

~~CONFIDENTIAL~~Basis of Ineligibility of Homosexuals for
Government Employment

C/S

SEC

2 April 1953

1. The legal basis for such policy will take considerable time to trace since it goes back to the basic Civil Service Act of 16 January 1893 and is covered by innumerable interpretations and statements of policy throughout the subsequent years to the present. It would appear that the "laws" involved are not Federal laws but are State and District laws which declare sodomy and other "abominable and detestable acts against nature" as felonies. The penalties and the application of these laws are different in the various states.

2. In the basic Civil Service Act of 16 January 1893, Statute 22403, 5 U.S.C. 632, Section II, Part Second, under the general discussion of qualifications for Federal employment, one rule states in substance that each applicant for Federal employment shall be tested by competitive examination as to his qualifications for such employment and that each will also be tested as to his capacity and fitness.

3. The above rule has governed policy decisions and the writing of subsequent Civil Service regulations.

In the Federal Personnel Manual (1949), Chapter Z, 1 h. 229, dated 1 February 1949, Rule VI, Section 6.1(f), homosexuals are declared not suitable for Federal employment.

In Civil Service Regulations 2104, Item Z1-210, under disqualifications for Federal employment is listed any person who is or has been guilty of criminal, dishonest, infamous, immoral or notoriously disgraceful conduct.

In the Civil Service Commission's Organization and Policy Manual, in Section C-2, page 03.02, in implementation of Regulations 2104 above, under Item 2 it states, "homosexuals and other sexual perverts are not suitable for Federal employment."

In the USA Civilian Personnel Manual, Section A-2, paragraph 6.3 d(3), this same material is restated.

For civilian employees of the Department of the Army, procedure for handling cases of alleged perversion, civilian employees, is currently covered in letter file AGAO-S 230.741 (7 Mar 52) SACPMI dated 13 March 1952. Paragraph 2 of this letter states "as a basic principle, acts of perversion are regarded primarily as a matter of lack of qualification for government employment. Only if an employee's discharge through the procedure set forth herein is not possible and the employee occupies a sensitive position, will the case be handled as a security matter." Paragraph 3 states, "acts of perversion are defined, for the purpose of this letter, as abnormal sexual acts, included but not limited to homosexuality."

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COMMENT NO. 1
(continued)

4. On 11 October 1949, a directive was issued to the Secretaries of the Army, Navy and Air Force by the Chairman of the Personnel Policy Board establishing policy regarding the discharge of homosexuals from the Armed Services. It has not yet been verified, but this policy statement is believed to be the background for the regulations which are quoted later.

5. In late 1949 or 1950, at the instigation of Senator Wherry and Senator Lister Hill, and actually continued by Senator Hooey, a complete and detailed Senate investigation was made on the subject "Employment of Homosexuals and Other Perverts in Government." An interim report was submitted to the Committee on Expenditures in the Executive Departments by its Subcommittee on Investigations and pursuant to Senate Resolution 280, 81st Congress. On page 19 of the conclusions the following appears:

"There is no place in the U.S. government for persons who violate the laws and the accepted standards of morality, or who otherwise bring disrepute to the Federal service by infamous or scandalous personal conduct. Such persons are not suitable for government positions and, in the case of doubt, the American people are entitled to have errors of judgment on the part of their officials, if there must be errors, resolved on the side of caution. It is the opinion of this Subcommittee that those who engage in acts of homosexuality and other perverted sex activities are unsuitable for employ in the Federal government. This conclusion is based upon the fact that persons who indulge in such degraded activity are committing not only illegal or immoral acts, but they also constitute security risks in positions of public trust."

6. The following are quotations from Service Regulations and Directives:

a. D/A AR 600-143, paragraph 2, "Separation Mandatory.-True, confirmed, or habitual homosexual personnel, irrespective of sex, will not be permitted to serve in the Army in any capacity and prompt separation of known homosexuals from the Army is mandatory."

b. Department of the AF - AFR 35-66, paragraph 2, "Policy. - The policy of the Department of the Air Force with respect to homosexuals is outlined as follows: (a) General. True, confirmed or habitual homosexuals, irrespective of sex, will not be permitted to serve in the Air Force in any capacity and prompt separation of known homosexuals from the Air Force is mandatory. . . ."

c. Department of the Navy - Navy Bulletin 49-82, File P 13-7, 10 Dec 49, paragraph 5, "known homosexuals are military liabilities and must be eliminated from the Service. . . ."

7. To trace the full story of the Federal policy on homosexuals would require a considerable study of all Federal laws, statutes and policy directives throughout the years. The above is the gist of the matter.

LESLIE H. WYMAN
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