

The Honorable Marsha J. Pechman

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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

RYAN KARNOSKI, et al.,  
*Plaintiffs,*  
v.  
DONALD J. TRUMP, in his official capacity as  
President of the United States, et al.,  
*Defendants.*

Case No. 2:17-cv-01297-MJP  
**DECLARATION OF DEREK  
NEWMAN IN SUPPORT OF  
PLAINTIFFS’ MOTION FOR  
SUMMARY JUDGMENT**

I, Derek Newman, swear under penalty of perjury under the laws of the United States to the following:

- 1. I am counsel of record for Plaintiffs in this action, am over age 18, and competent to be a witness. I make this declaration in support of Plaintiffs’ motion for summary judgment based on facts within my own personal knowledge.
- 2. Attached hereto as **Exhibit 1** are true and correct copies of tweets posted on July 26, 2017, retrieved from the Twitter feed of President Trump at <https://twitter.com/realDonaldTrump>.
- 3. Attached hereto as **Exhibit 2** is a true and correct copy of President Trump’s August 25, 2017 Memorandum for the Secretary of Defense and the Secretary of Homeland Security regarding “Military Service by Transgender Individuals,” retrieved from

1 [https://www.whitehouse.gov/presidential-actions/presidential-memorandum-secretary-defense-](https://www.whitehouse.gov/presidential-actions/presidential-memorandum-secretary-defense-secretary-homeland-security/)  
2 [secretary-homeland-security/](https://www.whitehouse.gov/presidential-actions/presidential-memorandum-secretary-defense-secretary-homeland-security/).

3 4. Attached hereto as **Exhibit 3** is a true and correct copy of the Secretary of  
4 Defense’s September 14, 2017 Memorandum regarding “Military Service by Transgender  
5 Individuals – Interim Guidance,” retrieved from [https://www.defense.gov/Portals/1/Documents/](https://www.defense.gov/Portals/1/Documents/PDFs/Military-Service-By-Transgender-Individuals-Interim-Guidance.pdf)  
6 [PDFs/Military-Service-By-Transgender-Individuals-Interim-Guidance.pdf](https://www.defense.gov/Portals/1/Documents/PDFs/Military-Service-By-Transgender-Individuals-Interim-Guidance.pdf).

7 5. Attached hereto as **Exhibit 4** is a true and correct copy of a Statement by Chief  
8 Pentagon Spokesperson Dana W. White on Transgender Accessions, dated June 30, 2017,  
9 retrieved from [https://www.defense.gov/News/News-Releases/News-Release-](https://www.defense.gov/News/News-Releases/News-Release-View/Article/1236145/statement-by-chief-pentagon-spokesperson-dana-w-white-on-transgender-accessions/)  
10 [View/Article/1236145/statement-by-chief-pentagon-spokesperson-dana-w-white-on-transgender-](https://www.defense.gov/News/News-Releases/News-Release-View/Article/1236145/statement-by-chief-pentagon-spokesperson-dana-w-white-on-transgender-accessions/)  
11 [accessions/](https://www.defense.gov/News/News-Releases/News-Release-View/Article/1236145/statement-by-chief-pentagon-spokesperson-dana-w-white-on-transgender-accessions/).

12 6. Attached hereto as **Exhibit 5** are true and correct copies of excerpts from the 2011  
13 “A Report of the National Transgender Discrimination Survey,” retrieved from  
14 [https://transequality.org/sites/default/files/docs/resources/NTDS\\_Report.pdf](https://transequality.org/sites/default/files/docs/resources/NTDS_Report.pdf) (highlighting  
15 provided).

16 7. Attached hereto as **Exhibit 6** is a true and correct copy of an excerpt of a January  
17 12, 2017 transcript of the Senate Armed Services Committee hearing on the expected nomination  
18 of James N. Mattis to be Secretary of Defense, retrieved from [https://www.armed-](https://www.armed-services.senate.gov/imo/media/doc/17-03_01-12-17.pdf)  
19 [services.senate.gov/imo/media/doc/17-03\\_01-12-17.pdf](https://www.armed-services.senate.gov/imo/media/doc/17-03_01-12-17.pdf) (highlighting provided).

20 8. Attached hereto as **Exhibit 7** is a true and correct copy of an excerpt of a  
21 September 26, 2017 transcript of the Senate Armed Services Committee hearing on the  
22 nomination of Joseph Dunford for Reappointment as Chairman of the Joint Chiefs of Staff,  
23 retrieved from [https://www.armed-services.senate.gov/imo/media/doc/17-80\\_09-26-17.pdf](https://www.armed-services.senate.gov/imo/media/doc/17-80_09-26-17.pdf)  
24 (highlighting provided).

25 9. Attached **Exhibit 8** is a true and correct copy of Helene Cooper, “Trump Says  
26 Transgender Ban Is a ‘Great Favor’ for the Military,” New York Times (Aug. 10, 2017) retrieved  
27 from <https://www.nytimes.com/2017/08/10/us/politics/trump-transgender-military.html>, and  
28

1 President Trump's quoted comments were captured on video, as reflected here:

2 <http://abcnews.go.com/Politics/video/trump-stands-transgender-ban-military-49144527>.

3 10. Attached hereto as **Exhibit 9** is a true and correct copy of Patricia Kime, "DoD  
4 Spends \$84M a Year on Viagra, Similar Meds," Military Times (Feb. 13, 2015), retrieved from  
5 [https://www.militarytimes.com/pay-benefits/military-benefits/health-care/2015/02/13/dod-](https://www.militarytimes.com/pay-benefits/military-benefits/health-care/2015/02/13/dod-spends-84m-a-year-on-viagra-similar-meds/)  
6 [spends-84m-a-year-on-viagra-similar-meds/](https://www.militarytimes.com/pay-benefits/military-benefits/health-care/2015/02/13/dod-spends-84m-a-year-on-viagra-similar-meds/).

7 11. Attached hereto as **Exhibit 10** is a true and correct copy of Defense Health  
8 Program, Fiscal Year (FY) 2018 Budget Estimates, retrieved from [http://comptroller.defense.](http://comptroller.defense.gov/Portals/45/Documents/defbudget/FY2018/budget_justification/pdfs/09_Defense_Health_Program/Vol_I_Sec_1_PBA-19_Introductory_Statement_DHP_PB18.pdf)  
9 [gov/Portals/45/Documents/defbudget/FY2018/budget\\_justification/pdfs/09\\_Defense\\_Health\\_Pro](http://comptroller.defense.gov/Portals/45/Documents/defbudget/FY2018/budget_justification/pdfs/09_Defense_Health_Program/Vol_I_Sec_1_PBA-19_Introductory_Statement_DHP_PB18.pdf)  
10 [gram/Vol\\_I\\_Sec\\_1\\_PBA-19\\_Introductory\\_Statement\\_DHP\\_PB18.pdf](http://comptroller.defense.gov/Portals/45/Documents/defbudget/FY2018/budget_justification/pdfs/09_Defense_Health_Program/Vol_I_Sec_1_PBA-19_Introductory_Statement_DHP_PB18.pdf).

11  
12 I declare under the penalty of perjury that the foregoing is true and correct.

13  
14 DATED: January 25, 2018



15 \_\_\_\_\_  
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**CERTIFICATE OF SERVICE**

The undersigned certifies under penalty of perjury under the laws of the United States of America and the laws of the State of Washington that all participants in the case are registered CM/ECF users and that service of the foregoing documents will be accomplished by the CM/ECF system on January 25, 2018.



---

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Seattle, WA 98121  
(206) 274-2800

# Exhibit 1



**Donald J. Trump**  @realDonaldTrump · 4h 

...victory and cannot be burdened with the tremendous medical costs and disruption that transgender in the military would entail. Thank you

 39K  25K  73K 



**Donald J. Trump**  @realDonaldTrump · 4h 

....Transgender individuals to serve in any capacity in the U.S. Military. Our military must be focused on decisive and overwhelming.....

 24K  27K  71K 



**Donald J. Trump**  @realDonaldTrump · 4h 

After consultation with my Generals and military experts, please be advised that the United States Government will not accept or allow.....

 14K  26K  66K 

# Exhibit 2

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Presidential Memoranda

# Presidential Memorandum for the Secretary of Defense and the Secretary of Homeland Security

[National Security & Defense](#)

Issued on: August 25, 2017

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SUBJECT: Military Service by Transgender Individuals

Section 1. Policy. (a) Until June 2016, the Department of Defense (DoD) and the Department of Homeland Security (DHS) (collectively, the Departments) generally prohibited openly transgender individuals from accession into the United States military and authorized the discharge of such individuals. Shortly before President Obama left office, however, his Administration dismantled the Departments' established framework by permitting transgender individuals to serve openly in the military, authorizing the use of the Departments' resources to fund sex-reassignment surgical procedures, and permitting accession of such individuals after July 1, 2017. The Secretary of Defense and the Secretary of Homeland Security have since extended the deadline to alter the currently effective accession policy to January 1, 2018, while the Departments continue to study the issue.

In my judgment, the previous Administration failed to identify a sufficient basis to conclude that terminating the Departments' longstanding policy and practice would not hinder military effectiveness and lethality, disrupt unit cohesion, or tax military resources, and there remain meaningful concerns that further study is needed to ensure that continued implementation of last year's policy change would not have those negative effects.

(b) Accordingly, by the authority vested in me as President and as Commander in Chief of the Armed Forces of the United States under the Constitution and the laws of the United States of America, including Article II of the Constitution, I am directing the Secretary of Defense, and the Secretary of Homeland Security with respect to the U.S. Coast Guard, to return to the longstanding policy and practice on military service by transgender individuals that was in place prior to June 2016 until such time as a sufficient basis exists upon which to conclude that terminating that policy and practice would not have the negative effects discussed above. The Secretary of Defense, after consulting with the Secretary of Homeland Security, may advise me at any time, in writing, that a change to this policy is warranted.

