in daily life, is organized to facilitate understanding, to simplify, to reduce confusion, to provide guidance until data are gathered and converted into hard facts. A personal theory of character also has purposes, one of which is to facilitate, in the absence of facts, the sorting of individuals into moral categories. The use of theories to express personal prejudice may influence the practitioners of the art of clinical inference to make decisions in which information irrelevant to trustworthiness is given significant status. We are reminded of the theory of character advocated during the Nazi period, the theory whose purpose was to establish the superiority of the Aryan race.

In DoD 5200.2-R, under the heading, Criteria for Application of Security Standards, the general instruction to personnel security officials and practitioners is that the ultimate decision must be based on "an overall common sense determination based upon all available facts." In DCID 1/14, the same formula appears: "The

ultimate determination of whether the granting of access is clearly consistent with the interest of national security shall be an overall common sense determination based on all available information" (p. 5). As I mentioned before, in the absence of empirically derived correlations, judgments are theory-driven rather than fact-driven. Common sense could mean the employment of commonly held theories of character which could influence decisions in which homosexuality was included in the compendium of "facts." The hypothesis could be entertained that under such conditions common sense could be interpreted as common prejudice.

Not only in the interest of fairness, but also in the interest of efficiency, attention should be directed to improving the inferential skills of adjudicators and other specialists so that in applying guidelines they can recognize and delimit the contribution of personal theories of character to their judgments.

At the beginning of this report, I pointed to two sets of problems: (1) Is a person a security risk by virtue of membership in the class homosexual? (2) Is a person of homosexual orientation a security risk because he or she is vulnerable to coercion and blackmail? The previous pages have focused on the first question. The remainder of the report is directed to the issue of vulnerability to blackmail. To illuminate the problem of blackmail, I make use of the concept *personal secrets*.

## Personal Secrets

The previous discussion centered on the problem of determining whether a homosexual man or woman should be granted a security clearance. I did not consider the observation that trustworthiness is a characteristic that is subject to contextual influences. Blackmail--the threat of disclosure of a personal secret--sometimes leads a trustworthy person to betray a trust. The risk of exposure is central to understanding the conduct of any person whose adjustment, achievements, and career advancements are dependent on maintaining secrets about the self. Such secrets cover a much wider field than sexual orientation. Secrets about the self are maintained to avoid making public one's inferiority, stupidity, or moral weakness. Persons hold secret such autobiographical items as unprosecuted felonies, illegal drug use, problem drinking, prior bankruptcies, race or ethnic origins, and spouse abuse. Many people employ secrecy to conceal from others certain disapproved psychological characteristics such as obsessions, phobias, compulsions, fetishism, and other behaviors that appear not to be under self-control. Actions that authority figures might label sexual misconduct become part of the secret self. Most adults conceal from public scrutiny such facts as fornication with a minor, adulterous relationships, bigamy, illicit sexual liaisons, compulsive masturbation, impotence and other sexual dysfunctions, and so on.

Self secrets of the kind listed above have one element in common: the person is open to the possibility of being stigmatized, of being forced to display a symbolic brand for all to see.

To be vulnerable (in the sense of being vulnerable to coercion by agents of a foreign power) is to risk disclosure of a personal secret. The power of the potential blackmailer who is privy to another's personal secrets is generated because of the extraordinary sanctions that follow the disclosure. Shame, dishonor, disgrace, ostracism, imprisonment or other legal penalties, and loss of employment are the outcomes that the secret-holder must consider.

The strategy of secrecy may be augmented by other strategies to avoid the degradation of identity, the loss of self. Disinformation, masking and disguise, and outright lying help maintain the secret self.

If a homosexual person makes public, or is ready to make public, his or her sexual orientation, then vulnerability disappears. In civilian settings, the sanctions for disclosure of sexual status are no longer draconian; in fact, in many instances, sanctions are absent. Thus, publicly announced homosexuals are not likely to be targets of blackmail. The situation is different in the military. An unknown number of men and women homosexuals slip through the gatekeeping process. To remain in

the military, they adopt the strategy of secrecy. The policy that influences homosexual men and women to conceal their sexual status is potentially counterproductive in terms of security vulnerability. Whether concealing adultery, personal failings, or a criminal or immoral past, the degree of the threat of coercion is related to the quality of the protection a person gives his or her personal secrets. Where homosexuality is officially taboo, the person is at risk if his or her secrecy strategy is not airtight.

