

DIANE H. MAZUR

Professor of Law
Gerald A. Sohn Research Scholar
University of Florida Levin College of Law
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ACADEMIC EMPLOYMENT

University of Florida Levin College of Law
Research Foundation Professor of Law, 2003-06
Professor of Law, 1999-
Associate Professor of Law, 1997-99
Assistant Professor of Law, 1994-97

University of California, Hastings College of the Law
Visiting Professor of Law, 2000-01

University of Chicago Law School
Bigelow Teaching Fellow and Lecturer in Law, 1993-94

TEACHING AND RESEARCH SPECIALTIES

Courses: Evidence; Constitutional Law; Professional Responsibility;
Seminar in Civil-Military Relations; Seminar in Advanced Evidence

University of Florida "TIP" Teaching Award (1998), a university-wide
recognition for excellence in teaching

Areas of Research: Civil-military relations under the Constitution; civilian control of the
military; military law; military service

EDUCATION

University of Texas, J.D. 1988, with High Honors
Review of Litigation; Teaching Quizmaster

Penn State University, M.S. 1979, Sport Psychology

State University of New York at Binghamton, B.A. 1977, Psychology

PUBLICATIONS

Books

A MORE PERFECT MILITARY: HOW THE CONSTITUTION CAN MAKE OUR MILITARY STRONGER

Oxford University Press (2010)

Articles, Chapters, Reports, and Briefs

Amicus Brief of the Palm Center in Support of Appellee Log Cabin Republicans, Log Cabin Republicans v. United States (on the doctrine of judicial deference in military affairs and its use in constitutional challenges to “Don’t Ask, Don’t Tell”)

Ninth Circuit Court of Appeals (filed April 4, 2011)

Memo for the White House: Analysis of Proposed Change to 10 U.S.C. § 654(e) (Palm Center proposal for the “and/or” swap as a compromise prior to repeal)

http://voices.washingtonpost.com/postpartisan/2010/12/dadt_repeal_now_what.html

Response to Penn Law School Professor Tobias Wolff on the President’s Duty to Defend
Palm Center, University of California, Santa Barbara (October 2010)

Response to Former OLC Head Walter Dellinger’s New York Times Op-Ed on the President’s Duty to Defend

Palm Center, University of California, Santa Barbara (October 2010)

Executive Discretion to Decline to Defend Federal Law Against Constitutional Challenge

Palm Center, University of California, Santa Barbara (September 2010)

The Department of Defense’s Obligation to Comply with the Constitutional Ruling in Witt v. Department of the Air Force

Palm Center, University of California, Santa Barbara (August 2010)

Memo for the Pentagon Working Group: Encouraging Candid Communications from Service Members While Mitigating Risk of Separation under “Don’t Ask, Don’t Tell”

Palm Center, University of California, Santa Barbara (April 2010)

Secretary of Defense Authority to Implement “Don’t Ask, Don’t Tell” in a Manner Consistent With National Security

Palm Center, University of California, Santa Barbara (July 2009)

Presidential Authority to Suspend Discharges for Homosexual Conduct and Draft Executive Order Suspending Discharges for Homosexual Conduct, in Aaron Belkin, et al., HOW TO END “DON’T ASK, DON’T TELL”: A ROADMAP OF POLITICAL, LEGAL, REGULATORY, AND ORGANIZATIONAL STEPS TO EQUAL TREATMENT

- Palm Center, University of California, Santa Barbara (May 2009) and in
ATTITUDES AREN'T FREE: THINKING DEEPLY ABOUT DIVERSITY IN THE U.S.
ARMED FORCES (Air University Press, James E. Parco & David A. Levy eds.,
2010)
- Military Law*, in LAW AND POPULAR CULTURE: TEXT, NOTES, AND QUESTIONS
Matthew Bender/LexisNexis (2007)
- Military Values in Law*
14 DUKE J. GENDER L. & POL'Y 977 (2007)
- A Blueprint for Law School Engagement with the Military*
1 J. NAT'L SEC. L. & POL'Y 473 (2005) (faculty-refereed journal)
- The Bullying of America: A Cautionary Tale About Military Voting and Civil-Military
Relations*
4 ELECTION L.J. 105 (2005) (faculty-refereed journal)
- Is "Don't Ask, Don't Tell" Unconstitutional After Lawrence? What It Will Take to
Overturn the Policy*
15 U. FLA. J.L. & PUB. POL'Y 423 (2004)
- Why Progressives Lost the War When They Lost the Draft*
32 HOFSTRA L. REV. 553 (2003)
- Rehnquist's Vietnam: Constitutional Separatism and the Stealth Advance of Martial Law*
77 IND. L.J. 701 (2002)
- Word Games, War Games*
98 MICH. L. REV. 1590 (2000)
- Sex and Lies: Rules of Ethics, Rules of Evidence, and Our Conflicted Views on the
Significance of Honesty*
14 NOTRE DAME J.L. ETHICS & PUBLIC POL'Y 679 (2000)
- Book Review, Proud to Be*
26 ARMED FORCES & SOC'Y 670 (2000)
- A Call to Arms*
22 HARV. WOMEN'S L.J. 39 (1999)
- Women, Responsibility, and the Military*
74 NOTRE DAME L. REV. 1 (1998)
- Re-Making Distinctions on the Basis of Sex: Must Gay Women Be Admitted to the
Military Even if Gay Men Are Not?*
58 OHIO ST. L.J. 953 (1997)

