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PRESIDENTIAL LEADERSHIP AND MILITARY DISCRIMINATION

By Aaron Belkin and Diane H. Mazur

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“For those who are in uniform who’ve experienced sexual assault, I want them to hear directly from their commander in chief that I’ve got their backs.”

President Barack Obama, May 7, 2013¹

Beginning with President Harry Truman’s 1948 executive order² declaring “the policy of the President” to be “equality of treatment and opportunity for all persons in the armed services without regard to race, color, religion or national origin,” commanders-in-chief have taken direct, personal action to ensure equality of treatment for service members. Presidential leadership has been a critical factor in preserving, in Truman’s words, the “highest standards of democracy” in the military, “with equality of treatment and opportunity for all those who serve in our country’s defense.”

Military leaders agree that strong leadership throughout the chain of command is essential to the successful implementation of new personnel policies. The Pentagon Working Group assigned to study the potential consequences of repealing “don’t ask, don’t tell” conducted the largest and most comprehensive review of personnel policy in US military history.³ It examined the military’s history of racial and gender integration, and one of its critical “lessons from history” was “the importance of effective leadership in the process of implementing change.”⁴ In short, the Working Group’s most important conclusion was that “leadership matters most,” and it repeated that phrase nine times within its repeal implementation plan.⁵ Civilian leadership matters too: “The manner in which DoD military and civilian leadership executes transition will determine the success of the transition process.”⁶

Leadership within the military chain of command begins with a clear message from the President as Commander-in-Chief. President Truman issued an unmistakable statement of policy and also established a commission “to determine in what respect such rules, procedures and practices may be altered or improved with a view to carrying out the policy of this order.” Presidents have also ordered reconsideration of military policies that may undermine values of equality and impose unnecessary and counterproductive limits on service. For example, after the first Gulf War, President George H.W. Bush appointed the 1992 *Presidential Commission on the Assignment of Women in the Armed Forces* to reassess the rules excluding women from combat service. Within approximately six months, the Commission had held hearings, gathered evidence, visited military installations, made a decision, and issued a final report.⁷

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Presidential leadership to ensure military equality may require persistence and repeated effort. The full integration of women in military service has been a gradual and at times halting process. Commanders-in-chief over the years have had to issue clear messages about policies of equality under a variety of circumstances. In 1980, President Jimmy Carter pressed (unsuccessfully) for legal authority to register women for the draft alongside their male peers: “Since women have proven that they can serve successfully in the Armed Forces in peace they should be asked also to serve in the Armed Forces during a national emergency or war to the extent they can make a contribution.”⁸

Thirty-five years later, the current commander-in-chief continues that effort to ensure military equality on the basis of gender. In his 2013 State of the Union address, President Barack Obama stated his policy on the Pentagon’s remaining combat-exclusion rules that are currently under review: “We will draw upon the courage and skills of our sisters and daughters and moms, because women have proven under fire that they are ready for combat.”⁹ As the opening quote in this paper illustrates, President Obama has also made clear that he will not tolerate practices that undermine gender equality in the military by failing to control sexual misconduct. His one unifying policy on military gender equality is that “valor knows no gender.”¹⁰

The same principle of presidential leadership in building military equality applies to military medical policies that continue to automatically disqualify all transgender individuals from service. Senior defense officials have stated that they expect these policies to come under review soon.¹¹ First, as demonstrated by the dwindling number of gender-based combat-exclusion rules, we are steadily moving toward a military that does not limit the contribution of service members solely on the basis of gender—“valor knows no gender.” Second, the commander-in-chief should make clear that, like other military policies, military personnel and medical policies should always be based on evidence and professional expertise.¹² The Pentagon Working Group studying “don’t tell, don’t tell” found that “predictions and surveys tend to overestimate negative consequences.”¹³ Third, the President has stated his belief that, in the absence of military justification, “preventing patriotic Americans from serving our country weakens our national security.”¹⁴ All three of these policy principles apply to a review of medical rules preventing transgender individuals from serving in the military, and the President should make clear to the military that they do.

