I Unfit to Serve? Evaluating Homosexual Men's Military Fitness

> Consistent homosexuality as manifests in ongoing same-sex relationships represents one form of sexual perversion that on the whole should be classified under psychopathy.[1]

Taken from an internal document prepared by the Office of the Surgeon General of the Bundeswehr in October 1970, the quote's classification of homosexuality as psychopathic, or a psychological illness did not simply reflect the individual views of a staff advisor. Rather, it stood in line with the general regulatory apparatus in effect at the time, appearing in the military's official entrance regulations under ZDv 46/1.[2] And the BMVg or the Bundeswehr were not alone in their position.

1. Homosexuality as an "Official" Disease

When the World Health Organization (WHO) published the sixth edition of its International Statistical Classification of Diseases and Related Health Problems (ICD-6) in 1948, it designated homosexuality as a psychological illness, specifically a "sexual deviation." As with the subsequent versions ICD-7, ICD-8 and ICD-9, homosexuality was grouped by ICD-6 among "disorders of character, behaviour and intelligence" where it was placed under "pathologic personality." Not until 1992, in the ICD-10, did homosexuality disappear from the list.[3] Since then, homosexuality has not been considered an illness within the international community – since 1992, mind you. It is essential to keep the global framework in mind when casting a narrower and more critical eye toward how the German armed forces related to homosexuality.

1 BArch, BM 1/6727: BMVg, InSan I 1, 15 October 1970.

2 ZDv refers to *Zentrale Dienstvorschrift*, or joint service regulations; in what follows the German acronym is used.

3 The ICD-6 dates from 1948, the ICD-7 from 1955, the ICD-8 from 1965, and the ICD-9 from 1975. The ICD-10 was adopted by the WHO in 1990 and used by member states until 1994. Drescher, "Gender Identity Diagnoses," 142. The ICD-10 was new in diagnosing egodystonic sexual orientation as a psychological illness. Egodystonia refers to a condition in which a person does not experience their thoughts, impulses or emotions as being in harmony with their ego, which can lead to panic attacks. In egodystonic sexual orientation doctors recognize the wish to have a different sexual orientation than the one that exists. The direction of the sexual orientation itself is not seen as the disorder. See https://icd.who.int/browse10/2019/en#/F60-F69 under section F66 (accessed 31 March 2021).

https://doi.org/10.1515/9783111082691-006

A phenomenon's medical perception as an illness raises the question of its treatment. A 1966 conference organized by the BMVg's Office of the Surgeon General, Bundeswehr did just that, addressing a host of medical issues pertaining to homosexuality while also explicitly asking "whether medical treatment of these [types of] soldiers promised results," and "rigorously considering" the chances of success.[4] Surgeon General Dr. Georg Finger had only a handful of "conclusive successes" to report with "treatment" in psychotherapy, and then only in the case of "very mature, i.e. older men" whose fitness for military service no longer came under consideration. The second group with whom Finger reported experiencing "success in treatment" were men who "were not homosexually perverted" but engaged only in occasional same-sex activity. All in all, the surgeon general found the "perversion" to be "practically incurable."[5] Besides prospects for treatment or cure, the symptomology of a condition the medical community firmly believed to be an illness was also logically presented. The government medical director in charge of supervising the medical examination board proceeded with surgical precision, reporting on every deformity in male genitalia conceivable, along with the exact number of incidences found for conscripts born in 1946. In the end, though, it was only to determine that army examiners had not "observed any relationship between sexual perversions and genital deformities," nor did "any appear to exist."[6] The results themselves did not pass muster for the chief medical examiner, so to speak. Instead he informed his colleagues that he would reissue his order to the district draft boards to report any cases that arose so as to gain an "absolutely precise statistical overview."[7]

One former surgeon general of the Bundeswehr recalled his medical course of study in 1958–59 as having "taught us that homosexuals were epidemiological vectors for hepatitis and syphilis, suspected by the police of prostitution and drug trafficking, and thus a part of the criminal world."[8] Ten years later in 1968, a dictionary for psychiatry and adjacent disciplines listed homosexuality as a form of "paraphilia," or sexual desire that strongly deviated from the empirical norm, ranking it as a "perversion" alongside exhibitionism, masochism, necrophilia, nymphomania, sadism and transvestism. Homosexuality generally surfaced in connec-

4 BArch, BW 24/3736: Surgeon General Dr. Finger, "Einführende Bemerkungen zu BMVg," InSan: "Beurteilung der Wehrdiensttauglichkeit und Dienstfähigkeit Homosexueller," 1966, here sheet 5.
5 Ibid.
6 BArch, BW 24/3736: "Über die Erkennung von sexuellen Perversionen bei der Musterung." In: BMVg, InSan: "Beurteilung der Wehrdiensttauglichkeit und Dienstfähigkeit Homosexueller," 1966, sheets 35–40, here sheet 38.
7 Ibid., 39–40.
8 Letter from Ret. Surgeon General Dr. Horst Hennig (Cologne) to the author, 17 July 2017.

tion with neuroses, the dictionary stated, and "many homosexuals are neurotic in one form or another [...] which may be explained in one part by the position they (especially men) hold in society."[9] By 1969 the extensive *Brockhaus Encyclopedia* no longer defined homosexuality as an illness but a "common form of deviation from the sexual norm," with four percent of men and one percent of women inclined toward members of the same sex.

The 1970 paper cited at the outset of this chapter also considered the rate at which homosexuality was "diagnosed" during medical entrance exams and in military service. "Clinically speaking," approximately one in a thousand conscripts (or 0.1 percent) born in the years 1946 and 1947 and conscripted in 1965 and 1966, respectively, were determined to be "consistently homosexual" – half during their medical exams and the other half while in service.[10]

The medical service's baseline assumption of two to four percent of the general population being homosexual seemed low to one division doctor, who estimated that the figure "probably lay closer to ten percent than four percent."[11] It likely was not the number of homosexuals that had risen after the criminal code was revised in 1969 "but the number of those openly admitting their homosexuality." Since then, society's view had continued to grow more liberal. "Today [1970] 60% of youth are tolerant of homosexuals, 20% are indifferent and 20% intolerant. Latent homosexuals are the least tolerant."[12]

The conference organized by the BMVg's Office of the Surgeon General in 1966 had also grappled with the fact that the number of young men who had, by whatever means, been identified as homosexual during their medical exams was noticeably lower than the percentage assumed for the general population. The Bundeswehr doctors saw the reason as lying in examinees' either keeping silent about their tendencies or concealing them; in the language of 1966, they were all "plainly of the view that the homosexual's timidity and fear of punishment cause him to stay silent about his illness during examination."[13] Homosexual soldiers led a "double life."[14]

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9 Haring and Leickert, *Wörterbuch der Psychiatrie*, 284–85, 405, 445, quote on 285.

10 BArch, BM 1/6727: BMVg, InSan I 1, 15 October 1970.

11 BArch, BW 24/7180: Division physician for the 6th Mechanized Infantry Division to the BMVg, 2 April 1970.

12 Ibid.

13 BArch, BW 24/3736: "Über die Erkennung von sexuellen Perversionen bei der Musterung." In: BMVg, InSan: "Beurteilung der Wehrdiensttauglichkeit und Dienstfähigkeit Homosexueller," 1966, sheets 35–40, here sheet 36.

14 Ibid., sheets 56–63, here 59.

At the height of the Wörner–Kießling affair in mid-January 1984, Bundestag deputy Joschka Fischer (Green Party) asked BMVg Parliamentary State Secretary Peter Kurt Würzbach whether he was "aware of homosexual soldiers or ranking officers in the Bundeswehr and if yes, how many." Würzbach replied that while "such soldiers" existed, "we do not keep lists. They are not registered. They are not reviewed. I cannot give you a number."[15] Nor did Würzbach take the bait when another member of Fischer's party followed up to ask if the secretary could "deny or confirm" the number that "German news magazine" *Der Spiegel* had given of 50,000 homosexual soldiers. Würzbach could not confirm the number, nor was he even prepared "to use the number for orientation's sake; it would be speculative."[16]

2. Fitness for Service

Historically, compulsory service meant the military held practically universal biographical importance for men, at the very least on account of the medical examinations that even those who balked at the military and opted for civil service instead had to undergo. The same applied for young men who were not called up for reasons of health or other causes that are fully relevant to the subject at hand.