Sec. 2. Directives. The Secretary of Defense, and the Secretary of Homeland Security with respect to the U.S. Coast Guard, shall:

(a) maintain the currently effective policy regarding accession of transgender individuals into military service beyond January 1, 2018, until such time as the Secretary of Defense, after consulting with the Secretary of Homeland Security, provides a recommendation to the contrary that I find convincing; and

(b) halt all use of DoD or DHS resources to fund sex reassignment surgical procedures for military personnel, except to the extent necessary to protect the health of an individual who has already begun a course of treatment to reassign his or her sex.

Sec. 3. Effective Dates and Implementation. Section 2(a) of this memorandum shall take effect on January 1, 2018. Sections 1(b) and 2(b) of this memorandum shall take effect on March 23, 2018. By February 21, 2018, the Secretary of Defense, in consultation with the Secretary of Homeland Security, shall submit to me a plan for implementing both the general policy set forth in section 1(b) of this memorandum and the specific directives set forth in section 2 of this memorandum. The implementation plan shall adhere to the determinations of the Secretary of Defense, made in consultation with the Secretary of Homeland Security, as to what steps are appropriate and consistent with military effectiveness and lethality, budgetary constraints, and applicable law. As part of the implementation plan, the Secretary of Defense, in consultation with the Secretary of Homeland Security, shall determine how to address transgender individuals currently serving in the United States military. Until the Secretary has made that determination, no action may be taken against such individuals under the policy set forth in section 1(b) of this memorandum.

Sec. 4. Severability. If any provision of this memorandum, or the application of any provision of this memorandum, is held to be invalid, the remainder of this memorandum and other dissimilar applications of the provision shall not be affected.

Sec. 5. General Provisions. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

- (i) the authority granted by law to an executive department or agency, or the head thereof; or
  - (ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.
- (c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.
- (d) The Secretary of Defense is authorized and directed to publish this memorandum in the Federal Register.



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# Exhibit 3



SECRETARY OF DEFENSE  
1000 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1000

9/14/17

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS  
CHAIRMAN OF THE JOINT CHIEFS OF STAFF  
UNDER SECRETARIES OF DEFENSE  
COMMANDANT, U.S. COAST GUARD  
DEPUTY CHIEF MANAGEMENT OFFICER  
CHIEF, NATIONAL GUARD BUREAU  
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE  
DIRECTOR OF COST ASSESSMENT AND PROGRAM  
EVALUATION  
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE  
DIRECTOR OF OPERATIONAL TEST AND EVALUATION  
CHIEF INFORMATION OFFICER OF THE DEPARTMENT OF  
DEFENSE  
ASSISTANT SECRETARY OF DEFENSE FOR LEGISLATIVE  
AFFAIRS  
ASSISTANT TO THE SECRETARY OF DEFENSE FOR PUBLIC  
AFFAIRS  
DIRECTOR OF NET ASSESSMENT  
DIRECTOR, STRATEGIC CAPABILITIES OFFICE  
DIRECTORS OF DEFENSE AGENCIES  
DIRECTORS OF DOD FIELD ACTIVITIES

SUBJECT: Military Service by Transgender Individuals - Interim Guidance

The Department of Defense (“DoD”) has received the Presidential Memorandum, *Military Service by Transgender Individuals*, dated August 25, 2017 (“Presidential Memorandum”). DoD will carry out the President’s policy and directives in consultation with the Department of Homeland Security (“DHS”) with respect to the U.S. Coast Guard. Not later than February 21, 2018, I will present the President with a plan to implement the policy and directives in the Presidential Memorandum. Consistent with military effectiveness and lethality, budgetary constraints, and applicable law, the implementation plan will establish the policy, standards and procedures for transgender individuals serving in the military. The Deputy Secretary of Defense and the Vice Chairman of the Joint Chiefs of Staff, supported by a panel of experts (“Panel”), shall propose for my consideration recommendations supported by appropriate evidence and information.

To comply with the Presidential Memorandum, ensure the continued combat readiness of the force, and maximize flexibility in the development of the implementation plan, the attached Interim Guidance takes effect immediately and will remain in effect until I promulgate DoD’s final policy in this matter. By agreement with the Acting Secretary of Homeland Security, this Interim Guidance also applies to the U.S. Coast Guard.

Attachment:  
As stated

cc:  
Secretary of Homeland Security



### Interim Guidance

First and foremost, we will continue to treat every Service member with dignity and respect.

*Accessions:* The procedures set forth in Department of Defense Instruction (DoDI) 6130.03, *Medical Standards for Appointment, Enlistment, or Induction in the Military Services*, dated April 28, 2010 (Change 1), which generally prohibit the accession of transgender individuals into the Military Services, remain in effect because current or history of gender dysphoria or gender transition does not meet medical standards, subject to the normal waiver process.

*Medical Care and Treatment:* Service members who receive a gender dysphoria diagnosis from a military medical provider will be provided treatment for the diagnosed medical condition. As directed by the Memorandum, no new sex reassignment surgical procedures for military personnel will be permitted after March 22, 2018, except to the extent necessary to protect the health of an individual who has already begun a course of treatment to reassign his or her sex.

*In-Service Transition for Transgender Service Members:* The policies and procedures set forth in DoDI 1300.28, *In-Service Transition for Transgender Service Members*, dated July 1, 2016, remain in effect until I promulgate DoD's final guidance in this matter.

#### *Separation and Retention of Transgender Service members:*

Service members who have completed their gender transition process and whose gender marker has been changed in DEERS will continue to serve in their preferred gender while this Interim Guidance remains in effect.

An otherwise qualified transgender Service member whose term of service expires while this Interim Guidance remains in effect, *may*, at the Service member's request, be re-enlisted in service under existing procedures.

As directed by the Memorandum, no action may be taken to involuntarily separate or discharge an otherwise qualified Service member solely on the basis of a gender dysphoria diagnosis or transgender status. Transgender Service members are subject to the same standards as any other Service member of the same gender; they may be separated or discharged under existing bases and processes, but not on the basis of a gender dysphoria diagnosis or transgender status.

*Reestablishment of the Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)) Central Coordination Cell:* The OUSD(P&R) will reestablish the Central Coordination Cell (CCC) to provide expert advice and assistance to the Military Departments and Services and to commanders with regard to this Interim Guidance. The CCC may be reached at <https://ra.sp.pentagon.mil/DoDCCC/SitePages/HomePage.aspx>.

# Exhibit 4

**IMMEDIATE RELEASE**

# **Statement by Chief Pentagon Spokesperson Dana W. White on Transgender Accessions**

Press Operations

Release No: NR-250-17

June 30, 2017

Secretary Mattis today approved a recommendation by the services to defer accessing transgender applicants into the military until Jan. 1, 2018.

The services will review their accession plans and provide input on the impact to the readiness and lethality of our forces.

# Exhibit 5



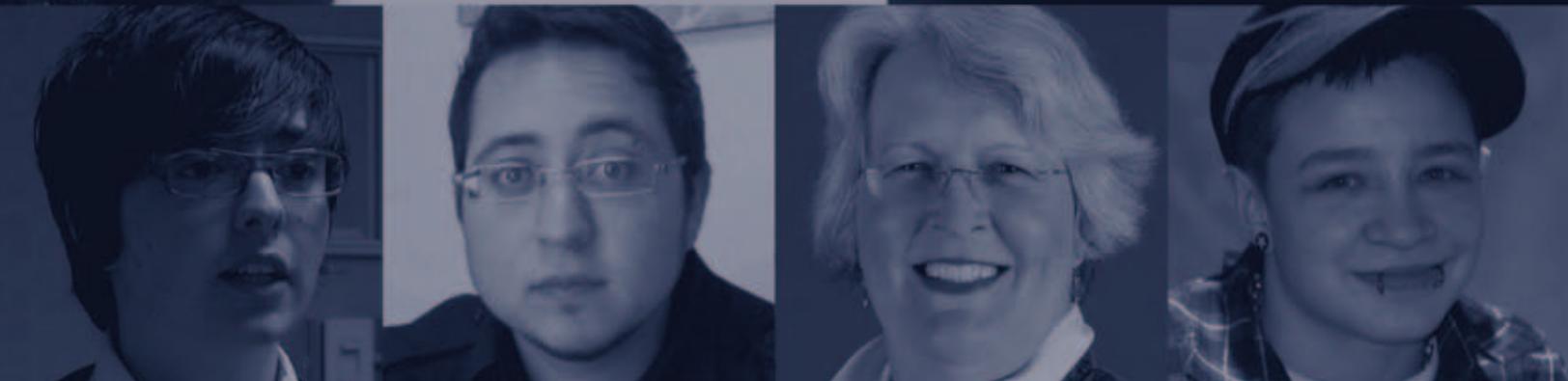
# Injustice at Every Turn

A Report of the National Transgender Discrimination Survey

*Lead authors in alphabetical order:*

Jaime M. Grant, Ph.D.  
Lisa A. Mottet, J.D.  
Justin Tanis, D.Min.

with Jack Harrison  
Jody L. Herman, Ph.D.  
and Mara Keisling



# INJUSTICE AT EVERY TURN: A REPORT OF THE NATIONAL TRANSGENDER DISCRIMINATION SURVEY

*Lead authors in alphabetical order:*

Jaime M. Grant, Ph.D.

Lisa A. Mottet, J.D.

Justin Tanis, D.Min.

with Jack Harrison, Jody L. Herman, Ph.D., and Mara Keisling

## About the National Center for Transgender Equality

The National Center for Transgender Equality is a national social justice organization devoted to ending discrimination and violence against transgender people through education and advocacy on national issues of importance to transgender people. By empowering transgender people and our allies to educate and influence policymakers and others, NCTE facilitates a strong and clear voice for transgender equality in our nation's capital and around the country.

