

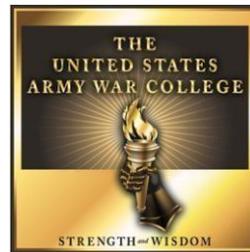
Strategy Research Project

Evaluating the Integration of Transgender Service Members

by

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Evaluating the Integration of Transgender Service Members

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Evaluating the Integration of Transgender Service Members

We must ensure that everyone who's able and willing to serve has the full and equal opportunity to do so, and we must treat all our people with the dignity and respect they deserve... Our military's future strength depends on it.

—Ash Carter¹

Since its establishment in 1775, the United States Army has confronted institutional and individual racism and sexism and explicitly prohibited people from diverse backgrounds from serving our armed forces. Fears that the full admission and open service of African Americans, women, and homosexuals would have overwhelming adverse effects on combat readiness and unit cohesion went unproven.² Despite this history of chauvinistic discrimination, the military has been frequently hailed as a leader in justice and integration.³ There is no place for bigotry and hatred in the Department of Defense (DOD) and the institution is once again in a position to examine its policies regarding the inclusiveness of another minority group.

In July 2015, Secretary of Defense Ash Carter directed that a department-level committee review the policies that ban transgender service members from assessing and serving in the military. He also elevated the separation authority for service members diagnosed with gender dysphoria to the Undersecretary of Defense for Personnel and Readiness.⁴ This paper specifically examines the policy implications in recruiting individuals who identify as transgender and integrating transgender service members who seek to come out and transition to their true genders.

Suitability and Inclusiveness

Critics of transgender military service argue that readiness and cohesion will be negatively impacted and that the military is not the right environment for individuals with

mental disorders. Being transgender, however, is not a pathological condition in and of itself, and there is no published scientific evidence to suggest transgender individuals are less capable of executing the skills that militaries require. These individual capabilities, not gender identification or other social factors, combined with professionalism and trust among unit members, are the best indicators of unit cohesion. Finally, integration of transgender service members reflects diversity and inclusiveness, American values that the military strives to exemplify.⁵

Though transgender persons serve in every military, every day, only 18 nations explicitly permit transgender service. A 2014 study of Lesbian, Gay, Bisexual and Transgender (LGBT) inclusiveness policies ranked the armed forces of 103 countries based on scores of inclusion, admission, tolerance, exclusion, and persecution. The United States finished 40th, after the United Kingdom (2nd), Australia (5th), Israel (9th), Germany (12th), Brazil (23rd), and Cuba and Japan (tied for 29th).⁶

Determining the exact number of transgender adults in the United States proves difficult because the census, or any other national data collection tool, does not ask the population to provide gender identity. A 2011 study by the University of California at Los Angeles reviewed data from 11 domestic and foreign surveys that asked about gender identity; the study's findings estimated there are 700,000 transgender individuals in the United States. Similarly, transgender service members are reluctant to seek help, medical care, or to otherwise volunteer their gender identity for fear of being revealed, harassed, and discharged. Feedback from veterans and support groups outside DOD provides estimates of 15,000 transgender service members in the regular and reserve components and another 134,000 transgender veterans.⁷ The 2014 findings of a

Transgender Military Service Commission comprised of a former U.S. surgeon general, experts in gender and behavioral sciences, and military general and flag officers found no compelling reason that transgender persons should be banned from serving in the armed forces.⁸

Definitions and References

Understanding the challenges of integration requires knowing the correct language and definitions with regard to sex and gender identities. The following list of terms can serve as an introductory primer. Many trans people, however, and scholars do not agree with one another on what is acceptable terminology, and some reject the use of labels altogether.

The terms *gender* and *sex* are often incorrectly used interchangeably. Most people do identify with their *birth sex*, which is a biological classification based on the presence or absence of a Y chromosome, reproductive anatomy, and genitalia. *Gender* and *gender identity* correspond with an individual's sense, and the cultural and social aspects, of being a boy or a girl. Gender is expressed through societal cues such as clothing, mannerisms, haircut, or names that are culturally congruent with being male or female. This visible expression is often referred to as *gender presentation* or *gender expression*. The term *gender non-conforming* applies when an individual does not display a gender presentation that corresponds to his or her birth sex.⁹

Transgender individuals are assigned one sex at birth but identify as another gender. Identifying with a different gender does not automatically infer that the person is gender non-conforming and, conversely, not all gender non-conforming individuals identify as transgender. *Gender fluidity* or *gender-queer* are non-pejorative terms that mean the individual does not subscribe to a binary – male or female – view of gender

and may move between the two genders or even a third gender. When there is a “Q” or “C” following LGBT, it can refer to a person who is “queer” or “questioning,” or “curious,” regarding his or her gender and/or sexual orientation.¹⁰ Of note, gender non-conformity does not imply a sexual orientation and transgender individuals can be straight, gay, or bisexual.¹¹

A transgender individual may elect to *transition*, a complex, individualized process to change – socially and/or physically – to match his or her identified or true gender.¹² Individuals can transition from Male to Female (MtF) or Female to Male (FtM). Transitioning can be accomplished through social changes alone or in combination with medical interventions.