> There were many paths leading around "service." If someone wanted to take one he would try – with varying degrees of success – to downgrade his state of health for the medical exam, taking medication to raise his blood pressure the day before or hoping to be spared military service by blatantly feigning homosexual tendencies because he had heard gays were not drafted.[17]

Whether or not someone who professed to be gay would in fact be "kept away from the troops" as hoped for was a matter of some debate among those advising men in search of a way out of military service. "'They also get drafted, and then usually stick to their own kind in the troops.' Hearsay, bathroom gossip, words of wisdom."[18] As early as 1964, BMVg jurists were stressing that under no conditions did "the mere profession" of homosexuality suffice to avoid being drafted.[19] §175

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15 German Bundestag, 10th legislative period, 47th Session, 19 January 1984, typed transcript, 3375.

16 Ibid., 3377.

17 Kulke, "Lieber homosexuell als zur Bundeswehr."

18 Ibid.

19 BArch, BW 1/73389: BMVg, VR III, 3 January 1964. The files from the administration and legal affairs department were introduced under the heading "Homophilic Conscripts."

was still in effect at the time, making all forms of sexual activity between men criminal. This in turn made it easier for medical examination boards to identify possible homosexuals among conscripts, all of whom were required to provide information about any previous convictions and pending investigations or criminal proceedings. §12 (5) of the Military Service Act deferred a man's military service if he had "committed a crime or act of moral misconduct."

a.) Error Code 12 VI: Permanently Unfit to Serve

"Homosexuality is a serious problem in any army, which is why the Bundeswehr refrains from drafting young men with such tendencies," Defense Minister Gerhard Schröder (CDU) explained in 1967.[20] Under previous regulations like the 1965 version of ZDv 46/1, "consistent homosexuality" qualified for "Error Code 12 VI" or "permanently unfit to serve,"[21] where "sexual perversion" and "asociality" are listed under "severe psychopathy" alongside alcoholism, severe neuroses, psychoses and "medium to high levels of mental deficiency."[22] It was here that homosexuality fell. Men turned away on such grounds were not drafted for military service and were no longer subject to monitoring under the National Military Service Act. The regulations also called for soldiers subsequently identified as homosexual while in active service to be deemed "permanently unfit" and dismissed.[23]

The entrance regulations under ZDv 46/1 reveal greater differentiation among levels of fitness during the 1970s, with same-sex orientation – going under the term "homophilia" – assessed at Grade IV, or "provisionally unfit for service." What had applied generally as Grade VI (permanently unfit to serve) in the 1965 version now held true only for "sexual perversions."[24] Nothing changed in practice for young men with a "consistent" same-sex orientation; whether "provisionally" or "permanently," they were considered unfit. Men who only reported occasional sex with other men, on the other hand, were now assessed at Grade III by medical examiners, or "fit for assignment with restriction."[25] Presumably the unspoken concern

20 Biesold, "Der Umgang mit Sexualität in der Bundeswehr (1955–2005)," 3; found in Botsch, *Soldatsein*, 135.

21 BArch, BW 1/73389: BMVg, InSan I 5, 4 September 1970.

22 BArch, BM 1/6727: BMVg, InSan I 1, 9 October 1970.

23 BArch, BW 1/73389: BMVg, InSan I 5, 4 September 1970.

24 ZDv 46/1, Guidelines for the medical examination of conscripts at muster and upon entering service, accepting and hiring voluntary applicants and dismissing soldiers, here as an excerpt in BArch, BW 24/5553.

25 Ibid.

voiced itself here that all too many conscripts might evade military duty by referencing occasional or one-time sex with other men.

In the opinion of one Bundeswehr psychiatrist of the era, Dr. Rudolph Brickenstein, "occasional same-sex satisfaction of one's libido" did not detract from troop discipline, nor as a result fighting power. That depended to a much greater extent on "other behavioral patterns that are characteristic in homosexually perverted soldiers."[26] Neither Brickenstein as a medical officer nor the regulations themselves defined the boundary between occasional sexual contact and consistent homosexuality; ultimately it was decided on a case-by-case basis. The doctors were given room for discretion, and it was this very woolliness that opened the door to the arbitrary and unjust use of power. It also gave Bundeswehr psychiatrists a great deal of latitude to busy themselves with the subject in the coming decades. (Numerous sources and the memories of the soldiers Brickenstein "examined" cast him as specializing in homosexuals and their psychiatric "assessment" in Bundeswehr hospitals.[27])

Notions varied as to how ZDv 46/1 should be interpreted. In 1970, lawyers from the BMVg's department of administrative and legal affairs wrote that conscripts of "homophilic disposition" who had "already become active in this context, or for whom well-founded indications exist that they will continue to be homosexually active as members of the Bundeswehr," should be assessed as permanently unfit with Error Code 12 VI and not drafted.[28] In doing so, the lawyers relied on the customary distinction between established homosexuality and occasional same-sex activity; in this case the deciding factor seemed to be sexual activity itself, regardless of how often. The paper was initially drafted to help respond to a query at the press department from the gay publication *Das andere Magazin.* The magazine was curious about whether there were regulations for keeping "homophilic" citizens of the Federal Republic out of the Bundeswehr.[29] The lawyers advised the press

26 BArch, BW 24/3736: Lt. Col. (MC) Dr. Rudolph Brickenstein, "Probleme der Homosexualität in der Sicht des InSan im BMVg." In: BMVg, InSan: "Beurteilung der Wehrdiensttauglichkeit und Dienstfähigkeit Homosexueller," 1966, sheets 22–34, here 34.

27 Ibid.; see also Brickenstein, "Probleme der Homosexualität im Wehrdienst"; BArch, BW 24/7180: Lt. Col. (MC) Dr. Rudolph Brickenstein, "Neue wehrpsychiatrische und rechtliche Aspekte für den Dienst bei der Bundeswehr bei homosexuellen Verhaltensweisen" (1970, internal document, unpublished); BArch, BW 24/5553: Lt. Col. (MC) Dr. Rudolph Brickenstein, "Sachverständigenreferat aus psychiatrischer Sicht," delivered at a meeting of the BMVg medical advisory board's committee on preventative health and care and military examinations, 18 April 1980. Also available in BW 2/31225.

28 BArch, BW 24/7180: BMVg, VR IV 1, 29 September 1970.

29 Ibid., editors at *Das andere Magazin* to the BMVg, 17 August 1970.

department to exercise "particular caution" in its reply; the possibility could not be ruled out that "a frank announcement that homophiles are not enlisted in the [Bundeswehr] [...] would prompt [conscripts] to identify themselves as homophiles during their entrance exams to avoid military service."[30]

The fear was not unfounded. At a time when the mere suspicion of homosexual tendencies was enough to declare a conscript unfit, "the cleverest of the bunch [...] showed up for their exams with ear clips and high heels," *Der Spiegel* reported in 1984.[31] "Sissy theater" was the common expression used among conscripts.

In 1969, Dr. Brickenstein reported that the number of cases in which soldiers "falsely stated" their homosexuality with the aim of dismissal from the Bundeswehr was on the rise. Entrance regulations had become common knowledge, and there were likely "controlled 'information centers'" that explained to young men "how they had to behave to be deemed homosexual and thus excluded from military service, even under pointed psychiatric evaluation."[32]

The BMVg was also curious as to how many conscripts were trying to avoid conscription by giving false statements about their sexuality. Out of 294,000 draftees born in the year 1946, district draft boards reported twenty-four suspected cases of "purposive statements," with the 1947 cohort showing nearly the same number of instances at twenty-five.[33] This left the number for each year at less than one in 10,000 draftees, making it impossible to speak of a "preponderance of attempted abuse" as medical service leadership put it.[34]

Beyond a wide range of related medical aspects, the medical inspectorate's (Office of the Surgeon General) 1966 work conference also addressed what bearing homosexuality should have in determining draftees' fitness for service. In this case it was not homosexual activity per se that was the deciding factor in determining eligibility so much as the "*behavioral patterns* of homosexually perverted soldiers."[35] These sort of "behavioral patterns repeatedly disrupted troop discipline

30 Ibid.

31 "Soldaten als potentielle Sexualpartner," 22. See also Kulke, "Lieber homosexuell als zur Bundeswehr."

