# Gender Identity and the Military - Transgender, Transsexual, and Intersex-identified Individuals in the U.S. Armed Forces

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by

Tarynn M. Witten, PhD, MSW, FGSA[◊]
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[◊]Executive Director and Senior Fellow, TranScience Research Institute, Richmond, Virginia 23228-28089, http://www.transcience.org. For more information, please call (805) 893-5664 or visit www.palmcenter.org.

## 1.0 INTRODUCTION

> *The military in fact discriminates on a variety of bases. For example, the military excludes--"discriminates against"--single parents, felons, handicapped individuals, transsexuals, conscientious objectors, and persons with any of a number of medical conditions. The military also discriminates on the basis of height and weight, physical and mental ability, visual acuity, political beliefs and religious affiliation, language, youth and age. To repeat-all military personnel policies discriminate. They discriminate between individuals or groups that have strong potential for successful soldiering and those that do not. And these discriminatory judgments are made by Congress, by the Secretary of Defense, or by the service secretaries in fulfilling their duty to compose strong, combat-ready, and efficiently administered armed forces.*[1]

For a majority of Western society, the body can only assume two biological forms, the male body and the female body. This binary view of the body and its subsequent interpretations through birth sex and gender appears to be a settled known, and many of our American institutions, such as the military, base their regulations and personnel policies upon this traditional view. For these institutions, any questioning of this view of sex and gender is seen as undermining the accepted, natural order of things. However, a growing minority of Western and many non-Western individuals do view sex and gender as more fluid concepts. Whether one believes that gender and sex are binary and fixed, or that they are more fluid, dealing with the issue of gender identity poses a challenge to the military. As I argue in this paper, the traditional idea that the body can have only one of two forms, and that those forms are determined by biology, has a powerful impact on military policies and procedures.

### 1.1 Overview

The fact that military service involves the routine practices of physical training and strict attention to discipline is widely known.[2] Similar comments could be made about Olympic training. In fact, as Kidd and Donnelly point out,

> Few of the initial proponents of modern sports ever intended for them to be universal and inclusive. In particular, we see that athletic competition was regarded as a 'male practice' and the majority of social resources available for sports were reserved for boys and men.[3].

Thus, like the military institution, the sports/athletics institution was initially male-centered and had to deal with the subsequent emergence of female athletic competition. According to Reeser,

> In this context [the context of fair play and level playing fields to ensure fair competition] transsexual and intersex-identified athletes are

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[1] Melissa Wells-Petry, *Exclusion: Homosexuals and the Right to Serve* (Washington, D.C.: Regnery Gateway, 1993).
[2] S. Moon, "Beyond Equality versus Difference: Professional Women Soldiers in the Korean Army," *Social Politics* 9 (2002), 212-247.
[3] B. Kidd and P. Donnelly, "Human Rights in Sports," *International Review for the Sociology of Sport* 35, no 2 (2000): 131-148.

> viewed as threats to fair competition which international sport federations have been forced to address.[4]

Similarly, the military's ideal body, like that of athletic competition, is historically male, and this ideal represents the social history of our culture's bodily norms. For example, we know that "pink is for girls and blue is for boys," but we don't know where we learned it or how.

The focus of military training centers on the development of a traditionally masculine body, both physically and mentally, as well as an integration of this body into the larger "body" of the military and its collection of rules and regulations in order to fulfill the need for combat-ready troops.[5] Male-oriented, this body is the standard against which everything is measured in military contexts. Moon provides the following remarks of a female Korean officer as an insight into a woman's view of female military capability:

> Soldiering involves a lot of physical activities like running, jumping up and down, and crawling. Some women can do these just as well as men do. On average, however, women cannot do as well as men do.[6]

This brief statement illustrates the differences that are often associated with women and men's bodies and their biological differences. Further, it reflects the military's need to interpret these differences as being deficiencies or weaknesses on the part of female bodies and strengths on the part of male bodies. If the idea of rigidity is associated with male power or masculinity and the female body with acceptance, softness, and weakness, then discrimination between bodies is arguably essential to the military's need to produce masculine, warrior-like bodies capable of preserving military effectiveness.

Distinguishing between male and female bodies also requires the military to deal with a wide range of individuals whose bodies may not fit neatly into either category, like transsexual and intersex individuals. When the lines between male and female are blurred, problems emerge through the challenge such ambiguity poses to current military legal, behavioral, and medical codes. What is more, both the individual and the systemic response to ambiguity can be quite visceral in nature. Nowhere was this more clearly seen than in addressing the issue of "gays in the military." Much has been written on this issue, and it is beyond the scope of this report to review that particular literature. Of importance to the issue of gender identity in the military is the understanding that the gay, lesbian, and bisexual literature focuses on the issue of sexuality alone; that is, discriminating between what is sexually allowed and not allowed. What emerges from that dialogue is one of the principal legal precedents used to define how ambiguous gender identities are treated in the military.

This precedent is grounded in the Western biomedical, Judeo-Christian-Islamic belief that only two sexes, male and female, exist and that heterosexual reproductive sexuality is the only acceptable form of sexuality. This belief is reinforced by a Biblical mandate

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[4] J.C. Reeser, "Gender Identity and Sport: Is the Playing Field Level?" *British Journal of Sports Medicine* 30 (2005): 695-699.
[5] Wells-Petry, *Exclusion*.
[6] Moon, "Beyond Equality versus Difference," 222.

that homosexuality is spiritually unacceptable, or a sin.[7] The typical Biblical citation (Leviticus 20:13) states, "If a man has intercourse with a man as with a woman, both commit an abomination. They must be put to death." Consequently, the military, as a part of this Judeo-Christian-Islamic belief system, reflects and enforces this binary system of gender and sexuality through the mandate of "don't ask, don't tell."[8]

For the armed forces, gender identity, which is also labeled by the military as transvestitism, cross-dressing, transsexualism,[9] further complicates these issues. Deviation from strict male-female bodies contradicts much of Western sociology, particularly that of Western military institutions.[10] As of this report, little has been written concerning the topic of non-traditional gender identities in the military.[11] In the current context, such identities blur the carefully delineated distinctions of body, sex, sexuality and social role, thereby potentially creating perceived disorder in the rigid order of a military structure. This disorder and the consequent inability to distinguish between clearly marked sexes has intensified the violent reaction to non-conforming gender identities, as was the case when the Los Angeles police shot and killed a U.S. Marine after he allegedly murdered a transsexual prostitute."[12] Such actions are existent throughout the world. As Ungar observes,

