



# Barriers to serve: Social policy and the transgendered military

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## Abstract

Militaries around the world have recently reassessed their policies concerning transgender personnel. A wave of integration has swept across the English-speaking world, with transgender troops serving openly in Australia, Canada, Ireland, New Zealand and the United Kingdom. Currently, the United States Department of Defense is embarking on its own reassessment. We offer here overlapping perspectives on the future directions of transgender policies in the American military. First, we provide an overview of the transgender policies of other English-speaking democratic militaries. We then discuss survey findings that provide insights into current transgender military populations. Finally, we focus on a key policy (DD Form 214/215, which regulates name changes) and discuss its effects on transgender personnel. Given the global trend-lines and considering the lived experiences of American transgender personnel, we argue that American policy-makers should take care to avoid the conservative biases of the organization when formulating its future transgender policy.

## Keywords

military, personnel policy, professional closure, social policy, transgender

We must ensure that everyone who's able and willing to serve has the full and equal opportunity to do so.... Our military's future strength depends on it. (Secretary of Defense Ash Carter, 13 July 2015)

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There is a peculiar tension inherent in democratic states concerning the autonomy of military organizations. As Max Weber (1968) noted long ago, if they are to endure, states must exert a monopoly on the legitimate use of violence. As Samuel Huntington (1957) noted more recently, if they are to remain democratic, states must maintain control over their militaries, but at the same time, if their militaries are to be effective, they must enjoy a significant degree of autonomy from civilian control. The managers of the state's legitimate violence are thus caught between the exigencies of the battlefield (and of their own professional identity) and the vicissitudes of politics.

This tension is today manifested in the struggle to control who can serve in the military. Since the transition to all-volunteer forces in most democracies since the 1970s, military service has been defined in part by economic rather than moral or altruistic concerns (Moskos, 1977). Since the risks of military service are so high compared to other employment prospects, a compensatory regime has evolved to offer exceptional social policy provisions to the armed servants of the state. This has led to a puzzle of balancing these expansive provisions (central to recruitment and retention in all-volunteer forces) alongside cultural patterns of conservatism and institutional autonomy. For military organizations, what is at stake is professional closure, their ability to regulate who they employ and how they compensate. For the polity, what is at stake is its confidence that the military is indeed subservient (Huntington, 1957), an agency to which it can trust the monopoly on the legitimate use of violence (Allen and Braun, 2013).

This article investigates a still-unfolding manifestation of the puzzle about who can serve in democratic militaries, focusing on the American case. Race, gender and sexual orientation have all been challenged as justifiable criteria for exclusion. In the American context, each of these challenges has largely succeeded, guaranteeing the right to serve openly and without discrimination to African Americans (Moskos, 1966), women (although still with restrictions) (Titunik, 2000; see also King, 2015), and gays and lesbians (Belkin et al., 2013). The most recent challenge has come from transgender personnel, who claim that they face unique barriers in their quest to serve their nation. Accordingly, the United States Department of Defense has recently announced that it will put together a working group to investigate 'the policy and readiness implications of welcoming transgender persons to serve openly' (Carter, 2015).

Whatever the findings of the group, it will be forced to confront a deeply rooted tension that is common to the military affairs of democracies. It is particularly salient in the United States, however, where social policy provisions are less generous than elsewhere and where the military's culture is particularly conservative and divided from the mainstream culture on some military personnel policies (Szayna et al., 2007). In this article, we situate the American case within a multinational comparative context. Drawing first from survey data, we consider the current composition of this unique population within the Department of Defense. We then focus on one particular policy (Department of Defense DD Form 214/215) to tease out broader challenges facing American military leaders as they try to determine whether and how to adapt policies to the unique needs of transgender personnel.

Transgender military policy is a moving target, with rapid change occurring in the regulatory framework, in public discourse and in the everyday life of transgender personnel, both globally and in the American context. The purpose of this article is to capture a

snapshot of transgender military policy as of 2015, a pivotal moment in time when the American military stands on the precipice of a new wave of adapting to or resisting a global challenge to its professional closure. In the conclusion, we point provisionally and tentatively to what we consider to be the questions that military policy-makers in the United States will very likely have to resolve in the near future, arguing that American policy-makers should take particular care to avoid the conservative biases of the organization when formulating its future transgender policy