32 Brickenstein, "Probleme der Homosexualität im Wehrdienst," 151.

33 BArch, BM 1/6727: BMVg, InSan I 1, 9 October 1970. The figures for birth year 1946 appear previously in: BArch, BW 24/3736: "Über die Erkennung von sexuellen Perversionen bei der Musterung." In: BMVg, InSan: "Beurteilung der Wehrdiensttauglichkeit und Dienstfähigkeit Homosexueller,"1966, sheets 35–40, here 38.

34 BArch, BM 1/6727: BMVg, InSan I 1, 9 October 1970.

35 BArch, BW 24/3736: Surgeon General Dr. Finger, "Einführende Bemerkungen zu BMVg," InSan: "Beurteilung der Wehrdiensttauglichkeit und Dienstfähigkeit Homosexueller," 1966, here sheet 5 (emphasis in original).

and fighting power," doing so "to such an extent that these disruptive influences should be dismissed if and when they are discovered."[36] Brickenstein later backed up his argument, contending that most homosexuals seemed to be "inherently unsure of themselves and anxious."[37] The medical officer even reached for analogies from the animal kingdom, using phrases that are difficult to understand from today's perspective:

> They will also search out like-minded individuals among the troops, often locating them quite quickly by instinct. In order to protect themselves from their environment homosexuals construct nests, as it were, and conspire with one another. They are vulnerable to all kinds of intimidation, however, especially from foreign agents. As a result, they are not infrequently driven to treachery or other criminal acts.[38]

In 1966, such formulations were far from a slip of the tongue. The psychiatrist spoke in similar terms three years later in an essay about homosexual soldiers: "Using undefined messaging channels among themselves they construct interconnected, tension-laden dens," bringing "considerable disruption to masculine self-discipline, as well as classification and subordination within the military hierarchy."[39] Brickenstein had made a forceful case as to the need to muster homosexual men out of military service once before in 1966: "Homosexually perverted men are permanently unfit for military service. If such men are in fact deemed eligible to serve and wrongly enlisted as soldiers, they must, once their perversion is revealed […] be deemed unfit for assignment and thus for service, and dismissed from the Bundeswehr or placed in retirement."[40] Brickenstein now elaborated on his reasoning in 1969, explaining that "homosexual soldiers are not a disruptive factor in military units because they can only find sexual satisfaction in same-sex intercourse, but because their homosexual tendencies are most often coupled with other characteristics…and lead to patterns of behavior that endanger troop discipline, and thus fighting power."[41]

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36 Ibid.

37 BArch, BW 24/3736: Lt. Col. (MC) Dr. Rudolph Brickenstein, "Probleme der Homosexualität in der Sicht des InSan im BMVg." In: BMVg, InSan: "Beurteilung der Wehrdiensttauglichkeit und Dienstfähigkeit Homosexueller," 1966, sheets 22–34, here 22.

38 Ibid.

39 Brickenstein, "Probleme der Homosexualität im Wehrdienst," 150.

40 BArch, BW 24/3736: Lt. Col. (MC) Dr. Rudolph Brickenstein, "Probleme der Homosexualität in der Sicht des InSan im BMVg." In: BMVg, InSan: "Beurteilung der Wehrdiensttauglichkeit und Dienstfähigkeit Homosexueller," 1966, sheets 22–34, here 34.

41 Brickenstein, "Probleme der Homosexualität im Wehrdienst," 150.

With this last argument, Brickenstein anticipated a line of reasoning administrative judges would use up through 1999 in dismissing suits brought by homosexual officers and NCOs to dispute their transfer or rejection from career service. Without fail, judges viewed public knowledge of a superior's homosexuality as jeopardizing his authority, and with it troop discipline and fighting power. Brickenstein himself went further; today, his text reads like a veritable litany of prejudice. Gays either came across to other soldiers as "effeminate" or behaved "with exaggerated force," while others stuck out for being timid. Many "hid" behind a "happy family life, but secretly engaged in homosexual activity as soon as they had the opportunity to do so [...] not infrequently, the very attempt many homosexuals make to hide their difference will have a provocative effect on a soldier with normal tendencies, since they then behave in particularly conspicuous ways." This would often lead to "pronounced psychological deformity" that came to dominate "all their aims and endeavors."[42]

Brickenstein's torrent of bias continued; as in other armed forces, for example in the U.S., homosexuals in the Bundeswehr formed "sociological groups of their own, with shared jargon, near unerring recognition of one another and a widespread system of mutual acquaintanceship linked to treason, addiction and criminality."[43]

The regulations rejecting homosexual men as unfit to serve did not meet with the approval of every medical examiner. To some it was incomprehensible why "conscripts should be released from military service simply because of an abnormal tendency. It is unfair to men of normal sexual sentiment and behavior."[44] Other doctors criticized the regulations from the opposite angle, arguing that they "degraded [homosexuals] to second class people, who suffer enough as it is due to their abnormal tendencies."[45]

The committee responsible for overseeing entrance regulations cleared both objections from the table.

> Medical examiners were informed that psychological abnormalities, especially of a sexual nature, must be assessed solely at the functional level and not on the basis of personal worldviews [...] It is thus neither about advantage or disadvantage, but a measure of expediency.

42 Ibid.

43 Ibid.

44 BArch, BW 24/3736: Lt. Col. (MC) Dr. Rudolph Brickenstein, "Probleme der Homosexualität in der Sicht des InSan im BMVg." In: BMVg, InSan: "Beurteilung der Wehrdiensttauglichkeit und Dienstfähigkeit Homosexueller,"1966, sheets 22–34, here 26.

45 Ibid.

> The benefit goes to the Bundeswehr as a whole, the homosexuals themselves and not least to the heterosexual soldiers who enter soldierly community with them as well as taxpayers.[46]

"Under no circumstances," the medical service leadership emphasized in 1970, did the decriminalization of sexual activity between men in 1969 or (as the BMVg saw it) the liberalization that had come about in its wake alter the "military medical aspects." To buttress its position, it pointed to countries that did not prosecute homosexual acts but still observed similar regulations for military service.[47] The earlier version of medical exam regulations thus remained in effect even after §175 had been reformed, up through their revision in 1979.

> Fixated homosexuality [must not] be equated with a psychological inability to control one's drives, i.e. mental incapacity in a homosexual context. Rather, the same applies here for homosexuals as for any person with deviations, namely that the demands made of an individual person by living in society […] are based on […] the principle of guilt, and thus also on the postulate of a relatively mature person's mental accountability. This includes postulating the ability to inhibit one's drives.[48]

In short, the essay quoted here from *Neue Zeitschrift für Wehrrecht* declared homosexuals to be accountable, or mentally capable and consequently – albeit without saying it directly – subject to criminal and disciplinary codes. Ultimately, this meant that "homosexuals who were accountable and those of diminished accountability [should not] be dismissed from service without further ado," but should not "generally be assigned to positions of leadership" either.[49] With that, *Neue Zeitschrift für Wehrrecht* anticipated in 1970 the eventual line that the BMVg would take in dealing with homosexual soldiers: fit to serve and thus fit for conscription, but unfit for any sort of qualifications as a superior, and thus any chance of a military career.

b.) Psychiatric Evaluation in the Armed Forces

Subject files pertaining to homosexuality within the BMVg archives also relay instances of soldiers assessed as homosexual undergoing psychiatric evaluation in Bundeswehr hospitals (Bundeswehrkrankenhaus, BWK) and their path leading there. In March 1971, for example, two conscripts were admitted as inpatients at BWK Hamburg to have their sexuality examined, one for fifteen days, the other for

46 Ibid.
47 BArch, BW 1/73389: BMVg, InSan, 4 September 1970.
48 Schwalm, "Die Streichung des Grundtatbestands," 97.
49 Ibid.

seventeen. Their stay was prompted by a letter the two had written to Defense Minister Helmut Schmidt that read "Complaint against the Bundeswehr!"[50] at the top, although what followed was not a petition for release or protest against discrimination – not by any means. Rather, the authors informed the minister that