Being homosexual no longer carries the automatic risk of vulnerability save in situations where it is expressly forbidden. Under the military policies regarding the acceptance of homosexual volunteers, persons who slip through the net, if given a security clearance, are potentially vulnerable to blackmail.

Counterintelligence sources report that foreign intelligence agencies make inquiries regarding homosexuals in order to exploit vulnerability. SGT Clayton Lonetree told investigators that his Soviet handler, "Uncle Sasha," made inquiries about embassy staff who were potentially vulnerable to exploitation in order to maintain their personal secrets. The handler included homosexuals in his shopping list.

John Donnelly, Director of the Defense Investigative Service (1987), reported an anecdote in which foreign agents attempted to coerce into espionage a woman who was an undisclosed lesbian. The coercion involved disclosing her homosexuality. She refused to cooperate and reported the attempt to appropriate authorities, thus revealing her personal secret.\*

A review of a KGB training manual (1962) does not single out homosexuals as persons to be cultivated for exploitation. Rather, the manual identifies occupational types as potential targets: government officials, scientists, engineers, businessmen, etc. The perception of Americans as reflected in the manual is that they can be exploited through ideology or money. Ideology in this context does not necessarily mean subscribing to Marxist doctrine. A person is said to be ideologically compatible if he or she is sympathetic to the Soviet bloc or harbors resentment against the American economic or political system. Americans are perceived to be greedy capitalists, so money is expected to be the major motivator in recruitment operations.

A declaration in a legal brief by John F. Donnelly (1987) suggests that hostile intelligence agencies are interested in any person who might be vulnerable--not only homosexuals. "Hostile intelligence agencies, with great consistency, consider

---

\*The anecdote was reported in the context of the KGB's practice of exploiting homosexuals who had not publicly acknowledged their sexual identity. The anecdote could also be employed to illustrate the claim that homosexuals are patriotic.

sexuality to be a potentially exploitable vulnerability. This does not mean that hostile intelligence agencies always seek out homosexuals to target. Rather, they usually spot individuals with the desired access and then assess them in order to determine the most effective approach. They then attempt to segregate those with alcohol or drug problems, financial problems, a known disregard for security, and/or those who can be exploited sexually" (p.11).

No statistics are available to demonstrate the degree of success in recruiting spies through the threat of exposure of personal secrets. In developing a data bank on known spies, PERSEREC found that most Americans who attempt to sell government secrets are not recruited, they are volunteers.

The PERSEREC data bank currently includes 130 cases of American citizens who attempted espionage between 1945 and the present. In approximately half of the cases, the record is silent regarding sexual orientation. Of the remainder for which sexual orientation is known, eight have been identified as homosexual.\* Their motives appear to be the same as for persons not identified as homosexual: primarily money, secondarily, resentment. All were volunteers. None of the eight was a target of blackmail, although one offender claimed to have been coerced.

---

\*Brief resumes of these cases are in Appendix B.

## Concluding Remarks

In preparation for this report, I reviewed approximately 100 books and journal articles. My conclusion is that the concept *homosexuality* is not very useful. Persons who are labeled homosexuals are, as Bell and Weinberg put it, a diverse group. No generalizations are possible in regard to life style, personality type, or character development.

Are men and women identified as homosexual greater security risks than persons identified as heterosexual? Certainly in civilian contexts, there is no basis for holding the belief that homosexuals as a group are less trustworthy or less patriotic than heterosexuals. In the military, where homosexuals maintain secrecy, the threat of coercion is present. The fear of the secret being exposed makes one a potential target for blackmail. I should add that homosexuals, in this respect, are no different from heterosexuals who fear exposure of adultery or other illegal or moral lapses. If men and women with nonconforming sexual orientations made public their sexual status, disclosing their secrets under explicit grants of immunity, they would automatically remove themselves as targets of blackmail.