## **Theoretical tensions**

### *The US military as a conservative institution*

The gap between civilian and military interests in the American context was recognized long ago by Alexis de Tocqueville. He noted that career ambition is very high in democratic armies: ‘every soldier may become an officer, which extends the desire for promotion to everyone and which opens up the bounds of military ambition immeasurably’ (Tocqueville, 2003: 752). Since wars create jobs for warriors, Tocqueville theorized that officers want wars to create promotion opportunities. Furthermore, he theorized that this contributed to a systemic tension in democracies: ‘of all armies, the ones most keen upon war are those in democracies ... of all the nations, the ones with the greatest attachment to peace are democracies’ (Tocqueville, 2003: 753). Tocqueville’s fear of an anti-democratic military was shared by several mid-20th-century social scientists, including famously Harold Lasswell (1941) and C. Wright Mills (1956), who both feared that a military empowered by global war (the Second World War and the Cold War, respectively) would militarize the national culture and eventually corrupt the democratic process.

Huntington (1957) turned this fear on its head. Rather than a nefarious military eroding democracy, Huntington feared that a liberal political culture would erode military readiness, creating a weak state easily toppled by rivals. By way of a solution, Huntington advocated for a conservative political culture that could effectively synthesize military needs with democratic standards. Huntington’s successors have investigated the degree to which military populations have adopted distinctive conservative politics (Feaver, 2006), as well as the degree to which military populations are separated by an ideational and cultural gap from the rest of the polity (Feaver and Kohn, 2001). The current literature suggests that the American military diverges from the American public by no fewer than four gaps, separated by culture, demographic patterns, public policy preferences and institutional horizons (Rahbek-Clemmensen et al., 2012). Similar Huntingtonian concerns have emerged in the popular press (Fallows, 2015), with journalists fretting over the small percentage of Americans who serve in uniform (less than 1%) and the concomitant loss of literacy about military affairs. As Mark Thompson (2011) argued recently in *Time*, ‘[w]ithout any skin in the game, Americans are detached from [their] conflicts and those waging them’.

### *The US military as social policy holdout*

If the civil–military relations literature stresses the growing gap between military communities and the broader public, the social policy literature suggests a surprising way in

which the military is aligned with progressive rather than conservative politics. Beginning with the US Civil War, veterans' benefits have contributed to the growth of the American system of social benefits (Skocpol, 1992). Ever since, social policy provisions have been used to solve a number of military problems, including 'troop morale, wavering wartime patriotism of the population, and hesitance among young citizens for voluntary military enlistment' (Cowan, 2008: 4). The link between warfare and welfare is thus multidimensional, affecting the fundamental personnel concerns of recruitment and retention as well as the key operational concerns of morale and cohesion.

There is a paradox here. Even as they trend broadly toward more conservative social and cultural politics, service members and their families continue to enjoy the sorts of benefits that are rapidly disappearing under the neoliberal economic conditions favored by conservatives in America. The question of who can serve, and therefore who can benefit from service, is thus particularly fraught in the United States, where military social policy maps uncomfortably onto partisan politics. While affecting a relatively small percentage of American citizens, the struggle to define who can serve has long been identified by historical sociologists as a critical question for state legitimacy (Tilly, 1985), affecting questions of citizenship and of family life (Geva, 2013) and the very nature of how states fight wars (Kestnbaum, 2005). As Kestnbaum (2005: 278) notes, serving in uniform 'confers a type of political power on those mobilized with which they may advance or defend a claim to be included in civil society or the polity and to which other political actors must respond'. It is no guarantee of inclusion, and although it involves grave risks, military service comes with relatively significant symbolic and, at least in the American context, financial rewards.

The United States is famously exceptional in terms of its social policy configurations. A recent generation of scholars have attempted to moderate this view by noting that it falls on a continuous scale rather than marks a complete break with other national patterns (Amenta et al., 2001). Regardless, compared to European democracies and to other English-speaking democracies, the United States has long been defined by a distinctively (and increasingly) conservative culture and comparatively underdeveloped social policy framework (Gross et al., 2011). Furthermore, the American aversion to social policy (at least at the rhetorical level) is beginning to spread to other states. Recent austerity movements and changing policy assumptions are contributing to an American-inflected policy debate in many countries. This includes Australia, which has a long history of progressive politics, but where social policy planning increasingly assumes dual-income family structures (Deeming, 2014).

These global patterns mark the American military community as that much stranger. American military families are relatively more likely to be single-income families or to have relatively lower wages for military spouses (Maury et al., 2014). Bucking both national and global trends, American military populations continue to enjoy considerable social security and welfare benefits on a single-income family paradigm, extending not only to uniformed personnel and their dependents, but also to retired personnel and their dependents. Theoretically, then, the decision to extend these provisions to a new community such as transgender personnel has broad consequences for both the bottom line of the institution and for the fabric of its culture.