Social transitioning is the process of living as the identified gender and can include using new gender pronouns in social and professional lives, legally changing names, updating the gender marker on identity documents, and presenting gender-stereotypical hair and clothing. A *medical transition* requires a mental health professional’s diagnosis of gender dysphoria and an opinion that the transgender person’s mental health would improve with medical interventions, such as *Cross-Sex Hormone* (CSH) therapy and/or surgery as part of the patient’s transition to his or her identified gender. The terms *Gender Reassignment Surgery* (GRS) and *Sex Reassignment Surgery* (SRS) are often used interchangeably in various references. Generally, SRS specifically refers to medical interventions that change the appearance of genitalia and is a subset of GRS, which includes other types of surgical procedures that change the body’s appearance.¹³ Unless otherwise specified, this paper refers to both GRS and SRS as simply *surgery*.

Medical References

The correct medical terminology is also essential to clarifying the services' qualification and retention criteria as well as understanding the health care needs of service members. The American Psychiatric Association's (APA) *Diagnostic and Statistical Manual of Mental Disorders-III* (DSM-III), regarded as the standard in diagnostic criteria for mental health disorders, published diagnoses for Transsexualism and Gender Identification Disorder (GID) for the first time in 1980. The DSM included these diagnoses on Axis II, which is a family of intellectual disabilities and personality disorders that were generally regarded as permanent conditions that do not respond well to treatment. Subsequent versions of the DSM changed GID to an Axis I condition, recognizing it as a clinical disorder that varies in development and levels of intensity.¹⁴

The DSM-5, published in 2013, modified the axis groupings, removed Gender Identity Disorder from the list of Dysfunctions and Paraphillic Disorders, and created a new diagnosis and chapter for "Gender Dysphoria." This diagnosis is determined when individuals experience a clear difference, and distress, between their gender expression and the assigned sex, for at least six months. This distress is required for the affirmative diagnosis of gender dysphoria in a transgender or gender-nonconforming individual. The APA specifically states, "gender nonconformity is not in itself a mental disorder" and seeks to ensure that the term "transgender" is not used against individuals in "social, occupational, or legal areas." Many health insurance program rules require a medical diagnosis in order to reimburse patients for mental health care costs, but advocates hope that the stigma for transgender individuals is reduced and that they seek and maintain access to care.¹⁵

The American Medical Association (AMA) recognizes the World Professional Association for Transgender Health (WPATH) as the expert in transgender healthcare. The ethical standards published by WPATH emphasize that medical decisions for individuals diagnosed with gender dysphoria are not based on cultural stereotypes, but on sound professional practices.¹⁶ In other words, it is unethical for a transgender individual to be compelled to undergo any medical intervention that is not medically necessary.

Sex and gender researchers believe that there are two separate sections, or structures, in the brain that independently control sex assignment and gender identity development. Differences in development of the two structures at critical fetal stages and the interaction of sex hormones creates abnormalities that cannot be corrected by surgery or hormonal therapy. Sex Reassignment Surgery (SRS) only changes a patient's genitalia to conform to the individual's gender; it does not change the individual's sex. While sex and gender structures remain atypical, a medical treatment plan that includes counseling, hormones, and/or surgery, can help transgender individuals manage the distress, or dysphoria, that results from the incongruence between sex and gender.¹⁷

Department of Defense (DOD) Regulations

In 2010, President Barack Obama signed into law a bill that repealed the 1993 "Don't Ask Don't Tell" (DADT) policy, thereby allowing service members attracted to people of the same gender to serve without lying about their gay, lesbian or bisexual orientation. The 2010 legislation did not lift the ban on transgender service members entering or staying in the military, but it did give hope to transgender veterans and service members that the DOD was taking steps to expand inclusion.¹⁸

Medical fitness regulations exist to ensure that applicants are fit to perform military duties, are not a danger to themselves or others, and that the military medical system is not overburdened.³⁸ The Department of Defense Instruction (DODI) 6130.30, *Medical Standards for Appointment, Enlistment, or Induction in the Military Services*, prohibits transgender military service because of physical and psychological conditions contained in the policy.¹⁹ The specific disqualifying conditions in the DODI for individuals who have had a change of sex or who have psychosexual conditions are inconsistent with the APA guidance and definitions.

Waivers for appointment are authorized if the service member meets retention criteria contained in DODI 1332.14, *Enlisted Administrative Separations*. However, contradiction between DODI 1332.14 and the service-specific regulations often prevents potential recruits from receiving waivers.²⁰ Many of the definitions in the service regulations are also outdated and inconsistent with the diagnostic criteria in the DSM. These discrepancies cause confusion between commanders and medical providers regarding what constitutes a mental disorder. The DOD owes the field consistent policies on the standards for evaluating the fitness of transgender members and meeting the healthcare needs for those who are fit for duty.

Policy Considerations for Integration

The following policy areas provide discussion and recommendations on a number of key programs that are affected by the integration of transgender service members.

Equal Opportunity

The United States Equal Employment Opportunity Commission (EEOC) interprets Title VII of the Civil Rights Act of 1964 to include protection of transgender

employees from sex discrimination. The U.S. Supreme Court and several federal courts have upheld gender identity discrimination cases as sex discrimination against employers for wrongful termination, demotion, harassment, and withdrawal of hiring offers.²¹

Military Equal Opportunity (MEO) policies protect individuals from sex-based discrimination and charge commanders to “eliminate practices that unlawfully discriminate against military personnel based on sex.”²² Service regulations and training material for unit members must emphasize the elimination of outdated and defamatory language in order to ensure anti-harassment and anti-discrimination protections for transgender individuals. The challenge is that some terms may be perceived as offensive because there was a previous negative connotation with the word, such as “homosexual.” Commanders require competent and trained Equal Opportunity Advisors (EOA) to help resolve discrimination complaints, provide training to safeguard workplace rights, and educate the force on transgender issues.

