

Richard W. Painter

The President
The White House
Washington DC 20500

November 23, 2009

Dear Mr. President:

From 2005 to 2007 I served under President Bush as Associate Counsel to the President and chief White House ethics lawyer. I now give only unsolicited advice to the President, but I believe the matter about which I write is important.

Our military engagement in Afghanistan is difficult. Perhaps there are no good options and the United States can only avoid the worst outcome. Alternatively, it may be possible that effective military and diplomatic policy can achieve a good outcome.

Regardless of the substantive merits, it is critical that the President and his advisors be honest with the American people, and with themselves, about the facts on the ground and our chances for success. I urge you to insist that military leaders be honest with you and not just tell you what you or your political advisors want to hear. Military leaders should in turn insist on accurate factual reports from their subordinates. A "don't ask don't tell" approach to bad military news prolonged the Vietnam War. With respect to weapons of mass destruction in Iraq, military intelligence officers in 2002 and 2003 told their superiors what they presumably wanted to hear. The United States cannot afford a similar approach to Afghanistan.

In this respect, the "don't ask don't tell" policy toward gays in the military sets a terrible example. It is the only instance I know of in which an employee of the United States government can formally suffer discipline and dismissal for telling the truth. As an ethics lawyer, and former ethics advisor to the President, I am offended to see the government institutionalize dishonesty. As an American, I am frightened by the ramifications of institutionalizing dishonesty in our military.

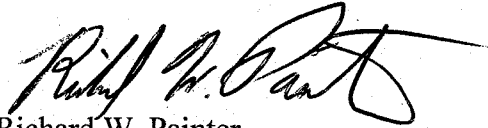
Admittedly this policy demands that soldiers lie about a matter that is irrelevant to military strategy. The policy still, however, demands that soldiers lie to their fellow soldiers and to their commanding officers. Distinguishing between prohibited lies, permitted lies and required lies is an exercise in semantics that the military can do without. With the possible exception of lying to the enemy, lying should never be tolerated from a person wearing our uniform. Soldiers also should never be allowed to encourage each other to lie, much less insist that each other lie.

The military also should know more rather than less about how soldiers see themselves and how they see each other. If a soldier is so emotionally disturbed that he cannot deal with the fact that a fellow soldier is gay, the military should find this out in advance, not in the heat of battle. Requiring soldiers to conceal who they are because someone might be offended is counterproductive. There are of course limits to appropriate speech in the military, and more so than in civilian life, but these limits should never dictate that soldiers distort or avoid the truth.

Views differ on the morality of same sex relationships. Such, however, is a matter for theologians and religious leaders to debate. Such is not the business of the United States government. Indeed, many bishops and other religious leaders have denounced the "don't ask don't tell" policy in the military as immoral. The policy discriminates against soldiers who risk their lives for their Country, it discriminates without any rational basis and it encourages soldiers to lie and insist that each other lie. You should do whatever you can do within your Constitutional powers as Commander in Chief to abolish it.

Your receipt of the Nobel Peace Prize is a great honor for our Country. Millions of Americans pray for your success in achieving peace in Iraq, Afghanistan and elsewhere. I am confident that you will be honest with the American people about our military successes and failures, particularly in Afghanistan. I ask you to insist that our military leaders and soldiers have the obligation, and the right, to tell the truth.

Respectfully,

A handwritten signature in black ink, appearing to read "Richard W. Painter". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Richard W. Painter