Mission Critical

Fighting to live and serve with HIV in the U.S. military

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You might have never spoken with your commanding officer, or CO, before, but if you seroconvert while on active duty in the U.S. armed forces, it's his or her duty to break the news.

Brian Ledford, a lance corporal in the Marines, got a call from his CO two days into a two-week visit with family in North Carolina before his scheduled deployment to Afghanistan in 2010. The lieutenant colonel told Ledford he had to return immediately to Marine Corps Air Station Miramar, the San Diego base probably best known as the setting for Top Gun. "He said it was legal matters," Ledford recalls. "He wasn't able to discuss it over the phone."

Heather Arculeo was called into her CO's office a month before she was due to be discharged from the Marines in 2007. Arculeo, who had served for nearly eight years, stood at attention, but the sergeant major told her to be seated. "When they tell you to sit down, you know immediately something's wrong," she recalls.

Michael SubraJonathan Timmes

Michael Subra, who enlisted two weeks after high school graduation and marked his 19th anniversary with the Coast Guard this year, got the news from his CO on April 2, 2013. “I suppose they thought April 1 wasn’t the best time to tell me,” Subra says with a wry smile.

The Marines and every other branch of the armed forces might be looking for a few good men and women, but only those who don’t have HIV. If you’re HIV positive, you can’t sign up to serve. If you seroconvert after joining the military, you can continue to serve, but your opportunities for promotion are limited compared with those of your HIV-negative colleagues. You can’t be deployed to a combat zone or, for the most part, even overseas. And, unlike anyone else in the armed forces, you’ll be issued “safe-sex orders” prohibiting even sexual activities that pose little risk of transmitting HIV but could lead to criminal prosecution for aggravated assault or attempted murder.

“Currently, many of the provisions in the Uniform Code of Military Justice (UCMJ) related to HIV/AIDS are woefully out of date and do not represent the best science available about the virus and its treatments,” U.S. Representative Barbara Lee (D-Calif.), who has pushed for changes in the UCMJ, said in a statement to POZ. “Our brave servicemen and women deserve nothing less than the best, yet many qualified individuals are being prevented from serving in specific roles and/or being promoted within the military’s ranks. That’s simply wrong.”

Aaron LaxtonJennifer Silverberg

Army veteran Aaron Laxton of Cape Girardeau, Missouri, calls the UCMJ “a very draconian system.” Laxton, 36, learned he was HIV positive in 2011, more than a decade after he outed himself to his company commander. Given that his self-outing came long before the 2011 repeal of “don’t ask, don’t tell,” Laxton was discharged in October 2000: “separated for admission of homosexuality,” in military lingo.

While HIV has become a manageable chronic illness, it’s still a “career death sentence” in the

military, says Laxton, who explains that he came out to his commander because he heard him make disparaging remarks about gay people.

“I could see moving [HIV-positive troops] to an admin-istrative role until they get virally suppressed,” Laxton says, but at that point, “I think there’s nothing that makes people with HIV ineligible for service” in any capacity.

The National Defense Authorization Act of 2014 required that the Department of Defense (DOD) report to the Congressional defense committees about personnel policies on members of the armed forces with HIV or hepatitis B virus (HBV). According to the resulting 11-page report, recruits must be “free of communicable diseases or medical conditions that may require excessive time lost for treatment or probably will result in separation [from the military] for medical unfitness. Recruits must also be capable of functioning in the demanding military environment without aggravation of existing medical conditions.”

As for active service members who test positive for HIV or HBV, they “are referred for appropriate treatment and managed in the same manner as a service member with other chronic or progressive illnesses,” according to the report, which says its policies for managing DOD personnel with HIV or hep B are “evidence-based” and “medically accurate.” The policies “are reviewed regularly and updated as practices, guidelines, and standards of care evolve.”

Lee challenged the report’s claims.