Since DOD policy allows commanders to initiate administrative separation of transgender service members diagnosed with Gender Identity Disorder, most transgender individuals remain in the closet and do not report discrimination and harassment experiences for fear of being outed. In a 2008 survey from the Transgender American Veterans Association (TAVA) and the University of California’s Palm Center, responses from 6,456 transgender and gender non-conforming people in the United States provided insight into their experiences and abuse at home, work, and school. Twenty percent (1,261) of respondents reported that they were serving or had served in the U.S. Armed Forces. Many reported that their motivations for serving were stronger

than their desire to transition, but over time this caused enormous personal stress in not being able to live an honest, authentic life. Some were harassed, raped, or targeted because they displayed gender non-conforming behaviors or were perceived to be gay. Most hid their identity in the military; 48 percent reported they were “generally closeted” compared to 39 percent of non-military respondents. Military members and veterans also reported a higher level of rejection by their families – 67 percent, in contrast to 55 percent reported by non-military respondents. Perhaps as a result of this stress, some resorted to self-medicating and 40 percent attempted suicide.²³

The Office of Personnel Management (OPM) provides federal workplace guidance, including specific advice for the inclusion of transgender employees, to maintain an environment free from discrimination.²⁴ This information can be used to update MEO regulations and training materials to ensure the dignity and respect of all individuals is upheld. One significant change to incorporate would include using the new name and proper pronouns for transitioning service members. Intentional misuse of names and pronouns by supervisors and co-workers in conversations or written correspondence demonstrates a lack of dignity and respect for the individual and may constitute a breach of privacy.²⁵

Privacy Policies

In addition to existing protections in MEO, the DOD provides several policies on the security of personal data and health information. These policies must be reviewed to include instructions on how to handle personal information, such as the update of gender markers, for transitioning service members. The choice to transition is a very personal decision. Everyone, including co-workers, the chain of command, Chaplains, and medical and administrative professionals must ensure that transgender service

members are provided confidentiality, or face penalties for violating their privacy. These are not military-unique rules. In accordance with the Privacy Act of 1974, the E-Government Act of 2002, and the Federal Information Security Management Act of 2002 (FISMA), all federal agencies are responsible for protecting and securing personal information.²⁶ Furthermore, the Health Insurance Portability and Accountability Act (HIPAA) of 1996 requires the reasonable security and confidential handling of protected health information.²⁷

Recruiting, Accessions, and Retention Policies

Every generation experiences some kind of sexual revolution, and today's young people are more open and tolerant than ever before of gender and sexuality. The DOD must update its medical standards for recruiting and retention in order to continue to compete and attract talented young Americans. A service person's potential for further service is based upon duty performance and commitment to the United States, military service, fellow citizens, and service members, not on whether his or her sex and gender are congruent.²⁸

Service members, Partners, Allies for Respect and Tolerance for All (SPART*A) drafted an implementation guide for transgender military service in 2015. This advocacy association comprised of LGBT veterans or currently serving military members, provided recommendations on how the DOD could approach recruiting applicants and retaining military members who present as transgender.²⁹ Much of this advice is incorporated in the following accessions and retention recommendations:

1. Initial Entry Training (IET) is an inappropriate environment for meeting the emotional or medical needs of a transitioning service member.³⁰ Individuals who have completed social and physical transitioning prior to recruitment should be assessed

according to their acquired genders. If an applicant does not meet deployment standards because of a recent or in-progress medical procedure, including less than one year of Cross Sex Hormone therapy, then recruitment should be deferred.

Transitioning is complete as determined by the medical provider who certifies the applicant's acquired gender.³¹

2. Individuals who have socially transitioned and completed at least one year of hormone therapy must meet deployment standards and should be assessed according to their acquired genders. The applicant should be informed that surgery, if determined as necessary from a military medical provider, is not authorized until completion of a specified accessions milestone or period of service, such as after IET or one year at a service academy.³²

3. Transitioning does not require that an individual physically alter his or her gender. Transgender individuals who have socially transitioned but are not undergoing hormone therapy or completed surgery should be medically evaluated for service according to their birth sex. In other recruiting and accessions processes they should be treated according to their identified genders.³³ Exceptions to policy for gender-specific standards for physical fitness testing and body fat composition should be considered based on a medical provider's assessment of the patient's birth sex and physical fitness and body fat composition.

4. There should be no requirement for transgender service members to come out as long as their gender presentation remains consistent with their birth sex.

Transgender service members who wish to transition while in the service must be under the care of a mental health provider who will develop an individualized treatment plan

that may include hormone therapy and surgery. Commanders must be included in the planning process to assist with the social transition stages and to synchronize the physical treatment plan to minimize the readiness impact on the unit's deployment or operational requirements.

5. Veterans who were administratively separated because of the current transgender policy should be permitted to re-enter the military if they meet all other re-enlistment and aforementioned transition criteria.³⁴

Social Changes for Gender Recognition

Some trans individuals may not care what people call them, or they may already have a name that is gender neutral. Most individuals who are transitioning will want a new name that reflects their gender identity. This often represents a significant first step in having others recognize them as a different gender.³⁵ Requirements for making a legal change name vary by state, but are generally easy to complete. Most states require a court order and/or proof of surgery to change an individual's gender marker on a driver's license and birth certificate, but not all do so. Tennessee, for instance, specifically prohibits transgender individuals from updating the gender designation on their birth certificates.³⁶

The State Department (DOS), Veterans' Health Administration (VHA), Social Security Administration (SSA), Citizenship and Immigration Services (CIS), and OPM have developed policies to require proof of an "appropriate clinical treatment for gender transition" rather than evidence of surgery.³⁷ The clinical treatment may be a psychological evaluation or counseling and it may include medical interventions.