> The high levels of legal, semi-legal, and extra-judicial violence against lgbt people in many of the world's new democracies result from the explosive combination of authoritarian legacies, weak governments, powerfully unacceptable police forces and deep levels of societal homophobia. These three forms of violence blend into each other: written laws, governmental measures, official rhetoric, police violence, undemocratic police measures, and extra-judicial activity.[13]

In addition, these same issues are further exacerbated when one considers the impact of intersex identities on gender roles, gender self-perception, and gender identity as it is perceived by individuals external to the intersex-identified person.[14]

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[7] A. Sheard, "Bible's Stance on Homosexuality," *British Medical Journal l320* (2000) 514; J.D. Hester, "Eunuchs and the Postgender Jesus: Matthew 19:12 and Transgressive Sexualities," *Journal for the Study of the New Testament* 28 (2005): 13-40; and M. D. Smith, "Ancient Bisexuality and the Interpretation of Romans 1:26-27," *Journal of the American Academy of Religion* 64 (1996): 223-256.

[8] The "don't ask, don't tell" rule only applies to homosexual, lesbian, or bisexual sexual orientations and practices; it does not apply to transgender, transsexual, or non-normative gender identities.

[9] Army Medical Services Standards of Medical Fitness, 2002; Army recruiting regulation 601-210 (2004).

[10] P. Currah and S. Minter, *Transgender Equality* (New York: National Gay and Lesbian Task Force Policy Institute, 2000); T. M. Witten, "Life Course Analysis: The Courage to Search for Something More: Middle Adulthood Issues in the Transgender and Intersex Community," *Journal of Human Behavior in a Social Environment* 8, nos. 3-4 (2004), 189-223.

[11] T. M. Witten, E. E. P. Benestad, R. J. M. Ekins, R. Ettner, K. Harima, D. King,, T. M. Landén, N. Nodin, V. P'yatokha, and A. N. Sharpe, "Transgender and Transsexuality," in *The Encyclopedia of Sex and Gender: Men and Women in the World's Cultures*, edited by C. R. Ember and M. Ember (New York: Kluwer/Plenum, 2003).

[12] "US Marine Shot by Police after Killing Transsexual Prostitute," *Agence France Presse*, December 27, 2003; see also N. Paylor, "Dissarm These Yobs – Shot Transsexual's Call for BB Gun Ban," July 23, 2005. This article reports that Denis Moss of Britain was targeted "eight times in 22 months."

[13] M. Ungar, "State Violence and Lesbian, Gay, Bisexual and Transgender (lgbt) Rights," *New Political Science* 22, no. 1 (2000): 61-74.

[14] Julia A. Greenberg, "Defining Male and Female: Intersexuality and the Collision between Law and Biology," *Arizona Law Review* 41, no. 2 (1998): 265-328; C. Goodnow, "Task Force is Studying Effects of Cross-Gender Surgery on Kids," *Seattle Post-Intelligencer*, March 13, 2000; C. Goodnow, "A Tragically Maimed Boy, Raised as a Girl, Comes to Terms with His Identity," *Seattle Post-Intelligencer*, March 1, 2000.

Yet in our culture the rigidity of sexual difference, gender roles, and sexuality is becoming increasingly less absolute. While not universal, for many armed forces, no longer is military training exclusively based upon a strict separation between male and female bodies. This raises potentially complex questions with regard to transgender, transsexual, and intersex-identified individuals in the military such as where does the female-to-male transsexual train? Does he train with the men because he is so identified post-operatively, assuming he opts for surgery, or does he train with the women because his chromosomes are female? How does one handle the XY female?[15] Similar problems were faced by the International Olympic Committee.[16] While unlikely, it is possible that the presence of such non-conforming bodies in the military might be seen as a gateway to undermining the ideal of two strictly separable body types and fundamentally alter the military's idealization of the traditional masculine body. Yet even such changes may be limited, for no matter how open-minded and willing to work with transgender, transsexual, or intersex-identified individuals members of the military are, they are constrained by the military's history of endorsing a strict separation between male and female and are required to follow its rules regarding the rejection of those individuals who deviate from sexual and gender norms.

**1.2 Brief Study Conclusions**

The study's primary conclusion is that the U.S. military's historical treatment of non-traditionally gendered, ambiguously gendered, and/or non-normatively gendered individuals has created a formidable viscerally negative response in the military system and among many military personnel, particularly those who fall within traditionally accepted male heterosexual roles. Furthermore, the study finds that American military personnel are not able to interact with or work successfully with acknowledged transgender-identified personnel from either U.S. or foreign militaries due to institutionalized constraints on how transgender, transsexual, or intersex-identified individuals must be medically and legally handled. Moreover, even if military personnel were open to working with such individuals, the institutional constraints would prevent that from occurring. Such an inability occurs even when the trans-identified or intersex-identified person is a decorated war hero or when the gender change has occurred post-military service.

Furthermore, the study finds that military treatment of trans-identified or non-normatively gendered individuals is dual-edged. It is (1) preventative: do not let trans-, intersex-, or non-normatively-identified persons into the military and (2) acute: remove them from the military when they are so-identified. This treatment emerges from direct legal precedent and is independent of both individual or group desires to do otherwise. Moreover, when conflicts or an "outing" do arise, they are typically non-trivial and the

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[15] L. J. Hipkin, "The XY Female in Sport: The Controversy Continues," *British Journal of Sports Medicine* 27 (1993): 150-156.

[16] International Olympic Committee, "Statement of the Stockholm Consensus on Sex Reassignment in Sports," 2004, http://multimedia.olympic.org/pdf/en_report_904.pdf (accessed August 25, 2005); International Olympic Committee, "IOC Approves Consensus with Regard to Athletes Who Have Changed Sex," 2005, http://www.olympic.org/uk/news/olympic_news/full_story_uk.asp?id=841 (accessed August 25, 2005).

military response is swift and surgical. It excises the "disease" from the body of the Armed Forces, returning the disrupted idealized body to the norm.[17]

There is no consensus on whether or not non-traditional gender identities rightly should be viewed as a medical condition or a psychopathology. While the traditional Western medical view is that there is a psychopathological basis for many groups which are included under the broad transgender umbrella, this characterization is not accepted in some cultures. Indeed, as discussed below, some foreign countries allow transsexuals to serve in their armed forces because they view the issue as being one of a non-disqualifying medical condition, not a psychopathological disorder.