The Beginning of the End for Women in the Military
48 FLA. L. REV. 461 (1996)

The Unknown Soldier: A Critique of "Gays in the Military" Scholarship and Litigation
29 U.C. DAVIS L. REV. 223 (1996)

Indemnification of Directors in Actions Brought Directly by the Corporation: Must the Corporation Finance Its Opponent's Defense?
19 J. CORP. L. 201 (1994)

Winning Foreclosures by Summary Judgment: Defeating Borrower Counterclaims as a Matter of Law
N.M. BAR BULLETIN, Oct. 22, 1992 (First Place, New Mexico State Bar Legal Writing Contest)

Self-Publication of Defamation and Employee Discharge
6 REV. LITIG. 313 (1987) (Outstanding Note Award)

Published Remarks

Don't Ask, Don't Tell: The Contours of Judicial Deference to Military Personnel Policies
14 DUKE J. GENDER L. & POL'Y 1173, 1230-31, 1238-40, 1253 (2007) (Harvard Law School Gay and Lesbian Legal Advocacy Conference, Mar. 3, 2007)

"Rum, Sodomy, and the Lash": What the Military Thrives on and How It Affects Legal Recruitment and Law Schools
14 DUKE J. GENDER L. & POL'Y 1143, 1159-61, 1163-64, 1167-69 (2007)
(Lavender Law Conference, National Lesbian and Gay Law Association, Sept. 9, 2006)

Don't Ask, Don't Tell: Is the Gay Ban Based on Prejudice or Military Necessity?
DON'T ASK, DON'T TELL: DEBATING THE GAY BAN IN THE MILITARY 130, 144-48, 151-52 (Aaron Belkin & Geoffrey Bateman eds., 2003) (Commonwealth Club of California and the University of California, Santa Barbara, Dec. 9, 2000)

Editorials

The R.O.T.C. Myth
New York Times, Oct. 25, 2010

Military, Politics Need to Keep Their Distance
Atlanta Journal-Constitution, May 5, 2004

Draft May Be Needed to Rein in All-Powerful Military; Separate Society Squelches Debate on National Policy

Chicago Tribune, Dec. 28, 2003

PRESENTATIONS

“Civil-Military Relations and National Security,” Center on Law, Ethics, and National Security, Duke Law School, April 15, 2011

“A More Perfect Military,” Syracuse University College of Law, Mar. 3, 2011

“Repeal of Don’t Ask, Don’t Tell,” Section on National Security Law, Association of American Law Schools (AALS) Annual Meeting, Jan. 8, 2011

“A More Perfect Military,” District of Columbia Area Book Club, sponsored by Professor Bill Eskridge, Yale and Georgetown Law Schools, Dec. 16, 2010

“The Executive Order Option,” Symposium on the Future of Don’t Ask, Don’t Tell, Georgetown Law School, Nov. 17, 2010

“The Hot Potato of Don’t Ask, Don’t Tell,” sponsored by the American Constitution Society, University of Florida College of Law, October 26, 2010

“Judicial Deference and *Witt*,” National Call-In Event, National LGBT Bar Association, September 27, 2010

“Don’t Ask, Don’t Tell and the Transition to Repeal: The Pentagon Study Group,” National LGBT Bar Association, Aug. 27, 2010

“Don’t Ask, Don’t Tell Update,” National Call-In Event, National LGBT Bar Association, Apr. 16, 2010

“Do the President and Congress Share Authority Over Military Personnel Policy?” American Constitution Society, Constitution Day Remarks, University of Florida College of Law, Sept. 17, 2009

“The Practical Implications of Repealing Don’t Ask, Don’t Tell and Implementing Open Service,” National LGBT Bar Association, Sept. 12, 2009

“A More Perfect Military” (presentation to faculty) and “Suspending ‘Don’t Ask, Don’t Tell’ by Executive Order” (presentation to students), Stetson Law School, Apr. 1, 2009

“Breaking the Brass Ceiling: Legal Rights and Remedies for Women in the Armed Forces,” Harvard Law School, Mar. 6, 2009

“From FAIR (v. Rumsfeld) to Equal: The Top Five Things Law Students Can Do to Address the Discrimination Inherent in the Solomon Amendment,” Lavender Law Conference, National Lesbian and Gay Law Association, Sept. 4, 2008.