## About the National Gay and Lesbian Task Force

The mission of the National Gay and Lesbian Task Force is to build the grassroots power of the lesbian, gay, bisexual and transgender (LGBT) community. We do this by training activists, equipping state and local organizations with the skills needed to organize broad-based campaigns to defeat anti-LGBT referenda and advance pro-LGBT legislation, and building the organizational capacity of our movement. Our Policy Institute, the movement's premier think tank, provides research and policy analysis to support the struggle for complete equality and to counter right-wing lies. As part of a broader social justice movement, we work to create a nation that respects the diversity of human expression and identity and creates opportunity for all.

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### RECOMMENDED CITATION

Grant, Jaime M., Lisa A. Mottet, Justin Tanis, Jack Harrison, Jody L. Herman, and Mara Keisling. *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*. Washington: National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011.

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# ACKNOWLEDGEMENTS

This study was undertaken with the dogged commitment of the National Center for Transgender Equality and the National Gay and Lesbian Task Force to bring the full extent of discrimination against transgender and gender non-conforming people to light. Executive directors Mara Keisling and Rea Carey committed considerable staff and general operating resources to this project over the past three years to create the original survey instrument, collect the data, analyze thousands of responses and, finally, present our findings here.

Key Task Force and NCTE staff, as well as our data analyst, are credited on the masthead of this report but many former staff, pivotal volunteers and visiting fellows put their unflinching effort and best thinking to this enormous task.

We are deeply grateful to Dr. Susan (Sue) Rankin of Pennsylvania State University, a nationally recognized LGBT researcher, for hosting our study through Penn State's Consortium on Higher Education. This allowed the survey to go through the Institutional Review Board process, to ensure the confidentiality and humane treatment of our survey participants. We are most grateful to M. Somjen Frazer who first as a volunteer and then later as a staff analyst made a crucial contribution in the questionnaire development, data cleaning and variable development phase of the research. Former Task Force Policy Institute staff member Nicholas Ray also did a wonderful job convening and guiding the many staff and volunteers who participated in developing the questionnaire.

A number of Vaid Fellows at the Task Force made crucial contributions to this work in the data cleaning, field work and early analytical stages of this report including Morgan Goode, Amanda Morgan, Robert Valadéz, Stephen Wiseman, Tey Meadow and Chloe Mirzayi. Morgan's work interfacing with staff at homeless shelters, health clinics and other direct service programs serving transgender and gender non-conforming people greatly increased participation in the study by transgender people often shut out of research projects.

Transgender community leaders made a major contribution to our thinking in developing the survey and field work, including Marsha Botzer, Moonhawk River Stone, M.S., LMHC and Scout, Ph.D. All of these leaders made important suggestions in the development of the questionnaire and our data collection process. We are grateful to Marsha, as the Task Force board chair, and Hawk, a member of the Task Force board, for championing this work institutionally.

Our organizations are especially grateful to the Network for LGBT Health Equity, formerly the Network for LGBT Tobacco Control, for providing \$3,000 in funding for health and outreach workers to reach underserved racial and ethnic populations in this endeavor.

Both organizations would also like to thank their foundation funders for their support in making this work possible: Arcus Foundation, Gill Foundation, Open Society Institute, as well as an Anonymous donor. In addition, the Task Force would like to thank additional foundation funders who supported this work, including the David Bohnett Foundation, Evelyn and Walter Haas, Jr. Fund, Ford Foundation, Kicking Assets Fund of the Tides Foundation, and the Wells Fargo Foundation.

We are thankful to the following for translating the questionnaire into Spanish: Terra Networks, NCTE founding board member Diego Sanchez, and Task Force communications manager Pedro Julio Serrano.

We are thankful to the National Black Justice Coalition for assistance in reaching transgender and gender non-conforming people of color.

We are thankful to Beth Teper, Executive Director of COLAGE, for providing guidance on what subjects to cover relating to family life.

Thanks go to Donna Cartwright for editing the entire report, as well as Brad Jacklin, Vanessa Macoy, Richael Faithful and Laurie Young for editing portions. We are thankful to Heron Greenesmith for pouring through the respondent's open-ended answers to select quotes for inclusion throughout the report. We are thankful to Caitlin Fortin for research on comparable data. We are also thankful to Harper Jean Tobin for assistance with facts and policy recommendations in portions of the report.

Finally, we thank Steven K. Aurand, who has volunteered at the Task Force for over 20 years, using his expertise in statistics to greatly increase our capacity to work with a very complex data set.

This study has obviously been a labor of love by a community of dedicated advocates, and we are honored to be able to offer the collective fruits of our labor to the community.

# EXECUTIVE SUMMARY

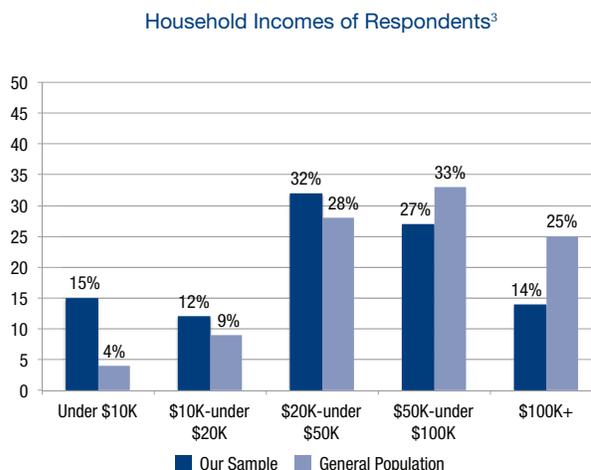
This study brings to light what is both patently obvious and far too often dismissed from the human rights agenda. Transgender and gender non-conforming people face injustice at every turn: in childhood homes, in school systems that promise to shelter and educate, in harsh and exclusionary workplaces, at the grocery store, the hotel front desk, in doctors' offices and emergency rooms, before judges and at the hands of landlords, police officers, health care workers and other service providers.

The National Gay and Lesbian Task Force and the National Center for Transgender Equality are grateful to each of the 6,450 transgender and gender non-conforming study participants who took the time and energy to answer questions about the depth and breadth of injustice in their lives. A diverse set of people, from all 50 states, the District of Columbia, Puerto Rico, Guam and the U.S. Virgin Islands, completed online or paper surveys. This tremendous gift has created the first 360-degree picture of discrimination against transgender and gender non-conforming people in the U.S. and provides critical data points for policymakers, community activists and legal advocates to confront the appalling realities documented here and press the case for equity and justice.

## KEY FINDINGS

Hundreds of dramatic findings on the impact of anti-transgender bias are presented in this report. In many cases, a series of bias-related events lead to insurmountable challenges and devastating outcomes for study participants. Several meta-findings are worth noting from the outset:

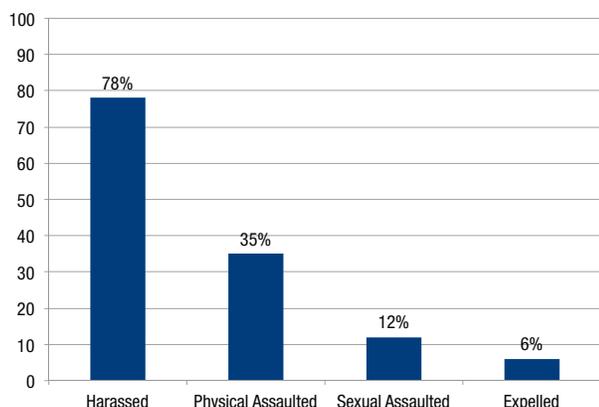
- Discrimination was pervasive throughout the entire sample, yet **the combination of anti-transgender bias and persistent, structural racism was especially devastating**. People of color in general fare worse than white participants across the board, with African American transgender respondents faring worse than all others in many areas examined.
- Respondents **lived in extreme poverty**. Our sample was nearly four times more likely to have a household income of less than \$10,000/year compared to the general population.<sup>1</sup>
- A staggering **41% of respondents reported attempting suicide** compared to 1.6% of the general population,<sup>2</sup> with rates rising for those who lost a job due to bias (55%), were harassed/bullied in school (51%), had low household income, or were the victim of physical assault (61%) or sexual assault (64%).



**HARASSMENT AND DISCRIMINATION IN EDUCATION**

- Those who expressed a transgender identity or gender non-conformity while in grades K-12 reported **alarming rates of harassment (78%), physical assault (35%) and sexual violence (12%)**; harassment was so severe that it led **almost one-sixth (15%) to leave a school** in K-12 settings or in higher education.
- Respondents who have been **harassed and abused by teachers** in K-12 settings showed dramatically worse health and other outcomes than those who did not experience such abuse. Peer harassment and abuse also had highly damaging effects.