## Methodologies and data parameters

The empirical section of this article is divided into two categories, both drawing from different methods and datasets. The *first section* is an analysis of survey responses by transgender personnel. The National Center for Transgender Equality and the National Gay and Lesbian Task force administered a survey to transgender adults from all 50 US states, the District of Columbia, Puerto Rico, Guam and the US Virgin Islands (National Center for Transgender Equality, 2009: 1–5). Researchers administered the survey from 11 September 2008 until 3 March 2009. This instrument defined transgender as ‘those who transition from one gender to another (transsexuals), and those who may not, including gender-queer people, cross-dressers, those who are androgynous, and those whose gender non-conforming is part of their identity’ (National Center for Transgender Equality, 2009: 2). This survey used convenience-sampling methods. Researchers distributed the survey to a network of more than 800 transgender-led or transgender-serving organizations and 150 online listservs that cater to transgender users. The final sample size was 6456 respondents, with 6021 of them completing the survey online and the remaining 435 submitting their answers using a paper version of this survey.

One question on the survey asked respondents, ‘Have you ever been a member of the armed forces?’ This study focuses on the subsample of 1,261 respondents who answered that they are or once were members of the military. This subset of current and former military personnel represents about 20% of the total sample size collected for this survey. Further, we reduced this subset to 835 respondents who reported serving in the military and were age 18 or older in 1973 when the all-volunteer force started in the US.<sup>2</sup>

The data that we used in this study are not without limitation. First, the survey relies on convenience sampling of transgender people across the US states and territories. Second, the data is cross-sectional and therefore it provides a snapshot of experiences as reported by respondents in 2008 and 2009. Third, the survey asked a limited number of questions about the military service of respondents, including whether they served and if they have tried to change their military or social security records.

The *second section* offers a detailed analysis of a single policy, namely the Department of Defense’s DD Form 214/215. To assess the consequences of this policy configuration on the existing transgender population, we again draw data from the National Transgender Discrimination Survey (NTDS).

Additionally, we motivate these empirical arguments through an extended comparative analysis of comparable English-speaking democratic military organizations. We draw from publicly available documents about the militaries of Australia, Canada, Ireland, New Zealand, the United Kingdom and the United States. We also consider the trends in their regulatory and legal horizons when possible, although publicly available data on military personnel policy are scarce.

## Trends in transgender military policy in the English-speaking world

Scholars have noted a general global trend toward the civilianizing of military regulation. There have been growing commitments to judicial independence; decreasing command

autonomy; modernizing sex and fraternization regulations; and the abolition of the death penalty (Fidell, 2002). Together, these offer a snapshot of the decreasing willingness among democratic polities to accept military control over basic legal principles. This has clear implications for the ability of military organizations to continue to exert professional closure over its labor market. As we will see, comparatively, the United States is very unusual among English-speaking democracies in continuing to maintain barriers for transgender people to serve openly.

### *The United States*

During the past decade, transgender Americans have gained protections from workplace discrimination (American Civil Liberties Union, 2014). The federal government offers some protections from workplace discrimination for federal employees and in 2014 it prohibited federal contractors from discriminating against transgender individuals. A third of US states have laws that protect transgender people from discrimination, with over 160 cities and counties passing anti-discrimination laws based on gender identity and expression.

Furthermore, this trend toward inclusion includes shifting health care policy afforded to the veteran population. The Veterans Health Administration (VHA) has begun to offer some medical procedures for transgender veterans. The VHA now recognizes transgender veterans and offers them a range of treatments, including hormonal therapy, mental health care, and pre- and post-operative treatment for sex reassignment surgery (Kauth et al., 2014).

Standing in contrast to the armed forces of the United Kingdom, Ireland, Canada, Australia and New Zealand (discussed below), and in conflict with broader trends in the American public and in the veteran population, American military policy toward transgender personnel is restrictive. Its current policy is based on two assumptions (Mendez, 2014). First, it assumes that gender is a dichotomous variable where people are either male or female. Second, the policy assumes that the sex a person is given at birth is the gender they possess throughout their lives. Based on these assumptions, the military relies on a narrow treatment of gender as sex for managing their personnel policies. For example, it is typical for the military to separate unaccompanied or unmarried men and women into different living areas within communal housing. Each service branch has separate dress uniforms for men and women. The physical training standards for service members are gender-specific for men and women, and maternity and paternity leave policies differ. There are military occupations that are open to men but not women (Burrelli, 2013). Put simply, the US military closely ties gender categories to various facets of their personnel policies.