Moderator for the “The Great Torture Debate,” sponsored by the Federalist Society, University of Florida College of Law, Mar. 3, 2008

“Military Law in Film and Television,” Law and Popular Culture Symposium, Marquette University Law School, Nov. 1, 2007.

“The Military Commissions Act of 2006, Access to Courts, and the Latest Round of Detainee Litigation,” Southeastern Association of Law Schools (SEALS) Annual Meeting, Aug. 2, 2007.

“Recent Developments on Don’t Ask, Don’t Tell,” Faculty Enrichment Series, University of Florida College of Law, Mar. 7, 2007.

“Don’t Ask, Don’t Tell: The Contours of Judicial Deference to Military Personnel Policies,” Gay and Lesbian Legal Advocacy Conference, Harvard Law School, Mar. 3, 2007 (remarks published in 14 DUKE J. GENDER L. & POL’Y 1173, 1230-31, 1238-40, 1253 (2007)).

“The National Guard, Border Patrol, and the Constitution,” Symposium on Immigration Law sponsored by the American Constitution Society, Caribbean Law Students Association, and Military Law Students Association, University of Florida College of Law, Nov. 14, 2006.

“Judge Advocates General Under Don’t Ask, Don’t Tell: Should Gays Be Allowed to Serve in the Military, and If Not, Should You Serve?,” *Rumsfeld v. FAIR* Forum, Yale Law School, Oct. 6, 2006.

“Rum, Sodomy, and the Lash: What the Military Thrives on and How It Affects Legal Recruitment and Law Schools,” Plenary Panel Discussion, Lavender Law Conference, National Lesbian and Gay Law Association, Sept. 9, 2006 (remarks published in 14 DUKE J. GENDER L. & POL’Y 1143, 1159-61, 1163-64, 1167-69 (2007)).

“*Rumsfeld v. FAIR* and the Limits of Expressive Association,” Symposium on the Solomon Amendment, Boston College Law School, Nov. 11, 2005.

“The Solomon Amendment, Expressive Association, and the U.S. Supreme Court,” Plenary Panel Discussion, Lavender Law Conference, National Lesbian and Gay Law Association, Oct. 29, 2005.

“Human Resource Challenges in the Armed Forces,” Panel Presenter and Commentator, Biennial International Conference of the Inter-University Seminar on Armed Forces and Society, Oct. 23, 2005.

“The All-Volunteer Military and Civil-Military Relations,” Service Academy Club of Gainesville, Apr. 21, 2005.

“The Theory and Politics of Suits Against the Department of Defense for its Enforcement of the Solomon Amendment,” Association of American Law Schools (AALS) Annual Meeting, Jan. 5, 2005.

“Is Don’t Ask, Don’t Tell Unconstitutional After *Lawrence*?,” Lambda Legal Alliance Law and Policy Conference, University of Florida College of Law, Jan. 24, 2004.

“Solomon’s Minefield: Military Discrimination After *Lawrence* and the Coming Fight Over Forced On-Campus Recruiting,” Harvard Law School, Oct. 11, 2003.

“Don’t Ask, Don’t Tell: Ten Years Later,” Hofstra University School of Law, Sept. 19, 2003.

“Minorities and the Military: Past, Present, and Future,” Center for the Study of Race and Race Relations, University of Florida College of Law, Nov. 14, 2002.

“New Perspectives on American Military Legal History, 1950-2000: Travails, Trials, and Tribulations,” Panel Commentator, American Society for Legal History Annual Meeting, Nov. 8, 2002.

“Law and Armed Forces,” Panel Chair, Biennial International Conference of the Inter-University Seminar on Armed Forces and Society, Oct. 20, 2001 (refereed paper presented).

“Legal Implications of the Attack on America,” University of Florida College of Law, Sept. 26, 2001.

“Don’t Ask, Don’t Tell,” University of California, Hastings College of the Law, Mar. 21, 2001.

“Don’t Ask, Don’t Tell: Is the Gay Ban Based on Prejudice or Military Necessity?,” Commonwealth Club of California and the University of California, Santa Barbara, Dec. 9, 2000 (remarks published in *DON’T ASK, DON’T TELL: DEBATING THE GAY BAN IN THE MILITARY* 130, 144-48, 151-52 (Aaron Belkin & Geoffrey Bateman eds., 2003)).

“The United States Military in the New Millennium,” Center on Law, Ethics, and National Security, Duke University School of Law, April 13, 2000.

“Policing Gender: The Military,” Association of American Law Schools (AALS) Annual Meeting, Jan. 8, 2000.