Harassment, Assault and Discrimination in K-12 Settings



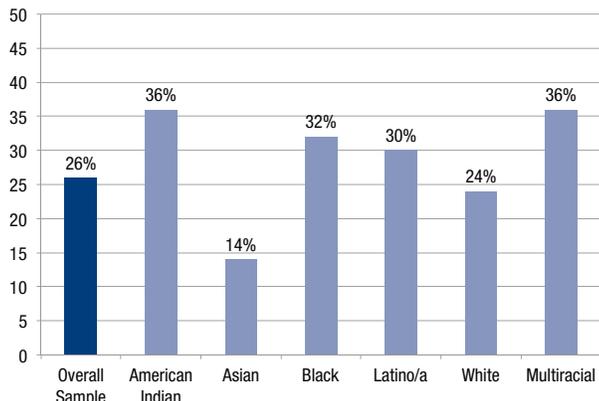
Respondents Income by Mistreatment in School<sup>4</sup>

	General Population	No school mistreatment	Mistreated in school
Under \$10K	4%	12%	21%
\$10K - under \$20K	9%	11%	15%
\$20K - under \$50K	28%	31%	33%
\$50k - under \$100k	33%	30%	21%
\$100k+	25%	16%	9%

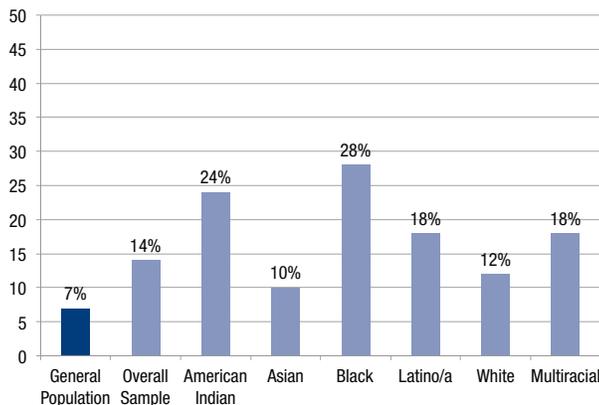
**EMPLOYMENT DISCRIMINATION AND ECONOMIC INSECURITY**

- **Double the rate of unemployment:** Survey respondents experienced unemployment at twice the rate of the general population at the time of the survey,<sup>5</sup> with rates for people of color up to four times the national unemployment rate.
- **Widespread mistreatment at work: Ninety percent (90%) of those surveyed reported experiencing harassment, mistreatment or discrimination on the job or took actions like hiding who they are to avoid it.**
- **Forty-seven percent (47%) said they had experienced an adverse job outcome, such as being fired, not hired or denied a promotion because of being transgender or gender non-conforming.**
- **Over one-quarter (26%) reported that they had lost a job due to being transgender or gender non-conforming and 50% were harassed.**
- **Large majorities attempted to avoid discrimination by hiding their gender or gender transition (71%) or delaying their gender transition (57%).**
- **The vast majority (78%) of those who transitioned from one gender to the other reported that they felt more comfortable at work and their job performance improved, despite high levels of mistreatment.**
- Overall, **16% said they had been compelled to work in the underground economy** for income (such as doing sex work or selling drugs).
- **Respondents who were currently unemployed experienced debilitating negative outcomes**, including nearly double the rate of working in the underground economy (such as doing sex work or selling drugs), twice the homelessness, 85% more incarceration, and more negative health outcomes, such as more than double the HIV infection rate and nearly double the rate of current drinking or drug misuse to cope with mistreatment, compared to those who were employed.
- **Respondents who had lost a job due to bias also experienced ruinous consequences such as four times the rate of homelessness, 70% more current drinking or misuse of drugs to cope with mistreatment, 85% more incarceration, more than double the rate working in the underground economy, and more than double the HIV infection rate, compared to those who did not lose a job due to bias.**

Loss of Job by Race



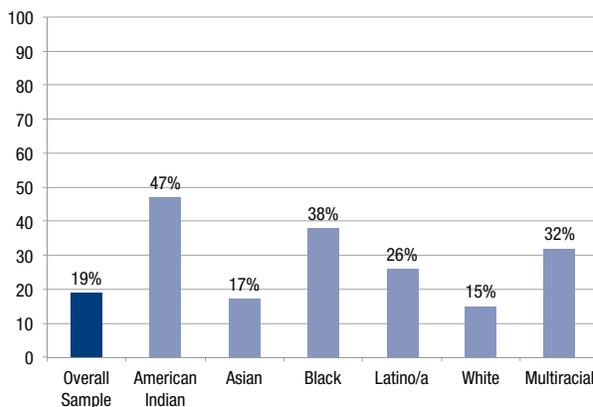
Unemployment Rates including by Race



HOUSING DISCRIMINATION AND HOMELESSNESS

- Respondents reported various forms of direct housing discrimination — 19% reported having been refused a home or apartment and 11% reported being evicted because of their gender identity/expression.
- One-fifth (19%) reported experiencing homelessness at some point in their lives because they were transgender or gender non-conforming; the majority of those trying to access a homeless shelter were harassed by shelter staff or residents (55%), 29% were turned away altogether, and 22% were sexually assaulted by residents or staff.
- Almost 2% of respondents were currently homeless, which is almost twice the rate of the general population (1%).<sup>6</sup>
- Respondents reported less than half the national rate of home ownership: 32% reported owning their home compared to 67% of the general population.<sup>7</sup>
- Respondents who have experienced homelessness were highly vulnerable to mistreatment in public settings, police abuse and negative health outcomes.

“I was denied a home/apartment” by Race



**DISCRIMINATION IN PUBLIC ACCOMMODATIONS**

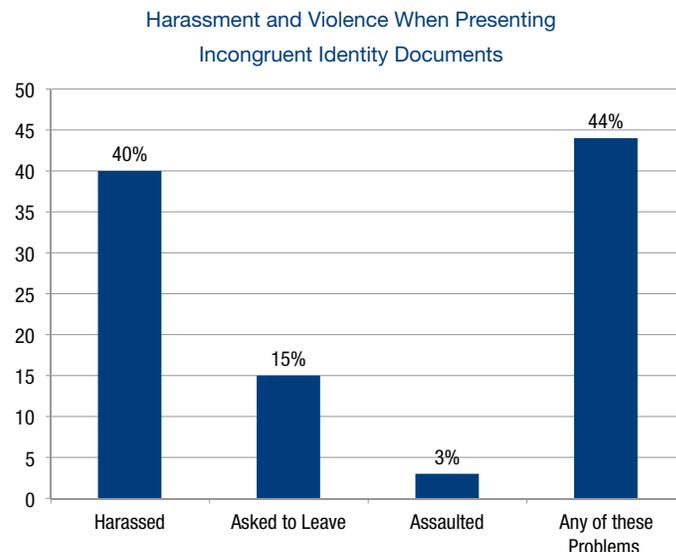
- **Fifty-three percent (53%) of respondents reported being verbally harassed or disrespected in a place of public accommodation, including hotels, restaurants, buses, airports and government agencies.**
- **Respondents experienced widespread abuse in the public sector, and were often abused at the hands of “helping” professionals and government officials. One fifth (22%) were denied equal treatment by a government agency or official; 29% reported police harassment or disrespect; and 12% had been denied equal treatment or harassed by judges or court officials.**

Experiences of Discrimination and Violence in Public Accommodations

Location	Denied Equal Treatment	Harassed or Disrespected	Physically Assaulted
Retail Store	32%	37%	3%
Police Officer	20%	29%	6%
Doctor’s Office or Hospital	24%	25%	2%
Hotel or Restaurant	19%	25%	2%
Government Agency/Official	22%	22%	1%
Bus, Train, or Taxi	9%	22%	4%
Emergency Room	13%	16%	1%
Airplane or Airport Staff/TSA	11%	17%	1%
Judge or Court Official	12%	12%	1%
Mental Health Clinic	11%	12%	1%
Legal Services Clinic	8%	6%	1%
Ambulance or EMT	5%	7%	1%
Domestic Violence Shelter/Program	6%	4%	1%
Rape Crisis Center	5%	4%	1%
Drug Treatment Program	3%	4%	1%

**BARRIERS TO RECEIVING UPDATED ID DOCUMENTS**

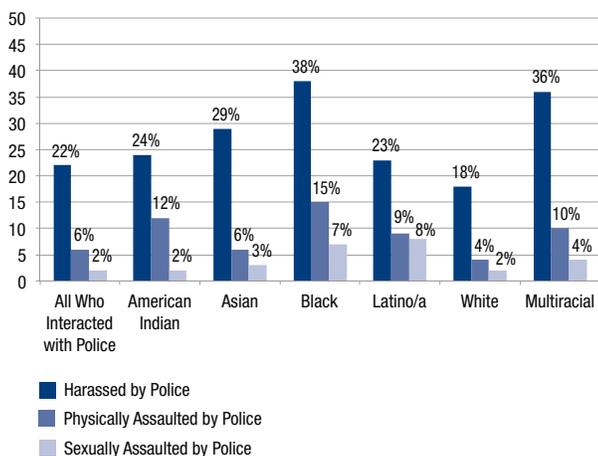
- Of those who have transitioned gender, **only one-fifth (21%) have been able to update all of their IDs and records with their new gender.** One-third (33%) of those who had transitioned had updated *none* of their IDs/records.
- Only 59% reported updating the gender on their driver’s license/state ID, meaning **41% live without ID that matches their gender identity.**
- **Forty percent (40%) of those who presented ID** (when it was required in the ordinary course of life) that did not match their gender identity/expression **reported being harassed, 3% reported being attacked or assaulted, and 15% reported being asked to leave.**



**ABUSE BY POLICE AND IN PRISON**

- **One-fifth (22%) of respondents** who have interacted with police **reported harassment by police**, with much higher rates reported by people of color.
- Almost half of the respondents (46%) reported being uncomfortable seeking police assistance.
- **Physical and sexual assault in jail/prison is a serious problem:** 16% of respondents who had been to jail or prison reported being physically assaulted and 15% reported being sexually assaulted.

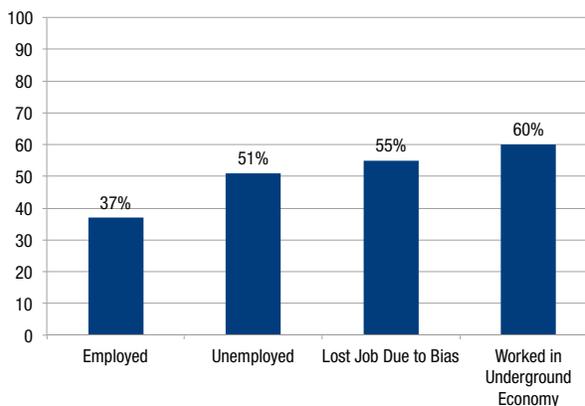
Police Harassment and Assault, Due to Bias, by Race



**DISCRIMINATION IN HEALTH CARE AND POOR HEALTH OUTCOMES**

- **Health outcomes for all categories of respondents show the appalling effects of social and economic marginalization**, including much higher rates of HIV infection, smoking, drug and alcohol use and suicide attempts than the general population.
- **Refusal of care: 19% of our sample reported being refused medical care** due to their transgender or gender non-conforming status, with even higher numbers among people of color in the survey.
- **Uninformed doctors: 50% of the sample reported having to teach their medical providers** about transgender care.
- **High HIV rates:** Respondents reported **over four times the national average of HIV infection, with rates higher among transgender people of color.**<sup>8</sup>
- **Postponed care:** Survey participants reported that when they were sick or injured, **many postponed medical care due to discrimination (28%)** or inability to afford it (48%).

