The US Military and HIV: A Huge Step Forward

December 20, 2013 By Sean Strub

Last night, the U.S. Senate passed, 84-15, the FY2014 National Defense Authorization Act, which included two provisions of particular importance to the HIV and LGBT communities -- and especially significant for advocates for HIV criminalization reform.

One provision is an amendment that was added in the U.S. House, before it passed the bill a few days ago. It included language from H.R. 1843, the REPEAL HIV Discrimination Action, co-sponsored by Rep. Barbara Lee (D-CA) and Ileana Ros-Lehtinen (R-FL), that requires the Secretary of Defense to prepare a report for Congress concerning members of the Armed Forces who have HIV or Hepatitis B.

The report is to include a description of policies *"addressing the entlistment or commissioning of individuals with these conditions and retention policies, deployment policies, discharge policies, and disciplinary policies regarding individuals with these conditions"* and an assessement of whether these policies *"reflect an evidence-based, medically accurate understanding"* of how these conditions are contracted, transmitted to others and the risk of transmission. The exact language can be found here.

This development is nothing less than historic. For the first time, the U.S. Congress has taken action to address HIV criminalization. It follows the Presidential Advisory Council on HIV/AIDS' strong anti-criminalization statement issued last spring, which The Sero Project's Criminalization Survivors Network helped realize. It also follows the urging of the Obama administration in July, 2010, to address HIV criminalization in the National HIV/AIDS Strategy.

It is only one step -- and only requires review of the policies in the military -- but it is a critical step and a major milestone.

The other important provision is that the legislation finally "repeals the offense of consensual sodomy" under the Uniform Code of Military Justice; no longer will this charge be used as a weapon against LGBT members of the service or be cited as a factor in cases that are as much about HIV as they are about sodomy.

These are huge successes. Great credit is due to the legislators involved, especially Rep. Barbara Lee and her legislative aide, Jirair Ratevosian, who have been such champions. We must also acknowledge the coalition of community organizations with whom Sero Project has worked, including the Positive Justice Project, AIDS United, the Center for HIV Law & Policy, the ACLU, HIV Medical Association and so many others.

The President is expected to sign the bill by Christmas Day. This is a great way to end the year.

Congratulations to us all. May 2014 bring many similar victories, bringing us closer to the day when having HIV will no longer be grounds for heightened punishment or criminal prosecution.

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