

NATIONAL news

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ask, don't tell" by stating, "It does not serve this country to discriminate against people who want to serve in our armed forces." He said he would ask the military to formulate a new policy and submit it to Congress.

Clark caused some confusion recently when he said the policy worked in some cases but did not in others. "I think the military and the chain of command have to decide" the issue of allowing queers to serve openly, he said on the July 25 episode of CNN's *Crossfire*.

Servicemembers Legal Defense Network welcomed the clarification on his position. "Gen. Clark now joins a growing chorus of military leaders who endorse repeal of 'don't ask, don't tell,'" executive director C. Dixon Osburn said.

As part of his larger health care plan, Clark pledged to increase funding for the Ryan White CARE Act, which provides critical assistance to HIV/AIDS prevention efforts as well as those living with the disease. He also supports the Early Treatment for HIV Act, which would allow low-income people better access to treatment, as well as comprehensive and age-appropriate sex education for young people based on scientific prevention methods.

In addition, Clark believes that preventing qualified gay and lesbian people from adopting is wrong and that decisions should be based on the best interest of the child. He also supports the Permanent Partners Immigration Act, which would put same-sex couples on par with opposite-sex couples for purposes of immigration law.

The full U.S. Senate promoted Maj. Gen. Robert T. Clark to the rank of lieutenant general in command of the Fifth U.S. Army, expanding his command responsibilities Nov. 18 despite concerns raised by his record as commanding officer at Fort Campbell, Ky. During his tenure, Pfc. Barry Winchell was repeatedly and blatantly harassed in violation of the Army's strict guidelines and ultimately was killed in a brutal, anti-gay attack.

In aftermath of the murder, Clark failed to denounce the harassment prevalent at the base and allowed anti-gay graffiti, cadences and rhetoric to continue unabated. Further, according to the Army's own inspector general's report, he failed to order any training on the military's harassment policy.

"Clark's inaction, and resulting abdication of responsibility, should have been condemned, not rewarded with a promotion," said Ralph G. Neas, People for the American Way president. "We call on him, and on the Army leadership, to ensure that anti-gay harassment, hostility and violence will not be tolerated at any level of the military."

For the first time, a U.S. service academy alumni association will be asked to recognize its gay, lesbian and trans graduates by creating a chapter for those civilian alumni who are now out to their friends, family and workplace.

On Nov. 11, Veteran's Day, Jeff Petrie and a contingent of other former naval officers who served with distinction presented David Church, career programs director at the U.S. Naval Academy Alumni Association, a proposal to establish a gay chapter—USNA Out. They presented officials with the



Good Gen. Clark



Bad Gen. Clark

bylaws and roster that any other budding chapter would be required to submit in order to organize.

Among those requirements is a list of at least 25 chapter members. Petrie, a 1989 academy graduate who is gay, has worked with fellow graduates and the unrecognized Service Academy Gay and Lesbian Alumni Association to contact 29 other officers who have left the Navy and Marine Corps and are willing to come out to their classmates.

"I see a time coming soon when things are going to change for the better for gays and lesbians in our nation's armed forces," he said. "I believe one of the most helpful actions we can take for the school we still love is to lend our wealth of various experiences to an eventual Naval Academy effort directed toward better integrating gay students. The environment at Annapolis has been disapproving and damaging for high-achieving gays and lesbians for many years. All 30 of us have lived through that."

VIRGINIA

At a hearing in Virginia state court Oct. 29, Lambda Legal helped defend a man who is charged with solicitation of sodomy despite the U.S. Supreme Court's landmark ruling last summer that clearly struck down sodomy laws in all 13 states that still had them, including Virginia. Consequently, states cannot continue enforcing those laws or prosecuting people for attempting to violate them, although states can pass or enforce laws prohibiting truly public sex, as long as those laws apply to all people and are enforced equally.

Joel Singson was charged with solicitation to commit sodomy after a discussion with an undercover police officer in the men's room of a store in a Virginia Beach mall, which the officer claims led him to believe Singson requested an act of



Jeff Petrie wants the U.S. Naval Academy to establish a gay alumni association chapter

sodomy. The men were each in adjacent bathroom stalls with the doors closed.

After Singson exited a stall, he was taken by two officers to the back of the store, questioned and released. He wasn't charged until several months later.

"This sodomy law is dead, and that means you can't charge someone for attempting to violate it or talking about violating it; there's no law left to violate," attorney Greg Nevins said. "This is a rogue prosecution under a law that no longer exists."

Lambda Legal pointed to a similar case in New York several years ago, where the state's sodomy law had been struck down and the state's highest

court later said that, as a result, it was unconstitutional to prosecute people for loitering for the purpose of soliciting sodomy.

NORTH DAKOTA

Unanimously agreeing to allow a lesbian mother to maintain custody of her two children, the North Dakota Supreme Court struck down Nov. 13 a 1981 decision that has been used to deny queer parents custody of their kids solely because of their sexual orientation. By reversing its earlier decision, the court ruled that possible prejudice from others is not a valid reason to take children from gay and lesbian parents.

"Words can't even begin to express how happy we are," said Valerie Damron, who was represented by the American Civil Liberties Union. "It seemed inconceivable to me that my children could be taken away simply because other people might be prejudiced against us. I'm thrilled that the court saw that it was wrong to punish us for other people's bigotry."

The court reached a far different conclusion 22 years ago in *Jacobson vs. Jacobson*, when it ruled that having gay or lesbian parents was inherently harmful to children because they might suffer "the slings and arrows of a disapproving society." The new decision, *Damron vs. Damron*, leaves only four states—Alabama, Mississippi, North Carolina and Virginia—where courts still deny custody based on sexual orientation alone.

Damron's two daughters have lived in Minot with their mother and her partner, Ann, for nearly two years. At the time of their divorce in 2001, Damron and her ex-husband agreed that she should have primary custody of the children and that he would have ample visitation rights.

A year later, the ex-husband sued for primary custody. He argued that because of Damron's relationship with her partner the children might suffer harassment, although he was unable to produce any evidence of any such problems and offered no witnesses to back up his claims.

In January, a trial court relied on *Jacobson* when it ruled that the 10-year-old and the 4-year-old should be taken from their mother and sent to live with their father. Damron appealed the decision, and it was argued before the North Dakota Supreme Court in September.

ALABAMA

A state ethics committee dismissed Chief Justice Roy Moore from his post Nov. 13 for ignoring a federal court order to remove a Ten Commandments monument from the Alabama Supreme Court building.

In a February 2002 ruling, he denied a woman custody of her three children and went on to say that homosexuality is an "inherent evil, and if a person openly engages in such a practice, that fact alone would render him or her an unfit parent." He wrote that the state has the power to "prohibit