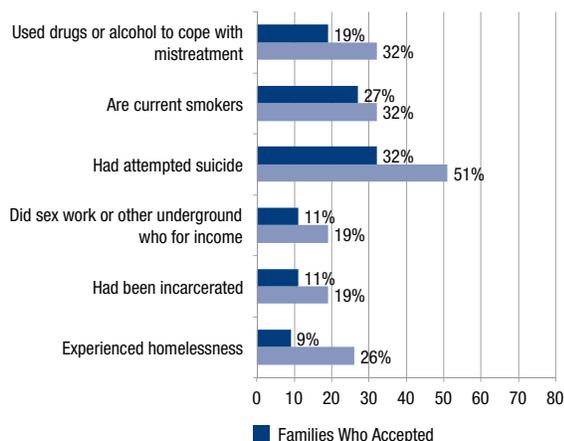
Suicide Attempt by Employment



**FAMILY ACCEPTANCE OF GREAT IMPORTANCE**

- **Forty-three percent (43%) maintained most of their family bonds**, while 57% experienced significant family rejection.
- In the face of extensive institutional discrimination, **family acceptance had a protective affect against many threats to well-being** including health risks such as HIV infection and suicide. Families were more likely to remain together and provide support for transgender and gender non-conforming family members than stereotypes suggest.

Impact of Family Acceptance

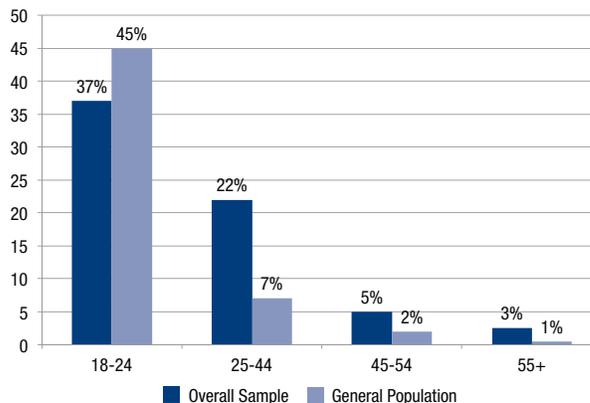


**RESILIENCE**

Despite all of the harassment, mistreatment, discrimination and violence faced by respondents, study participants also demonstrated determination, resourcefulness and perseverance:

- Although the survey identified major structural barriers to obtaining health care, 76% of transgender respondents have been able to receive hormone therapy, indicating a determination to endure the abuse or search out sensitive medical providers.
- Despite high levels of harassment, bullying and violence in school, many respondents were able to obtain an education by returning to school. Although fewer 18 to 24-year-olds were currently in school compared to the general population, respondents returned to school in large numbers at later ages, with 22% of those aged 25-44 currently in school (compared to 7% of the general population).<sup>10</sup>
- Over three-fourths (78%) reported feeling more comfortable at work and their performance improving after transitioning, despite reporting nearly the same rates of harassment at work as the overall sample.
- Of the 26% who reported losing a job due to bias, 58% reported being currently employed and of the 19% who reported facing housing discrimination in the form of a denial of a home/apartment, 94% reported being currently housed.

Status as a Student by Age<sup>9</sup>



## CUMULATIVE DISCRIMINATION

Sixty-three percent (63%) of our participants had experienced a serious act of discrimination — events that would have a major impact on a person's quality of life and ability to sustain themselves financially or emotionally. These events included the following:

- Lost job due to bias
- Eviction due to bias
- School bullying/harassment so severe the respondent had to drop out
- Teacher bullying
- Physical assault due to bias
- Sexual assault due to bias
- Homelessness because of gender identity/expression
- Lost relationship with partner or children due to gender identity/expression
- Denial of medical service due to bias
- Incarceration due to gender identity/expression

Almost a quarter (23%) of our respondents experienced a catastrophic level of discrimination — having been impacted by at least three of the above major life-disrupting events due to bias. These compounding acts of discrimination — due to the prejudice of others or lack of protective laws — exponentially increase the difficulty of bouncing back and establishing a stable economic and home life.

## CONCLUSION

It is part of social and legal convention in the United States to discriminate against, ridicule, and abuse transgender and gender non-conforming people within foundational institutions such as the family, schools, the workplace and health care settings, every day. Instead of recognizing that the moral failure lies in society's unwillingness to embrace different gender identities and expressions, society blames transgender and gender non-conforming people for bringing the discrimination and violence on themselves.

Nearly every system and institution in the United States, both large and small, from local to national, is implicated by this data. Medical providers and health systems, government agencies, families, businesses and employers, schools and colleges, police departments, jail and prison systems—each of these systems and institutions is failing daily in its obligation to serve transgender and gender non-conforming people, instead subjecting them to mistreatment ranging from commonplace disrespect to outright violence, abuse and the denial of human dignity. The consequences of these widespread injustices are human and real, ranging from unemployment and homelessness to illness and death.

This report is a call to action for all of us, especially for those who pass laws and set policies and practices, whose action or continued inaction will make a significant difference between the current climate of discrimination and violence and a world of freedom and equality. And everyone else, from those who drive buses or teach our children to those who sit on the judicial bench or write prescriptions, must also take up the call for human rights for transgender and gender non-conforming people, and confront this pattern of abuse and injustice.

We must accept nothing less than a complete elimination of this pervasive inhumanity; we must work continuously and strenuously together for justice.

Endnotes

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- 1 U.S. Census Bureau, "Current Population Survey," Annual Social and Economic Supplement (Washington, DC: GPO, 2008).
- 2 "U.S.A. Suicide: 2002 Official Final Data," prepared for the American Association of Suicidology by John L. McIntosh, Ph.D. Official data source: Kochanek, K.D., Murphy, S.L., Anderson, R.N., & Scott, C. (2004). Deaths: Final data for 2002. National Vital Statistics Reports, 53 (5). Hyattsville, MD: National Center for Health Statistics DHHS Publication No. (PHS) 2005-1120. Population figures source: table I, p.108. of the National Center for Health Statistics (Kochanek et al., 2004), see [http://www.sprc.org/library/event\\_kit/2002datapg1.pdf](http://www.sprc.org/library/event_kit/2002datapg1.pdf).
- 3 General population data is from U.S. Census Bureau, "Current Population Survey," Annual Social and Economic Supplement (Washington, DC: GPO, 2008).
- 4 See note 3. "Mistreatment" includes harassment and bullying, physical or sexual assault, discrimination, or expulsion from school at any level based on gender identity/expression.
- 5 Seven percent (7%) was the rounded weighted average unemployment rate for the general population during the six months the survey was in the field, based on which month questionnaires were completed. See seasonally unadjusted monthly unemployment rates for September 2008 through February 2009. U.S. Department of Labor, Bureau of Labor Statistics, "The Employment Situation: September 2008," (2008): [http://www.bls.gov/news.release/archives/empsit\\_10032008.htm](http://www.bls.gov/news.release/archives/empsit_10032008.htm).
- 6 1.7% were currently homeless in our sample compared to 1% in the general population. National Coalition for the Homeless, "How Many People Experience Homelessness?" (July 2009): [http://www.nationalhomeless.org/factsheets/How\\_Many.html](http://www.nationalhomeless.org/factsheets/How_Many.html).
- 7 U.S. Department of Housing and Urban Development, "U.S. Housing Market Conditions, 2nd Quarter, 2009" (Washington, DC: GPO, 2009): [http://www.huduser.org/portal/periodicals/ushmc/summer09/nat\\_data.pdf](http://www.huduser.org/portal/periodicals/ushmc/summer09/nat_data.pdf).
- 8 The overall sample reported an HIV infection rate of 2.6% compared to .6% in the general population. United Nations Programme on HIV/AIDS (UNAIDS) and World Health Organization (WHO), "2007 AIDS Epidemic Update" (2007): [http://data.unaids.org/pub/EPISlides/2007/2007\\_epiupdate\\_en.pdf](http://data.unaids.org/pub/EPISlides/2007/2007_epiupdate_en.pdf). People of color in the sample reported substantially higher rates: 24.9% of African-Americans, 10.9% of Latino/as, 7.0% of American Indians, and 3.7% of Asian-Americans in the study reported being HIV positive.
- 9 U.S. Census Bureau, "Current Population Survey: Enrollment Status of the Population 3 Years Old and Over, by Sex, Age, Race, Hispanic Origin, Foreign Born, and Foreign-Born" (Washington, DC: GPO, October 2008): Table 1. <http://www.census.gov/population/www/socdemo/school/cps2008.html>. The last category, over 55, was not rounded to its small size.
- 10 See note 9.

