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For Immediate Release

February 24, 2011

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DOMA Decision Reveals: Obama Administration Misled Congress on Military Housing and Benefits for Same-Sex Couples

In response to the announcement that the Department of Justice will no longer defend the constitutionality of the Defense of Marriage Act in federal courts, Elaine Donnelly, President of the Center for Military Readiness, issued the following statement:

“The statement issued by the Department of Justice yesterday was partially based on the reckless action of last-year’s lame-duck Congress to repeal the 1993 law stating that homosexuals are ineligible to serve in the military, which is usually called ‘Don’t Ask, Don’t Tell’.

“This action belies the Defense Department’s **“Comprehensive Review Working Group”** report on the subject released on November 30, 2010, and assurances made by the Under Secretary of Defense for Personnel & Readiness, **Clifford L. Stanley** in two implementation plan documents released on January 28, 2011. The CRWG report and official testimony from the Secretary of Defense disingenuously assured Congress and the military service chiefs that the existence of the DOMA would bar the military from providing housing and benefits for same-sex couples living together as married or ‘committed partners’ on military bases.

“Yesterday’s action also belies a new training document currently being circulated by Army officials, called the **“Top Ten Things You Need to Know About the Repeal of DADT,”** which should be withdrawn immediately. Point #5 on the Army’s “Top Ten” list reads, *“The Defense of Marriage Act (DOMA) prohibits the Federal Government from recognizing any same-sex marriage, so same sex partners do not qualify as dependents for many benefits and services.”*

“Point #6 further claims that *“sexual orientation will not be placed alongside race, color, religion, sex, and national origin as a class under the Military Equal Opportunity (MEO) Program.”* Neither statement is credible, since the Justice Department has just filed a document declaring the *opposite*: “...[C]lassifications based on sexual orientation should

be subject to a more heightened standard of scrutiny.”

“The Justice Department’s claim that it will continue enforcement of DOMA is meaningless, since the department has said that it will not defend the law at any level. This posture invites activist lower-court judges to exceed their authority in declaring the congressionally approved law unconstitutional, following the same logic as the Obama Administration. Since the Solicitor General will not petition for Supreme Court review of such rulings, the administration has unilaterally extended to sexual orientation groups the same 14th Amendment rights as other “protected” classes.

“President Obama is telling supporters of traditional marriage that their opinions, grounded in a millennium of religious teaching, historical practice, and cultural traditions, are unreasonable and not worthy of consideration, much less a defense from those who wish to impose their own radical view of marriage on the rest of the country.

“The administration is also admitting, belatedly, that imposition of LGBT (lesbian, gay, bisexual, transgender) law in the military cannot be reconciled with the Defense of Marriage Act. Members of Congress who were led to believe otherwise should call for immediate hearings to reconsider the rash action taken during the lame-duck session of the 111th Congress last December.

“The duplicity exposed yesterday also calls into question the administration’s plans to “certify” that final repeal of the 1993 law, Section 654, Title 10, U.S.C., would not undermine recruiting, retention and readiness in the All-Volunteer Force. Such a document would be equally meaningless and useful only to President Obama, who is determined to make the military pay the price for his political campaign promises to the LGBT Left.

For an interview on this subject, call **Elaine Donnelly** at **734/464-9430**, or CMR Executive Director **Tommy Sears** in Washington, D.C., at **202/347-5333**. CMR is an independent, non-partisan public policy organization that specializes in military/social issues.

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