Equality of treatment in military service is not a new concern, and it is not confined to any part of the political spectrum. President Richard Nixon pressed to transform a draft military into an all-volunteer military—against military advice at the time—by emphasizing a policy based on equality and fairness in military service. As a presidential candidate, he stated the policy he would later implement in office:

I feel this way: a system of compulsory service that arbitrarily selects some and not others simply cannot be squared with our whole concept of liberty, justice and equality under the law.¹⁵

Commanders-in-chief have an obligation to preserve values of equality while preserving military effectiveness, and sometimes they have the satisfaction of doing both at the same time. The military understands that “leadership matters most,” and leadership begins at the top.

¹ Craig Whitlock, Obama Delivers Blunt Message on Sexual Assaults in Military, *Washington Post*, May 7, 2013.

² Executive Order No. 9981, *Establishing the President's Committee on Equality of Treatment and Opportunity in the Armed Services* (July 26, 1948), <http://www.trumanlibrary.org/9981.htm>.

³ Department of Defense, *Report of the Comprehensive Review of the Issues Associated with a Repeal of "Don't Ask, Don't Tell"* (November 30, 2010), 3, [http://www.defense.gov/home/features/2010/0610_dadt/DADTReport_FINAL_20101130\(secure-hires\).pdf](http://www.defense.gov/home/features/2010/0610_dadt/DADTReport_FINAL_20101130(secure-hires).pdf).

⁴ *Report of the Comprehensive Review*, 128.

⁵ Department of Defense, *Support Plan for Implementation: Report of the Comprehensive Review of the Issues Associated with a Repeal of "Don't Ask, Don't Tell"* (November 30, 2010), [http://www.defense.gov/home/features/2010/0610_dadt/DADTReport-SPI_FINAL_20101130\(secure-hires\).pdf](http://www.defense.gov/home/features/2010/0610_dadt/DADTReport-SPI_FINAL_20101130(secure-hires).pdf).

⁶ *Support Plan for Implementation*, 5.

⁷ Bernard Rostker, *I Want You! The Evolution of the All-Volunteer Force* (Santa Monica, CA: RAND Corporation, 2006), 572-75.

⁸ Presidential Recommendations for Selective Service Reform: A Report to Congress Pursuant to P.L. 96-107, Committee on Armed Services, House of Representatives, 96th Congress, 2nd Session (February 11, 1980), 22-23, <http://catalog.hathitrust.org/Record/007407620>.

⁹ Remarks by the President in the State of the Union Address, February 12, 2013.

¹⁰ Statement by the President on the Opening of Combat Units to Women, January 24, 2013, <http://www.whitehouse.gov/the-press-office/2013/01/24/statement-president-opening-combat-units-women>.

¹¹ Secretary of the Air Force Deborah James said she expected the military to review its policies governing service by transgender personnel in the near future, and Secretary of Defense Chuck Hagel had earlier stated he was open to such a review. Susan Page, Air Force Secretary Supports Lifting Transgender Ban, *USA Today*, December 10, 2014; Helene Cooper, Hagel 'Open' to Reviewing Military's Ban on Transgender People, *N.Y. Times*, May 12, 2014.

¹² Recent commissions that included retired General and Flag officers have concluded there are no sound medical reasons for the transgender ban, and that implementing inclusive policy is feasible and not excessively complex or burdensome. Dr. Joycelyn Elders, M.D., & Rear Admiral Alan M. Steinman, M.D., Report of the Transgender Military Service Commission (Palm Center 2014), http://www.palmcenter.org/files/Transgender%20Military%20Service%20Report_0.pdf; Major General Gale S. Pollock & Shannon Minter, Report of the Planning Commission on Transgender Military Service (Palm Center 2014), <http://www.palmcenter.org/files/Report%20of%20Planning%20Commission%20on%20Transgender%20Military%20Service.pdf>.

A version of the Elders/Steinman report has been published by *Armed Forces & Society*, a peer-reviewed professional journal. M. Joycelyn Elders, George R. Brown, Eli Coleman, Thomas A. Kolditz, and Alan M. Steinman (2014). Medical Aspects of Transgender Military Service, *Armed Forces & Society*, 1–22. Advance online publication. doi: 10.1177/0095327XI4545625.

¹³ *Report of the Comprehensive Review*, 128.

¹⁴ Sheryl Gay Stolberg, On Gay Issues, Obama Asks To Be Judged on Vows Kept, *N.Y. Times*, June 30, 2009.

¹⁵ Rostker, *I Want You!*, 36.