In considering the relationship of homosexuality to security, it would be appropriate to look for the origins of the discriminatory policies. In the 1940s, in wartime and thereafter, the government undertook the task of identifying and removing men and women from government positions who were considered disloyal. That the concept of loyalty was abused is a matter of historical record. Note the disciplinary action of the Senate in regard to the irresponsible conduct of Senator Joseph McCarthy. Loyalty programs were targeted to identify men and women who were sympathetic to communist ideology. The FBI, the government agency principally responsible for enforcing the loyalty screening program, broadened nonloyalty criteria to include nonconforming sexual orientation. In 1953, FBI Director J. Edgar Hoover ordered his operatives to enforce the newly created Federal Employee Security Program which included as adverse information such ostensibly nonloyal items as derogatory personal habits, conditions and acts (Hoover, 1954-55). "Sexual perversion" was included as an item of "nonsubversive derogatory character." Even before the publication of the new program, Hoover reported that the FBI had identified numerous "sex deviates in government service." Without citing evidence, Hoover declared that homosexuals are security risks and should be separated from government service. Over 600 "security separations" were reported for a 16-month period beginning in 1953. The charge was "perversion" and included employees from such nonsensitive government agencies as the Post Office and the Department of Agriculture (New York Times, 1955).

Once begun, bureaucratic policies and procedures are resistant to change. Although no empirical data have been developed to support any connection between homosexuality and security, it is reasonable to assume that Hoover's beliefs have continued to influence more recent personnel security practice. As I pointed out in the body of this report, homosexuality *per se* is not explicitly mentioned in the directives. Other categories, among them moral turpitude, are provided and they are sufficiently ambiguous to allow investigators and adjudicators to read homosexuality as disloyalty. Whatever the basis of Hoover's beliefs, he was not privy to the wealth of scientific information currently available. Such information (a digest of which is included in earlier pages) raises serious questions about the validity of including homosexuals in a suspect class. It is true that most people, including investigators, adjudicators, and policy-makers, have not been exposed to contemporary biological, psychological, and sociological research findings. In the absence of such knowledge and influenced by the legacy of Hoover's combining homosexuality and disloyalty, some personnel security practitioners are likely to persist in the practice of lumping all homosexuals into one suspect class. The practice entails employing premises that flow from the adoption of social constructions of homosexuality that emphasize sin, crime, or sickness.

Policy-makers might give thought to endorsing a training program in which adjudicators and other personnel security specialists would receive instruction, not only in current scientific information about sexual orientation, but also in recognizing the sources of their premises and inference strategies. One outcome of such a training program would be a reduction in biased personnel security classifications made under the control of private theories of character.

I have made the point that the current policy of reviewing every applicant for clearance on a case-by-case basis meets the requirements of fairness and efficiency. The wide variation in homosexual life styles, like the wide variation in heterosexual life styles, demands a case-by-case approach. The policy is not sufficient, however, to ensure fairness in practice. As I have argued before, the effects of long-standing bias against homosexuals may bypass the intent of the case-by-case policy. In addition to providing instruction to investigators and adjudicators as indicated above, it would be wise to issue memoranda at regular intervals emphasizing the basis of the case-by-case approach, even providing examples, heterosexual and homosexual, of personnel who would be considered security risks. The educational impact would be strengthened if the memoranda included empirical data that supported the risk classifications.

A final word. The review and analysis of the literature on homosexuality leads to one conclusion: sexual orientation is unrelated to moral character. Both patriots and traitors are drawn from the class *American citizen* and not specifically from the class *heterosexual* or the class *homosexual*.

## References

- Barnett, W. (1973). *Sexual freedom and the Constitution*. Albuquerque, NM: U. of New Mexico Press.
- Bell, A. P. (1973). Homosexualities: Their range and character. *Nebraska Symposium on Motivation*, 21, 1-26.
- Bell, A. P., & Weinberg, M. S. (1978). *Homosexualities*. New York: Simon & Schuster.
- Ben Shalom v. Marsh. 703 F. Suppl. 1372 (E. D. Wisc. 1989).
- Bieber, I., Dain, H. J., Dince, P. R., Drellich, M. G., Grand, H. G., Gundlach, R. H., Kremer, M. W., Rifkin, A. H., Wilbur, C. B., & Bieber, T. B. (1962). *Homosexuality, a psychoanalytic study*. New York, NY: Basic Books.
- Bullough, V. L. (1976). *Sexual variance in society and history*. Chicago, IL: University of Chicago Press.
- Department of Defense. (1987). *Department of Defense personnel security program regulation (DoD 5200.2-R)*. Washington, DC: Office of the Deputy Under Secretary of Defense for Policy.
- Devereaux, G. (1963). Institutionalized homosexuality of the Mohave Indians. In H. Ruitenbeck (Ed.), *The problem of homosexuality*. New York: Dutton.
- Director of Central Intelligence. (1986). Directive No. 1/14, *Minimum Personnel Security Standards and Procedures Governing Eligibility for Access to Sensitive Compartmented Information*. Washington, DC: Author.
- Donnelly, John F. Declaration filed September 2, 1987. High Tech Gays et al. v. Defense Industrial Security Clearance Office, 56 U.S. L.W. 2144 (1987).
- Donnelly, John F. High Tech Gays et al. v. Defense Industrial Security Clearance Office, 56 U.S. L.W. 2144 (1987), p. 4.
- Ellis, L., & Ames, M. A. (1987). Neurohormonal functioning and sexual orientation: A theory of homosexuality-heterosexuality. *Psychological Bulletin*, 101(2), 233-258.