“There are several issues with the report that are cause for serious concern,” wrote Lee, a member of the House Appropriations Committee, in December 2014 to then-Secretary of Defense Chuck Hagel, who stepped down in February. “Some of the issues include, but are not limited to: transparency as to the authors of the report, and issues of medical privacy rights. Additionally, we would like to know the criteria a commanding officer utilizes to determine if an HIV-positive service member is fit for duty.” And, Lee asked, why are people who seroconvert after joining the military allowed to continue to serve but HIV-positive individuals are prohibited from enlisting?

As of press time, Lee had not yet received a reply from the DOD, according to James Lewis, her spokesperson.

The alleged lack of transparency in the DOD report doesn’t surprise Catherine Hanssens, executive director and founder of the Center for HIV Law and Policy. “They operate a lot like prisons, a largely closed society where deference is granted almost routinely in a way it is not granted to other government organizations,” Hanssens says of the armed forces.

Like Lee, Hanssens doesn’t understand why the military prohibits HIV-positive people from enlisting but allows them to continue to serve if they seroconvert while on active duty. “On its face, it’s irrational,” she says. “If they actually threatened the security of the forces, then logically they would be turned out at the moment that they seroconvert.”

The U.S. military has routinely screened all civilian applicants for service and all active and reserve

members of the services for nearly 30 years. From 2009 through mid-2014, the percentage of HIV-positive civilian applicants has declined, according to a report from the Armed Forces Health Surveillance Center. In the first half of 2014, 1.5 out of every 10,000 applicants tested was positive, compared to 2.7 out of every 10,000 tested in 2012. (From January 2013 through June 2014, a total of about half a million civilian applicants were tested.)

In addition, in most active and reserve components of the military, rates of new HIV diagnoses were relatively low and stable or declining. Among active military, the rates of new HIV diagnoses for the first half of 2014 were 2.1 per 10,000 soldiers tested, 3.7 per 10,000 sailors tested, 1.7 per 10,000 Marines tested and 1.6 per 10,000 Air Force members tested. And from January 2013 through the first half of June 2014, 1.8 per 10,000 Coast Guardsmen tested were HIV positive.

A total of six Coast Guardsmen were diagnosed with HIV from January 2013 through June 2014, according to the Armed Forces Health Surveillance Center. Petty Officer First Class Subra, now 37, says he's one of them.

When his CO broke the news, he "looked like he was tearing up," recalls Subra, a Duluth, Minnesota, native who came out to his family in 2008. "I was shocked. It was almost like an out-of-body experience. 'Is this really happening?' It felt like it was a bad joke."

Subra had never heard of the Coast Guard until he met a retired Coast Guard captain who worked for his high school's Navy Reserve Officers Training program. "Wow, they do a lot of maritime law enforcement," Subra says he learned, which appealed to the young man who'd always wanted to be a state trooper.

Unlike the other branches of the armed forces, the Coast Guard operates under the Department of Homeland Security, not the DOD (though it is still subject to the UCMJ). That's one reason the other branches don't necessarily consider the Coast Guard to be one of them, Subra acknowledges with a smile.

He had planned to serve only four years, but now he expects to retire in 2017 after more than 20 years of service. "I guess I just enjoy it."

Subra says his HIV status hasn't affected his work. "Most of our deployments are just within the continental United States and its territories." Plus, he says, "I have no aspiration to become an officer."

Subra works as a recruiter in Washington, DC. He says it took him about a year after his diagnosis to feel comfortable enough to disclose his status to the three other people in his office. "Just FYI, I'm gay, and I'm HIV positive," he told them.

About 60 percent of Coast Guardsmen diagnosed with HIV since 2009 were still in military service in 2014, according to the report from the Armed Forces Health Surveillance Center. In the other branches of the military, that number ranged from 47 percent of diagnosed Marines to 65 percent

of diagnosed sailors. However, the report did not document the reasons why one-third to more than half of those diagnosed with HIV eventually left military service.