The Department of Defense should follow similar government agencies policies and, because of the unique structure of military-life, commanders and medical

professionals ought to develop a transition timeline with the individual. The service member's safety should be the top priority in all phases of transition. There are three phases to this plan:

1. An initial assessment that transitioning is medically necessary, as certified by the medical professional, should signal the start of the individual service member's transition plan. The initial phase allows the service member time to complete a name change, begin shifting to his or her true gender presentation, submit a 2-year passport request, and update the gender marker by submitting a request to change his or her gender. The command should assist in moving the member to gender-appropriate housing and allow the use of corresponding facilities. The plan should also include an option for the individual to decide if he or she wishes to relocate to a new duty location or move to a new organization following transition.

2. Phase two is a phased-in approach to meeting gender-specific uniform and grooming standards. This phase should also be used to complete official photos and any other individual service requirements not completed when transitioning started. In order to avoid confusion between gender presentation and identity documents, the changes for both should be executed simultaneously.³⁸

3. The final phase is compliance with gender-specific body fat composition and physical fitness training requirements. A medical profile will specify the exact time necessary for the service member to adjust to physical changes as a result of hormone therapy and for recovery from surgery, as required.

Common Access Card

The military database for identity management is the Defense Manpower Data Center (DMDC). There is a code to reflect male, female, and unknown gender and there

are yes and no codes to indicate a change of gender. The DOD should reconsider the requirement that a birth certificate is necessary to change an individual's gender in DMDC. The challenge is that both sex and gender should be recorded for the safety of the service member and the birth certificate reflects the birth sex, not necessarily the gender, of the individual. Medical emergencies and long-term health care may warrant sex-specific treatment, such as a hysterectomy, so it is important that the sex of the individual is recorded, even if the gender marker changes.

The Defense Eligibility Enrollment Reporting System (DEERS) and the Common Access Card (CAC) are operated by DMDC. While the gender code ought to be updated when transitioning starts, a new CAC should not be issued until the individual more closely resembles his or her desired gender presentation. There is no gender or sex code physically printed on the CAC.

Passports

Transgender individuals who have transitioned may submit a request as a "first-time applicant" to the U.S. State Department for a passport. The applicant must submit a letter from a doctor certifying that the transition is complete or is still on going.

Applicants who have finished transitioning will be issued a 10-year passport and those still undergoing treatment will be issued 2-year passports, with the option to later extend to the 10-year book with no additional fee.³⁹

Uniform and Grooming Standards

On the date that the individual's gender marker is changed, the service member should start to transform his or her physical appearance in order to adhere to the uniform and grooming standards aligned with the new gender.⁴⁰ Flexibility, such as temporary exceptions to grooming policy, should be considered for transitioning service

members for an appropriate length of time. Individuals should also be allowed time to purchase new uniforms.

Facilities

The Department of Labor's Occupational Safety and Health Administration (DOL/OSHA) requires agencies to allow transgender federal employees to use restrooms and locker rooms that are consistent with their identified gender. Their guidance encourages agencies to provide unisex, single-occupancy facilities for the comfort of all employees, but transgender individuals should not be restricted to using only these restrooms.⁴¹ The U.S. Equal Employment Opportunity Commission (EEOC) cites various transgender-related discrimination litigation when private employers or the federal government refused to allow transgender employees to use the restroom that corresponded to their identified gender.⁴²

Most restrooms and locker rooms in DOD buildings are single-occupant or have stalls or curtains that provide sufficient privacy. Service members develop creative solutions to create privacy in the field and commanders are charged with protecting the privacy of all unit members. Service members should be required to use the facilities consistent with their birth sex until they socially transition. Policies should not require proof of surgery or compel transgender members to use remote facilities, unless all others are also required to do so. A reasonable right to privacy should be specified at a "reasonable person" standard. For example, it is unreasonable for an individual to refuse to use the bathroom with a transgender member when separate stalls are provided for privacy.⁴³ In instances that call for temporary compromises, commanders must be provided the flexibility to balance the privacy concerns of all members.

The public and legal debating on restrooms for trans people is analogous to the African American experience with racial segregation. Until 1964, Jim Crow laws restricted integration across America's social landscape and empowered segregationists who made offensive claims, such as: black men would prey upon white women, and that black women would spread venereal diseases to white women in shared bathrooms.

Those discriminatory practices 50 years ago are parallel to the "bathroom bills," currently being debated in several states that propose transgender individuals must use the bathrooms corresponding to their birth sex. While integration opponents portray transgender women as sexual predators who could potentially molest women and children in bathrooms, this transphobia is misplaced. However, not one state of the twelve that currently permit transgender use of the bathroom that corresponds to the identified gender, has reported an increase in sex crimes.⁴⁴ The reality is that *cisgender*, or non-trans, persons could impersonate transgender individuals and use the bathroom to assault members of the opposite sex.