- Ford, C. S., & Beach, F. A. (1951). *The patterns of sexual behavior*. New York: Harper & Brothers.
- Freedman, M. (1976). *Homosexuality and psychological functioning*. Belmont, CA: Brooks/Cole.
- Gonsoriek, J. C. (1982). Results of psychological testing on homosexual populations. *American Behavioral Scientist*, 25, 385-396.
- Harry, J. (1984). Homosexual men and women who served their country. *Journal of Homosexuality*, 10(1-2), 117.
- High Tech Gays et al. v. Defense Industrial Security Clearance Office, 56 U.S. L.W. 2144 (1987).
- Hooker, E. (1957). The adjustment of the male overt homosexual. *Journal of Projective Techniques*, 21, 18.
- Hooker, E. (1965). Male homosexuals and their worlds. In J. Marmor (Ed.), *Sexual inversions*. New York: Basic Books.
- Hoover, J. E. (1954-55). Role of the FBI in the Federal Employee Security Program. *Northwestern University Law Review*, 49, 333-336.
- Howells, K. (Ed.). (1984). *The psychology of sexual diversity*. Oxford: Basil Blackwell.
- Kallman, F. J. (1952). A comparative twin study on the genetic aspects of male homosexuality. *Journal of Nervous and Mental Diseases*, 115, p. 283.
- Kelly, D. D. (1985). Sexual differentiation of the nervous system. In E. Kandel and J. Schwartz (Eds.), *Principles of neural science, 2nd edition*. New York: Elsevier.
- KGB. (1962). *Training for Recruitment of Americans in the USA and in Third Countries*. (FBI, Trans.). Moscow: Author.
- Kinsey, A., Pomeroy, W., & Martin, C. (1948). *Sexual behavior in the human male*. Philadelphia: W. B. Saunders.
- Kinsey, A., Pomeroy, W., Martin, C., & Gebhard, P. (1953). *Sexual behavior in the human female*. Philadelphia: W. B. Saunders.

- Law, S. A. (1988). Homosexuality and the social meaning of gender. *Wisconsin Law Review*, Volume 1988, No. 2, 187-235.
- List of security separations. (1955, January 4). *New York Times*, p. 14.
- Marmor, J. (1975). Homosexuality and sexual orientation disturbances. In A. M. Freedman, H. I. Kaplan, & B. J. Sadock (Eds.), *Comprehensive textbook of psychiatry-II*. Baltimore, MD: Williams & Wilkins.
- Marshall, D. S., & Suggs, R. C. (Eds.). (1971). *Human sexual behavior*. New York: Basic Books.
- Maze, R. (1988, June 13). VA extending benefits to more homosexual veterans. *Navy Times*, p. 14.
- Mihalek, G. J. (1988). Sexuality and gender, an evolutionary perspective. *Psychiatric Annals*. 18(1).
- Money, J. (1988). *Gay, straight & in-between*. New York: Oxford University Press.
- Money, J., & Erhardt, A. A. (1972). *Man and woman, boy and girl*. Baltimore, MD: Johns Hopkins University Press.
- Norton v. Macy. 417 F.2d 1161 (D.C. Cir. 1969).
- Ohlson, E. L. (1974). A preliminary investigation into the self-disclosing ability of male homosexuals. *Psychology*, 11, 21-25.
- Rosa, P. M. (1988, July 12). Homosexuals no longer face automatic ban as security risks. *The Morning Call*.
- Rosenberg, S. (1977). New approaches to analysis of personal constructs in person perception. In A. W. Landfield (Ed.), *Nebraska Symposium on Motivation 1976: Personal construct psychology* (pp. 179-242). Lincoln, NE: University of Nebraska Press.
- Ruse, M. (1988). *Homosexuality, a philosophic inquiry*. New York: Blackwell.
- Sackett, P. R., Burris, L. R., & Callahan, C. (1989). Integrity testing for personnel selection: An update. *Personnel Psychology*, 42, 492-529.
- Sagarin, E. (Ed.) (1971). *The other minorities*. Waltham, MA: Ginn.