On an institutional level, this study finds that the U.S. military has taken the traditional stand that non-traditional gender identities fall under the aegis of disease, in particular psychopathology,[18] and that individuals claiming such identities are therefore to be removed from service or to be prevented from entering the service wherever and whenever possible. Nowhere is this more clearly delineated than in the Army Medical Services Standards of Medical Fitness, which states in Section 2-30 on Psychosexual Conditions that the "causes for rejection for appointment, enlistment, and induction are transsexualism, exhibitionism, transvestitism, voyeurism, and other paraphilias."[19] In this regulation, the military incorrectly classifies transsexualism as a paraphilia, a psychiatric disorder involving deviant sexual practices, and lumps transsexualism together with paraphilias such as transvestic fetishism (fetishizing clothing of another gender).[20] This further stigmatizes those individuals who do so identify, and perpetuates the military's rigid sense of binary sexual difference and idealization of the masculine body.[21] Recent discussion about the validity of gender identity disorder (GID) as a diagnosis, much less a psychopathology, is included in Karasic and Drescher.[22] Identified case law illustrates the military's use of lesbian, gay, and bisexual-based case-law surrounding "cross-dressing" as the pathway to prosecute transsexuals, the principle cases being U.S. *v.* Guerrero[23] and U.S. *v.* Modesto.[24]

Lastly, this study finds a diverse international response to transgender and intersex persons in the military. Some countries such as Canada,[25] Israel,[26] the Czech Republic,[27] Spain,[28] and Thailand[29] allow such service, while most Western nations studied do not.[30]

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[17] U.S. Army, "Standards of Medical Fitness," AR 40-501, (2002).
[18] American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders*, 4th ed. (Washington, D.C.: American Psychiatric Association Press, 2000).
[19] U.S. Army, "Standards of Medical Fitness," 13.
[20] American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders*, Dx 302.6/302.85.
[21] *Ibid*.
[22] D. Karasic and J. Drescher, "Introduction: Sexual and Gender Diagnoses of the Diagnostic and Statistical Manual (DSM): A Reevaluation," *Journal of Psychology and Human Sexuality* 17, nos. 3-4 (2006): 1-5.
[23] U.S. ***v.*** Guerrero, 33 M.J. 295 297-298 (C.M.A.) 1991.
[24] U.S. ***v.*** Modesto, 39 M.J. 1055 (A.C.M.R.) 1994.
[25] M. Campbell, "Transsexual Praises Army for Financing Operation," *South China Morning Post*, February 25, 2000. According to this article, "The army defended its move saying it was necessary to correct 'a very well defined medical disorder.'"
[26] O. Sasson-Levy, "Feminism and Military Gender Practices: Israeli Women Soldiers in "Masculine" Roles," *Sociological Inquiry* 73, no. 3 (2003): 440-464; O. Sasson-Levy, "Constructing Identities at the Margins: Masculinities and Citizenship in the Israeli Army," *Sociological Quarterly* 43, no. 3 (2002): 357-382; and O. Sasson-Levy, "Military,

## 2.0 INTERSEX, TRANSGENDER AND THE MILITARY

Having laid out an overview to the norms and assumptions inherent in Western culture about the body, sex, gender, and sexuality, we will now examine in greater detail how the U.S. military addresses such issues in its recruitment and medical policies in relation to gender identity. As we will show, the U.S. military views intersex, transgender, and transsexual identified individuals as medically and psychologically deviant, and deems their presence to be inconsistent with the masculine ideal it has so long used to socialize warriors.

### 2.1 Intersex and the Military

The U.S. military does not allow intersex individuals to be members. Telephone conversations conducted by this investigator with military recruiters resulted in the following information being provided. Intersex individuals are not allowed to be members of the U.S. Army.[31] The Marines state that intersex-identified individuals are not allowed in the Marines.[32] Both Navy and Air Force recruiters stated that they believed that "being a hermaphrodite was a medical disqualification" and that the Navy and the Air Force would not accept them as candidates for their Armed Services branch. Note that they use the pejorative "hermaphrodite" terminology, which further stigmatizes the "intersex" state of being. Recruiters were unable to provide a precedent or citation to that effect. Clearly, this lack of willingness to accept an intersex-identified individual further illustrates the overarching importance for the military of classifying the body in either male or female terms. The Navy recruiter indicated that she believed that, "this condition would require much medical treatment and that the Navy would not wish to be taking such an individual into its programs." Thus, the recruiter's ignorance about the actual "medical issues" involved may be a pretext to cover the discomfort associated with having to deal with an identity that blurs the boundaries between male and female and its potential consequences in much the same way that intersex babies are "sexed" in order to

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Masculinity and Citizenship: Tensions and Contradictions in the Experience of Blue-Collar Soldiers," *Identities-Global Studies in Culture and Power* 10, no. 3 (2003): 319-344.

[27] "Change of Sex Cannot Prevent Admission to Army," Czech News Agency, November 11, 2003; "Transsexual Plans to Sue Army for Discrimination," Czech News Agency, CTK National News Wire, November 16, 2003; "Transexual Brokesova Appeals against Discrimination in Army," Czech News Agency, CTK National News Wire, November 18, 2003; "Transsexual Not to Sue Army for Discrimination," Czech News Agency, CTK National News Wire, November 22, 2003; "Transsexuals Appeal against Army Non-Admission Fails," Czech News Agency, CTK National News Wire, January 20, 2004; "Events February 3 Afternoon," Czech News Agency, CTK National News Wire, February 3 2004.

[28] "Spain: First Transsexual Sailor," ANSA English Media Service, February 5, 2003; M. Stark, "Transsexual in Spain Will Be Allowed to Serve Her Country in the Military," CNBG News Transcripts, March 29, 2003.

[29] "Thai Military Mulls Scrapping Mental Disorder Tags for Gays," *Agence France Press*, August 11, 2004; "Thailand OK's Gay, Transsexual Soldiers," 365gay.com; August 10, 2004, http://www.365gay.com/newscon05/08/081005thaiArmy.htm; C. Curtis, "Thai Military Lifts Transgender Restriction," August 11, 2004; http://uk.gay.com/headlines/8886; "Thailand Ends Defamation of Transsexual Conscripts," People's Press Printing Society Ltd., August 11, 2004.

[30] "Transsexual's Appeal against Army Non-Admission Fails," European Intelligence Wire, January 20, 2004; "Turkish Transvestites, Transsexuals Still Must Live on Fringe of Society," *Chicago Tribune*, Knight-Ridder/Tribute News Service, December 19, 2000.