What happens to people whose sex does not neatly overlap with their gender? Historically, the policy in the US military is to ban transgender people from joining, discharge personnel who disclose they are transgender, and not provide transgender dependents with transgender-specific medical treatment.<sup>3</sup> In effect, the policy states that deviations from the sex assigned to people at birth will prevent them from serving in the military. The military has used two criteria for making this determination. First, there is a physical criterion delimiting 'abnormalities or defects of the genitalia' that covers

people born intersex or those who elect for sex reassignment surgery (U.S. Department of Defense, 2010). The criterion also classifies those who change their sex using this physical criterion. Second, the military has a psychological criterion that classifies people who self-identify as a gender that does not conform with their assigned sex as a 'psychosexual condition' akin to voyeurism and paraphilias. Thus, the current policy views transgender people who can meet the physical criterion as having a psychological issue because of the way they self-identify.

The policy on transgender people in the US military affects prospective recruits, current service members and the dependents of these members. The policy has explicitly excluded transgender people from joining the military based on the physical and psychological criteria discussed above. Current service members who self-identify as transgender cannot openly discuss their gender identity with others in the military. The military does not provide transgender personnel with hormone replacement therapy or sex reassignment surgery. If service members elect to have these medical procedures through non-military health care at no cost to the military, they may still incur an administrative discharge from service (U.S. Department of Defense, 2010). Furthermore, the military does not provide such medical procedures for transgender dependents of personnel.

### *United Kingdom and Ireland*

By way of contrast with the American case, the United Kingdom Ministry of Defence (MOD) is currently viewed as 'accommodating' toward the transgender population (Green, 2010: 155). Guidelines passed in 1999 by the MOD have allowed personnel who transition to remain in service, although they may confront new gender restrictions once transitioned—particularly, if they become female, they have so far faced the embargo on women in combat. Despite positive press coverage and legal protections against discrimination, only a handful of cases have been reported of transgender personnel serving openly. The first British Army officer to openly serve as transgender is Hannah Winterbourne, currently a captain (Brown, 2015). Her transition was reported in a supportive article in the Army magazine *Soldier*. Another high-profile example is Ayla Holdom, who recently became the first transgender Royal Air Force pilot, an event newsworthy in part because she was a close work colleague of Prince William (Nicol and Oliver, 2014). Holdom reported broad support from her colleagues, including the Prince. Fifteen years after passing provisions to protect transgender military personnel, then, the United Kingdom has a handful of officers serving openly as transgender, with broad support in the media and within the institution.

In Ireland, the Employment Equality Acts (1998–2011) protect against discrimination against transgender persons (Independent Monitoring Group, 2014: 94). Little discussion has emerged in the public sphere, however, and no uniformed personnel have become the public faces of an Irish transgender military.

### *Canada*

The Canadian Forces lifted the ban on transgender personnel in 1992, and slowly began moving toward active integration of transgender personnel, with new guidelines posted in



2010 and 2012 (Okros and Scott, 2014). Among other provisions, these regulations allow personnel to wear the uniform of their preferred gender; assure them of privacy and respect; and allow them to change their names on military records without giving cause. In an exploratory study, Okros and Scott (2014) found that the Canadian Forces' progressive policies did not compromise operational effectiveness. They also found that intolerance toward transgender personnel remains high, and that poor policy formation, particularly failures to allow personnel to transition at different rates and with different medical procedures, exacerbates the barriers to serve faced by their transgender respondents.

### ***Australia and New Zealand***

Like the Canadian Forces, the Australian Defence Force lifted its ban on transgender personnel in 1992. Nevertheless, practical barriers to serve openly as transgender lingered on until a flurry of reform efforts began in 2010, following the widely reported case of a decorated Army captain vigorously pursuing the right to remain in the service after transitioning (Beck, 2010). Captain Bridget Clinch ultimately lodged a complaint with the Human Rights Commission before the Australian Department of Defence reversed its policy in June 2010.

In 2013, federal protections for transgender persons were introduced to the Sex Discrimination Act 1984 (Defence Diversity and Inclusion Strategy, 2014: 22). That same year, a speech written by Lt. Col. Cate McGregor (an openly transgender officer) for the Army Chief of Staff about women in the military was widely celebrated, and subsequently McGregor became the focus of positive media attention (McPhedren, 2013). McGregor is now the world's highest-ranking openly transgender military officer, and the Australian Department of Defence currently identifies one of its key objectives as to 'position Defence as an employer of choice for Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) persons' (Australian Government Department of Defence, 2014: 22).

