

EXHIBIT 1 TO CARMICHAEL DECLARATION

From: [Carmichael, Andrew E. \(CIV\)](#)
To: [Barsanti, Vanessa](#); [Heinz, Jordan M.](#)
Cc: [Siegfried, Daniel I.](#); *prenn@lambdalegal.org; *tborelli@lambdalegal.org; *colleen.melody@atg.wa.gov; [Stallings-Ala'ilima, Chalia \(ATG\)](#); [Enlow, Courtney D. \(CIV\)](#); [Skurnik, Matthew \(CIV\)](#); [Powers, James R. \(CIV\)](#); [Norway, Robert M. \(CIV\)](#); *Rachel@newmanlaw.com; *jason@newmanlaw.com; [Rosenberg, Michael E.](#); [Schroeder, Joseph C.](#); [Gerardi, Michael J. \(CIV\)](#)
Subject: RE: Karnoski, et al. v. Trump, et al.
Date: Tuesday, November 26, 2019 4:57:38 PM
Attachments: [Additional Information Regarding Collections from DoD and Services \(final\).pdf](#)
[Air Force Document Custodians v2.xlsx](#)
[\(371-1\) 2019.8.29 - Ex. A Decl. of Robert E. Easton.pdf](#)
[\(381-1\) 2019.9.13 - Ex 1 -- 2019.9.12 Karnoski Easton DPP Declaration.pdf](#)
[Ex. A -- Biggerstaff Draft Decl.pdf](#)

Vanessa,

Please see the attached document containing additional information regarding Defendants' search and collection of materials in this and the related litigation. The descriptions in the attached document are based upon information gathered from counsel in the Department of Defense ("DoD") and in the Military Services. I have also attached the two most recent declarations from Robert Easton providing this information for DoD and the draft declaration from the Army providing this information for the Army.

The description from the Air Force provides further information regarding the collection of materials from the Under Secretary of the Air Force Matthew Donovan and Chief Master Sergeant Kaleth Wright. As the attached document provides, the Air Force used the majority of the search terms you have requested. The date range used for Secretary Donovan was from August 1, 2017 through March 24, 2018 (Secretary Donovan began serving as Under Secretary of the Air Force on August 3, 2017). And the date range used for Chief Master Sergeant Kaleth Wright was from of February 1, 2017 through March 24, 2018 (Chief Master Sergeant Kaleth Wright began serving as Chief Master Sergeant of the Air Force on February 17, 2017). Also, see an updated Air Force custodian list including them as custodians. (I previously provided the custodian lists for Air Force, as well as DoD, Army, Navy and Marine Corps, Coast Guard, and the Office of the Chairman of the Joint Chiefs of Staff, on November 15.)

We have forwarded your question regarding the Retention and Nondeployable Working group to DoD and will follow up with any response.

For your final question, are you asking about the supplemental searches for Secretary Donovan and Chief Master Sergeant Kaleth Wright? If so, the Air Force's search was not limited only to "information /documents considered by the Panel of Experts" but, like the Department's prior collections and searches, was also intended to include any information even remotely relevant to the formation of DoD's policy on military service by transgender individuals or individuals with gender dysphoria. *See, e.g.*, Dkt 371-1 (attached). The only reason the Air Force did not extend its search to documents from 2016 or prior (as in other searches from DoD and the Military Services) is because, as noted above, Under Secretary Donovan only joined the Air Force in his current capacity on August 3, 2017, and Chief Master Sergeant Kaleth Wright only began serving as Chief Master Sergeant of the Air Force on February 17, 2017.

Best regards,

Drew

Drew Carmichael

Trial Attorney | United States Department of Justice

Civil Division | Federal Programs Branch

Tel: (202) 514-3346

From: Barsanti, Vanessa <vanessa.barsanti@kirkland.com>

Sent: Monday, November 18, 2019 6:32 PM

To: Carmichael, Andrew E. (CIV) <ancarmic@CIV.USDOJ.GOV>; Heinz, Jordan M.