[31] Army Recruiting Regulation 601-210 (2004).

[32] Marine Corps Military Personnel Procurement Manual (2004); Order P-1100.72c, p.3-83.

cover the discomfort of the parents.[33] It should also be pointed out that these rules apply to both the National Guard and the Reserves.[34]

**2.2 Transgender and the Military**

While the U.S military maintains that intersex-identified persons are medically unqualified to serve, it deems transgender identified persons as psychologically unfit. In the only refereed study of transsexuals in the U.S. military, Brown discusses the military as a choice for the hypermasculine phase of transsexual development.[35] In this study, 11 male "gender-dysphoric" patients meeting DSM III standards were studied.[36] Brown states, "Eight of the patients had extensive military experience, 3 were on active duty, 1 was a Department of Defense employee, and 4 were veterans." Of relevance is the fact that the outcome of military service was premature discharge in the majority of cases. Frye[37] points out that the military is a place where one would expect to see a large number of transgender-identified persons:[38] "When you think of it, what more masculine occupation would an emerging FTM want to try than the military?" In fact, some female-to-male transgender soldiers fought in the American Revolution and the Civil War.[39] And for an MTF who is doing everything possible to deny or trying to kill-off the feminine impulse, what better way to try. That is why so many of us MTFs are Eagle Scouts and veterans as well as police officers, fire fighters and paramedics. Yes, lots of us." Similar comments were made by Lisa Griffin, an Air Force retiree and crack marksman for the Australian military. "Like many transsexuals and homosexuals," she recalls, "I became an over-achiever. I became a crack marksman. I could hit something at 3000m and I did nursing, topping the class."[40] Despite such achievement, the U.S. military marginalizes transgender people, which the Army Medical Services Standards of Medical Fitness states clearly in Section 2-30 on Psychosexual Conditions that the "causes for rejection for appointment, enlistment, and induction are transsexualism, exhibitionism, transvestitism, voyeurism, and other paraphilias."[41] As mentioned above, this regulation clearly lumps transsexualism, a non-paraphilia[42], with the sexual paraphilias, such as

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[33] Intersex Society of North America Website, http://www.isna.org.

[34] S. E. Greer (2003). Military Survival Guide, 4th edition. Service Servicemembers Legal Defense Network, http://www.sldn.org.

[35] G. R. Brown, "Transsexuals in the Military: Flight into Hypermasculinity," *Archives of Sexual Behavior* 17, no. 6 (1988): 527-537.

[36] The current version is DSM IV-TR. American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders*, 4th ed.

[37] P.R. Frye, transgendered vet (2005), http://www.cammermeyer.com/board.htm?step=thread&threadid=244. See also http://www.sacvalleyveterans.com/Documents/PressRelease082403.html.

[38] Holt, K.W (2005), http://www.holtesq.com/military.htm.

[39] Gansler, L. The Mysterious Private Thompson: The Double Life of Sarah Emma Edmonds, Civil War Soldier, (New York: Free Press, 2005).

[40] K. Olsson, "Kindest Cut of All," *Courier Mail*, Nationwide News Pty Limited, Queensland, Australia, November 8, 2003.

[41] U.S. Army, "Standards of Medical Fitness," 13.

[42] American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders*, 4th ed., Dx 302.6/302.85. Gender identity disorder is coded for being in either children or adults. The diagnostics are complex and multi-conditional. An individual must demonstrate (a) a strong and persistent cross-gender identification (not merely a desire for any perceived cultural advantages of being the other sex), (b) persistent discomfort with his or her sex or sense of inappropriateness in the gender role of that sex, (c) disturbance is not concurrent with a physical intersex condition, (d) disturbance causes clinically significant distress or impairment in social, occupational, or other important areas of functioning. Underneath each of these items are many sub-conditions that must be evaluated. However, GID (Gender Identity Disorder) is not included in the sexual paraphilias.

transvestic fetishism. This misidentification of transsexualism as a paraphilia stigmatizes those individuals whose gender identity in any way deviates from traditional male and female identities, and may perpetuate trans- and intersex-phobia within the military. This is quite evident in the 2004 news article, mentioned above, reporting that a U.S. Marine was shot by local police after killing a transsexual prostitute.[43]

As the Servicemembers Legal Defense Network Survival Guide points out, "Two different situations exist where transgender individuals may run afoul of military regulations. The first is when attempting to join the military. The second relates to service members already in the military."[44] Because this guide is intended for prospective service members and those currently serving, the situations facing a transgender veteran are beyond its scope.

Individuals who are entering the military are subject to both a physical and a mental examination. If such an individual states that he or she is transgender, transsexual or trans-identified, then they will be rejected as unfit under the applicable medical standards of the branch of service the individual is attempting to join. An individual who has undergone any sort of gender modification, such as hormones or gender-confirming surgery, will be rejected both from the perspective of being psychologically unfit as well as having had surgery that is considered a "major genital abnormality or defect."[45] Should an individual attempt to conceal a history of gender modification, in the course of routine entry-level security background checks, an individual's gender, as designated at birth, and if different than the self-identified current gender, will be substantiated and can be used to discharge a potential military candidate. Moreover, falsification of the entries on the form may be construed to be a fraudulent enlistment and subjects the service member "to UCMJ penalties and discharge."[46]

Individuals who decide to transition during their enlistment from female to male or male to female may be discharged under enlistment violations,[47] as well as through rules relating to homosexuality or cross-dressing or through being classified as psychologically unfit or having a personality disorder.[48] The military does not recognize the professional standards of care when it comes to hormone therapy, living in the appropriate gender identity, and gender confirming surgery.[49] Consequently, the military will not provide the medical support necessary to assist a service member in transitioning from his or her original gender identity to the target identity.[50] Making use of the military's medical and