For its part, New Zealand allows transgender troops to serve openly, and has been ranked the most integrated military in the world in terms of its LGBT policies by the Hague Center for Strategic Studies (2014). In response to this announcement, the Chief of the Defence Force announced his pride in the ranking (APNZ, 2014).

### **Survey analysis: the complexity of gender**

Will the United States follow other comparable English-speaking democracies and work toward dismantling the barriers to open transgender military service? As we have outlined above, doing so will likely create conflict with the military's cultural conservatism, and will likely lead to fears that such policy changes will undermine operational readiness (although Okros and Scott's [2015] research suggests these fears would be unfounded). It also holds the possibility of opening up an unusually generous benefits package to a community that faces 'injustice at every turn', in the words of one study (Grant et al., 2011). As policy-makers weight their risk-aversion with claims for inclusiveness, they would do well to consider the perspective of service members currently in uniform who identify as transgender.



We follow Gates and Herman (2014) in provisionally accepting the estimate that 15,500 transgender people serve in the active duty or guard components of the US military.<sup>4</sup> To analyze this population, Gates and Herman (2014) examined data from the NTDS, which they re-weighted using the percentage of respondents that reported being a member of the armed services in the 2011 U.S. Census Bureau's American Community Survey (ACS). We analyzed the military subsample from the NTDS dataset that Gates and Herman (2014) used in their study. Within this survey, there were 1261 people who said they either currently serve or have served in the military. Next, we calculated the number of these respondents that were 18 years of age or younger (including those not born yet) as of 1973 when the US military was an all-volunteer force. There were 426 people aged 18 years in 1973 and it is likely that we eliminated people aged 19 to 30 who may have joined the all-volunteer force in 1973 or soon after. Nonetheless, our data reduction strategy leaves a subsample of 835 people who reported being transgender, who claimed to have served in the military, and whose age allows us to deduce that they served during the AVF era.

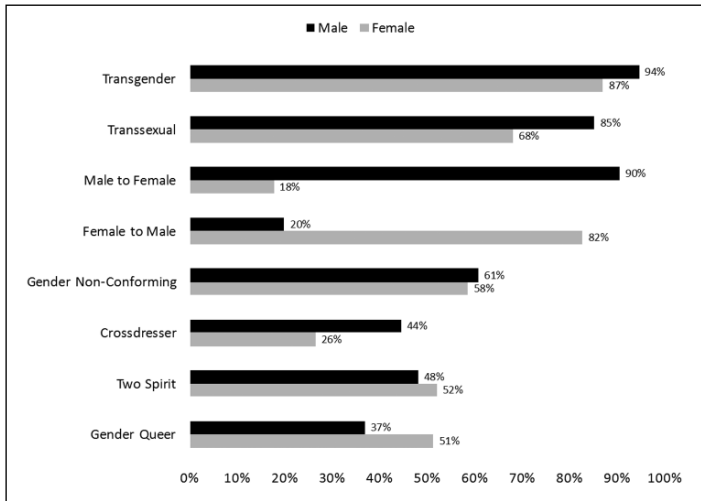
We first highlight the complexity of gender as a social construct that is distinct from sex. We then continue by looking at the construct of transgender by highlighting the variation in self-identities by transgender people within a military subsample.

The NTDS asked respondents to select their gender identity from a list of 16 categories: transgender, transsexual, FTM (female to male), MTF (male to female), Intersex, Gender non-conforming or gender variant, Genderqueer, Androgynous, Feminine male, Masculine female or butch, A.G. or aggressive, Third gender, Crossdresser, Drag performer (King/Queen), Two-spirit, or other. For each of these categories, the survey allowed respondents to select 'Not at all', 'Somewhat' or 'Strongly'. We transformed each of these categories into separate dichotomous variables where 1 represents 'Somewhat' or 'Strongly' answer choices and 0 are those who selected 'Not at all'. We then rank-ordered these categories by sex assigned at birth and selected the five most selected categories for those born male and female.

Figure 1 displays the percentage of transgender people in our military subsample that selected each gender identity by sex assigned at birth. This figure shows that gender does not cleanly map onto sex for current and former military personnel. For example, Figure 1 shows that a majority of people in our military subsample who were male (94%) and female (87%) self-identified as transgender. More males in our sample (85%) self-identified themselves as transsexual than females (68%), a term that many find outdated (Elders et al., 2014).