*“My mother disowned me. I was fired from my job after 18 years of loyal employment. I was forced onto public assistance to survive. But still I have pressed forward, started a new career, and rebuilt my immediate family. You are defined not by falling, but how well you rise after falling. I’m a licensed practical nurse now and am studying to become an RN. I have walked these streets and been harassed nearly every day, but I will not change. I am back out there the next day with my head up.”*

—Survey Respondent



1325 Massachusetts Avenue NW, Suite 700  
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[www.transequality.org](http://www.transequality.org)

**National Gay and Lesbian  
Task Force**



1325 Massachusetts Avenue NW, Suite 600  
Washington, DC 20005  
202.393.5177 • [info@TheTaskForce.org](mailto:info@TheTaskForce.org)  
[www.thetaskforce.org](http://www.thetaskforce.org)

# Exhibit 6

Stenographic Transcript  
Before the

COMMITTEE ON  
ARMED SERVICES

**UNITED STATES SENATE**

TO CONDUCT A CONFIRMATION HEARING  
ON THE EXPECTED NOMINATION OF  
MR. JAMES N. MATTIS TO BE SECRETARY OF DEFENSE

Thursday, January 12, 2017

Washington, D.C.

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TO CONDUCT A CONFIRMATION HEARING  
ON THE EXPECTED NOMINATION OF  
MR. JAMES N. MATTIS TO BE SECRETARY OF DEFENSE

Thursday, January 12, 2017

U.S. Senate  
Committee on Armed Services  
Washington, D.C.

The committee met, pursuant to notice, at 9:31 a.m. in Room SD-G50, Dirksen Senate Office Building, Hon. John McCain, chairman of the committee, presiding.

Committee Members Present: Senators McCain [presiding], Inhofe, Wicker, Fischer, Cotton, Rounds, Ernst, Tillis, Sullivan, Perdue, Cruz, Graham, Sasse, Reed, Nelson, McCaskill, Shaheen, Gillibrand, Blumenthal, Donnelly, Hirono, Kaine, King, Heinrich, Warren, and Peters.

1 Thank you, sir. I appreciate your service and look  
2 forward to supporting you in this nomination.

3 Chairman McCain: Senator Hirono?

4 **Senator Hirono:** Thank you, Mr. Chairman.

5 And thank you, General Mattis.

6 I hope that you can provide me with a yes or no answer  
7 to this question, and then I will move on to other  
8 questions.

9 **Is there something innate in being a woman or LGBT that**  
10 **would cause you to believe that they could not be part of a**  
11 **lethal force?**

12 **Mr. Mattis: No.**

13 Senator Hirono: Thank you.

14 We have strategic interests in the Indo-Asia-Pacific  
15 AOR, and I believe the Obama administration's concept of a  
16 strategic rebalance should be continued. I know that you  
17 are well aware of the armies in this part of the world, what  
18 is happening with China and North Korea. Will you continue  
19 our commitment to strengthening our presence in the Indo-  
20 Asia-Pacific AOR, recognizing the strategic importance of  
21 this part of the world to our national defense and our  
22 national security?

23 Mr. Mattis: Senator, the Pacific theater remains a  
24 priority in my mind.

25 Senator Hirono: So you will continue that commitment

# Exhibit 7

Stenographic Transcript  
Before the

COMMITTEE ON  
ARMED SERVICES

## **UNITED STATES SENATE**

NOMINATION – DUNFORD

Tuesday, September 26, 2017

Washington, D.C.

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1 HEARING TO CONSIDER THE NOMINATION OF  
2 GENERAL JOSEPH F. DUNFORD, JR., USMC, FOR  
3 REAPPOINTMENT TO THE GRADE OF GENERAL AND REAPPOINTMENT  
4 TO BE CHAIRMAN OF THE JOINT CHIEFS OF STAFF

5

6 Tuesday, September 26, 2017

7

8 U.S. Senate  
9 Committee on Armed Services  
10 Washington, D.C.

11

12 The committee met, pursuant to notice, at 10:10 a.m. in  
13 Room SH-216, Hart Senate Office Building, Hon. John McCain,  
14 chairman of the committee, presiding.

15 Committee Members Present: Senators McCain  
16 [presiding], Inhofe, Wicker, Fischer, Cotton, Rounds, Ernst,  
17 Sullivan, Perdue, Cruz, Graham, Reed, Nelson, McCaskill,  
18 Shaheen, Gillibrand, Blumenthal, Donnelly, Hirono, Kaine,  
19 King, Heinrich, Warren, and Peters.

20

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1 during the '18 Army posture hearing, that we are now  
2 outranged and outgunned. Do you agree with that statement?

3 General Dunford: Relative to certain threats, under  
4 certain conditions, I do, Senator.

5 Senator Inhofe: Yeah. Okay, thank you.

6 Thank you, Mr. Chairman.

7 Chairman McCain: Senator Gillibrand.

8 **Senator Gillibrand:** Thank you, Mr. Chairman.

9 Thank you, General Dunford, for your service.

10 **The uncertainty that's facing our transgender men and**  
11 **women in uniform since late July has been deeply unsettling**  
12 **to many members of the committee. Chairman McCain, Ranking**  
13 **Member Reed, Susan -- Senator Susan Collins and I have**  
14 **introduced a bipartisan bill that would prevent the**  
15 **Department of Defense from separating currently-serving**  
16 **transgender individuals solely based on their gender**  
17 **identity. These men and women across all services and**  
18 **occupations were told by the Department of Defense that they**  
19 **would be allowed to serve openly and continue in their**  
20 **military careers. Many have worked diligently within their**  
21 **chains of command to meet every requirement put forth by the**  
22 **former administration. Now they have been plunged into a**  
23 **career of uncertainty, and their service and sacrifices have**  
24 **been unfairly tarnished. Many of us on the committee are**  
25 **deeply disturbed by the developments of the last few months.**

1 Do you agree that our thousands of openly-serving  
2 transgender men and women have served their country with  
3 honor and valor?

4 General Dunford: I do, Senator. I would just probably  
5 say that I believe any individual who meets the physical and  
6 mental standards and is worldwide deployable and is  
7 currently serving should be afforded the opportunity to  
8 continue to serve.

9 Senator Gillibrand: Thank you. If reappointed, can  
10 you promise currently-serving transgender individuals who  
11 have followed Department policy and meet every requirement,  
12 as you've just said, asked of them, that they will not be  
13 separated from the armed services based solely on their  
14 gender identity?

15 General Dunford: Senator, I can promise that that will  
16 be my advice. What I've just articulated is the advice I've  
17 provided in private and I've just provided in public.

18 Senator Gillibrand: Thank you.

19 And have you had the opportunity to meet with any of  
20 the thousands of transgender individuals currently serving  
21 in uniform on Active Duty to hear how the recent  
22 developments have impacted their lives? And, if not, will  
23 you commit to doing so?

24 General Dunford: I have not, since the -- since, I  
25 guess, August, when the announcement was made, but I would

# Exhibit 8

## POLITICS

# Trump Says Transgender Ban Is a ‘Great Favor’ for the Military

By HELENE COOPER AUG. 10, 2017

WASHINGTON — President Trump said on Thursday that he is doing the United States military a “great favor” by barring transgender people from serving in its ranks — even though the Pentagon has made no move to expel personnel since the commander in chief first tweeted the policy about-face two weeks ago.

The White House has yet to make public any formal guidance on how the Defense Department is supposed to turn Mr. Trump’s Twitter posts into policy. Last year, many transgender service members came forward after being assured by the Obama administration that they could serve openly in the military. Pentagon officials have said privately that they do not see how to expel current service members, or bar future ones from joining the military, without opening the Defense Department up to lawsuits.

“It’s been a very confusing issue for the military, and I think I’m doing the military a great favor,” Mr. Trump said during an impromptu news conference at his golf club in Bedminster, N.J.

He declared that he has “great respect” for lesbian, gay, bisexual and transgender people and denied that his ban amounted to a betrayal after pledging to protect them during last year’s campaign.

“I’ve had great support from that community,” Mr. Trump said. “I got a lot of votes.”

He said the military is “working on it now,” adding that “I think I’m doing a lot of people a favor by coming out and just saying it.”

The president did not elaborate on exactly what “it” was. But in announcing the ban in three July 26 tweets, Mr. Trump said that the military could not afford the medical costs of supporting transgender people. He also said transgender personnel made it harder for the military to focus on “decisive and overwhelming victory.”

The president’s announcement drew sharp criticism from L.G.B.T. advocates. This week, two gay rights groups filed a lawsuit to halt the proposed ban before it takes effect. The lawsuit, filed on behalf of five transgender women who are now serving openly, says a ban would violate the women’s constitutional rights.

Defense officials said Mr. Trump’s announcement two weeks ago took them by surprise. Jim Mattis, the defense secretary, was told about the president’s decision only the day before it was posted on Twitter. Shortly after, Gen. Joseph F. Dunford Jr., the chairman of the Joint Chiefs of Staff, the military’s highest ranking officer, said in a statement that current personnel policy would remain until the White House and the defense secretary formally issued new guidelines. Mr. Mattis has not yet spoken publicly about the issue.

One administration official said the White House was considering urging transgender service members to retire early. But a defense official, speaking on the condition of anonymity, said on Thursday that doing so might be difficult to defend in court.

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A version of this article appears in print on August 11, 2017, on Page A14 of the New York edition with the headline: Transgender Ban Is ‘Favor’ To Military, Trump Says.

# Exhibit 9



**Health Care**

(/pay-benefits/military-benefits/health-care/)

# DoD spends \$84M a year on Viagra, similar meds

By: **Patricia Kime** (/author/patricia-kime) 📅 February 13, 2015

1.9K

A report published online last week by the Washington Free Beacon and picked up by Fox News and the U.K.'s Daily Mail noted that the Pentagon spent more than \$500,000 for Viagra in 2014.

That's a lot of money — but the figure wasn't even close to the real amount spent by the Defense Department for that erectile dysfunction drug and others.

According to data from the Defense Health Agency, DoD actually spent \$41.6 million on Viagra — and \$84.24 million total on erectile dysfunction prescriptions — last year.



And since 2011, the tab for drugs like Viagra, Cialis and Levitra totals \$294 million — the equivalent of nearly four U.S. Air Force F-35 Joint Strike Fighters.