<jheinz@kirkland.com>

Cc: Siegfried, Daniel I. <daniel.siegfried@kirkland.com>; *prenn@lambdalegal.org <prenn@lambdalegal.org>; *tborelli@lambdalegal.org <tborelli@lambdalegal.org>; *colleen.melody@atg.wa.gov <colleen.melody@atg.wa.gov>; Stallings-Ala'ilima, Chalia (ATG) <Chalia.SA@atg.wa.gov>; Enlow, Courtney D. (CIV) <cenlow@CIV.USDOJ.GOV>; Skurnik, Matthew (CIV) <maskurni@CIV.USDOJ.GOV>; Powers, James R. (CIV) <jpowers@CIV.USDOJ.GOV>; Norway, Robert M. (CIV) <rnorway@CIV.USDOJ.GOV>; *Rachel@newmanlaw.com <Rachel@newmanlaw.com>; *jason@newmanlaw.com <jason@newmanlaw.com>; Rosenberg, Michael E. <michael.rosenberg@kirkland.com>; Schroeder, Joseph C. <joseph.schroeder@kirkland.com>; Gerardi, Michael J. (CIV) <mgerardi@CIV.USDOJ.GOV>

Subject: RE: Karnoski, et al. v. Trump, et al.

Drew,

Thank you for the additional information. We will be following up with a more detailed response. However I wanted to get some initial questions out to you in the meantime. Per our meet and confers and my October 31st note summarizing our last meet and confer, plaintiffs have requested and defendants agreed to provide full search parameter information. This information was to include custodian names, titles, departments, the terms searched by custodian, and the date range searched by term searched. The spreadsheets you provided do not address the latter two integral portions of defendants' search parameter information. It has now been months since plaintiffs requested this information. Please provide updated spreadsheets with the agreed to information by the end of this week.

With respect to the collection and production of materials from Chief Master Sergeant Kalet Wright and Under Secretary of the Air Force Matthew Donovan, please provide the search terms and date ranges defendants intend on utilizing. Additionally, plaintiffs renew their request that the terms listed in their September 27 letter (reattached) be utilized in isolating documents for review from these custodians.

As to the Retention and Nondeployable Working group, your letter asserts that the former Director, Juliet Beyler, and the replacement Director, Patricia Mulcahy, were not in place during "key periods." Please provide the dates that each was a Director of that group.

Finally, as to your response regarding plaintiffs' RFPs, is it correct that defendants are refusing to collect and produce anything more outside of information/documents considered by the Panel of Experts?

Vanessa Barsanti

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From: Carmichael, Andrew E. (CIV) <Andrew.E.Carmichael@usdoj.gov>

Sent: Friday, November 15, 2019 2:31 PM

To: Barsanti, Vanessa <vanessa.barsanti@kirkland.com>; Heinz, Jordan M. <jheinz@kirkland.com>

Cc: Siegfried, Daniel I. <daniel.siegfried@kirkland.com>; *prenn@lambdalegal.org <prenn@lambdalegal.org>; *tborelli@lambdalegal.org <tborelli@lambdalegal.org>; *colleen.melody@atg.wa.gov <colleen.melody@atg.wa.gov>; Stallings-Ala'ilima, Chalia (ATG) <Chalia.SA@atg.wa.gov>; Enlow, Courtney D. (CIV) <Courtney.D.Enlow@usdoj.gov>; Skurnik,

Matthew (CIV) <Matthew.Skurnik@usdoj.gov>; Powers, James R. (CIV) <James.R.Powers@usdoj.gov>; Norway, Robert M. (CIV) <Robert.M.Norway@usdoj.gov>; *Rachel@newmanlaw.com <Rachel@newmanlaw.com>; *jason@newmanlaw.com <jason@newmanlaw.com>; Rosenberg, Michael E. <michael.rosenberg@kirkland.com>; Schroeder, Joseph C. <joseph.schroeder@kirkland.com>; Gerardi, Michael J. (CIV) <Michael.J.Gerardi@usdoj.gov>

Subject: [EXT] Karnoski, et al. v. Trump, et al.