“Legal Ferment in Civil-Military Relations,” Biennial International Conference of the Inter-University Seminar on Armed Forces and Society, Oct. 23, 1999 (refereed paper presented).

“Choosing Heroes: Rules of Ethics, Rules of Evidence, and Our Conflicted Views on the Significance of Honesty,” Faculty Enrichment Series, University of Florida College of Law, Apr. 5, 1999.

“Commemorating the 50th Anniversary of the Uniform Code of Military Justice,” College of William & Mary, Marshall-Wythe School of Law, Feb. 25, 1999.

“New Directions for Gay Rights Advocacy in the 21st Century,” Association of American Law Schools (AALS) Annual Meeting, Jan. 8, 1999.

“The Current Crisis of Military Sexual Misconduct,” Center for Women's Studies and Gender Research Colloquium Series, University of Florida, Nov. 5, 1997.

“The Beginning of the End for Women in the Military,” Law Faculty Symposium, University of Florida College of Law, Oct. 24, 1997.

“Women, Responsibility, and the Military,” Law Association for Women, University of Florida College of Law, Oct. 16, 1997.

“Legal Feminism and Military Women,” Faculty Enrichment Series, University of Florida College of Law, Feb. 14, 1997.

“Counterproductive Legal Scholarship,” Presentation to the UC Davis Law Review, UC Davis School of Law, Mar. 12, 1996.

“The Unknown Soldier,” Law Association for Women, University of Florida College of Law, Nov. 9, 1995.

ACADEMIC SERVICE

National Legal Organizations

Legal Co-Director & Affiliated Scholar, Michael D. Palm Center
Research institute for the empirical and legal study of “Don’t Ask, Don’t Tell,”
University of California, Santa Barbara

Advisory Board, National Institute of Military Justice
Scholarly organization for advancing the fair administration of military justice
and public understanding of the military justice system

Executive Committee, Section on National Security Law
Association of American Law Schools

Journals

Senior Editor, *Journal of National Security Law and Policy*

Named as *Amici Curiae* in Military Law Cases

Ali v. Rumsfeld, Brief *Amici Curiae* of Concerned Retired Military Officers and Military Law and History Scholars (D.C. Cir., Sept. 22, 2010) (explaining that legal accountability for torture is fundamental to military law, military discipline, and the law of war)

Rasul v. Meyers, Brief of the National Institute of Military Justice and Military Law and History Scholars (U.S. Supreme Court Sept. 24, 2008) (explaining that legal immunity for military commanders who authorize or condone torture or inhumane treatment undermines long-standing principles of military law and tradition).

Cook v. Rumsfeld, Brief of Law Professors as *Amici Curiae* in Support of Appellants (1st Cir. Nov. 22, 2006) (explaining that the doctrine of judicial deference on military matters does not prevent courts from evaluating the constitutionality of Don't Ask, Don't Tell").

In re Iraq and Afghanistan Detainees Litigation, Brief *Amici Curiae* of Concerned Retired Military Officers and Military Law and History Scholars in Support of Plaintiffs' Consolidated Opposition to Defendants' Motions to Dismiss (D.D.C. May 25, 2006) (explaining that enforcement of the prohibition against torture would not interfere with the efficiency of military command or the prosecution of war).

Rasul v. Rumsfeld, Brief *Amici Curiae* of Retired Military Officers, Military Law and History Scholars and the National Institute for Military Justice in Support of Plaintiffs-Appellants and Urging Reversal (D.C. Cir. Jan. 15, 2006) (explaining that as a matter of military law, tradition, and ethics, torture is not a foreseeable consequence of the detention of suspected enemy combatants and should not be considered incidental to the duties of military officials).

Hamdan v. Rumsfeld, Brief of Military Law Historians, Scholars, and Practitioners (Military Commissions and the Articles of War) (U.S. Supreme Court Jan. 6, 2006) (explaining that procedures for trial of detainees by military commission are unlawful under the Uniform Code of Military Justice).

United States v. Marcum, Consultant for Servicemembers Legal Defense Network in drafting the appellant's brief filed in *United States v. Marcum*, a 2004 decision by the U.S. Court of Appeals for the Armed Forces (holding that the liberty to engage in sexual intimacy affirmed by the U.S. Supreme Court in *Lawrence v. Texas* also applied to military personnel)

PRIVATE PRACTICE

Associate, Modrall Law Firm, Albuquerque, New Mexico, 1988-92

General civil practice in a firm of 70 lawyers, concentrating in the areas of antitrust, bankruptcy, commercial and corporate law, lender liability, real property, and securities law

MILITARY SERVICE

United States Air Force, Captain, 1979-83

Aircraft maintenance officer for a bomber and tanker squadron in North Dakota; munitions maintenance officer for a weapons storage area in Turkey