> we met about a half year ago [...] since then we've seen each other regularly and also had sexual encounters. We'd now like to ask your opinion on the matter and, if it's possible, for you to help see to it that we're assigned the same room going forward, or at least to the same company so that we can continue our relationship, as we're very close to each other. Please be so kind as to answer this letter promptly.[51]

Instead of Schmidt, army doctors answered the two soldiers; instead of assigning them the same room or company the doctors ordered the soldiers be admitted to the neuro-psychiatric division at the BWK Hamburg. After a good two weeks the "results" came in. From today's perspective it is surprising that reports that go into such detail about the private and sexual lives of young adults were only slightly anonymized while being sent to the BMVg for internal purposes. In their conclusion, the psychiatrists recommended that the one soldier receive early dismissal as unfit to serve under ZDv 46/1 Error Code 12 V, and receive renewed psychiatric evaluation as to his fitness to serve in around two years. The second soldier, on the other hand, was not a "true homosexual" with no restrictions on his ability to serve. The doctors "nonetheless" recommended that the mechanized infantryman (*Panzergrenadier*) be immediately transferred out of his unit, and that the disciplinary and criminal consequences "of any homosexual acts which might occur within or outside the troops" be brought to his attention for the future.[52] The soldiers wrote their letter in February; the infantryman who had not been dismissed received the minister's outstanding reply in late April 1971. His desire to be assigned "a shared room as to deepen your homophilic relations" with his partner failed to recognize that "criminal charges under §175 StGB may have been relaxed in some areas, but under no circumstances does the Bundeswehr [...] promote such activities."[53]

In 1969 Bundeswehr psychiatrist Dr. Brickenstein published a piece in a specialist journal detailing six cases from his work in a Bundeswehr hospital. While anonymized as a matter of course, the frankness and level of detail with which a

50 BArch, BW 24/7180: Petition from two mechanized infantrymen to the BMVg, undated, stamped for entry into the BMVg records 15 February 1971.

51 Ibid.

52 BArch, BW 24/7180: Bundeswehrkrankenhaus Hamburg, neuro-psychiatric division to troop physicians, 17 and 19 March 1971.

53 BArch, BW 24/7180: BMVg InSan I 5 to soldier X., 30 April 1971.

doctor publicly disclosed prior intimate and sexual experiences entrusted to him by young, at times very young, people is astonishing from today's perspective.[54] Their reproduction here is limited to the results of the "evaluation" and the implications that were drawn for military service. One conscript seen as a "potentially disruptive force" in the troops had been given early dismissal under Error Code 12 IV. No recommendation for early release, on the other hand, came for a sailor who professed to being gay but did not come across as "convincing" – the troop physician was, however, advised to "keep a closer watch [on the soldier] than others." "Unjustifiable doubts" also persisted about another conscript's story, who was only deemed provisionally unfit under Error Code 12 V and ordered to come in for re-examination in two years. Bundeswehr psychiatrists did not find "the slightest grounds" for homosexuality in the case of a further conscript. The soldier grew "deeply ashamed when he found himself caught in the act of trying to shirk military service in such a manner." Another case resulted in "no grounds for homosexual tendencies" upon "targeted examination," although they could not be ruled out for certain. No doubts existed about a staff sergeant by contrast; the doctors attested to an "authentic homosexual perversion" that left him permanently unfit to serve. The fixed-term soldier was given early dismissal.[55] BMVg subject files contain other (non-anonymized) cases of soldiers whose dismissal the personnel department ruled out due to doubts about their homosexuality upon examination.[56]

A later study carried out in 1985 on behalf of the department of military psychology at the Armed Forces Office analyzed the problems facing homosexual soldiers. It found that while homosexuality did not fundamentally rule out or detract from "a person's fitness or ability to serve as a soldier," "the mere fact of being identified as a homosexual [may] limit his activity as a soldier, even make it impossible."[57] Fears and prejudices would find their way to the fore within military and civilian environments alike, the report continued, with potential reactions ranging from slight distancing to total rejection. There was also the danger of "a homosexual person consciously being provoked or made to look ridiculous." "The homosexual" continued to represent a "unique projective surface" in society, where he was

54 Brickenstein, "Probleme der Homosexualität im Wehrdienst." Instances of "onanism and anal intercourse" and the pretentious, pseudo-medical term "Immissio penis in orem" for "oral intercourse" are pedantically counted up on multiple occasions throughout the article.

55 Ibid.

56 BArch, BW 24/7180: BMVg, P III 7-E, 12 June 1964 and BMVg, P II 7-E, 23 April 1968.

57 BArch, BW 2/32553: Armed Forces Office, Dept. I, Military Psychology Section, February 1985: Max Flach, "Sozialpsychologie Stellungnahme zur Homosexualität in den Streitkräften," here 11. Also available in BArch, BW2/531590: BMVg, PII4, AzKL-1-85.

no longer seen as a "single personality" but "part of a discriminated collective."[58] Not only did all this influence the behavior of his peers, but ultimately the "behavior and thoughts of the homosexual person himself."[59]

One man exempt from military service in 1976 described his own experiences with the Bundeswehr's (medical) practices in an interview.[60] He had been before the district draft board once before for a first appointment in the early 1970s but had not felt confident discussing homosexuality with others at age eighteen, and his military service had been deferred anyway in light of his upcoming studies. Now that he had completed his degree (and come out in the meantime), conscription loomed. To get out in front of the matter, in 1976 he took the initiative to apply for re-examination. The man recalled a number of other young men gathered at the draft board offices in Saarbrücken that day "with all sorts of deficiencies both real and invented, mostly back problems." When the others asked what was wrong with him out of curiosity, the man replied that he was homosexual. The admission came as a source of "great embarrassment" and "incredulous surprise" to those assembled in the waiting room. "It'll go on your record if you say that!" When the man gave the doctor the same answer, the same "great embarrassment" descended on the consulting room. Visibly at a loss for words, the medical examiner began to rifle through his documents slowly and aimlessly; "the topic caused him noticeable discomfort." Once he had gotten himself together, the doctor answered: "You'll have to prove it, I'm sending you to the psychiatrist! It'll cost you if you're lying!" Behind his words loomed the threat that if the results came back negative, the young man would be liable to shoulder the costs of the additional psychological examination.

Several days later, a Bundeswehr psychologist started his "examination" by explaining that homosexuality "was not a conscious matter, but a sexual perversion." Unable to determine homosexuality beyond all doubt in his report, the psychologist recommended the young man be admitted to the central Bundeswehr hospital in Koblenz, repeating the threat that he would have to foot the bill in the event of a negative diagnosis. This did not cause the man to feel fear, however, but "a real eagerness to see what the Bundeswehr would do at the hospital to test my homosexuality. In the end, they would have to confirm it." Things did not get that far. Instead of being admitted to the hospital, he was sent to a civilian psychologist for a final evaluation. After the interview the psychologist attested to the man's "completely normal homosexuality." The examinee was so psychologically stable

58 BArch, BW 2/32553: Armed Forces Office, Dept. I, Military Psychology Section, February 1985: Max Flach, "Sozialpsychologie Stellungnahme zur Homosexualität in den Streitkräften," here 13.
59 Ibid.
60 Conversation with E. from Cologne, 14 February 2018, also in what follows.

and self-confident in fact that he was able defend himself against exclusion and bullying, leading the doctor to attach a recommendation of fitness to serve to his "diagnosis." Yet the diagnosis of homosexuality on its own was more than enough for the deciding medical examiner for the military to pronounce the man ineligible "with a long face" and withdraw his military service book. The examiner's diagnosis read "inability to perform." Looking back, the eyewitness concluded that he had not suffered from the "Bundeswehr's hostility toward gays" but used it "to his own advantage to avoid having to go to the military. That was good for me."

c.) New Fitness Regulations for 1979

After fitness regulations were revised in 1979, Brickenstein went before the BMVg's medical advisory board in 1980 to explain it was now only young men whose homosexuality "had degenerated into a pronounced sexual deviation, in the sense of a true perversion" who would be ruled unfit for military service.[61]

The new version of ZDv 46/1 assessed homosexuality at three different levels under Error Code 13: "III/13 – Abnormal patterns of sexual behavior; IV/13 – Sexual maladjustment without significant disruption in the ability to adapt, perform, endure stress or enter community; VI/13 – Pronounced sexual deviation with negative impact on entering community."[62]