- Sarbin, T. R., Taft, R., & Bailey, D. E. (1960). *Clinical inference and cognitive theory*. New York: Holt, Rinehart & Winston.
- Siegleman, M. (1978). Psychological adjustment of homosexual and heterosexual men: A cross-national replication. *Archives of Sexual Behavior*, 7, 1-11.
- Siegleman, M. (1979). Adjustment of homosexual and heterosexual women: A cross-national replication. *Archives of Sexual Behavior*, 8(2), 121-125.
- Siegleman, M. (1987). Kinsey and others: Empirical input. In L. Diamant (Ed.), *Male and female homosexuals: Psychological approaches*. New York: Hemisphere.
- Singer v. U.S. Civil Service Commission, 530 F.2d 247 (9th Cir. 1975).
- Singer v. U.S. Civil Service Commission, 429 U.S. 1034 (1977).
- Spector, M. & Kitsuse, J. I. (1987). *Constructing social problems*. New York: Aldine-de Gruyter.
- Webster v. John Doe, 48 S.Ct. (1988).
- Williams, C. I., & Weinberg, M. S. (1971). *Homosexuals and the military*. New York: Harper and Row.
- Wolfenden Report (1963, orig. 1957). *Report of the Committee on Homosexual Affairs and Prostitution*. New York: Stein and Ray.

## List of Appendixes

A - Statistical Data on Homosexuality

B - Biographical Sketches of Known Spies with a Homosexual Orientation

Appendix A

Statistical Data on Homosexuality

A-0

## Statistical Data on Homosexuality

No one knows how many homosexuals there are. The reason for this is twofold. First, there is the problem of definition, which has been discussed in the text. While it is relatively simple to define a homosexual act, it is not so with the definition of a homosexual person. Most definitions include some aspect of preference for or indulgence in homosexual acts. But how much preference, and how many acts? Along with authorities on human sexuality, we categorically reject the notion that participation in a single homosexual act defines homosexuality. An acceptable definition of homosexuality needs to contain two elements, one behavioral, the other self-definitional.

1. The person concerned prefers homosexual acts exclusively or significantly over heterosexual acts.
2. The person concerned identifies (at least privately) with being homosexual.

Second is the problem of locating homosexuals. Save for those who publicly announce their sexual orientation and those who are occasionally apprehended for homosexual conduct, there is no way to conduct population studies. Because of the social stigma traditionally attached to being homosexual, many (perhaps most) homosexuals remain hidden and are not identified except in special research studies. As a result, the data cited in any research investigation are not true population estimates. We can only construct estimates based on available data and social and demographic theory.

Kinsey (1948) rated his subjects on a 0-1-2-3-4-5-6 scale from exclusively heterosexual (0) to exclusively homosexual (6). The X category is employed to identify persons with no socio-sexual interest. Some of Kinsey's significant conclusions with regard to homosexuality are summarized in the following table:

Table 1

Heterosexual-Homosexual Ratings for all White Males

Heterosexual-Homosexual Rating: Active Incidence  
(Total Population--U.S. Corrections)

Age	Cases	X	0	1	2	3	4	5	6
		%	%	%	%	%	%	%	%
5	4297	90.6	4.2	0.2	0.3	1.2	0.3	0.2	3.0
10	4296	61.1	10.8	1.7	3.6	5.6	1.3	0.5	15.4
15	4284	23.6	48.4	3.6	6.0	4.7	3.7	2.6	7.4
20	3467	3.3	69.3	4.4	7.4	4.4	2.9	3.4	4.9
25	1835	1.0	79.2	3.9	5.1	3.2	2.4	2.3	2.9
30	1192	0.5	83.1	4.0	3.4	2.1	3.0	1.3	2.6
35	844	0.4	86.7	2.4	3.4	1.9	1.7	0.9	2.6
40	576	1.3	86.8	3.0	3.6	2.0	0.7	0.3	2.3
45	382	2.7	88.8	2.3	2.0	1.3	0.9	0.2	1.8

Note: These are active incidence figures for the entire white male population, including single, married, and post-marital histories, the final figure corrected for the distribution of the population in the U.S. Census of 1940.