Substance Abuse Prevention Program

Department of Defense policies require the services to collect urine samples, under the direct observation from a member of the same sex, to detect controlled substances.⁴⁵ This presents an awkward situation, regardless of gender, for both the individual providing the sample and the observer. There are a few ways to approach this when transgender members are donating or collecting samples.

The Department of Defense should update policies to allow alternative testing specimens such as hair, saliva, and dermal patches that are less complex to collect, handle, and dispose of, and in some cases, provide more accurate and dependable

results.⁴⁶ Commanders should also prescreen observers to determine if they are suitable and should have the judgment and flexibility to excuse trans and non-trans observers from their duties.

Employment

In workplaces that have gender-specific duties, such as individual searches performed by military police or chaperones for medical examinations, the transgender service member should perform work that reflects the acquired gender. There is no federal requirement for an employee to prove any specific medical procedure was completed in order to work in gender-specific duties and their responsibilities should not be limited once the new gender markers are reflected in the work records.⁴⁷

Billeting

Most military leaders already address issues with regard to the billeting of mixed genders in the barracks and in field environments. Based upon recommendations provided by SPART*A, policies regarding billeting should include the following:

1. Transgender individuals should be billeted according to their rank and acquired gender at the start of their social transition.⁴⁸
2. Commanders should be provided the flexibility to balance the privacy concerns of all members and make reasonable modifications to resolve issues.⁴⁹
3. Off-base housing should be considered only if temporary or permanent accommodations cannot be made prior to social transition.⁵⁰
4. Billeting should not be used to segregate or isolate service members.⁵¹
5. The availability of billeting should not be used to delay a service member's transition or negatively impact his or her career.⁵²

Physical Fitness and Weight Control Standards

The International Olympic Committee (IOC) and the National Collegiate Athletic Association (NCAA) have established policies regarding the competition of transgender individuals. Research has shown no competitive advantage of FtM over non-trans males, or MtF over non-trans women who have achieved congruent hormone levels.⁵³ The IOC discontinued testing the Y-chromosome to detect the presence of specific genes and identify males disguised as females. As of January 2016, the IOC also does not require surgery for trans athletes in order to compete in their identified genders. Trans men (FtM) can compete without Cross Sex Hormones (CSH) and trans women (MtF) must show that their testosterone levels are below the specified level for at least one year prior to the competition.⁵⁴

The DOD should consider the research conducted by the IOC and NCAA and the physiological impacts of transitioning as it develops guidance for transgender members with regard to physical fitness standards. It should be noted that the defense departments from United Kingdom, Canada, and Australia all maintain policies on transgender physical fitness testing requirements and test individuals against their acquired gender.⁵⁵

In military services with gender-based standards, MtF undergoing hormone therapy should be provided a physical profile that restricts fitness testing for the first year of treatment so as not to create an unfair physical advantage over non-trans service members. Transgender men (FtM) who start hormone therapy should also be provided one year to build muscle mass and endurance in order to meet the physical fitness standards of the target gender. Transgender service members not participating in hormone therapy should be tested against their birth sex physical fitness standards.⁵⁶

Height and Weight Standards

Body fat composition program policies for transitioning service members should be consistent with physical fitness standards. Transgender service members who do not socially or physically transition should adhere to their birth sex standards for body fat composition and physical fitness. A transitioning service member should be exempt from meeting the body fat composition standards for one year after starting hormone therapy. Trans women (MtF) would generally be advantaged because of their initial body fat composition and trans men (FtM) would likely be advantaged on the height and weight table measurements and disadvantaged on allowable levels of body fat.

Health Care

Studies of insurance companies costs of transgender health care revealed that care is medically essential and affordable despite the expenses for transition surgery. The cost of not providing quality behavioral health care and specialized gender care will likely result in negative outcomes such as depression, suicide, and drug abuse.⁵⁷

Medical Readiness

Transgender service members have deployed from every branch of the military. Gender dysphoria is responsive to treatment and the hormones required for transitioning service members can generally be self-administered through a transdermal patch, orally or injection, and do not require refrigeration. Military deployment policies require service members to deploy with a 180-day supply of medication and the medical services maintain an effective worldwide distribution system for supplies and prescription drugs.⁵⁸

Mental Health

Non-trans service members are accessed, retained, and deployed with a range of mental health conditions including mood or anxiety disorders, attention deficit and hyperactivity disorder, and phobias.⁵⁹ Simply having a gender identity different from an assigned sex is not a mental illness and transgender individuals are not “confused.” Rather than categorically ban all transgender people from serving, the DOD must determine if individuals who present with gender dysphoria are fit to serve with reasonable amounts of care, or unfit for duty and will over encumber commanders and the medical system.

Many transgender individuals do not suffer from clinically significant distress. However, research suggests that the high number of transgender veterans who seek mental health counseling is because of the policies that forced them to conceal their identity. Access to proper medical care and living in the gender role consistent with their identities significantly reduces the veterans’ stress.⁶⁰

Cross Sex Hormone (CSH) Therapy

Hormone therapy has been shown to have a positive impact in treating gender dysphoria. In addition to the psychological benefit, some transgender individuals will undergo hormone therapy to help attain physical characteristics that are more like those of the target gender. Hormones affect hair growth, appearance of genitalia, muscle mass, and distribution of fat; individuals achieve different results based on their genetic makeup, age, and length of treatment. While there are some risks with CSH therapy, such as blood clots from estrogen, the rates of adverse incidents are going down with newer pharmaceuticals. Several other conditions that use hormone therapy, such as chronic pelvic pain, menopausal symptoms, endometriosis, and hypogonadism do not

require service members to be referred for separation unless the condition negatively affects duty performance. Furthermore, there is no additional cost to acquire new pharmaceuticals since all of the hormones used for CSH therapy are already available in the medical system.⁶¹