The Free Beacon based its analysis on 60 contracts for Viagra to Cardinal Health Inc., according to the article.

But those contracts tell only part of the story: DHA and its pharmacy benefits manager Express Scripts run a vast organization that dispenses medications through military hospitals and clinics, by mail and at retail stores nationwide via multiple contracts.



And according to DHA, military beneficiaries, including active-duty personnel, retirees and eligible family members, filled nearly 1.18 million prescriptions for ED medications through this system in 2014.

While drugs such as Viagra, Cialis, Levitra and other phosphodiesterase type 5 inhibitors are prescribed for other conditions, such as pulmonary arterial hypertension, their most common use is for treating sexual dysfunction in men.

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In the DoD system, which dispensed eight types of ED meds in 2014, Viagra, added to the DoD formulary in 2012, tops the list for most popular: Of the 1.18 million prescriptions, 905,083 were for Viagra, at a cost of \$41.6 million.



Cialis ranked second, with 185,841 prescriptions totaling \$22.82 million.

Revatio — one of the costliest ED medications in the DoD formulary — was the least frequently prescribed: 1,699 prescriptions in 2014 for a total cost of \$2.24 million, according to DHA.

While some studies have shown that the incidence of erectile dysfunction has increased among service members in the past several years, less than 10 percent of the prescriptions were for active-duty troops.

According to the data, active-duty troops received just 102,885 scripts for ED meds, totaling \$7.67 million.

A report published in September found that the incidence rate of ED among active-duty personnel more than doubled from 2004 to 2014.

Researchers at the Armed Forces Health Surveillance Center found that the overall incidence rate of ED climbed from 5.8 cases per 1,000 person-years in 2004 to 12.6 cases in 2013, or more than 1 percent of the total population.

According to the report, 100,248 cases of ED were diagnosed among active-duty members from 2004 to 2013.

More than half of those were classified as "psychogenic," meaning the dysfunction was related to psychiatric rather than physical causes.

A number of factors can contribute to ED, from mental health conditions like post-traumatic stress disorder, depression and anxiety, to medications for treating physical and mental conditions as well as injuries, illness and aging.

DoD has launched a number of initiatives in the past several years to decrease its prescription medications costs, to include requiring Medicare-eligible retirees and their family members to get their long-term prescriptions at lower-cost options to the military, either by mail or at military treatment facilities.

Starting in October, retired service members and their eligible family members will have to do the same. Tricare has not released details of the planned transition but it was mandated by the fiscal 2015 National Defense Authorization Act, signed into law in December.

1.9K

#### Recommended for you



**Turkey vows to widen offensive against Syrian Kurds**

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# Exhibit 10

**Defense Health Program  
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(\$ in Millions)

<u>Appropriation Summary:</u>	FY 2016 <sup>1</sup> <u>Actuals</u>	Price <u>Growth</u>	Program <u>Growth</u>	FY 2017 <sup>2</sup> <u>Estimate</u>	Price <u>Growth</u>	Program <u>Growth</u>	FY 2018 <sup>3</sup> <u>Estimate</u>
Operation & Maintenance <sup>4</sup>	29,873.9	934.3	1,197.4	32,005.6	1,031.7	-941.3	32,095.9
RDT&E	2,121.5	40.3	-1,338.9	822.9	16.5	-166.2	673.2
Procurement	<u>298.1</u>	<u>8.8</u>	<u>106.3</u>	<u>413.2</u>	<u>11.5</u>	<u>470.6</u>	<u>895.3</u>
<b>Total, DHP</b>	<b>32,293.5</b>	<b>983.4</b>	<b>-35.2</b>	<b>33,241.7</b>	<b>1,059.7</b>	<b>-636.9</b>	<b>33,664.5</b>
MERHCF Receipts <sup>5</sup>	<u>9,680.1</u>			<u>10,037.9</u>			<u>10,381.8</u>
<b>Total Health Care Costs</b>	<b>41,973.6</b>			<b>43,279.6</b>			<b>44,046.2</b>

<sup>1/</sup> FY 2016 actuals includes \$285.032 million for OCO.

<sup>2/</sup> FY 2017 estimate excludes \$334.311 million for OCO.

<sup>3/</sup> FY 2018 request excludes \$395.805 million for OCO.

<sup>4/</sup> The Department of Defense transferred O&M funding of \$120.4 million in FY 2016 and will transfer \$122.4 million in FY 2017 and up to \$115.5 million in FY 2018 to the Joint Department of Defense - Department of Veterans Affairs Medical Facility Demonstration Fund established by section 1704 of Public Law 111-84 (National Defense Authorization Act for FY 2010). Additionally, the Department transferred \$15 million of O&M funding in FY 2016 and will transfer the same amount in FY 2017 to the DoD-VA Health Care Joint Incentive Fund (JIF) as required by Section 8111 of Title 38 of the United States Code (USC) and Section 721 of Public Law 107-314 (National Defense Authorization Act for 2003). For FY 2018 \$15 million will be transferred to JIF.

<sup>5/</sup> Reflects DoD Medicare-Eligible Retiree Health Care Fund (MERHCF) O&M Receipts for FY 2016, FY 2017 and FY 2018.

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Description of Operations Financed:

The medical mission of the Department of Defense (DoD) is to enhance DoD and our Nation's security by providing health support for the full range of military operations and sustaining the health of all those entrusted to our care. The Defense Health Program (DHP) Operation and Maintenance (O&M) appropriation funding provides for worldwide medical and dental services to active forces and other eligible beneficiaries, veterinary services, occupational and industrial health care, specialized services for the training of medical personnel, and medical command headquarters. Included are costs associated with the delivery of the TRICARE benefit which provides for the health care of eligible active duty family members, retired members and their family members, and the eligible surviving family members of deceased active duty and retired members. The FY 2018 budget request of \$32,095.9 million includes realistic cost growth for health care services either provided in the Military Treatment Facilities (MTFs) or purchased from the private sector through the managed care support contracts, and for pharmaceuticals. This budget includes funding for continued support of Traumatic Brain Injury and Psychological Health (TBI/PH) and Wounded, Ill and Injured (WII) requirements. It complies with the Congressional mandate related to support of Centers of Excellence (COE) and Department of Defense's initiative for operations efficiencies, including assumed savings for proposed military healthcare reform initiatives. Operation and Maintenance (O&M) funding is divided into seven major areas: In-House Care, Private Sector Care, Information Management, Education and Training, Management Activities, Consolidated Health Support, and Base Operations. The DoD Medicare Eligible Retiree Health Care Fund (MERHCF) is an accrual fund to pay for DoD's share of applicable Direct Care and Private Sector Care operation and maintenance health care costs for Medicare-eligible retirees, retiree family members and survivors.

The DHP appropriation also funds the Research, Development, Test and Evaluation (RDT&E) program for medical Information Management/Information Technology (IM/IT), research to

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reduce medical capability gaps, and support to both Continental United States and (CONUS) and Outside the Continental United States (OCONUS) medical laboratory facilities. The DHP appropriation Procurement program funds acquisition of capital equipment in MTFs and other selected health care activities which include equipment for initial outfitting of newly constructed, expanded, or modernized health care facilities; equipment for modernization and replacement of uneconomically repairable items; equipment supporting programs such as pollution control, clinical investigation, and occupational/environmental health; and Military Health System (MHS) information technology (IT) requirements.

Narrative Explanation of FY 2017 and FY 2018 Operation and Maintenance (O&M) Changes:

The DHP O&M funding reflects an overall increase of \$90.4 million between FY 2017 and FY 2018, consisting of \$1,031.7 million in price growth and a net program decrease of \$941.3 million. Program increases include:

- \$118.7 million for continued deployment of Department of Defense Healthcare Management System Modernization (GENESIS and Joint Operation Medicine Information System) and other Information Management Support consolidations/increases
- \$90.1 million for increased facility restoration and sustainment necessary to ensure world-class Military Treatment Facilities
- \$82.8 million for healthcare services in support of increased active duty end-strength and their family members
- \$26.1 million for an increase in the anticipated beneficiary population in Private Sector Care
- \$17.0 million to establish a single Military Health System (MHS) Enterprise Resourcing Planning (ERP) system
- \$15.7 million for expansion of telehealth capabilities

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- \$8.4 million for occupational and environmental health readiness, safety and compliance
- \$8.4 million for Global Nurse Advice Line (NAL) expansion
- \$6.5 million transfer from Department of the Air Force to support Desktop to Datacenter (D2D) Infrastructure
- \$4.7 million for sexual assault and other targeted medical education and training and associated resources
- \$2.5 million for investment in High Reliability Organization teams and other Continual Process Improvement enhancements to review quality and safety procedures to improve patient access, quality and safety

Program decreases include:

- \$523.0 million for reduction in Private Sector Care requirements due to the incorporation of recent execution experience
- \$185.0 million incremental reduction to FY 2018 pharmacy requirements as a result of the FY 2016 pharmacy benefit change on beneficiaries utilization of pharmaceuticals
- \$164.4 million associated with transfers to align funding to other agencies for correct execution (Program transfers include the non-clinical resources of the Army Wounded Warrior program to align readiness requirements with the Department of Army, resources for Operation Live Well and the Healthy Base Initiatives, and Navy Reserve Immunization resources)
- \$110.2 million reduction in Information Management driven by various IT optimization and consolidation efforts in the MHS

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- \$69.0 million reduction due to a change in the forecast for expanded benefits from FY 2017 (~\$100 million) to FY 2018 (~\$31 million) driven primarily due to lower estimates for urgent care requirements
- \$64.7 million for implementing best practices for strategic resourcing of contract services
- \$57.5 million reduction in pharmaceutical requirements due to improved contract compliance for ordering and aggressive formulary management at the MTFs
- \$31.0 million decrease associated with the change in upfront costs required to implement changes to TRICARE Health Plans from FY 2017
- \$28.6 million for reduced costs and planned student levels associated with Health Professions Scholarship Program (HPSP)
- \$28.4 million reduction driven by the reconfiguration of military-unique medical programs to better serve the beneficiaries and warfighters
- \$21.2 million for initial outfitting and transition (IO&T) requirements for MILCON and restoration and modernization projects
- \$16.0 million reductions in Major (formerly Management) Headquarters
- \$16.0 million anticipated savings from the PB 2018 Pharmacy Co-Pay proposal that seeks to adjust pharmacy co-pay structures to fully incentivize the use of mail order and generic drugs
- \$4.1 million for patient and mission travel
- \$3.0 million reduction associated with efficient utilization of Computerized Tomography Scanners Magnetic Resonance Imaging inventory

Continuing in FY 2018, the Department projects that up to \$115.5 million should transfer to the Joint Department of Defense (DoD) - Department of Veterans Affairs (VA) Medical Facility Demonstration Fund established by section 1704 of Public Law 111-84, (National

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Defense Authorization Act for FY 2010). This fund combines the resources of DoD and VA to operate the first totally integrated Federal Health Care Facility in the country by the total integration of the North Chicago VA Medical Center and the Navy Health Clinic Great Lakes.