Vanessa and Jordan,

Please see attached correspondence and custodian lists.

Best regards,

Drew

Drew Carmichael

Trial Attorney | United States Department of Justice

Civil Division | Federal Programs Branch

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EXHIBIT 2 TO CARMICHAEL DECLARATION

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

| | | |
|-------------------------------------|---|--|
| RYAN KARNOSKI, <i>et al.</i> , |) | |
| |) | |
| Plaintiffs, and |) | |
| |) | |
| STATE OF WASHINGTON, |) | |
| |) | |
| Plaintiff-Intervenor, |) | |
| v. |) | |
| |) | |
| DONALD J. TRUMP, in his official |) | |
| Capacity as President of the United |) | |
| States, <i>et al.</i> , |) | |
| |) | |
| Defendants. |) | |
| | | |

No. 17-cv-01297 (MJP)

**DECLARATION OF MAJOR CASEY
BIGGERSTAFF IN SUPPORT OF
PLAINTIFF'S MOTION TO COMPEL
(ECF XXX)**

DECLARATION OF MAJ CASEY BIGGERSTAFF

I, Casey Biggerstaff, do hereby declare are follows:

1. I am an Army Judge Advocate and have been assigned to Fort Stewart, Georgia, as the Chief, Military Justice, for the 3d Infantry Division and Fort Stewart since July 2019. From June 2017 to June 2019, I was assigned as a Litigation Attorney to the United States Army Legal Services Agency (USALSA), Litigation Division, located in Fort Belvoir, Virginia.
2. In the exercise of my official duties at Litigation Division, I was made aware of, and served as agency counsel for, this lawsuit and the three other cases involving the March 12, 2019 Department of Defense (DoD) Policy on Military Service by Transgender Persons with Gender Dysphoria.
3. I submit this declaration in support of [Plaintiffs' Motion to Compel] (ECF No. [insert]). I base this declaration on my personal knowledge and information made available to me in the performance of my official duties.

Army Search and Review Process

4. In their motion, Plaintiffs seek to compel Defendants to [insert]
5. In response to this and the three other lawsuits challenging DoD's policies regarding military service by transgender individuals and individuals with gender dysphoria, the Army conducted a search, collection, and production of files and documents potentially relevant to the claims and defenses in the four cases. The Army's search and review efforts were focused on material reasonably related to the Army's contributions to the formation and implementation of DoD's policy on military service by transgender individuals and individuals with gender dysphoria.
6. The Army began this process by identifying the key individuals who were involved in the policy-making process. After receiving plaintiffs' discovery requests, and upon receiving guidance from attorneys from the Department of Justice (DOJ) and DoD's Office of Litigation Counsel, I identified relevant custodians of records with the assistance of legal advisors from the Army's Office of the Judge Advocate General and Office of the General Counsel. The Army then conducted its search for responsive documents in the possession of these individuals through two methodologies: self-collection and digital searches.

Self-Collection

7. Custodians selected for self-collection of responsive materials were members of the Army's Service Central Coordination Cell (SCCC), the Army members of the Panel of Experts, and the Secretary of the Army. Through self-collection, these custodians reviewed digital and hardcopy files and collected potentially responsive material. That is, these custodians (or members of their staff), including attorneys from the SCCC, searched hard copy files and

organizational shared drives from their respective staff sections or offices. In addition, the SCCC members searched their own Outlook email accounts for responsive information. These custodians were directed to search for and collect potentially responsive materials—materials related to the generation and implementation of transgender personnel policies, past and present—based on guidance developed by Litigation Division in coordination with input from the members of the SCCC from the Office of the Judge Advocate General and Office of General Counsel.