Lance Corporal Ledford, now 29, says he had been looking forward to going to Afghanistan. “I didn’t sign up just to stay in the States. I wanted to go.” But his CO called him back to San Diego because pre-deployment testing revealed he was HIV positive, forcing him to remain stateside.

He spent two weeks at the Naval Medical Center in San Diego learning how to manage his health with other HIV-positive Marines and sailors. While there, he started dating an HIV-positive sailor. “We moved really fast, and that’s when everything started going downhill.”

As he writes on his blog, “A Marine and HIV,” Ledford did not return to work after his two weeks at the hospital: “I told the hospital that I had, and I told work I was still at the hospital. I was scared people were going to find out and judge me. I didn’t want to go back [to work]. It is hard enough being gay in the Marines, but having HIV made it even harder to keep my personal life my own. I went UA [unauthorized absence] for two months.”

He finally returned to work and confessed what he had done. “I was a total mess,” wrote Ledford, who says he was placed in the psychiatric ward at the Naval Medical Center for three months. He says he left the Marines in 2011 with a medical discharge, not because of HIV but because of major depressive disorder and generalized anxiety disorder.

Ledford returned home to North Carolina, where he works in customer service for a web-based company that publishes photo books. He plans to return this fall to community college, where he’s studying information security technology. He goes to a VA outpatient clinic in Charlotte for primary and mental health care, and every three to four months, he drives an hour and a half to the VA medical center in Salisbury, North Carolina, for HIV-related care. His viral load is undetectable.

Ledford was discharged the same year that “don’t ask, don’t tell” was repealed. Whether the repeal has affected HIV rates or behavior in the military will probably never be known, says Paul Scott, MD, MPH, who leads the U.S. Military Health Research Program’s HIV Epidemiology and Threat Assessment Task Area.

While “don’t ask, don’t tell” was still in effect, Scott and his colleagues couldn’t ask members of the military about whether they engaged in behaviors that increased their risk of HIV, and members of the military could jeopardize their ability to serve if they volunteered the information.

“What’s so very exciting is the opportunity we have with the removal of this policy, which was a barrier to us doing the best public health we could do,” Scott says.

The Army and the Air Force now mandate that a “standardized case report form” be administered to mem-bers newly diagnosed with HIV. The form documents socio-demographic and sexual and other behaviors linked to an increased risk of HIV. In just-published research in JAIDS, the Journal of Acquired Immune Deficiency Syndromes, Scott and his collaborators analyzed Army data

collected from 2012 to 2014.

A majority of soldiers living with HIV were men and African American, the researchers reported. “In the HIV risk period, male soldiers commonly reported male-male sexual contact, civilian partners, online partner-seeking, (and) unprotected anal sex and expressed surprise at having a positive HIV result,” Scott’s team wrote.

With the repeal of “don’t ask, don’t tell,” Scott says, his program has hired an outreach coordinator to work with military members who are most at risk for HIV. “We can begin that dialogue,” he says. “That’s really exciting.”

That dialogue is long overdue, says Heather Arculeo, a 33-year-old Vista, California, resident who was shocked to learn she was HIV positive a month before she was to be discharged from the Marines in 2007.

“Education on HIV in the military is lacking a lot, especially since military members are in the high-risk category between the ages of 18 and 24,” she says. “A lot of them are single. Alcohol’s a huge thing, and then deploying, going to different countries where they’re very promiscuous and don’t use a lot of protection.”

During her nearly eight years in the Marines, “I don’t remember ever hearing about HIV being an issue in the military. I never thought I would have to worry about those things, because I never heard about it.”

That’s why Arculeo laughed when her CO told her that the blood she had donated, as she had done every six months, tested positive for HIV. She was a newlywed. How could she be positive? “The only person I’d been with had been my husband.”

Although her husband expressed surprised when testing revealed that he, too, was positive, she later learned he had been living with the virus long before they met, Arculeo says. “I was like his boss in the military. He was about to be deployed to Iraq. He disappeared for two weeks, and then he came back, and I was told to put him on the non-deployable list. I was only told that he had a family emergency that he had to take care of.”