Continuing in FY 2018, the Department will transfer \$15 million to the DoD-VA Health Care Joint Incentive Fund (JIF). Authority for the JIF is established by Section 8111, Title 38, of the United States Code (USC) and Section 721 of Public Law 107-314 (National Defense Authorization Act for 2003). This fund combines the resources of the DoD and VA to implement, fund, and evaluate creative coordination and sharing initiatives at the facility, intraregional, and nationwide levels.

Narrative Explanation of FY 2017 and FY 2018 Research Development Test & Evaluation (RDT&E) Changes:

The DHP RDT&E Program reflects a net decrease of \$149.6 million between FY 2017 and FY 2018. This includes price growth of \$16.5 million and a net program decrease of \$166.1 million. Program increases include:

- \$65.3 million to support Joint Operational Medicine Information Systems (JOMIS) based upon the updated life-cycle cost estimate
- \$13.5 million in support of the transition to a single financial and accounting Enterprise Resource Planning (ERP) solution
- \$10.6 million increase for decommissioning costs of existing USAMRIID facilities, clean-up, and relocation of personnel, equipment, and research to replacement facility. Construction to be completed in FY 2019
- \$9.8 million increase to support the DoD Cancer Moonshot initiative
- \$1.8 million in Health IT Shared Service investments

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Program decreases include:

- \$256.1 million in DHMSM funds after limited deployment in FY 2017 prior to Full Deployment Decision in FY 2018
- \$3.5 million decrease to support the MHS Procurement, enterprise-wide IT function
- \$1.9 million in ESSENCE support due to planned completion of enhanced query capability and advanced geospatial analysis
- \$1.0 million in Combating Antibiotic Resistant Bacteria (CARB) research based upon changes to the Sepsis and Malaria projects
- \$4.6 million for minor miscellaneous adjustments

Narrative Explanation of FY 2017 and FY 2018 Procurement Changes:

The DHP Procurement Program has a net increase of \$482.1 million between FY 2017 and FY 2018. This consists of \$11.5 million in price growth and a net program increase of \$470.6 million. Program increases include:

- \$469.1 million increase to DoD Healthcare Management System Modernization (DHMSM) Procurement for the planned purchase of commercial software licenses and multiple deployments of the modernized Electronic Health Record to the Military Treatment Facilities after the Full Deployment Decision is approved by the Milestone Decision Authority
- \$19.8 million increase in Infrastructure & Operations (I&O) Procurement funding which will provide additional D2D support for Compute and Storage Management Support (CSMS) and Desktop as a Service (DaaS) for Non-clinical End User Devices (EUDs). These activities are in preparation for the roll out of MHS GENESIS
- \$9.0 million increase for the transition to a single financial and accounting ERP system

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- \$5.9 million increase for the program updated strategy and timeline to support site readiness, change management, and user training activities post-Initial Operating Capability deployment for JOMIS
- \$1.5 million increase associated with moving/upgrading AHLTA from Oracle 11g to Oracle 12c
- \$0.3 million for minor miscellaneous adjustments

Program decreases include:

- \$26.0 million decrease to radiology equipment due to life cycle requirement realigned to FY 2019
- \$4.9 million decrease is due to the purchase of APLIS and Medical Community of Interest hardware being accomplished with FY 2017 funds
- \$4.1 million decrease in Health Artifact and Image Management Solution (HAIMS) Procurement funding is due to removing the Microsoft SharePoint product, migrating archived data to a cheaper tiered storage, and refocusing the HAIMS storage refresh on a smaller footprint/best value approach. This Procurement reduction offset a need for increased Service Treatment Record (STR) sustainment activities at the Records Processing Centers, STR Department of Defense/Veterans Affairs interface support, and clinical operations support

President's Management Plan - Performance Metrics Requirements:

The DHP continues to refine existing performance measures and develop specific criteria to determine and measure outputs/outcomes as compared with initial goals. The Quadruple Aim is a focused and balanced approach to overall performance to include not only production but outcome measures related to medical readiness, a healthy population, positive patient experiences and responsible management of health care costs.

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- **Individual Medical Readiness** - Operational commanders, Military Department leaders and primary care managers use this measure to monitor the medical readiness status of their personnel, ensuring a healthy and fit fighting force medically ready to deploy. This represents the best-available indicator of the medical readiness of the Total Force, Active Components and Reserve Components prior to deployment.
  
- **Beneficiary Satisfaction with Health Plan** - Satisfaction is measured using a standard survey instrument comparable to those used by civilian plans. The goal is to improve MHS beneficiary overall satisfaction with TRICARE to a level at or above benchmark satisfaction with civilian plans. Increasing satisfaction with the Health Plan indicates that actions being taken by the MHS are improving beneficiary experiences with the health care benefit and services they receive through the system.
  
- **Medical Cost Per Member Per Year** - Annual Cost Growth - The medical cost per member per year looks at the overall cost of the Prime enrollees for the DHP. This tracks all costs related to care delivered to enrollees. The objective is to keep the rate of cost growth for the treatment of TRICARE enrollees to a level at or below the Civilian health care plans rate increases at the national level. Currently the measure provides insight to issues regarding unit cost, utilization management, and Purchased care management. The metric has been enhanced to properly account for differences in population demographics and health care requirements of the enrolled population. Since enrollment demographics can vary significantly by Service, and across time, it is important to adjust the measure. For example, as increasing numbers of older individuals enroll, the overall average medical expense per enrollee would likely increase. Conversely, as younger, healthy active duty enroll, the overall average would likely decrease. Through the use of adjustment factors, a comparison across Services and across time is made more meaningful.

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Output related measures that influence Medical Cost Per Member Per Year:

- **Inpatient Production Target** (Medicare Severity Adjusted Relative Weighted Products, referred to as MS-RWPs) - Achieving the production targets ensures that the initial plan for allocation of personnel and resources are used appropriately in the production of inpatient workload.
- **Outpatient Production Target** (Relative Value Units, referred to as RVUs) - Achieving the production targets ensures that the initial plans for allocation of personnel and resources are used appropriately in the production of outpatient workload.

Below is reporting for FY 2016 related to the measures related to the Quadruple Aim, and two output measures related to production plan targets. The overall success of each area measured is discussed below:

- **Individual Medical Readiness** - The Military Health System achieved the goal for the Total Force Medical Readiness for FY 2016 with a score of 86% compared to the goal of 85%. This represents the third year in a row that the MHS has surpassed the performance goal for the measure, and constant MHS attention and effort to ensure that performance can be sustained into the future.
- **Beneficiary Satisfaction with Health Plan** - Satisfaction with Health Care Plan performance for FY 2016 exceeded the goal of 57 percent for the fiscal year. While the MHS has continued to surpass the civilian standard, there is a slight decrease in the overall performance level. This has been a continuous process to maintain and improve performance to levels comparable with the civilian sector, and performance must be maintained. The major areas that drive performance for this measure are related to Claims processing timeliness, Interaction during Health Care, and Access to Health Care. Given there have been no changes with Claims processing timeliness,

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the focus will be on Health Care interactions and access, which are areas with continued focus for improvement with in the MHS. Initiatives are already underway to review specialty and primary care access for the Military Treatment Facilities.

- **Medical Cost Per Member Per Year - Annual Cost Growth -** The Year to Date performance estimate for FY 2016 is 1.0% vs goal of 3.4%. While final claims data are still lagging, the system was able to achieve the goal during the fiscal year. Pharmacy showed dramatic improvement due to NDAA 2015 Maintenance Medication change and operational changes. Under the NDAA 2015, maintenance medications were redirected from the retail pharmacy to either the TRICARE Mail Order or Military Treatment Facilities (MTFs), which resulted in significant improvements. Additionally, through the Pharmacy & Therapeutics Committee explicit formulary management and actionable Prime enrollee leakage reports for non-maintenance medication further reductions overall costs were achieved.
- **Inpatient Production Target (MS-RWPs) -** For the most recent reported monthly data for FY 2016, the MHS produced 213 thousand MS-RWPs against a target of 212 thousand MS-RWPs, slightly above the target. These numbers are based on the records reported to date, and may increase slightly as all records are completed.
- **Outpatient Production Target (RVUs) -** With an increased emphasis on paying for performance, the system has seen a renewed focus on production of outpatient care. Production increased by more than one million relative value units compared with FY15. However, for FY 2016, the production 79.8 million relative value units, failed to reach the goal of 81.6 million relative value units. While the MHS failed to achieve the goal for the year, it expects continued improvements in the coming years. Initiatives are already underway to review specialty and primary care efficiency for the Military Treatment Facilities. Through the review process and

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tracking of performance measures by the MHS, overall production should increase in future years.