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[43] "US Marine Shot by Police after Killing Transsexual Prostitute," *Agence France Presse*, December 27, 2003.
[44] J. M. Cleghorn, *Survival Guide*, 4th ed., (Washington, D.C.: Servicemember's Legal Defense Network, 2003). http://www.sldn.org/templates/index.html; TG Crossroads Staff, "Transgender Military Issues Added to SLDN's "Survival Guide," August 20, 2004, http://www.tgcrossroads.org/news/archive.asp?aid=447.
[45] Cleghorn, *Survival Guide*, 50.
[46] Ibid., 51.
[47] Author conversation with military recruiters.
[48] American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders*, 4th ed.
[49] World Professional Association for Transgender Health, formerly the Harry Benjamin International Gender Identity Dysphoria Association, http://www.wpath.org/.
[50] "Former N.C. Soldier Sues to Ease Transition from Man to Woman," *The Fayetteville Observer*, Associated Press, June 4, 2004. It should be noted that even if federal documents such as social security and/or passport have been altered to present the correct gender identity, this will not alter the military view that such surgery is related to psychopathology and therefore makes the service member disqualifiable or dischargeable. Moreover, if a member of

psychological services to address trans-related issues can also be problematic for a service member as "conversations with military health-care providers are not confidential and any statement concerning being transgender can, and most likely will, be reported to their commands and separation proceedings begun."[51]

Unlike civilians, who are protected against violations of patient confidentiality and privacy by laws such as the Health Insurance Portability and Accountability Act, military members and their medical records lack "doctor-patient confidentiality." In addition to this lack of confidentiality, service members also face hardships not different from those in the general population when trans-identified individuals are dealing with healthcare providers. One participant in a recent study stated, "There are scads of FTMs who suffer in isolation because they refuse to subject themselves to medical scrutiny, possible mistreatment, and ridicule." Another participant observed, "I spent about 10 years lying to doctors and getting inappropriate treatment ... I was convinced I would be institutionalized if I told the truth. I believe this fear was reasonable and based in real experience."[52] In fact, it is believed that Tyra Hunter, a Washington, DC pre-op transsexual was allowed to bleed to death on the street because EMT workers would not treat her, as they appear to have believed that she was gay and had AIDS.[53] Additionally, there is the inability to access Medicare/Medicaid coverage,[54] and the legal system's failure to respond to violence and abuse against transgender and intersex communities.[55] Intersex-identified individuals have similar problems surrounding healthcare interactions. One survey respondent related the following story:

> A college student visited the university clinic for back pain problems. When the doctor discovered that she had been treated for the intersex condition he wrote, in capital letters on her chart, 'Ambiguous Genitalia.' The student stopped attending the clinic because of the reasonable expectation that she would be treated as a freak.[56]

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the reserves is called up for duty and is in the process of gender transformation as, "recall places them directly under the regulatory rules of the requirements [of the armed forces], these military members may need to consider ceasing, or interrupting their transition while they complete their active service requirement. Alternatively, transitioning or post-transitioning reservists may be medically disqualified for continued service once they are called back to active duty and medically examined." http://www.nctequality.org/news.asp, August 20, 2005.

[51] Cleghorn, *Survival Guide*, 51; also at http://www.tgcrossroads.org/news/archive.asp?aid=447. Transgender military issues to be added to SLDN's "Survival Guide"

[52] Study participants, Transcience Longitudinal Aging Research Study (TLARS), directed by Dr. Tarynn M. Witten, TranScience Research Insttitute.

[53] M. E. Fernandez, "Death Suite Costs City $2.9 Million; Mother of Transgendered Man Wins Case," *Washington Post*, December 12, 1998, Metro section, C1; T. M. Witten and A. E. Eyler, "Hate Crimes against the Transgendered: An Invisible Problem," *Peace Review* 11, no. 3 (1999): 461-468; E. L. Lombardi, R. A. Wilchins, D. Priestling, D. Malouf, "Gender Violence: Transgender Experiences with Violence and Discrimination," *Journal of Homosexuality* 42, no. 1 (2001): 89-101.

[54] Sean Cahill, Ken South and Jane Spade, "Outing Age: Public Policy Issues Affecting Gay, Lesbian, Bisexual, and Transgender Elders" (New York: Policy Institute of the National Gay Lesbian Task Force Foundation, 2000), http://www.thetaskforce.org/downloads/outingage.pdf.

[55] See "Civil Rights and Hate Crimes Maps" at http://www.ngltf.org/library/index.cfm; http://www.gender.org/remember/about/core.html; Paylor, "Shot Transsexual's Call for BB Gun Ban," 10.

[56] Witten, "Life Course Analysis."

Due to the clear stigma and the associated potential for violence and persecution,[57] trans-identified individuals in the military may choose to use non-military services in order to address their needs. It is important to recognize that each branch of the armed forces has specific regulations around reporting external healthcare back to the military. Failure to abide by those regulations could place a service member seeking gender-related healthcare at risk for criminal action under the UCMJ. Such action could lead to court-martial actions.

While in the military, trans-identified individuals may choose to dress in their gender-confirming or target identity clothing. However, as the military sees only the identity of origin and not the target identity as valid, service members who cross-dress could be prosecuted under the UCMJ. Furthermore, because of the conflation of birth sex, gender identity, and sexuality, individuals who do choose to cross-dress could face risks if they make any statements about sexual identity to any individual in the military. As the SLDN manual points out, "the military would view a pre-operative male-to-female transsexual, self-described as a heterosexual female, having sexual relations with males to be committing homosexual acts … [and would be therefore] … subject to administrative and disciplinary proceedings."[58]

A number of scenarios exist where a former service member, who has been discharged from the military and has decided to transition, may be recalled during transition:

> [Gwen] volunteered for military service as a male in the late '60's, had served in Vietnam and in numerous other campaigns throughout the ensuing decades, and had taken a twenty-year retirement in or about 1989, going on six-year reserve status upon discharge. As soon as her formal discharge was completed, she began her transition from male to female, an event she had been planning virtually her whole life. Saddam Hussein had different plans for her, though, and when his troops began marching in the Persian Gulf, Gwen was called out of reserve status. Although she had by that time been living as a woman for over a year, she sheared her locks, put away the prescriptions, and trundled off to the Gulf for a year. When pressed as to why she hadn't challenged her call-up, she replied that she didn't wish to have her discharge status changed, endangering her benefits.[59]

As has been demonstrated by the previous example, transitions that take place after the completion of active-duty service can still cause complications. Similar scenarios can be envisioned for military reservists and National Guard members.