The new gradations meant that (known) homosexual conscripts were no longer classified under IV or VI, respectively, as provisionally or permanently unfit for military service. Before, only "occasional homosexual contact" had received Grade III ("fit for assignment with restriction"). In principle, every homosexual man now started in this category and had to line up for duty; conscripts "still capable of integrating without difficulty into a male military community despite an abnormal pattern of sexual behavior" were assessed at Grade III, and provisional or general ineligibility was reserved for the exceptions cited above of "disorders" or "deviations."[63] In practice, this meant that the vast majority of young gay men now had to serve out their time in the military. The new regulations were evidently already in use by 1978, at least in individual cases, as a Munich man's letter to the BMVg's

61 BArch, BW 24/5553: Lt. Col. (MC) Dr. Rudolph Brickenstein, "Sachverständigenreferat aus psychiatrischer Sicht," delivered at a meeting of the BMVg medical advisory board's committee on preventative health and care and military examinations 18 April 1980. Also available in BW 2/31225.
62 ZDv 46/1, Guidelines for the medical examination of conscripts at muster and upon entering service, accepting and hiring voluntary applicants and dismissing soldiers, BMVg, Bonn 1979, here No. 261. Excerpts of the same text also found in BArch, BW 24/5553, BW 2/32553 and BW 2/31224.
63 BArch, BW 1/304286: BMVg, P II 1, 12 August 1982.

department of military service affairs indicates. He himself had been found unfit to serve in 1976 for homosexuality, but now his partner had received a conscription notice assessing him at Grade III and thus eligible – despite maintaining his homosexuality. During his medical exam the man's partner had it explained to him that homosexuality was "no longer grounds for exemption from military service under the new regulations."[64] "Why are things judged arbitrarily in our country, why can't the same law be applied to everyone?" the man wrote furiously.[65] Looking past the fact that a conscription notice is not a "judgement," the man could not have known about the revised regulations. To him and his partner, it was a display of arbitrary power; his boyfriend was "practically at wits' end." As a solution, the man asked that his partner at least be stationed close to Munich. A handwritten comment on the letter reads "Psychologist [pleads for them to be sent] close to home! Like accommodation for a married couple!"[66] It is unclear whether this was added by the author of the letter or a BMVg employee.

The new regulations similarly thwarted the plans of a young Hamburg man to free himself from his upcoming military service. He stated his homosexual orientation at his medical exam in March 1980, still likely unaware of the new eligibility guidelines. The draft board asked for an expert medical opinion, which assumed "occasional homosexual contact" to be "indisputably present." "Such an inclination" did not rule out military service under ZDv 46/1, however, but should be assessed under "Physical Defect III/13." "At most, the man's ability to enter the community" required evaluation. The conscript took sports at his high school and was "mentally sound and aware," and no "signs of psychological abnormality" were evident. As such, the conscript was eligible for assignment without restriction.

The young man did not give up; his lawyer filed an appeal in administrative court while introducing "expert testimony" from a civilian doctor, which stated that the young man was "not in a position to hide his homosexual tendencies."[67] "As long as discrimination against homosexuals has not been fully eliminated from the Bundeswehr," this meant military service posed "an unreasonable burden [for him], and he a burden for the community, under the conditions."[68] Military district administration responded by questioning the validity of the report and the competence of the civilian doctor alike, stating that the neuro-psychiatric division at BWK

64 BArch, BW 24/7180: Mr. X., letter to the BMVg, 5 March 1978.
65 Ibid.
66 Ibid.
67 Muster Division 2 at Military District Administration I, notice of appeal from 28 May 1980 against the decision of the draft board from 10 March 1980.
68 Expert medical testimony, 11 June 1980.

Hamburg alone was fit to ably assess the demands made on a homosexual's ability to live in community.[69] This brought the man's lawyer back in the ring, who contended that in a legal dispute, an "institution maintained by the defendant could hardly be entrusted with preparing a report."[70] Unfortunately, the documents do not reveal the outcome of the court battle.

Responding in February 1979 to a question from Bundestag deputy Herta Däubler-Gmelin, the BMVg took pains to stress that the Bundeswehr did not fundamentally treat homosexuals "any differently from heterosexual citizens."[71] As long as their orientation expressed itself in occasional same-sex activity or "homophilia," the young men were fit for service and would be called up. Conscripts who made explicit mention of their homosexuality or whose sexual orientation otherwise came out would undergo medical examination, and be declared unfit only in cases where psychological disturbances or "sexual perversions with pathological value" were present.[72] The same applied "in principle" for those who applied to the military, whether as fixed-term or career soldiers. In these cases, however, expert medical opinion would be sought as to the applicant's fitness to serve, and a hiring decision made on that basis. The ministry reiterated that "if a homosexual becomes a soldier, he will not fundamentally be treated differently than heterosexual soldiers."[73] That may well have been the case in 1979, but by 1984 at the latest, a set of BMVg orders had clearly established homosexuals as unsuitable for higher-ranking positions, whether as NCOs or officers.[74] If an aspiring NCO's or officer's same-sex preferences came out the candidate would be dismissed,[75] something that no longer applied for conscripts. Still, the Office of the Surgeon General repeatedly intoned that homosexuality was neither a disease nor a "psychological or mental disturbance, but merely a variation on the norm."[76] In 1986 FüS I 4, the department for Leadership Development and Civic Education at the BMVg, came to the conclusion, that "men with a homosexual orientation are fundamentally fit for military service if they are sufficiently able to adapt, perform, endure stress and become part of the community. To such an extent, homosexuality should not be evaluated

69 Military District Administration I to Hamburg Administrative Court, 11 August 1980.

70 Law firm F. to Hamburg Administrative Court, 14 November 1980.

71 BArch, BW 1/304284: BMVg, VR I 1, 15 February 1979 as well as BMVg, parliamentary state secretary to MdB Herta Däubler-Gmelin (SPD), 23 February 1979.

72 Ibid.

73 Ibid.

74 BArch, BW 2/31224: BMVg, P II 1, Az 16-02-05/2 (C) R 4/84, 13 March 1984, for greater detail see chapter 4, section 4.

75 See a full account of this in chapter 4.

76 BArch, BW 1/304285: BMVg InSan, 4 September 1985, and elsewhere.

as a disease."[77] All surviving internal papers from the BMVg repeat this clear position verbatim.

In mid-January 1984, with the Wörner–Kießling affair at its height, the Bundestag took up the question of homosexual men's fitness for military service. Parliamentary State Secretary Würzbach answered for the BMVg, quoting from the mustering regulations: Exclusion from, or early termination of, military service was possible only in cases of a restricted "ability to integrate" or "enter" a "male military community."[78] Deputy Norbert Gansel of the SPD found the expression "male community" not "entirely lacking in same-sex eros," which "may give rise to perpetual self-questioning."[79] In reference to the criteria of "integrating into a male community," SPD deputy Heide Simonis asked the secretary "how exactly [he] would assess women who were supposed to go into the Bundeswehr in that case?"[80] Asking in 1984, Simonis had already laid her finger on the argumentative weak point that would bring restrictions against gays to the point of absurdity when the military opened fully to women in 2000. Würzbach countered that he had cited the "ability to become part of the community"; "wherever this kind of tendency [homosexuality] is present in particularly extreme form, expressing itself in a forceful and possibly uncontrollable urge to act in the direction of that tendency [...] then the ability to enter the community has been disturbed, regardless of the arena."[81] CDU representative Gerhard Pfeffermann immortalized himself in the parliamentary transcript for interjecting that "breast-grabbers would disturb the Bundeswehr, too!"[82] Waltraut Schoppe from the Greens asked the secretary for greater detail regarding such "extreme forms of homosexuality and deviancy." Würzbach demurred, referring for individual cases to "expert physicians, with the possible aid of psychologists" (along to shouts of "Or Mrs. Schoppe!" from the CDU/CSU).[83]

In 1993 *Der Spiegel* issued a new report that homosexual conscripts were being drafted and "could not buy themselves a 'free ticket out' by referring to their preferences."[84] That same year the director of the Bundeswehr Institute of Social Sciences (SOWI), Professor Bernhard Fleckenstein, lectured on Germany's position regarding "homosexuality and military service" at the University of Hull in Great

77 BArch, BW 2/31224: BMVg, FüS I 4, July 1986.
78 German Bundestag, 10th legislative period, 47th Session, 19 January 1984, typed transcript, 3374.
79 Ibid., 3376.
80 Ibid.
81 Ibid.
82 Ibid.
83 Ibid.
84 "Versiegelte Briefe," 54.