8. Although custodians were instructed to search for and collect any materials reasonably related to transgender personnel policies, they were specifically directed to search for and collect materials including:

- Records of communications by any representative of their offices with President Trump or the Executive Office of the President concerning military service and/or accession of transgender persons between January 20, 2017 and August 25, 2017;
- Records of meetings attended by a representative their office at which military service by transgender persons was discussed between January 20, 2017 and August 25, 2017 (including meetings of the Panel of Experts and Service Central Coordination Cell);
- Assessments, reports, evaluations, studies, or other research concerning military service by transgender persons compiled between June 30, 2016 and August 25, 2017;
- Records concerning the identity of SCCC members, their dates of service in the SCCC, title, role, and nature of their responsibilities;
- Records of meeting of the Panel of Experts and SCCC, as well as all records generated by, provided to, or relied on by, the Panel of Experts;

- Records produced from June 30, 2016 concerning the effect of open service by transgender persons on unit cohesion, readiness, or lethality;
- Records produced between June 30, 2016 and July 26, 2017 estimating the cost incurred as a result of military service by transgender persons;
- Training materials on the provision of health care to transgender Servicemembers with gender dysphoria (with the exception of standard training slides on the military service of transgender Servicemembers that were disseminated as part of the mandatory Tier 1, 2, or 3 training);
- Any proposed edits or amendments to Department of Defense Instruction 1300.28 issued in October 2016;
- Any records related or created pursuant to the military's development or implementation of policies concerning the military service of transgender persons by the Panel of Experts or associated working groups at the Department of Defense or Service level;
- Any training materials on the provision of health care to transgender Servicemembers or Servicemembers with gender dysphoria;
- Any records concerning any policy, practice, or procedure related to the accession of transgender persons in the military;
- Any records provided to, considered by, or generated by the Panel of Experts, its associated working groups, and/or SCCC concerning the service and/or accession of transgender persons.

Further, custodians were specifically instructed to search for and collect materials even if they believed a privilege might apply to those materials. After performing self-collection, these individuals (or members of their staff) provided all collected documents to Litigation Division.

Litigation Division kept this documentation in a shared drive folder managed by the Office of the Judge Advocate General. The files were deposited in their native formats and sorted by custodian.

Digital Searches

8. The Army also conducted digital searches of the Secretary of the Army and the Panel of Expert members' Outlook accounts. These digital searches were based on search terms and date ranges developed from discovery requests and after consulting with an SCCC representative from the Office of The Judge Advocate General, and conducted by the Defense Information Systems Agency (DISA) upon requests by Litigation Division. After conducting a digital search, DISA transferred the collected materials as .pst files directly to Litigation Division. In order to preserve the Outlook data of the SCCC members who self-collected their emails, the Army also requested .pst files of their accounts, which were already searched via self-collection, based on the same search terms and date ranges. I requested, and DISA performed, four searches with the following search terms and date ranges:

| <u>Search 1: January 17, 2018 Request</u> | |
|---|--|
| Custodians: SMA Daniel Daily, GEN James McConville | |
| Term | Date Range |
| TG | September 14, 2017 to January 17, 2018 |
| Transgender | September 14, 2017 to January 17, 2018 |
| Sex reassignment | September 14, 2017 to January 17, 2018 |