Post-military life course issues can still be an important aspect of an individual's history. Witten has discussed how various life stage issues intertwine with gender.[60] Numerous unanswered questions arise: Do military benefits cover gender-related medical and psychological costs? Will the military supply the necessary medical support for

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[57] Witten and Eyler, "Hate Crimes," 461-468; Witten, "Life Course Analysis," 189-223; Lombardi, Wilchins, Priestling, and Malouf, "Gender Violence," 89-101.
[58] Cleghorn, *Survival Guide*; TG Crossroads Staff, Transgender Military Issues Added to SLDN's "Survival Guide."
[59] Holt, "Transgender Warriors."
[60] Witten, "Life Course Analysis," 189-223.

individuals to transition after they complete active-duty service?[61] How will medical costs be charged? How will medical problems arising in the course of gender transitions be seen and handled? Will problems of stroke or other clotting problems be seen as a consequence of taking estrogens and therefore not be covered under military benefits?[62] Will smoking cessation programs be offered for military members who wish to transition and who need to stop smoking before hormones can be initiated? How will dental care be handled once hormones have been started? How will military records be handled? Can names or sexes be changed? How will ex-military individuals be buried if they choose to be buried at a military cemetery?

Aging has been shown to be a growing concern in the transgender community.[63] When military members need nursing home treatment, what access will they have to military facilities? Witten has already demonstrated the importance of the interplay of geriatric care management and gender identity issues.[64] Legal rights of aging transgender-identified individuals have been little discussed.[65] How these issues will be addressed by military rules remains to be seen. Less obvious questions arise concerning social support. How will former military connections be handled? What about friends and significant others still in the military? [66] There is a large literature on the importance of social support networks to quality of life, longevity, and health.[67]

The importance of religion/spirituality in successful aging is also well-established in the literature.[68] How will issues of spirituality and religiosity be addressed? Will transgender-identified ex-military members be allowed to attend religious ceremonies at their former places of worship? As end-of-life issues appear, how will hospice care, palliative care, and future military burials be handled for persons who are transgender or

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[61] R. F. Docter, "Transsexual Surgery at 74: A Case Report," *Archive of Sexual Behavior* 14, no. 3 (1985): 271-277.
[62] H. Asscherman, L. J. G. Gooren, and P. L. E. Eklund "Mortality and Morbidity in Transsexual Patients with Cross-Gender Hormone Treatment," *Metabolism* 38, no. 9 (1989): 869-872.
[63] T. M. Witten, "Transgender Aging: An Emerging Population and an Emerging Need," *Review Sexologies* 12, no. 4 (2003): 15-20.
[64] T. M. Witten, "Geriatric Care and Management Issues for the Transgender and Intersex Populations," *Geriatric Care and Management Journal* 12, no. 3 (2002): 20-23.
[65] T. M. Witten, and S. P. Whittle, "TransPanthers: The Graying of Transgender and the Law," *The Deakin Law Review* 9, no. 2 (2004): 503-52, http://www.deakinlawreview.org/currentIssue.php.
[66] F. R. Lang and M. M. Baltes, "Being with People and Being Alone in Late Life: Costs and Benefits for Every Day Functioning," in M. Boenke, ed., *Trans Forming Families: Real Stories about Transgendered Loved Ones* (Imperial Beach, CA: Walter Trook Publishing Co., 1999).
[67] H. Litwin, "Social Network Type and Morale in Old Age," *The Gerontologist* 41, no. 4 (2001): 516-523; H. Litwin and R. Landow, "Social Network Type and Social Support among the Old-Old," *Journal of Aging Studies* 14 (2000): 213-228; M. Pinquart and S. Sorenson, "Influences of Socio-Economic Status, Social Network, and Competence on Subjective Well-Being in Later Life: A Meta-Analysis," *Psychology and Aging* 14, no. 2 (2000): 187-223; N. Rautio, E. Heikkinen, and R. L. Heikkinen, "The Association of Socio-Economic Factors with Physical and Mental Capacity in Elderly Men and Women," *Archive of Gerontology and Geriatrics* 33 (2001): 163-178; M. C. Stallings, C. C. Dunham, M. Gatz, L. A. Baker, and V. L. Bengston, "Relationships among Life Events and Psychological Well-Being: More Evidence for a Two-Factor Theory of Well-Being," *Journal of Applied Gerontology* 16, no. 1 (1997): 104-119; W. J. Strawbridge, R. D. Cohen, S. J. Shema, and G. A. Kaplan, "Successful Aging: Predictors and Associated Activities," *American Journal of Epidemiology* 144, no. 2 (1996): 135-141; N. Krause and B. A. Shaw, "Role-Specific Feelings of Control, Personal Meaning, and Health in Late Life," 25 (2003): 559-586; and L. D. Kubzansky, L. F. Berkman, and T. E. Seeman, "Social Conditions and Distress in Elderly Persons: Findings from the MacArthur Studies of Successful Aging," *Journal of Gerontology* 55, no. 4 (2000): 238-246.
[68] L. Tornstam, *Gerotranscendence: A Developmental Theory of Positive Aging* (New York: Springer Publishing, 2005).

transsexual and ex-military? Will trans-identified, former military be able to make use of VA facilities? Will they be respected in their new gender-identities? Will their medical records be altered to reflect those identities when those individuals are in need of end-of-life care and when it is central that an individual have the utmost respect? How will spouses of trans-identified military members be handled? How will new marriages, deemed legal in one state but not in another, be addressed when it comes to military benefits for the surviving spouse? Equally important is the question of whether or not the military will train its healthcare providers in the life course healthcare needs of transgender-identified personnel. None of these questions are addressed in the military literature.

**2.3. Transgender Law and the Military.** There is sparse case law dealing specifically with transgender or transsexual identities and the military. The first case appears to be Doe *v.* Alexander (1981),[69] in which the Army defended its policy of denying enlistment to transsexual persons, arguing that transsexual persons presented a medical problem in that their requirements for hormone supplementation might not be available at some location where they could be assigned. The court declined to reach the merits of the case (class action suit). In Leyland *v.* Orr (1987)[70] the case revolved around an Air Force reservist Leyland who, while honorably discharged after completing a sex reassignment surgery, argued that the discharge was grounded in psychological and physical unfitness and that this was not the case. The court ruled that the discharge was well-founded in the case of physical unfitness and therefore found no reason to rule on the grounds of psychological unfitness. The court's finding was that "some medical conditions always require discharge because the particular condition invariably impairs the evaluee's ability to perform … without dispute [that] transsexualism in which sex reassignment surgery has occurred is such a condition, because all evaluees in this category have potential health problems which may require medical care and maintenance not available at all potential places of assignment." It is of interest to note that the court, in rendering its judgment, likened the genital surgery to loss or amputation of a limb thereby rendering the enlisted person unable to perform the full demands of soldiering.