Britain, reporting that "homosexual men are subject to conscription like everyone else, and eligible for service provided that they are found physically and psychologically fit during their entrance examinations."[85] This explained why young men were asked as to "possible homosexual tendencies" during their medicals. "According to reports, most homosexual recruits reveal their orientation when the medical examiner brings it up for discussion."[86] The doctor would then decide alongside a military psychologist whether the young man was "able to enter the community," in other words "to integrate into a male military community without drawing undue attention as a homosexual."[87] If there were doubts, he would be rejected for service as "mentally unfit" under fitness class T5.[88] Rejection for service was "the rule" in fact; medical examiners pursued a "markedly 'conservative' policy when it came to assessing homosexuals' fitness to serve. All sides are manifestly satisfied with the solution." It lay "in the interests of those affected," who now had to do community service in place of basic military service, but also aligned "with the interests of troop commanders, who did not want them in their units because then they would not [have to] fear any troubles with homosexual soldiers."[89] Fleckenstein stressed that nobody – aside from the doctor and a military psychologist when necessary – was told how the medical examination was conducted or why the results came about.

One man deemed unfit for service in 1992 reported his own experience with Bundeswehr policy; when asked by the medical examiner about any disqualifications for military service, he mentioned membership in a gay/lesbian youth group. This led to a psychological examination where after just a few minutes' conversation the older psychologist demurred, "but you aren't at all fit for military service." When the report was submitted the young man received notification of ineligibility (T5).[90]

85 Fleckenstein's study only appeared in English under the title "Homosexuality and Military Service in Germany"; the German original, dated 24 February 1993, went to the BMVg and can be found in BArch, BW 2/32553; this and the following quotes from there.

86 Fleckenstein, "Homosexuality and Military Service in Germany."

87 Ibid.

88 ZDv 46/1, 1979.

89 Fleckenstein, "Homosexuality and Military Service in Germany."

90 Telephone conversation with W., 4 January 2018.

3. Calls for Tolerance within the Ranks

The Office of the Surgeon General had painted a different picture of homosexuals' everyday life in the service in March 1983, issuing a call for tolerance among soldiers in phrases that cannot be found in any other BMVg paper before that date. Going forward, troops should be "properly" informed about homosexual behavior as part of their medical training. Aimed primarily at young conscripts, the straightforward language leaves little room for doubt and is worth reproducing:

1. Generally speaking, homosexual behavior is not a pathological form of behavior […]
2. In specific situations, heterosexual men can also exhibit homosexual behavior, for example with loss of inhibition due to alcohol consumption or in sexual atmospheres […]
4. Homosexually oriented behavior does not force one to lead an unrestrained sexual life anymore than does heterosexual behavior. Therefore, the behavior of soldiers with a homosexual orientation, who often do not differ from soldiers of heterosexual orienta tion in any other aspect of their personality, need not impinge on the moral sensibilities of their comrades […]
6. Tolerance […] can be learned […]
7. Both homosexually and heterosexually oriented soldiers must learn the view that neither group is made of "better people."[91]

The paper was based on a 1982 report written for the BMVg by Professor Otto Schrappe, the director of the psychiatric clinic at Würzburg University. In the case of the cited recommendations, the medical service adopted the language of the doctor's report verbatim.[92] Another paper assembled four months later by medical service leadership reads similarly, at times redeploying the same language to set out guidelines for troop physicians' care of homosexual soldiers. The paper was novel in rejecting the "blanket term of homosexual" which, it contended, simplified the matter and supposed "homosexual behavior to be the expression of a uniform underlying condition."[93] The "issue of homosexuality in the troops" had to be made more matter-of-fact and destigmatized. Troop doctors should resolve conflicts as they arise and help to avoid "any escalation." To do so, "doctor–patient relationship[s] based on trust" that took "a differentiated view of each individual case" had to be worked out with homosexual soldiers.[94] Yet when the inspectorate submitted

91 BArch, BW 1/531590: BMVg, InSan II 4, 15 March 1983.
92 Dr. Otto Schrappe, "Gutachten für den Bundesminister der Verteidigung," 16 August 1982. (The author holds a copy.)
93 BArch, BW 1/531590: BMVg, InSan I 1, 4 July 1983, a copy is also available in BArch, BW 2/31225: BMVg, InSan I 1, 21 August 1984.
94 BArch, BW 1/531590: BMVg, InSan I 1, 4 July 1983.

a draft of the paper to three sections at the personnel department for cosignature, one declined, reasoning that the draft "did not take sufficient account of the specific interests of the armed forces."[95] In particular, the paper neglected the repercussions a same-sex predisposition would have "on the continued personnel management of longer-serving soldiers."[96] A hand-written question mark by the objective avoiding "any escalation of conflict" hints at what concretely was bothering the staff at personnel.[97] (To be sure: The restrictions threatening gay officers and NCOs in positions of leadership represented an escalation, albeit one on the part of the service.[98]) In 1984 the Office of the Surgeon General resubmitted the paper for cosignature, unchanged and this time to all nineteen (!) sections.[99] The author was not able to confirm the further fate of the paper with certainty.

Similar wording appears in a set of draft orders for handling all matters pertaining to homosexuality put out by FüS I 4 in 1986. Written in the form of a G1 memo (a personnel paper drafted at the general staff level), the proposal that was put to the chief of defense and to the defense minister echoed verbatim the calls for tolerance that the medical services leadership had made in 1983. "Drawing an inference about a person's integrity based on their sexual orientation is [...] generally inadmissible. Neither homosexual nor heterosexual soldiers are 'better people' to begin with."[100] (These sentences were also taken from Professor Schrappe's report for the BMVg in 1982.) "Just like other soldiers," those with a same-sex orientation stood under the precepts "but also the protection of comradeship [as set out under §12 of the SG]."[101] A homosexual disposition forced "one to lead an unrestrained sexual life just as little as did heterosexual behavior" (again taken from Schrappe's report). "In every other aspect of their personality," soldiers of homosexual orientation "rarely differ from heterosexually oriented soldiers."[102] These formulations likely were not the reason why the draft was rejected; the proposed memo was even more contentious on other points about how homosexuals should be treated. Newly minted Chief of Defense Admiral Dieter Wellershoff decided to put the draft on ice, seeing "no need for action at the moment."[103]

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95 BArch, BW 1/531590: BMVg, P II 1, 1 August 1983.

96 Ibid.

97 Ibid.

98 For a full account see chapter 4.

99 BArch, BW 2/31225: BMVg, InSan I 1, 21 August 1984.

100 BArch, BW 2/31225: BMVg, FüS I 4 to the minister via parliamentary state secretary 22 October 1986, annex, identical to BArch, BW 2/31224: BMVg, FüS I 4, July 1986.

101 Ibid.

102 Ibid.

103 BArch, BW 2/31225: BMVg, handwritten note about a conversation with chief of defense, 4

When asked in 1985 by a young man exactly how "one" was supposed to act if "it came out that one was gay" during military service, a member of the legal department replied that he could "rest assured his superiors would treat him in accordance with the law."[104] The BMVg employee added that the soldier's "superiors would respect his dignity, honor and other rights, and protect him from harm and disadvantage." If this were not "to work out in the individual case," the soldier had "an array of practical and legal possibilities" at his disposal.[105]

4. Excursus: "A Knife's Edge." HIV and AIDS in Bundeswehr Policy in the 1980s

AIDS was a central topic of discussion within the press, public sphere and society of the 1980s. Often tinged with hysteria, the conversations were in part brought on by the great uncertainty that initially presided over the illness, its transmission and its spread. In light of the tremendous prospects for stemming the disease that have opened in the meantime, the feverish debates of the 1980s may be cause for amazement from today's perspective. From a contemporary vantage point, however, things looked different.[106] Today it is clear beyond any shadow of a doubt that HIV and AIDS does not only affect men who have sex with men. Nor can it be dismissed out of hand that in the 1980s, countless homosexual men were infected with HIV, fell sick with AIDS and died. Simply omitting or narrowing the context in retrospect would give a false view of the era's vehement discussions as to how to prevent HIV and AIDS. Contextualizing AIDS and homosexuality is not a simple matter, but is indispensable for any honest reappraisal of the topic.