For those born as male at birth, 90% reported they were males to females and 20% reported being females to males. For females at birth, we see the opposite pattern: 18% identified as male to female, while 82% reported being female to male. Similar percentages of males (61%) and females (58%) at birth reported being gender non-conforming. More males (44%) reported being cross-dressers versus females (26%), while similar percentages of males (48%) and females (52%) reported being two-spirits. Finally, Figure 1 shows that the gender-queer identity was lower for males (37%) versus females (51%) in our sample.

These results show us that transgender is a difficult social category to define. Such ambiguity in defining these gender identities has implications for the US military – and



**Figure 1.** Distribution of gender identities by sex assigned at birth specifically.

other militaries – as they revise their personnel policies, which are largely defined by whether service members were assigned the sex of male or female at birth. Let us say, for example, that a ‘male’ service member is transgender. By transgender, this individual may fall into a diverse array of gender identities, including male to female, gender non-conforming, or crossdresser. Personnel may use different terms to describe their gender identity, with some preferring transgender, some preferring transsexual, and some finding one or both terms to be offensive. These examples highlight the complexity that military leaders face as they revise personnel policies that include people who broadly self-identify as transgender.

What may appear at first glance to be merely semantic differences are in fact reflections of profoundly felt differences. To further illustrate this complexity, the survey allowed respondents to describe their gender identity in a text box if the categories used did not capture how they self-identified themselves.<sup>5</sup> This was a welcome opportunity for several respondents, who vividly expressed their discomfort with choosing just one of the available options. For example, one respondent noted,

This is always a puzzling question. Most people read me as a gender non-conforming female, a butch lesbian, and sometimes as male. I’m reasonably comfortable with any or all of that, socially. Male and female, man woman, they don’t make sense.

Another self-identified as ‘comfortably a woman with stereotypical male personality traits’, while a third noted simply, ‘While I present as female, I identify neither as male nor female. I’m something else.’

For others, societal expectations are described in more fraught terms. One respondent jokingly self-identified as “‘Twidget” ... I don’t know, I have to come up with a new word. Mainly, I just *don’t* identify, it makes me very uncomfortable to do so.’ Another

noted, 'myself, I don't fit with either of the two choices society forces us to make', and another: 'I'm not sure I identify as male but I am not able to be the real me yet.' This anxiety is linked by some respondents to their feelings of not being where they want to be in their transition: 'I want a hysto, top surgery and maybe to take T but being "male" isn't my goal. As of right now I am scared and poor so I haven't done anything so I look like a very butch dyke.' The sense of frustration was shared by many respondents and described by one as a profound inner conflict: 'I do not assign myself a specific gender identification although I do use male pronouns. I am just a genetic female in the custody of a male or masculine soul and/or expression.'

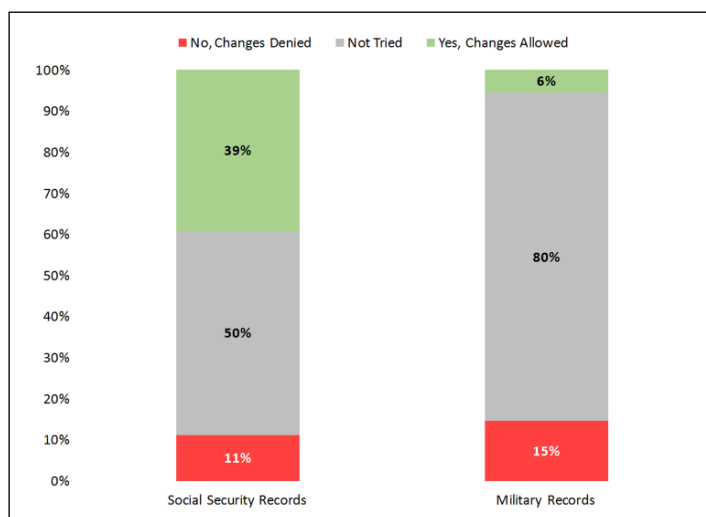
These responses suggest a few important points about sex and gender. First, they point to the challenges some transgender people face in classifying themselves in any single descriptive category. Second, the responses show how gender identity may vary for some people in the language they use to describe themselves (e.g. male pronouns), their anatomy (e.g. being a genetic female), and how they view themselves within their anatomy (e.g. masculine soul). Another free response to the same question by a respondent who was assigned a sex of male at birth further highlights the discrepancies between sex and gender: 'I look like a man but I always feel best when I'm in female mind whether that is dress in pants, slacks, or a skirt or dress it is a state of mind for me.'