| | |
|---|--|
| SRS | September 14, 2017 to January 17, 2018 |
| SCCC | September 14, 2017 to January 17, 2018 |
| Gender transition | September 14, 2017 to January 17, 2018 |
| TSIG | September 14, 2017 to January 17, 2018 |
| PoE | September 14, 2017 to January 17, 2018 |
| Panel | September 14, 2017 to January 17, 2018 |
| Accession | September 14, 2017 to January 17, 2018 |
| Gender reassignment | September 14, 2017 to January 17, 2018 |
| Gender dysphoria | September 14, 2017 to January 17, 2018 |
| <u>Search 2: January 22, 2018 Request</u> | |
| Custodian: Mark Esper | |
| TG | November 20, 2017 to January 22, 2018 |
| Transgender | November 20, 2017 to January 22, 2018 |
| PoE | November 20, 2017 to January 22, 2018 |
| <u>Search 3: February 1, 2018 Request</u> | |
| Custodians: COL Kerrie Golden; COL Mary Krueger; COL Michael Nelson; Mr. Thomas Kelly III; Mr. Paul Aswell; MG Jason Evans; BG Joseph Calloway; MAJ Dustin Murphy; Ms. Maanvi Patoir; COL Andreas Thum; LTC Daniel McTigue | |
| TG | June 30, 2016 to February 1, 2018 |
| Transgender | June 30, 2016 to February 1, 2018 |
| "Sex reassignment" | June 30, 2016 to February 1, 2018 |
| SRS | June 30, 2016 to February 1, 2018 |
| SCCC | June 30, 2016 to February 1, 2018 |
| "Gender transition" | June 30, 2016 to February 1, 2018 |

| | |
|--|--|
| TSIG | June 30, 2016 to February 1, 2018 |
| PoE | June 30, 2016 to February 1, 2018 |
| Accession | June 30, 2016 to February 1, 2018 |
| "Gender reassignment" | June 30, 2016 to February 1, 2018 |
| "Gender dysphoria" | June 30, 2016 to February 1, 2018 |
| <u>Search 3: April 19, 2018 Request</u> | |
| Custodians: COL Kerrie Golden; COL Mary Krueger; COL Michael Nelson; Mr. Thomas Kelly III; Mr. Paul Aswell; MG Jason Evans; BG Joseph Calloway; MAJ Dustin Murphy; Ms. Maanvi Patoir; COL Andreas Thum; LTC Daniel McTigue; SMA Daniel Dailey; GEN James McConville; HON Mark Esper | |
| TG | SMA Dailey, GEN McConville, and HON Mark Esper: January 17, 2018 to March 23, 2018. Remaining individuals: February 2, 2018 to March 23, 2018. |
| Transgender | SMA Dailey, GEN McConville, and HON Mark Esper: January 17, 2018 to March 23, 2018. Remaining individuals: February 2, 2018 to March 23, 2018. |
| "Sex reassignment" | SMA Dailey, GEN McConville, and HON Mark Esper: January 17, 2018 to March 23, 2018. Remaining individuals: February 2, 2018 to March 23, 2018. |
| SRS | SMA Dailey, GEN McConville, and HON Mark Esper: January 17, 2018 to March 23, 2018. Remaining individuals: February 2, 2018 to March 23, 2018. |
| SCCC | SMA Dailey, GEN McConville, and HON Mark Esper: January 17, 2018 to March 23, 2018. Remaining individuals: February 2, 2018 to March 23, 2018. |
| "Gender transition" | SMA Dailey, GEN McConville, and HON Mark Esper: January 17, 2018 to March 23, 2018. Remaining individuals: February 2, 2018 to March 23, 2018. |
| TSIG | SMA Dailey, GEN McConville, and HON Mark Esper: January 17, 2018 to March 23, 2018. Remaining individuals: February 2, 2018 to March 23, 2018. |
| PoE | SMA Dailey, GEN McConville, and HON Mark Esper: January 17, 2018 to March 23, 2018. Remaining individuals: February 2, 2018 to March 23, 2018. |
| Accession | SMA Dailey, GEN McConville, and HON Mark Esper: January 17, 2018 to March 23, 2018. Remaining individuals: February 2, 2018 to March 23, 2018. |
| "Gender reassignment" | SMA Dailey, GEN McConville, and HON Mark Esper: January 17, 2018 to March 23, 2018. Remaining individuals: February 2, 2018 to March 23, 2018. |

| | |
|--------------------|--|
| "Gender dysphoria" | SMA Dailey, GEN McConville, and HON Mark Esper: January 17, 2018 to March 23, 2018. Remaining individuals: February 2, 2018 to March 23, 2018. |
| "Panel of Experts" | SMA Dailey, GEN McConville, and HON Mark Esper: January 17, 2018 to March 23, 2018. Remaining individuals: February 2, 2018 to March 23, 2018. |