(from Kinsey, Pomeroy, Martin: Sexual Behavior in the Human Male, 1948).

**Appendix B**

**Biographical Sketches of Known Spies with a Homosexual Orientation**

**B-0**

## Biographical Sketches of Known Spies with a Homosexual Orientation

RAYMOND G. DeCHAMPLAIN, Master Sergeant USAF, age 39, was arrested in 1971 in Bangkok, Thailand, on charges of espionage and other military violations. At the time of his arrest, he had served in the Air Force for over 20 years. He was known among his coworkers as a homosexual, but they did not report his activities to the commanding officer. He was known as an incompetent worker and heavily in debt. He was married to a Thai woman who left him shortly after the marriage, ostensibly because of his sexual orientation. DeChamplain alleged that he had been blackmailed by Soviet agents. It was known that he had been introduced to a Soviet agent at a party in 1967, but it was not until four years later that he volunteered to engage in espionage. He delivered a large number of documents to the KGB for which he received \$3800. He was convicted at court-martial and sentenced to 15 years hard labor, later reduced to 7 years. Primary motivation: money.

LEE EDWARD MADSEN, Yeoman Third Class, USN, age 24, was arrested in 1979 on charges of selling classified documents. He had been assigned to Strategic Warning Staff at the Pentagon. He turned over sensitive documents to an undercover agent for \$700. A coworker reported that Madsen needed money to buy a new car. He was quoted as saying to an investigator that he had stolen the documents "to prove that I could be a man and still be gay." He was sentenced to 8 years hard labor. Primary motivation: money, with a mix of ego-needs.

WILLIAM H. MARTIN, Intelligence Analyst, NSA, age 29, and BERNON F. MITCHELL, Intelligence Analyst, NSA, age 31, defected to the Soviet Union in 1960. They turned over detailed information concerning organization and structure of NSA and cryptographic codes. Primary motivation: unknown, probably a combination of financial needs and resentment of treatment of homosexuals in the United States.

JAMES A. MINTKENBAUGH, Sergeant, USA, age 45, was arrested by the FBI in 1965 for espionage. He had been recruited by Robert L. Johnson, Sergeant, USA. Both participated in providing information to the KGB on missile sites, military installations, and intelligence activities. Among Mintkenbaugh's assignments was spotting other homosexuals in the American community in Berlin. Johnson's wife tipped off the FBI. He was sentenced to 25 years hard labor. Primary motivation: money.

JOSEPH P. KAUFMAN, Captain, USAF, age 41, was arrested in 1961 and charged with providing classified information to East Germany on Air Force installations in Greenland and Japan. He had been recruited by East German intelligence agents. He was sentenced to 20 years in prison. On appeal, the US Court of Military Appeals dismissed the espionage conspiracy charge and affirmed the conviction that

he had failed to report attempts by agents of a foreign nation to recruit him. He had many personality problems and it is probable that he was just inept in his dealings with others. The sentence was reduced to 10 years and later to 2 years. Primary motivation: unknown.

DONALD W. KING, E2, USN, age 29, was arrested in 1989 for trying to sell technical manuals, communication systems parts and other classified materials to undercover agents. He was known to be unstable, hostile, and deceitful. He was also known to be a substance abuser. Primary motivation: money and ego-needs.

JEFFREY L. PICKERING, USN, age 25, mailed a five-page secret document to the Soviet Embassy in Washington, D. C. He had been in the Marines from 1965 to 1973, then joined the Navy fraudulently using a forged birth certificate and a new name. Under both names he was accused repeatedly of homosexual advances to other servicemen. He had attempted suicide in 1973 which resulted in his being discharged from the Marines. He reported that he would carry stolen documents in his car for "excitement."

Other evidence suggests that he saw himself as playing a part in a spy thriller, with code names and so on. Psychological evaluation after his arrest indicated suicidal tendencies and borderline personality disorder. He was sentenced to 5 years in prison. Primary motivation: money and ego-needs.