Case law addressing transgender or transsexual-identified individuals who had not yet undergone gender surgery starts with the U.S. *v.* Davis (1988). Davis was charged under Article 134 of the UCMJ. Davis had received a diagnosis of gender identity disorder by several Navy psychiatrists and had been not only recommended for continuing treatment of the condition but had been attending transsexual support groups in and around the Washington area. This case and subsequent case law revolves around the issue of cross-dressing which is discussed in the next section.

**2.4. Cross-dressing vs. Transvestitism**. It is important to distinguish between cross-dressing and transvestitism or transvestic fetishism.[71] While the general act of cross-dressing falls under the rubric of transgender identities, it is not a paraphilia and it is not

[69] Doe *v.* Alexander, 510 F. Supp. 900 (D. Minn.), 1981.
[70] Leland *v.* Orr, 828 F2d 584 (9th Circ.), 1981.
[71] K. Dzelme, and R. A. Jones, "Male Cross-Dressers in Therapy: A Solution-Focused Perspective for Marriage and Family Therapists," *American Journal of Family Therapy* 29 (2001): 293-304. Even in this article, the pejorative terminology of "transvestite" is used to describe individuals who cross-dress.

the same as transvestic fetishism. The military, however, does not make such a distinction.[72] Transvestic fetishism is a condition meeting the following criteria: (a) Over a period of at least 6 months, in a heterosexual male, recurrent, intense sexually arousing fantasies, sexual urges, or behaviors involving cross-dressing and (b) The fantasies, sexual urges, or behaviors cause clinically significant distress or impairment in social, occupational, or other important areas of functioning.[73]

Cross-dressers, on the other hand, do not have fetishistic dynamics associated with their cross-dressing. Most cross-dressing individuals state that they cross-dress in order to express another facet of themselves. Some individuals may choose to use small amounts of hormones to alter their physical characteristics slightly. Moreover, some individuals who cross-dress may, at some point, decide to move further along the transgender continuum. What is important to understand is that the military equates cross-dressing with transvestitism and considers it to be a psychopathology, thereby allowing an individual to be discharged for it. Additionally, should the cross-dressing be seen and reported, service members can be prosecuted under regulations associated with homosexual cross-dressing. While cross-dressing is not a per se violation of either UCMJ Article 133 (conduct unbecoming) or UCMJ Article 134 (general article pertaining to good order and discipline), as a practical matter, any incidence of cross-dressing brought to a command's attention will be found to be prejudicial to good order and discipline. This is noted by SLDN's Survival Guide and is discussed in *Army Lawyer*.[74] The 1988 opinion in United States *v*. Davis stated that because the cross-dressing took place on a military installation this would "virtually always be prejudicial to good order and discipline and discrediting to the Armed Forces."[75] Moreover, the court also pointed out that "… [his] unusual conduct, when it occurred on a military installation, had an adverse effect on military order and discipline and created a negative perception of the armed services."

The question of punishment for cross-dressing and whether or not cross-dressing in public should be punished was considered by the Navy-Marine Corps Court of Military Review in United States *v.* Guerrero.[76] The court concluded that the conduct of the accused did violate the first two clauses of Article 134, not withstanding its having taken place off base. The court did not construe United States *v*. Davis as requiring that the cross-dressing occur on base to violate Article 133 (conduct unbecoming). Rather, the Davis decision was interpreted to mean that, "cross-dressing can violate Article 134 – regardless of the situs of the conduct – provided that it has 'an adverse effect on military order and discipline and created a negative perception of the armed services.'"[77] The court argued that the maximum punishment for "novel" Article 134 offenses is "determined by referring to the maximum punishment permitted for the most closely related, enumerated Article 134 offense."[78] The court concluded that cross-dressing in

[72] For example, see the Army Medical Services Standards of Medical Fitness.
[73] American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders*, 4th ed.
[74] "Practice Notes," in "Cross-Dressing as an Offense," *The Army Lawyer* March DA PAM 27-50-219 (1991): 42-43.
[75] United States *v.* Davis, 26 M.J. 445 (C.M.A.), 1988.
[76] United States *v.* Guerrero.
[77] "Practice Notes," 42-43.
[78] United States *v.* Guerrero.

public most closely resembles disorderly conduct under Article 134; therefore, the maximum punishment would apply as it does for disorderly conduct. The court defined disorderly conduct as

> Conduct of such a nature as to affect the peace and quiet of persons who may witness it and who may be disturbed or provoked to resentment thereby. It includes conduct that endangers public morals or outrages public decency and any disturbance of contentious or turbulent character.

Thus, considering that transgender-identified individuals could be construed to outrage public decency or endanger public morals when in the clothing of their target identity, they may be considered in violation of Article 134 of the UCMJ and thereby subject to punishment and possible discharge from the military. This decision was further elaborated in a string of cases in which military personnel were discharged for behavior related to cross-dressing and other offenses.[79]

Exploring the interplay of gender, sexuality, and clothing, Taylor and Rupp present a discussion surrounding the question of "doing drag" and "negotiating gender and sexual dynamics" in a drag cabaret.[80] According to this study, many male-to-female transsexuals will work in "drag" environments in order to find employment. From the perspective of the identity of origin, these individuals would be perceived as homosexual in that they are "natal males." However, from the perspective of the target identity, they should be perceived as female. Hence, they should be seen as heterosexual. It is this ambiguous domain that the military uses to prosecute and discharge trans-identified individuals who come out while in military service.

Other aspects of gender-identity can emerge as problematic for the military. For example, suppose a male soldier wishes to marry a non-military male-to-female transsexual. It is possible, under case law established in Von Hoffburg *v.* Alexander, that the soldier can be discharged once he has married the transsexual.[81] It becomes clear, then, that legal protection from discrimination based on sexual orientation can be confounded by conflating an individual's gender identity of origin with his or her target identity, thereby leading to the potential for litigation.[82]

It is also important to understand the multicultural aspects of transgender identification. For example, in Thailand, the word "transvestite" is not considered a descriptor of a

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[79] U.S. *v.* Modesto. In this decision, off-post, off-duty, cross-dressing at gay club was conduct unbecoming. U.S. *v.* Gunkle, J.D. Army 9701960, 1999; U.S. *v.* Saunders, J.D. Army 9900899, 2002. These cases involved behavior related to cross-dressing and other offenses.