Several respondents who identified as having been born intersex shared an additional source of discomfort with their gender performances. 'Intersex' refers to people born with anatomical characteristics of both male and female sex. Since sex is a dichotomous variable, people born intersex often encounter gender classification problems early in life, with one respondent noting, 'I was assigned female, then assigned male.' Another related, 'I was born both genders, both on birth certificate, I am a woman, the genital organ that was allowed to remain is male though.' For these respondents, as for many of the others quoted above, sex and gender are not dichotomous, not immutable, and not given, but rather fundamentally open, demanding thoughtful efforts at self-definition.

## **Policy perspectives: gender identity and government documents**

In this section, we focus on the process that people use to change their gender on official government documents. We compare the outcomes of attempts (or non-attempts) by personnel in our military subsample to change the gender listed on their U.S. Social Security Administration (SSA) records and their Department of Defense DD Form 214/215 (DD-214/215), which is a record of their military service.

There is some value in comparing the experiences of transgender people in changing their gender identity on their SSA records versus the DD-214/215 form. For one thing, noticeable differences in self-reported rates of success in changing one's identity on these records may highlight a pattern of inequality, a point of consideration for government agencies attempting to revise their policies toward transgender people. Further, a lack of success in changing these records may lead some transgender people to avoid trying to change them at all. If few people are successful in changing their gender identity on government records, it may not be worth the time and effort of transgender people to petition these government entities.



**Figure 2.** Results from petitions for record changes for social security and military records.

The NTDS survey asked respondents, ‘For each of the following documents, please check whether or not you have been able (allowed) to change the documents or records to reflect your current gender.’ Respondents could select: ‘Yes, changes allowed’, ‘No, changes denied’, ‘Not tried’ or ‘Not applicable’ from a list of documents including ‘Social Security Records’ and ‘Military Discharge Records’ (DD214 or DD215). For our analysis, we excluded respondents who selected ‘Not applicable’ to either of these records.

Figure 2 shows that transgender people in our military subsample were far more likely to successfully change their gender identity on SSA records (39%) versus their military records (6%). Results from a test of proportions show that this difference is statistically significant ( $z = 14.92$ ;  $p < .000$ , two-tailed). Figure 2 also shows that a smaller percentage of transgender people in our military subsample did not try changing their gender identity on SSA records (50%) versus the DD-214/215 (80%). That difference was also statistically significant ( $z = -11.82$ ;  $p < .000$ , two-tailed). Finally we see a similar percentage of respondents reporting they were denied requests for changing their gender identity on SSA (11%) versus the DD-214/215 (15%) forms. That difference was non-significant ( $z = -1.86$ ;  $p = .06$ , two-tailed).

While the results in Figure 2 suggest that the U.S. Social Security Administration and the U.S. Department of Defense have similar percentages of denial for changing the gender identity on records of transgender people, these results also show that it may be easier to make these changes with the SSA versus the military. A large percentage of transgender people in our military subsample reported success in changing their gender identity on records kept by the SSA. Further, the vast majority of people in our military subsample did not even try to change their gender identity on the DD-214/215.

There are several limitations with comparing the SSA and military for our subsample. First, the NTDS did not ask respondents how long they served in the military. For example, transgender personnel who only served in the military for a few years may not care

enough to change their gender identity versus those who had a longer career in the military. Second, the US military has had an explicit policy that excluded transgender people for several decades. If a transgender service member separates from the military, they may not feel comfortable petitioning the U.S. Department of Defense for a records change. Third, the SSA and U.S. Department of Defense are distinct government entities. These entities have their own policies and procedures for people who petition them to make changes to their records. Thus, differences in percentages of approvals or disapprovals do not necessarily represent intent by these government entities.

Despite these limitations, the results in Figure 2 highlight how differences in military and civilian government policies toward transgender people could appear discriminatory. Such appearances may place pressures on military leaders as they implement new policies toward transgender personnel. One could argue that tensions arise when civilians view social policy in the military as different from widely accepted policies within civilian society. If the military cannot provide a consistent reason for why this difference exists, these tensions may result in further pressure on military leaders to have policies that align with civilian society. To illustrate, if future research finds that civilian government agencies (e.g. SSA, Centers for Medicare and Medicaid, state governments or the Department of Veterans Affairs) appear to have different policies and procedures than the military, this could raise questions as to why these differences exist. Further, one may assume that military leaders would prefer more rather than less independence to manage these policy changes, meaning fewer policy interventions by civilian leaders.