Gender Reassignment Surgery (GRS)

One or more gender-conforming surgeries can help alleviate stress in transgender individuals diagnosed with gender dysphoria. Gender Reassignment Surgery includes several surgical and non-surgical procedures. Sex Reassignment Surgery (SRS) changes genitalia through procedures such as a scrotoplasty to create testes or an orchiectomy to remove them, phalloplasty to create penises, or vaginoplasty to create vaginas. Other GRS procedures include breast constructions or reductions, reshaping of the buttocks, chondrolaryngoplasty to reduce the size of the Adam's Apple, laser treatments for skin and lips, facelifts, liposuction, and tummy tucks. Each treatment plan is unique and some transgender individuals do not seek or require medical interventions at all.⁶²

One argument presented for the ban of transgender individuals is a concern that an overwhelming number of applicants will join the military for the sole purpose of receiving health care benefits. In the civilian world, however, there is a growing list of employers who provide employees with health insurance plans that cover transition procedures. In a 2013 cost analysis of transition-related claims, researchers estimate that less than two percent of transgender service members (230 individuals) a year would want or require gender conforming surgery. These data were determined through a study of civilian employers who provided insurance plans that cover reassignment surgery and estimates of the prevalence of transgender service members. Civilian

employers had 0.004 per thousand employees submit transition-related claims annually and the average cost of transition-related health care was \$29,929. Approximately 76 percent of transgender individuals had hormone therapy but only a small percentage underwent surgery.⁶³

Any surgical procedure entails risk, but complications rates from surgery are low. Based on the estimates of the military transgender population and the likelihood for surgery and subsequent complications, ten MtF service members would be rendered unfit for duty every year due to postoperative problems. Fewer FtM individuals undergo surgery than their female counterparts and FtM transitions experience fewer postoperative complications, even though the penis construction is very complex. It is estimated that only six FtM service members would be unfit every year as a result of genital surgery complications.⁶⁴

Summary of Recommendations

In summary, the following recommendations are provided to ease the integration of transgender service members throughout the DOD:

1. Update service regulations and training material to reflect anti-harassment and anti-discriminatory language to protect transgender service members, including specific attention to the use of names and pronouns for transitioning members.
2. Direct the review of privacy policies and provide specific guidance on updating gender markers in personnel and health records; add a sex marker that cannot be changed and is readily visible to medical providers.
3. Synchronize DOD medical policies with APA and AMA diagnoses and treatment guidance.

4. Update recruiting and retention policies to permit the accession, integration, and readmission of transgender service members.

5. Provide guidance for commanders on body fat composition and physical fitness training standards for transitioning service members.

6. Provide guidance to commanders to assist in developing transition plans in order to update military records, identity documents, official photos, uniforms and grooming standards, and incorporate a plan to change facilities use, drug testing, and billeting arrangements.

Conclusion

Throughout its history the Department of Defense has represented America's evolving attitudes on the amalgamation of all those who are able and willing to serve. It now faces the cultural misconceptions and policy limitations of transgender individuals coming out and serving in their acquired gender. In recruiting and retaining the military the United States needs, the focus must be on motivating those to serve who are competent and dedicated. The policies that prevented the inclusion of the best-qualified individuals throughout the military in fact decreased its effectiveness. Change is hard, but leaders throughout the services are dedicated to doing what is right for the institution. Going forward, the DOD must take those actions necessary to ensure its policies are congruent with its values in treating members with dignity and respect.

Endnotes

¹ Ash Carter, "Statement by Secretary of Defense Ash Carter on DOD Transgender Policy," July 13, 2015, <http://www.defense.gov/News/News-Releases/News-Release-View/Article/612778> (accessed November 9, 2015).

² Charles C. Moskos, "Racial Integration in the Armed Forces," *American Journal of Sociology* 72, no. 2 (1966): 132–148; Kristy N. Kamarck, *Women in Combat: Issues for*

Congress (Washington, DC: U.S. Library of Congress, Congressional Research Service, December 15, 2015), 21, <https://fas.org/sgp/crs/natsec/R42075.pdf> (accessed January 2016); Megan H. MacKenzie, "Let Women Fight," *Foreign Affairs* 41, no. 6 (November/December 2012): 40-41.

³ Morris J. MacGregor Jr., *Integration of the Armed Forces, 1940-1965* (Washington, DC: Center of Military History, United States Army, 1981), 428-430, 473-474.

⁴ Carter, "Statement by Secretary of Defense Ash Carter on DOD Transgender Policy."

⁵ Joshua Polchar et al, *LGBT Military Personnel: A Strategic Vision for Inclusion* (The Hague, The Netherlands: The Hague Centre for Strategic Studies, 2014), 26, 30-31, 36, <http://www.hcss.nl/reports/lgbt-military-personnel-a-strategic-vision-for-inclusion/149/> (accessed January 10, 2016).

⁶ Ibid., 11, 14, 56-63.

⁷ Gary J. Gates and Jody L. Herman, *Transgender Military Service in the United States* (Williams Institute, UCLA School of Law, May 2014), 1-5, <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Transgender-Military-Service-May-2014.pdf> (accessed January 10, 2016).