Of course, the real reason he couldn’t be deployed was his HIV, which he kept secret from her during the two years they dated, Arculeo says. It wasn’t until a decade after they met, in February 2015, that Arculeo accidentally learned the truth. She had picked up her husband’s buzzing cell phone while he slept and opened a new email message in case it was a work-related emergency.

Instead, she says, she found photos of her husband, the father of two of her four children, with various men. “I finally told him I need to know the truth about everything.” He admitted he has sex with men, but Arculeo and he still remain married. “We’re figuring things out and doing the best we possibly can under the circumstances.”

Meanwhile, Arculeo has enrolled in graduate school to earn master's degrees in social work and public health. She wants to campaign for policy changes to improve the lives of people with HIV.

Besides the opportunities for prevention that have grown out of the repeal of "don't ask, don't tell," other promising signs hint at changes in how the military deals with HIV. In 2012, the Navy became the first branch of the armed services to create a policy under which HIV-positive members could be considered for overseas assignments.

The policy, which also allows sailors living with HIV to volunteer for assignment on aircraft carriers and large-deck amphibious ships, went into effect a year later. The Marines implemented the same policy in September 2014.

"HIV-positive sailors are voluntarily assigned to overseas and select ships to allow them to enhance their career progression and service to the Navy," Commander Cynthia Sikorski, head of the Deployability Assessment Branch at Navy Personnel Command, tells POZ via email. "These personnel have put a lot of time and effort into their careers, and there is no medical reason for them not to be able to continue serving to their greatest capacity."

As of early July, 11 HIV-positive sailors were serving on ships stateside, and two were serving overseas on shore duty, Sikorski says. Military treatment facilities ensured that they had an ample supply of medication for deployment, "much like any other sailor with a chronic illness such as hypertension," she says. Six more sailors had been approved for duty on a ship or outside the continental United States but had not yet executed those orders, Sikorski says.

In another sign of change, the U.S. Court of Appeals for the Armed Forces in February reversed the conviction of Air Force Technical Sergeant David Gutierrez on charges of aggravated assault for failing to disclose that he was HIV positive before engaging in consensual unprotected sex with civilian women during off-base "swingers" parties. (The ruling set a precedent and was instrumental in the dismissal of similar HIV charges against an Army Special Forces agent in July.)

According to the UCMJ, an assault is committed with "a dangerous weapon or other means or force likely to produce death or grievous bodily harm," the appellate court noted in its ruling. But testimony at Gutierrez's trial said that the chance he could infect his sex partners was at most only 1 in 500, the court said.

"It was the first time that a military court had actually looked at the statistical evidence related to transmission," Hanssens of HIV Law and Policy says.

However, the court affirmed Gutierrez's lesser conviction on assault and battery, which requires that the accused "did bodily harm." "Bodily harm means any offensive touching of another, however slight," according to the ruling.

Gutierrez was guilty of offensive touching because he did not tell his sex partners that he was HIV positive, the court said, a decision Hanssens calls "bizarre." Any person who is able to consent to

sex should be able to understand the risks that accompany it without having them spelled out, Hanssens says.

Clearly, there's still much room for improvement in military policies related to HIV, says Scott Schoettes, HIV project director at Lambda Legal. Why not allow HIV-positive people to serve on all ships, instead of just the largest, he asks. And why not allow HIV-positive individuals to enlist?

"It's definitely an issue that we are pursuing on various fronts," Schoettes says. "We do hear from people who have been denied either the ability to enlist or are being stationed stateside as a result of their HIV status."

While Lambda Legal will file a lawsuit if necessary to eliminate such barriers to service, "we'd rather do this through a cooperative process," he says.

That could take time, Schoettes acknowledges. "Stigma and ignorance got us into the policies, and now there's a bit of inertia in terms of fixing them."

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http://beta.docker.poz.com/article/HIV-military-27810-9664