Document Review

9. All documents and files collected pursuant to self-collection and digital searches, after being provided to Litigation Division, were transferred to DOJ attorneys for processing in the eDiscovery software, Relativity. The preserved emails from the SCCC members were also uploaded to Relativity. Documents were then maintained and organized within the eDiscovery database as they were collected and as they would appear in the ordinary course of business—by DoD or Military Service component and custodian.¹ Once the data were uploaded to Relativity, duplicate documents were segregated from the corpus of documents for review. Thereafter, DOJ divided the documents from the SCCC members' and staff's self-collections and the Outlook searches performed by DISA for the Army's senior leaders into batches for review. No documents were excluded from batching due to the possibility that a document contained privileged information.

10. The Army's document review was conducted by a team of attorneys from Litigation Division and others from within the U.S. Army Legal Services Agency. Prior to the review, I provided the team detailed instructions on the mechanics and criteria for the review. Each member of the team was trained on how to determine whether a document was responsive, to

¹ The Army initially collected a small set of documents from its custodians and converted them into .pdf form using Adobe Pro software, which were transferred to DOJ and produced to plaintiffs in the converted format using Relativity. However, due to negotiations with plaintiffs' counsel, the Army provided the native files to DOJ and reproduced the documents in native format.

note whether the document was a “key” document because it contained information especially relevant to the claims or defenses in this and the related litigation (this coding, however, was optional), to review the document for any applicable privileges and code the document appropriately, and to provide a description of the privileged information for the privilege log. The review team was instructed to mark a document as “responsive” if the document was remotely related to DoD’s transgender policy, past or present, and further instructed to err on the side of finding responsiveness. In light of the 218 RFPs in this and the three related cases challenging DoD’s transgender policy, the Army did not further review and categorize documents as responsive to particular RFPs. Rather, documents were categorized and produced as they were maintained and collected in the ordinary course of business—by custodian. Efforts to reorganize the documents by RFPs in this and the related litigation would have added substantial burdens to review efforts by requiring attorneys to compare the content of each document reviewed to the list of the 218 RFPs across the four cases. This task would have been further complicated by the fact that many responsive documents would be specifically responsive to numerous RFPs.

11. Beyond determining whether a document was responsive, as described above, the Army did not apply non-privilege objections to exclude reviewed documents from production.

12. The review team received training on the Deliberative Due Process Privilege, the Attorney-Client Privilege, Work Product Privilege, and the Presidential Communications Privilege to ensure all members had a working knowledge of the privileges they were likely to encounter as they reviewed the documents. The review team was further asked to code a document as “needs further review” if any member of the team was unsure about the content, had questions on whether a specific code was warranted, or encountered a document with a

close privilege call so that another attorney could later locate and review the document to make the appropriate privilege determination. Review work was done in a computer lab so that attorneys would be co-located and could discuss recurring questions or issues. I supervised the review and answered reviewers' questions as they arose.

13. Privilege determinations were generally made at the same time as responsiveness determinations; however, in all cases, responsiveness determinations were made prior to privilege determinations. Reviewers read an entire document and considered the content, the title, the author, the recipients, and the date of its creation in determining whether the document was privileged. If a document contained privileged material, it was appropriately coded in Relativity, and the reviewer moved on to the next document. Because privilege determinations were made only after a document was determined to be responsive, there were no custodians, documents, or batches that were excluded from review because they contained privileged information. To the best of my knowledge, all reviewers complied with my instructions concerning the document review process.

14. Once the documents were coded as privileged, DOJ then conducted preliminary scrubs of the batches to identify any illogical or inconsistent coding for any documents. Documents with coding inconsistencies were re-batched and re-reviewed by members of the Army document review team.