In September 1985 *Der Spiegel* reported on AIDS testing in the Bundeswehr under the headline "A Knife's Edge."[107] The Bundeswehr was reportedly considering "whether starting next year, all recruits should be made to take an AIDS test. In doing so Bonn would be following in the steps of the U.S. Department of Defense,

November 1986, StAL, FüS I, 4 November 1986, as well as FüS I 4, 10 November 1986. See chapter 4 for a full account of the G1 draft and its rejection.

104 BArch, BW 1/531593: BMVg, VR II 7 to Mr. T., Bremen, 13 January 1985.

105 Ibid.

106 A large body of research exists on the history and perception of HIV/AIDS, among others Tümmers, AIDS. For a detailed account of the Bundestag debates on HIV/AIDS see Ebner, *Religion im Parlament*, 265–72. The author is aware that merely mentioning HIV/AIDS in direct connection with a study on homosexuals risks the accusation of feeding prejudices – especially against gay men – by linking the two subjects.

107 "Ein schmaler Grat."

which stipulated that all new recruits receive AIDS tests as of 1 October of this year [1985].” The policy came about “primarily for reasons of expense,” as “each case of AIDS saddled the army with up to $100,000 in care costs.”[108]

> What’s the point of that, mass [HIV-]antibody tests in the Bundeswehr? […] Is that why there’s increased talk of homosexuals and drug addicts as the “risk groups” they want to focus on in examinations? Are we as gay soldiers being threatened with yet another invention of the bloody chamber of stigmatization and discrimination? Exclusion and isolation as the inevitable consequence of a positive test result allegedly to guarantee the safety of active troops? Can I still go to my troop doctor with an untroubled conscience? Where is the medical confidentiality in that?[109]

This outraged letter from a military captain in response to the article went unpublished. The officer did not leave the matter with a letter to *Der Spiegel*. A few days later a significantly longer letter, albeit carrying the same central message and intention, was sent out to the Minister of Defense and to seventeen other recipients, including the Surgeon General of the Bundeswehr, the parliamentary commissioner for the armed forces, the chairmen of the German Armed Forces Soldiers’ Professional Association, the party chairmen in the Bundestag and other members of parliament. Building on his letter to *Der Spiegel*, the captain warned that the policy “would amount to total screening for the entirety of the male youth population eligible for conscription.” Alluding to the public controversy surrounding supposed plans to screen for AIDS among the population at large, the captain condemned the military’s reported plans as a preliminary step to introducing compulsory HIV tests in general “through the back door,” and without an applicable law being passed in parliament. Bothering the captain more greatly still was what the Bundeswehr might do with positive test results. Dismissing conscripts who tested positive for HIV would “hardly meet with resistance.” Yet the Bundeswehr also employed fixed-term and career soldiers, and if they were to be removed “from active duty allegedly for their own protection, it would mean exclusion, isolation, loneliness […] isn’t that how those sick with plague were dealt with in the Middle Ages?!”[110] What was more, the officer could report from personal experience that doctor–patient confidentiality was observed in the Bundeswehr “only to a limited extent.” Sooner or later, ranking officers and fellow soldiers alike would find out why a soldier had been found fit for service with restriction, or simply unfit, with “stigmatization and discrimination” following in tow. The captain was not against

108 Ibid.
109 Unpublished letter from Captain P. to *Der Spiegel*, 10 September 1985.
110 Ibid.

taking precautions or shedding light on the matter; anyone who wanted to take a test should be allowed to do so, but voluntarily and anonymously. The captain appealed to Minister of Defense Wörner "to lead the way" in curbing the disease, but to avoid anything that might bring "renewed stigmatization and discrimination" against homosexuals, as the Bundeswehr's duty of care mandated.[111]

Of the recipients, one response came from the chairman of the CDU/CSU's Defense policy working group. Signing the letter personally, Willy Wimmer assured the captain that the party faction consistently adhered to the principles of the constitution in its work and would request that the BMVg remain "as committed as ever to these principles" regarding the concerns raised.[112] The Deputy Surgeon General of the Bundeswehr responded in detail, explaining there was no mandatory examination planned for specific groups of people. "A list of names of those carrying antibodies or the illness is neither permissible nor intended."[113]

Based on its communications with informants at the BMVg and the Bundeswehr, the GDR's Main Directorate for Reconnaissance noted in 1987 that the Bundeswehr leadership had detected "highly worrisome developments in the illness AIDS."[114] "In contrast to earlier findings, the disease profile is not limited to the identified risk groups […] Moreover, it should be assumed that a substantially higher portion of those infected will get sick and die than was thought last year."[115] An intensive informational campaign was underway, with all Bundeswehr units being shown the film "AIDS – The Deadly Epidemic" and troop physicians holding educational sessions and discussions. Serological testing for HIV was performed during recruitment screenings and upon acceptance into fixed-term or career service, with voluntary testing open to all members of the armed forces. The following year, in 1988, the GDR foreign intelligence service noted that the Bundeswehr continued to focus on voluntary testing as well as "comprehensive education to influence sexual behavior, in particular each individual's responsibility for himself and others."[116] Here GDR intelligence correctly reproduced the BMVg's position on HIV and AIDS in the Bundeswehr.

In 1988, HIV and AIDS were repeatedly topics of discussion in the Chiefs of Service Council (Militärischer Führungsrat, MFR). The Surgeon General provided

111 Ibid.

112 MdB Willy Wimmer responding to Captain P., 30 September 1985.

113 BMVg, Deputy Surgeon General to Captain P., 14 October 1985.

114 BStU, MfS, ZAIG 6016, Bl. 59–70: MfS, HVA, "Militärpolitische Informationsübersichten" 5/87, strictly confidential, here sheets 68–9.

115 Ibid.

116 BStU, MfS, ZAIG 6017, Bl. 176–187: MfS, HVA, "Militärpolitische Informationsübersichten," 10/88, strictly confidential, here sheet 183.

advance information that "global experience [showed there was] [...] at present no doubt that the special conditions of military service, especially including living together in confined quarters, did not in and of themselves lead to a greater risk of infection by HIV."[117] There was no risk of HIV infection in the line of duty. Nor was any "additional" risk of HIV transmission present in the Bundeswehr's first aid service "if the prescribed safety precautions are observed."[118] As of April 1988, every newly enlisted soldier would be offered a voluntary HIV test in the course of having their blood type determined. By the end of February 1988, 100 soldiers had tested positive for HIV, double the number from the previous year. Five soldiers fit the clinical image of AIDS. Council participants asked on multiple occasions about the risk soldiers ran of infection, especially when it came to overly tight living quarters, aboard ship for example, and whether the course of the disease could be accelerated by the burdens of service.[119]

Apparently as a result of the leadership council's meeting, the Office of the Surgeon General of the Bundeswehr drafted an "express letter" intended to inform all offices via a general address distribution list about issues "related to HIV infections and related illnesses." The paper opened with three principles: "By the current state of knowledge, those who are infected with HIV but *do not* show signs of illness are fundamentally fit to serve. On principle, an HIV test may only be conducted with the express consent of the person to be tested. The result of a voluntary HIV test is subject to medical confidentiality in every respect."[120]

More specifically, a voluntary HIV test should be performed if possible while testing for a recruit's blood type, yet must not make up an essential part of the examination itself. Every soldier would be offered personal consultation with the troop physician before testing. The findings could only be disclosed by a doctor who simultaneously provided "appropriate" counselling. Test results were subject to medical confidentiality "in every respect," with the same applying to non-medical personnel. The number of those within medical service facilities made privy to the results must "be limited to what is absolutely necessary."[121] In the event of a positive test result, the solder was free to release doctors from their confidentiality clause; this was a prerequisite if non-symptomatic HIV infection was to be