⁸ M. Joycelyn Elders et al, "Medical Aspects of Transgender Military Service," *Armed Forces & Society*, March 2014, 1.

⁹ "Glaad, GLAAD Media Reference Guide - Transgender Issues," <http://www.glaad.org/reference/transgender> (accessed January 10, 2016).

¹⁰ Ibid.

¹¹ Institute of Medicine (US) Committee on Lesbian, Gay, Bisexual, and Transgender Health Issues and Research Gaps and Opportunities, *The Health of Lesbian, Gay, Bisexual, and Transgender People: Building a Foundation for Better Understanding* (Washington, DC: National Academies Press (US), 2011), <http://www.ncbi.nlm.nih.gov/books/NBK64802/> (accessed January 10, 2016).

¹² "Glaad, GLAAD Media Reference Guide - Transgender Issues."

¹³ Eve Glicksman, "Transgender Today," *American Psychological Association Online* 44, no. 4 (April 2013): 36, <http://www.apa.org/monitor/2013/04/transgender.aspx> (accessed January 10, 2016).

¹⁴ Peggy T. Cohen-Kettenis and Friedemann Pfafflin, *The DSM Diagnostic Criteria for Gender Identity Disorder in Adolescents and Adults* (Arlington, VA: American Psychiatric Association, 2009), 1, http://www.cpath.ca/wp-content/uploads/2009/08/COHEN-KETTENIS.DSM_.pdf (accessed December 11, 2015).

¹⁵ American Psychiatric Association, *Gender Dysphoria* (Arlington, VA: American Psychiatric Publishing, 2013), 1-2, <http://www.dsm5.org/documents/gender%20dysphoria%20fact%20sheet.pdf> (accessed December 11, 2015).

¹⁶ World Professional Association for Transgender Health (WPATH), “Ethical Guidelines for Members of the Harry Benjamin International Gender Dysphoria Association, Inc.,” 8-9, http://www.wpath.org/uploaded_files/140/files/Ethics011105.pdf (accessed February 6, 2016).

¹⁷ Elizabeth Glaeser, “Aspects of Gender Identity Development: Searching for an Explanation in the Brain,” http://steinhardt.nyu.edu/appsycho/opus/issues/2011/spring/gender_identity_development (accessed March 4, 2016); Alicia Garcia-Falgueras and Dick F. Swaab, “A Sex Difference in the Hypothalamic Uncinate Nucleus: Relationship to Gender,” *Brain*, 131 (2008): 3132-3146, <http://brain.oxfordjournals.org/content/brain/131/12/3132.full.pdf> (accessed March 4, 2016).

¹⁸ David F. Burrelli, *The Repeal of “Don’t Ask, Don’t Tell”: Issues for Congress* (Washington, DC: U.S. Library of Congress, Congressional Research Service, December 21, 2012), 1, 10-11.

¹⁹ U.S. Department of Defense, *Medical Standards for Appointment, Enlistment, or Induction in the Military Services*, Department of Defense Instruction 6130.03 (Washington, DC: U.S. Department of Defense, September 13, 2011), 48.

²⁰ U.S. Department of Defense, *Enlisted Administrative Separations*, Department of Defense Instruction 1332.14 (Washington, DC: U.S. Department of Defense, December 4, 2014); U.S. Department of the Army, *Standards of Medical Fitness*, Army Regulation 40-501 (Washington, DC: U.S. Department of the Army, August 4, 2011), 1.

²¹ U.S. Equal Employment Opportunity Commission, “What You Should Know about EEOC and the Enforcement Protections for LGBT Workers,” http://www.eeoc.gov/eeoc/newsroom/wysk/enforcement_protections_lgbt_workers.cfm (accessed January 10, 2016).

²² U.S. Department of Defense, *Military Equal Opportunity (MEO) Program*, Department of Defense Instruction 1350.2 (Washington, DC: U.S. Department of Defense, June 8, 2015), 2.

²³ Jack Harrison-Quintana and Jody L. Herman, “Still Serving in Silence: Transgender Service Members and Veterans in the National Transgender Discrimination Survey,” *LGBTQ Policy Journal at the Harvard Kennedy School* 3 (2012-2013): 4-10, http://www.thetaskforce.org/static_html/downloads/reports/reports/still_serving_in_silence.pdf (accessed December 11, 2015).

²⁴ Office of Personnel Management, “Diversity & Inclusion Reference Materials, Guidance Regarding the Employment of Transgender Individuals in the Federal Workplace,” <https://www.opm.gov/policy-data-oversight/diversity-and-inclusion/reference-materials/gender-identity-guidance/> (accessed December 11, 2015).

²⁵ Ibid.

²⁶ Gina Stevens, *Federal Information Security and Data Breach Notification Laws* (Washington, DC: U.S. Library of Congress, Congressional Research Service, January 28, 2010), 4-7.

²⁷ U.S. Department of Health and Human Services, *Your Health Information Privacy Rights* (Washington, DC: U.S. Department of Health and Human Services, n.d.), 1-2,

http://www.hhs.gov/sites/default/files/ocr/privacy/hipaa/understanding/consumers/consumer_rigths.pdf (accessed March 29, 2016).

²⁸ U.S. Department of Defense, *Enlisted Administrative Separations*, 2, 26-28.