15. DOJ then created and provided Litigation Division with privilege logs for several batches of documents at a time. These logs were generated from Relativity by the eDiscovery software and sent to my office in Microsoft Excel format. They were created using a combination of metadata from a document and the reviewer's coding in Relativity. The logs included the following metadata: author of the email or creator of the document, recipient of an email, date of

creation or date the email was sent, title of the document, a privilege determination, and basis for the privilege determination. Attorneys from Litigation Division then reviewed these documents, made changes as appropriate, and edited the draft privilege logs.

In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed this [] day of [] 2019.

CASEY BIGGERSTAFF
Major, Judge Advocate
U.S. Army

EXHIBIT 3 TO CARMICHAEL DECLARATION

Department of the Navy

The Department of the Navy (to include the United States Marine Corps) initially instructed all custodians to hold any and all documents related to any policy concerning military service by transgender individuals, including prior policies, current policies, and any ongoing review or future review or changes to those policies. It also instructed custodians to hold any and all documents related to the President's statements on the service of transgender individuals and the military's medical criteria regarding transgender individuals, gender dysphoria, and any related clinical conditions. The custodians broadly interpreted this instruction and were not confined by specific search terms or date ranges. After the various Plaintiffs served their interrogatories and requests for production ("RFPs"), all identified custodians were instructed to read every individual interrogatory and RFP across all four cases and to determine whether its office had responsive documents. Again, the custodians were not directed to confine their search to specific terms or date ranges, but rather to broadly search for any documents that could possibly be responsive. With guidance from agency counsel, custodians determined internally how best to identify responsive documents.

Because of its immense universe of potentially responsive documents, the Office of the Surgeon General did a targeted keyword search. The search terms used were:

"transgender," "trans gender," "transgender policy," "gender stability," "genital reconstruction," "gender transition," "transition surgery," "sex change surgery," "gender dysphoria," "M to F," "male to female," "F to M," "female to male," "FOIA DON-17-0465," "FOIA DON-NAVY-2018-000946," "central coordination cell," "CCC," "Regan Kibby," "Dylan Kohere."

That search was not date-confined, and it was the only office to confine its collection to specific keywords. The Navy's collection was purposely overbroad, to ensure that any potentially relevant documents were collected. To demonstrate the breadth of the collection, the Navy collected approximately 112,000 documents. After de-duping, the Navy reviewed every document and determined that, only 27,000 were unique and relevant (*i.e.*, remotely related to any policy concerning military service by transgender individuals).

Air Force

The Department of the Air Force instructed all custodians to search for and hold any and all documents related to "any information concerning current, prior, or forthcoming United States Armed Forces policy on transgender individuals or information concerning the actual service or possible service of particular transgender individuals in the Armed Forces. The search should include, but is not limited to, information regarding the service, recruitment, retention, commissioning, enlistment, or medical treatment of transgender individuals." In addition to implementing a search method most likely to reveal the broadest collection of responsive information, custodians were expressly instructed to use the following list of non-exclusive terms in conducting their searches:

“transgender,” “transsexual,” “trans,” “gender identity,” “gender dysphoria,” “sex reassignment surgery,” “gender change,” “assigned sex,” “assigned gender,” “preferred gender,” “sex reassignment,” “transgender recruits,” “transgender enlistee,” “transgender applicants,” “gender marker,” “associated with their gender,” “male to female,” “female to male,” “cross-sex hormone therapy,” “hormone therapy,” “surgical transition,” “gender assignment,” “gender atypical,” “gender nonconformity,” “co-morbidity,” “Service Central Coordination Cell,” “Assessing the Implications of Allowing Transgender Personnel to Serve Openly,” “Military Service of Transgender Service Members,” and “Military Service by Transgender Individuals.”

These suggested search terms were designed with the intent of gathering an overbroad collection so as not to inadvertently omit responsive information. Air Force recipients of the litigation hold and later the various Plaintiffs’ requests for production with the above language were not bounded by any date range for the initial search for responsive documents performed in December 2017 and January 2018. However, a subsequent May 2018 production was confined to communications/materials generated during the timeframe of December 28, 2017, through March 23, 2018 (the date DoD’s new policy was announced), so as to not overlap with the first search for responsive documents. These collections retrieved approximately 11,000 documents or approximately 40,000 pages of information.