117 BArch, BH 1/29162: BMVg InspSan, 17 February 1988, as an annex to the MFR meeting transcript from 14 March 1988.

118 Ibid.

119 BArch, N 818/59: Estate of Admiral Dieter Wellershoff, transcript from MFR meeting on 1 March 1988.

120 BArch, BH 1/29162: BMVg, InSan I 1, 19 April 1988, as a draft for cosignature from February 1988.

121 Ibid.

taken into account for personnel decisions, especially regarding future assignment. Conversely, that meant that one's HIV status would not be taken into account if medical confidentiality was not waived. HIV positive soldiers showing no signs of illness could still apply to be discharged from the terms of their service. §55 (3) SG provided the legal basis in the event that remaining within the contract would pose a "special hardship." Here too, waiving one's right to medical confidentiality was the prerequisite. The same course of action would be taken with symptomatic HIV infections "as with other illnesses": Without naming the diagnosis, the troop doctor would pass on the soldier's limited fitness for assignment or ineligibility to his immediate superior, and the soldier's future eligibility determined on that basis. In this instance as well, discharge due to "special hardship" was possible.[122]

The draft met with critique when medical services circulated it for co-signature, such as from the Surgeon General of the Bundeswehr, who warned against overburdening troop physicians by requiring in-person consultations to go along with the tests. Anyone familiar with the day-to-day life of a troop physician could not keep them from their actual duties "with such an extensive (and ultimately unrealizable) extra task."[123] Far in excess of 100,000 HIV tests had been performed up to that point (March 1988) without a single basic conscript testing positive (every positive test result had come from older soldiers). The surgeon general also voiced his "utmost concern" about the guideline authorizing a physician to pass along knowledge of an HIV infection to the "relevant authorities and/or at risk persons" in the event that the physician possessed "assured knowledge" that the conduct of an HIV-positive soldier "posed a serious risk to the health and life of others that could not be averted by other appropriate measures."[124] Who were the "relevant authorities"? A soldier's immediate superiors, the health services, the state attorney "or all of them combined?" And who were these "'at risk persons'? Sexual partners? Bunk mates?"[125] The passage demanded much greater precision. The surgeon general took the advice in part, naming health services and the soldier's disciplinary superior as possible "relevant authorities" in the final version. The passage added further that the physician should consult with his superiors in

122 BArch, BH 1/29162: BMVg, InSan I 1, 19 April 1988, draft for cosignature from February 1988. Reading out the results of a positive HIV test, the draft continued, might put the person in question under severe mental and psychological strain, even achieving a "pathological value." In such cases the soldier's immediate disciplinary superior should be advised as to his restricted fitness for assignment or ineligibility.

123 BArch, BH 1/29162: Army Surgeon General, 10 March 1988.

124 Ibid.

125 Ibid.

case of doubt.[126] To return to the surgeon general's critique, "all was quiet on the 'AIDS Front'" in the troops he had seen up to that point. "In no way [should that] be traced back to disinterest." Physicians and commanding officers alike acted with "a sense of proportion and responsibility" and avoided "overreacting."[127] The 1990 film "Had I Known" and a flyer bearing the slogan "Soldiers do it safer" were also serving the goal of educating young soldiers about HIV and AIDS.[128]

Bavarian Minister of the Interior Peter Gauweiler (CSU) was also dissatisfied with the armed forces' regulations concerning HIV/AIDS. Gauweiler had already made public postures demanding strict general measures against those with HIV – for everyone, mind you, not simply soldiers. In a letter to Minister of Defense Rupert Scholz of the CDU and fellow CSU member Alfred Biehle (the chair of the Bundestag Defense Committee), Gauweiler "regretted" the voluntary nature of the HIV tests that the express letter had established in April 1988, and picked up on a recommendation by the "Select Committee on AIDS" at the BMVg's military medical advisory board in February 1988 to make HIV tests mandatory during medical examinations and upon acceptance for fixed-term or career service.[129] Scholz responded that no legal "means [existed] for singling out soldiers as a social group and subjecting them to a mandatory HIV test."[130]

Beginning in 1988, one small group of soldiers did undergo a de facto mandatory test. The U.S. armed forces required proof of a negative HIV test for all German soldiers sent to the U.S. for training, a policy that primarily affected air force pilots and members of the navy. With the requirement set to take effect in March 1988, in late 1987 a dispute broke out between the U.S. Embassy and Hardthöhe, the BMVg's seat in Bonn. The Office of Defense Cooperation dismissed the "medical and judicial concerns" raised by the BMVg, and the Americans would not agree to extending the start date to the end of May 1988.[131] The only option remaining for the surgeon

126 BArch, BH 1/29162: BMVg InSan I 1, 19 April 1988.

127 Ibid.: Army Surgeon General, 10 March 1988. Army Staff added a handwritten note with the Army's numbers for HIV and AIDS. As of 20 September 1988, four soldiers had died from the effects of AIDS, eight soldiers were ill and seventy-one of the Army's soldiers were infected with HIV. BArch, BH 1/29162: BMVg, FüH I 1, 20 September 1988, marked "Classified – For Official Use Only" (available as of 1 January 2019).

128 The film was presented by the Office of the Surgeon General in October 1990. BArch, BH 1/29162: BMVg, InSan I 1, 8 Oct 1990; the flyer was published by BMVg, InSan I 1, a copy is available in BArch, BH 1/29162.

129 Kohrs, "AIDS-Spezialist Gauweiler sorgt sich um die Bundeswehr," a copy is available in BArch, BH 1/29162.

130 Ibid.

131 BArch, BH 1/29162: U.S. Embassy Bonn, Office of Defense Cooperation to the BMVg, 24 November 1987; ibid., BMVg, InspSan to the Minister via the Secretary of State, 22 December 1987.

general was to propose the defense minister immediately implement HIV testing for all military and civilian personnel scheduled for training in the U.S. "on a voluntary basis," with all personnel notified that refusing the test "could jeopardize" their training abroad.[132] So as not to discriminate against soldiers who were HIV positive, testing would occur as a part of the general examination determining eligibility for foreign assignment. Going forward, an "appropriate rate of attrition" should be planned for when pre-selecting personnel for training in the U.S.[133] Reports about the HIV tests surfaced in the press, where it came to light that the Germans were not the only ones subject to U.S. demands.[134] The Dutch government also gave in, as the "training opportunities in the U.S. were indispensable."[135]

In 1990 the attaché to the British Minister of Defence registered interest in Bundeswehr policies regarding soldiers infected with HIV or sick from AIDS,[136] while in 1992 the U.S. Department of the Army was curious to ask the German Army attaché in Washington whether "possible differences [existed] in the clinical profile of homosexual soldiers" in comparison to "other soldiers, in the case of AIDS [and] HIV for example."[137] In 1993, the director of SOWI reported that it was not possible yet to determine beyond all doubt whether or not "the topic of AIDS had increased reservations toward homosexuals as an at-risk group." There were "however suspicions about a growing fear of contact."[138]

Throughout the first two decades of the Bundeswehr, homosexual men who either openly declared themselves to be gay or were identified as such during medical examinations were consistently rejected for military service. Throughout the 1980s and 1990s, homosexual men could expect to perform basic military service, but could not consider a career. In spite of all the draft regulations and obstacles, the red lights and "fear of contact," homosexuals have served throughout the entire history of the Bundeswehr from its inception on and from the highest levels down, largely in hiding but serving nonetheless. Their memories and experiences make up a central pillar of this study, and are considered in the following chapter.

132 BArch, BH 1/29162: BMVg, InspSan to the minister via the secretary of state, 15 January 1988.
133 Ibid.
134 See e.g. Kohrs, "AIDS-Spezialist Gauweiler sorgt sich um die Bundeswehr."
135 "Den Haag gibt wegen AIDS nach," a copy is available in BArch, BH 1/29162.
136 BArch, BW 1/546375; BMVg, InSan I 1 to the British defence attaché in Bonn, 21 August 1990, a copy is available in BArch, BW 1/531592.
137 BArch, BW 2/31224: Embassy of the Federal Republic of Germany Washington D.C., Army attaché, 11 December 1992.
138 Fleckenstein, "Homosexuality and Military Service in Germany."