[80] V. Taylor, L. J. Rupp, "When the Girls are Men: Negotiating Gender and Sexual Dynamics in the Study of Drag Queens," *Signs* 30, no. 4 (1990): 2114; For a discussion of gender variance and homosexuality among North American Indians, see S. Lang, "Traveling Women: Conducting a Fieldwork Project on Gender Variance and Homosexuality among North American Indians," in *Out in the Field: Reflections of Lesbian and Gay Anthropologists,* ed. E. Lewin and W. L. Leap (Urbana: University of Illinois Press, 1996).

[81] Von Hoffburg ***v.*** Alexander (5th Cir.), 1980. 615 F.2d 633, 641 n.15 (5th Cir. 1980). In this case a female service member was discharged after marrying a transsexual.

[82] L. Katz and H. LaVan, "Legal Protection from Discrimination Based on Sexual Orientation: Findings from Litigation," *Employee Responsibilities and Rights Journal* 16, no. 4 (2004): 195-203.

psychopathology.[83] Similarly, in Argentina, the word transvestite is used to describe what is called a transsexual in North America. In India, the Hijra define themselves as a third gender. Hijra individuals are physical males or intersexed persons identifying as the "third sex" of India, Bangladesh, and Pakistan. They describe themselves as neither man nor woman, though they "refer to themselves with female pronouns" and wish to be referred to as female. In Hindu contexts, they belong to a special caste devoted to "the mother goddess Bahuchara Mata." The Indian government has recently protected the Hijra by announcing that they now have legal status as a third gender. In Pakistan, they are described as "eunuch-transvestites who scrape out a hard existence as beggars, dancers and prostitutes." Hijra means "hermaphrodite in Urdu" but most of them are described as "homosexual transvestites."[84] Again, in such a description, we see the conflation of target and origin identities, sexuality, and psychopathology. In addition, we see the lack of clarity between the psychopathology of transvestitism and the non-pathology of cross-dressing. Similar issues arise in the South East and East Asian countries such as Indonesia and Thailand where sexual and gender diversity are not only more widespread but more readily accepted.[85]

For the U.S. armed forces, such cultural practices can raise important questions concerning the management of military personnel. For example, indigenous men in the Pacific "engage in gender practices that historically have had widely different consequences for their positions of power."[86] This is particularly important for males in Hawai'i who might follow such practices and who might wish to enlist in the U.S. military, which could require them to "cease and desist" these non-normative gender positions or else face discharge.

**2.5. Transsexuality and Military Functioning.** The question of how being trans-identified may or may not affect a service member's ability to function as a soldier has been addressed in one internal military document. Clements and Wick look into the problem of whether or not a "transsexual pilot with questionable judgment affecting flight safety" can be seen as a risk due to transsexuality.[87] The report argues that transsexuals must undergo many changes, some of which require therapy, and that this "could be significant." The implication of this statement is that the gender changing protocol could "significantly" impact an individual's ability to function as a soldier. They further argue that "transsexuals tend to have more episodes of anxiety and depression than the norm." There is no evidence, however, to support this statement, nor is it clear what the comparison group is when such a statement is made. For those transsexuals

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[83] "Thai Military Mulls Scrapping Mental Disorder Tag for Gays," *Agence France Press*, August 11, 2005.
[84] A. Qadir, "Ex-PM's Poser: Reject Men, Elect Eunuch," Asia Africa Intelligence Wire, February 2, 2004, http://www.ars-rhetorica.net/Queen/Volume11/Articles/IntroDennis.html, http://a9.com/hijra?factid=3693496, and http://androgyne.0catch.com/hijrax.htm; S. Bakshi, "A Comparative Analysis of Hijras and Drag Queens: The Subversive Possibilities and Limits of Parading Effeminacy and Negotiating Masculinity," *Journal of Homosexuality* 46, nos. 3-4 (2004): 211-212; A. Agrawal, "Gendered Bodies: The Case of the 'Third Gender' in India," *Contributions to Indian Sociology* 31, no. 2 (1997): 273-297.
[85] M. Johnson, P. Jackson, and G. Herdt. "Critical Regionalities and the Study of Gender and Sexual Diversity in South East and East Asia," *Culture, Health and Sexuality* 2, no. 4 (2000): 361-374.
[86] T. Tengan, "(En)gendering Colonialism: Masculinities in Hawai'I and Aotearoa," *Cultural Values* 6, no. 3 (2002): 239-256.
[87] T. L. Clements, and R. E. Wick, "Transsexuality and Flight Safety," Report Number USAFSAM-TP-87-9, Project Number ED93, Task Number 56, AD Number ADA229994 (Brooks AFB, TX: School of Aerospace Medicine, 2002).

who do experience bouts of anxiety and depression, symptoms tend to resolve over time. Clements and Wick conclude that "through practitioner awareness and rapport with the patient, the transsexual need not be considered unsafe to fly."[88]

The complex dynamics of the military's binary view of the body, sex and gender raise potential questions about how the U.S. armed forces should interact with the militaries of other countries that do adapt to non-normative identities. Disparate policies with respect to transsexual participation, for example Israel's inclusiveness of transsexuals or the Hijra of India, could be perceived as highly problematic when American forces operate in tandem with foreign militaries.

## 3.0 SUMMARY AND CONCLUSIONS

The U.S. military views individuals who identify as intersex, transgender, transsexual, cross-dressing, or other non-normative gender or sex as medically problematic and/or psychologically disturbed and consequently not worthy to serve in the armed forces. Individuals who identify, during enlistment phase, as trans-persons are summarily disqualified under psychiatric exclusion rules. Individuals who decide to so identify during their military careers are either discharged under the same rules or, if caught "cross-dressing," are discharged under criminal or administrative sanctions. Similarly, intersex-identified individuals are excluded from the U.S. military as "hermaphrodites," a term that is seen as pathologizing and pejorative by many. All U.S. military representatives we contacted indicated that intersex identified individuals are presumed to require greater medical attention than the armed forces can provide would therefore be excluded from service, although we were unable to identify any regulatory, legal or policy basis for this claim.

We find that, whether or not individual members of the armed forces are willing to work with trans- or intersex-identified individuals, or in fact have worked with or otherwise interacted with them, military personnel are currently constrained by military code and cannot implement a more inclusive perspective. Given these current constraints, the U.S. military may encounter problems when interacting with other militaries that are more inclusive when it comes to transgender or transsexual service.

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[88] *Ibid.*
[89] http://www.transgenderlaw.org/

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[90] http://www.sldn.org/
[91] http://transgenderlegal.com/
[92] http://www.transgenderlawcenter.org/
[93] http://www.armfor.uscourts.gov/