²⁹ Brynn Tannehill, Allyson Dylan Robinson, and Sue Fulton, *Transgender Military Service: A Guide to Implementation* (Asbury Park, NJ: Service Members, Partners, Allies for Respect and Tolerance for All (SPART*A), Draft - April 2015).

³⁰ Palm Center, "Overview of Regulations for Transgender Military Personnel from the UK, Canada, and Australia," 2013, 14, <https://www.pritzkerilitary.org/files/1613/8756/0791/900315.pdf> (accessed December 11, 2015).

³¹ Tannehill, Robinson, and Fulton, *Transgender Military Service*, 21.

³² *Ibid.*, 21-22.

³³ *Ibid.*, 22.

³⁴ *Ibid.*

³⁵ Melissa Dahl, "How Transgender People Choose their New Names," *New York Magazine: Science of Us Online*, June 3, 2015, <http://nymag.com/scienceofus/2015/06/how-transgender-people-choose-their-new-names.html> (accessed February 6, 2016).

³⁶ Lambda Legal, "FAQ about Identity Documents," <http://www.lambdalegal.org/know-your-rights/transgender/identity-document-faq> (accessed February 6, 2016).

³⁷ *Ibid.*; Office of Personnel Management, "Diversity & Inclusion Reference Materials, Guidance Regarding the Employment of Transgender Individuals in the Federal Workplace," <https://www.opm.gov/policy-data-oversight/diversity-and-inclusion/reference-materials/gender-identity-guidance/> (accessed December 11, 2015).

³⁸ Tannehill, Robinson, and Fulton, *Transgender Military Service*, 23-24.

³⁹ U.S. Department of State Bureau of Consular Affairs, "Gender Reassignment Applicants," <https://travel.state.gov/content/passports/en/passports/information/gender.html> (accessed March 5, 2016).

⁴⁰ Tannehill, Robinson, and Fulton, *Transgender Military Service*, 23.

⁴¹ Office of Personnel Management, "Diversity & Inclusion."

⁴² U.S. Equal Employment Opportunity Commission, "What You Should Know about EEOC and the Enforcement Protections for LGBT Workers."

⁴³ Tannehill, Robinson, and Fulton, *Transgender Military Service*, 26-27.

⁴⁴ Carlos Maza and Luke Brinker, "15 Experts Debunk Right-Wing Transgender Bathroom Myth," <http://mediamatters.org/research/2014/03/20/15-experts-debunk-right-wing-transgender-bathro/198533> (accessed March 18, 2016). The twelve states are Colorado, Connecticut,

Hawaii, Iowa, Maine, Massachusetts, Minnesota, Nevada, New Mexico, Oregon, Rhode Island, and Vermont.

⁴⁵ U.S. Department of Defense, *Technical Procedures for the Military Personnel Drug Abuse Testing Program*, Department of Defense Instruction 1010.16 (Washington, DC: U.S. Department of Defense, October 10, 2012), 14.

⁴⁶ John W. Hatala, *The Feasibility of Testing Hair for Illicit Drug Use in the United States Marine Corps*, Thesis (Monterey, CA: Naval Postgraduate School, June 2003).

⁴⁷ Office of Personnel Management, "Diversity & Inclusion."

⁴⁸ Tannehill, Robinson, and Fulton, *Transgender Military Service*, 32.

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*, 33.

⁵¹ *Ibid.*

⁵² *Ibid.*

⁵³ "IOC Rules Transgender Athletes Can Take Part in Olympics without Surgery," *The Guardian*, January 24, 2016, <http://www.theguardian.com/sport/2016/jan/25/ioc-rules-transgender-athletes-can-take-part-in-olympics-without-surgery> (accessed February 16, 2016); NCAA Office of Inclusion, *NCAA Inclusion of Transgender Student-Athletes* (Indianapolis, IN: NCAA Office of Inclusion, August 2011), 7-13, https://www.ncaa.org/sites/default/files/Transgender_Handbook_2011_Final.pdf (accessed February 17, 2016).

⁵⁴ International Olympic Committee, *IOC Consensus Meeting on Sex Reassignment and Hyperandrogenism* (Lausanne, Switzerland: International Olympic Committee, November 2015), 2-3, http://www.olympic.org/Documents/Commissions_PDFfiles/Medical_commission/2015-11_ioc_consensus_meeting_on_sex_reassignment_and_hyperandrogenism-en.pdf (accessed February 17, 2016).

⁵⁵ Tannehill, Robinson, and Fulton, *Transgender Military Service*, 101-103.

⁵⁶ *Ibid.*, 30-31.

⁵⁷ William V. Padula, Shiona Heru, and Jonathan D. Campbell, "Societal Implications of Health Insurance Coverage for Medically Necessary Services in the U.S. Transgender Population: A Cost-Effectiveness Analysis," *Journal of General Internal Medicine*, October 19, 2015, 1-8, <http://link.springer.com/article/10.1007%2Fs11606-015-3529-6> (accessed February 17, 2016).

⁵⁸ Kayla Quam, "Unfinished Business of Repealing 'Don't Ask, Don't Tell': The Military's Unconstitutional Ban on Transgender Individuals," *Utah Law Review*, 2015, 7, pubs.utah.edu/index.php/ulr/article/download/1552/1064 (accessed January 10, 2016).

⁵⁹ Elders et al, "Medical Aspects of Transgender Military Service," 5-7.

⁶⁰ Ibid.

⁶¹ Ibid., 6, 8.

⁶² Ibid., 9-11.

⁶³ Ibid.

⁶⁴ Ibid.