THE SECRETARY OF DEFENSE  
WASHINGTON, THE DISTRICT OF COLUMBIA

21 DEC 1993

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS  
CHAIRMAN OF THE JOINT CHIEFS OF STAFF  
UNDER SECRETARIES OF DEFENSE  
DIRECTOR, DEFENSE RESEARCH AND ENGINEERING  
ASSISTANT SECRETARIES OF DEFENSE  
COMPTROLLER  
GENERAL COUNSEL  
INSPECTOR GENERAL  
DIRECTOR, OPERATIONAL TEST AND EVALUATION  
ASSISTANTS TO THE SECRETARY OF DEFENSE  
DIRECTOR OF ADMINISTRATION AND MANAGEMENT  
DIRECTORS OF THE DEFENSE AGENCIES

**SUBJECT: Implementation of DoD Policy on Homosexual Conduct in the Armed Forces**

The purpose of this memorandum is to provide guidance and announce changes to DoD directives relating to the issue of homosexual conduct in the Armed Forces. As I discussed in my July 19, 1993 memorandum, these changes reflect DoD policy that the suitability of persons to serve in the Armed Forces will be judged on the basis of conduct.

Accession policy is provided in a new DoDD 1304.26, "Qualification Standards for Enlistment, Appointment, and Induction." The directive makes clear that no one will be asked about his or her sexual orientation as part of the accession process, although homosexual conduct may be a basis for rejection for enlistment, appointment and induction. All applicants will be briefed on all of the grounds for administrative separation.

Revisions have been made to the policy pertaining to separation for homosexual conduct reflected in DoDD 1332.14, "Enlisted Administrative Separations," and DoDD 1332.30, "Separations of Regular Officers," to emphasize that DoD judges the suitability of persons to serve in the Armed Forces on the basis of conduct; to distinguish sexual orientation, which is personal and private, from homosexual acts and from statements that reflect an intent or propensity to engage in homosexual acts; and to make clear the procedural rights of a servicemember proposed for separation as a result of a statement that he or she is a homosexual. Corresponding changes should be made by the Military Departments with regard to Reserve Officers, Warrant Officers, and Service Academy and ROTC cadets. A new enclosure on the proper use of commander-directed fact-finding inquiries is added to clarify how commanders should respond to allegations of homosexual conduct.

#463

100329

Criminal investigations policy is reflected in the addition of DoDI 5505.8, "Investigations of Sexual Misconduct by the Defense Criminal Investigative Organizations and other DoD Law Enforcement Organizations." This instruction establishes policy regarding the initiation of criminal investigations of certain sexual conduct; prohibits criminal investigations solely to determine sexual orientation; establishes a requirement that there be credible information that a criminal violation has occurred before any investigation may be conducted; and specifies that the information must be deemed credible by the relevant Defense Criminal Investigative Organization commander or director as well as by the servicemember's commander. It also provides that criminal investigative resources will not normally be devoted to the investigation of consensual adult private sexual misconduct where such misconduct is the only offense involved in the absence of aggravating factors or a specific request by the commander of the servicemember as to whom an allegation of such misconduct has been made. Finally, this instruction provides that investigations into sexual misconduct will be conducted in an evenhanded manner, without regard to whether the alleged misconduct involves homosexual or heterosexual conduct.

Personnel security policy is clarified via a memorandum from the Deputy Secretary of Defense and a revision to DIS Manual 20-1, "Manual For Personnel Security Investigations." The changes narrow the nature and scope of the areas of inquiry to be pursued by a DIS investigator when confronted with credible information of homosexual conduct to ensure that inquiries are directed only to those issues necessary to evaluate a potential security concern. The changes also make clear that the purpose of such inquiries is to assess security concerns, not to evaluate suitability to serve.

Finally, DoDD 1322.18, "Military Training," has been revised to add a requirement for individual training that explains the conduct that is necessary to maintain high standards of combat effectiveness and unit cohesion, and to brief servicemembers on applicable laws and regulations governing sexual conduct by members of the Armed Forces. A training plan designed for personnel involved in policy implementation and administration, with detailed hypotheticals, is also provided.

These policy changes are effective February 5, 1994. However, DoDD Directive 1332.14, January 28, 1982, and DoDD Directive 1332.30, February 12, 1986, will continue to be used for administrative separation proceedings initiated before February 5, 1994 unless the Secretary of the Service concerned determines that the new separation procedures should be applied in a particular case in which proceedings were initiated before that date. The interim procedural guidance in my February 3, 1993, memorandum is hereby canceled effective February 5, 1994.

Secretaries of the Military Departments shall, within 30 days, submit appropriate implementing documents to the Assistant Secretary of Defense for Personnel & Readiness for review and coordination within the Office of the Secretary of Defense.

cc: Secretary of Transportation

US ASPIN