Our preliminary results cannot definitely conclude whether or not policies and procedures differ between the SSA and the U.S. Department of Defense. These findings do, however, suggest that differences *may* exist and it is plausible that these types of comparisons could lead to tensions between military and civilian leaders as they both revise their policies toward transgender people.

## Summary and conclusions

The U.S. Department of Defense is currently embarking on yet another reassessment of military personnel policies that relate to professional closure. The outcome is uncertain. If military leaders decide they will fully and openly integrate transgender personnel, they will confront a variety of policy questions that are distinctive and challenging. If instead they choose a middle ground, as was done with sexual orientation issues through Don't Ask, Don't Tell (DADT) (Belkin et al., 2013), they could confront the additional uncertainty that any stop-gap policy will shortly require yet another round of reassessment, as occurred with DADT. If, by contrast, they choose not to move forward with integration, they may be likely to confront challenges from civil society advocates and transgender personnel alike for many years to come.

In the theoretical section, we situated the transgender dilemma within a broader tension between the military's long-standing cultural conservatism and its deep investment in generous social policy provisions. From this, we draw the insight that the struggle to integrate transgender personnel is not simply an exogenous challenge from civil society but reflects a deep tradition of progressive politics within the institution, an irony given its cultural conservatism.<sup>6</sup> In the first empirical section, we presented evidence of global

patterns toward the full and open integration of transgender personnel into military service. We further noted the American military's own trend-line toward integrating historically-excluded populations, and noted that the VHA is also moving toward integration of transgender concerns into its policy.

From our analysis of surveys of former service members who identified themselves as transgender, we noted that sex and gender identity are distinct constructs. For these people, gender categories may not easily translate as male or female. The bivariate statistics show that some current and former personnel given the sex of male at birth view themselves as masculine, others consider themselves feminine, and yet some report they are both, neither, or an entirely different gender category altogether. The distinction between gender and sex becomes important because a number of personnel policies in the US military are closely tied to both of these concepts. The first step, then, in addressing the policy implications of integrating transgender personnel is for the US military to recognize that gender identity and sex are distinct concepts. This is not simply a long-standing and widely held belief among social scientists, but is also, as we show, the lived reality of thousands of current and former military personnel.

Beyond these general insights, what specific issues may confront the Department of Defense if it continues to move forward with confronting transgender personnel concerns? From our review of the policy implications surrounding Department of Defense DD Form 214/215, we draw two conclusions. First, a higher percentage of respondents in the sample did not try to change their gender identity on military records compared to civilian records. Second, many more respondents were successful in changing their gender identity on civilian records compared to military records. These findings suggest that the military's bureaucracy may somehow create additional and even unintentional obstacles for transgender personnel that are greater than in comparable civilian bureaucracies (whether these obstacles are real or perceived by individuals).

The mixed methods approach of this article is intended to provide multiple, overlapping perspectives on the barriers confronting transgender personnel in serving openly in the United States armed forces. Throughout, we bracket arguments for and against allowing transgender personnel to serve openly. Let us conclude with a simple observation of the current experience of transgender personnel: these individuals face unique barriers to serve, barriers enmeshed in the fabric of the organization. If the U.S. Department of Defense follows other English-speaking democratic militaries—indeed, if it follows its own history and its sister organizations—than it will be forced to address the unique consequences of these barriers to serve in terms of unit cohesion, health outcomes, and civil and criminal proceedings. *Praemonitus, praemunitus.*

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## Notes

1. This article is fully co-authored. Authors are listed alphabetically.
2. As noted above, the NTDS used a convenience sample, disseminated through listservs and online communities, and not a random sample. Accordingly, it likely over-represents some

groups and under-represents others (Gates and Herman, 2014). While this sample is less than ideal, it does provide us with critical insight into the hard-to-reach population of openly transgender people who have served or are currently serving in the military. Our results provide insight into the experiences of this population and should not be taken as representative of all transgender people in the military.

3. These personnel policies continue to change as new Department of Defense Instructions are issued.
4. We acknowledge, however, that this number may overstate the number of transgender people in the U.S. military given civilian estimates by the U.S. Census Bureau (see Harris, 2015).
5. We have revised punctuation, spelling, and capitalization for ease of comprehension, but have not otherwise altered the content of the responses.
6. The irony of a conservative institutional culture blended with progressive social policy features has been noted throughout this article. We are not arguing here that this tension is immutable. At some points in its history, as with civil rights issues in the 1960s, the U.S. Department of Defense has led the broader public in its embrace of inclusive policies; at other times, as with Don't Ask, Don't Tell in the 1990s, it has trailed behind.

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