Finally, two additional collections are currently underway with respect to the following two custodians: Under Secretary of the Air Force Matthew Donovan and Chief Master Sergeant of the Air Force Kaleth Wright. The first collection is bounded by the date range of August 1, 2017 (Secretary Donovan began serving as Under Secretary of the Air Force on August 3, 2017) through March 24, 2018, and the second by the date range of February 1, 2017 Chief Master Sergeant Kaleth Wright began serving as Chief Master Sergeant of the Air Force on February 17, 2017) (the date Mr. Wright became the Chief Master Sergeant of the Air Force), through March 24, 2018. As requested by Plaintiffs, the terms applied to these collections were:

“Panel of Experts,” “POE,” “transgender,” “TG,” “Carter Policy,” “Gender,” “hormone therapy,” “T litigation,” “Hypogonad,” “Hypothyroid,” “Prostate Cancer,” “Breast Cancer,” “Growth Hormone,” “Menopause,” and “Osteoporosis.”

Coast Guard

The Coast Guard issued a litigation hold concerning military service by transgender individuals. All custodians were instructed to search for and preserve files relevant to the policy concerning military service by transgender individuals, including but not limited to: correspondence to or from the Service Central Coordination Cell (SCCC)¹ email address/group; documents containing the terms transgender, Coast Guard, and/or armed forces; and documents relating to service by transgender individuals and any directive or statement issued by the President. Custodians broadly interpreted these instructions and did not confine their searches to a specific set of search terms or date ranges. Upon receipt of

¹ The Coast Guard chartered the SCCC, composed of personnel, legal, and health care experts, to assist members and their commands through any transgender related issues that may have arisen.

discovery requests from the various Plaintiffs across the four related cases, the Coast Guard directed all custodians to review each interrogatory and request for production to determine whether they possessed any additional responsive documents. Once again, custodians did not limit their search using specific terms or date ranges, but rather searched broadly to locate any documents potentially responsive to Plaintiffs' written discovery.

The Coast Guard conducted an expansive search, collection, and production of documents and files potentially relevant to the litigation. The search efforts focused on documents reasonably related to the Coast Guard's role assisting the Department of Defense in its formation and implementation of policy regarding military service by transgender individuals and individuals with gender dysphoria. By conducting such expansive searches, the Coast Guard's efforts were designed to ensure collection of the maximum amount of potentially relevant documents.

Defense Health Agency

The Department of Defense issued a litigation hold notice to the Defense Health Agency ("DHA"). In response, DHA issued its own litigation hold instructing all custodians to hold any and all documents and electronically stored information ("ESI") related to (1) the federal government's policies regarding the service of transgender individuals in the armed forces, including prior policies, current policies, and any ongoing review of those policies or future review or changes to those policies in response to any directive issued by the President; and (2) the President's statements regarding the service of transgender individuals in the armed forces and any other documents related to any directive to the Departments of Defense or Homeland Security concerning such policies. The custodians broadly interpreted this instruction, and were not confined by specific search terms. The date range was July 1, 2015, "through the present."

Subsequently, and responsive to the various Plaintiffs' interrogatories and requests for production across the four related cases, DHA's identified custodians were instructed to read the portions of the interrogatories and RFPs that attorneys in DoD's Office of General Counsel identified as relevant to DHA, and determine whether his/her office had responsive documents. The custodians were not directed to confine their search to specific terms or date ranges, but rather to broadly search for any documents that could possibly be responsive. With guidance from agency counsel, custodians determined internally how best to identify responsive documents. These documents and ESI include, but are not limited to, policies, directives, regulations, implementation guidelines, memoranda, studies, surveys, correspondence and records created or collected by working groups.

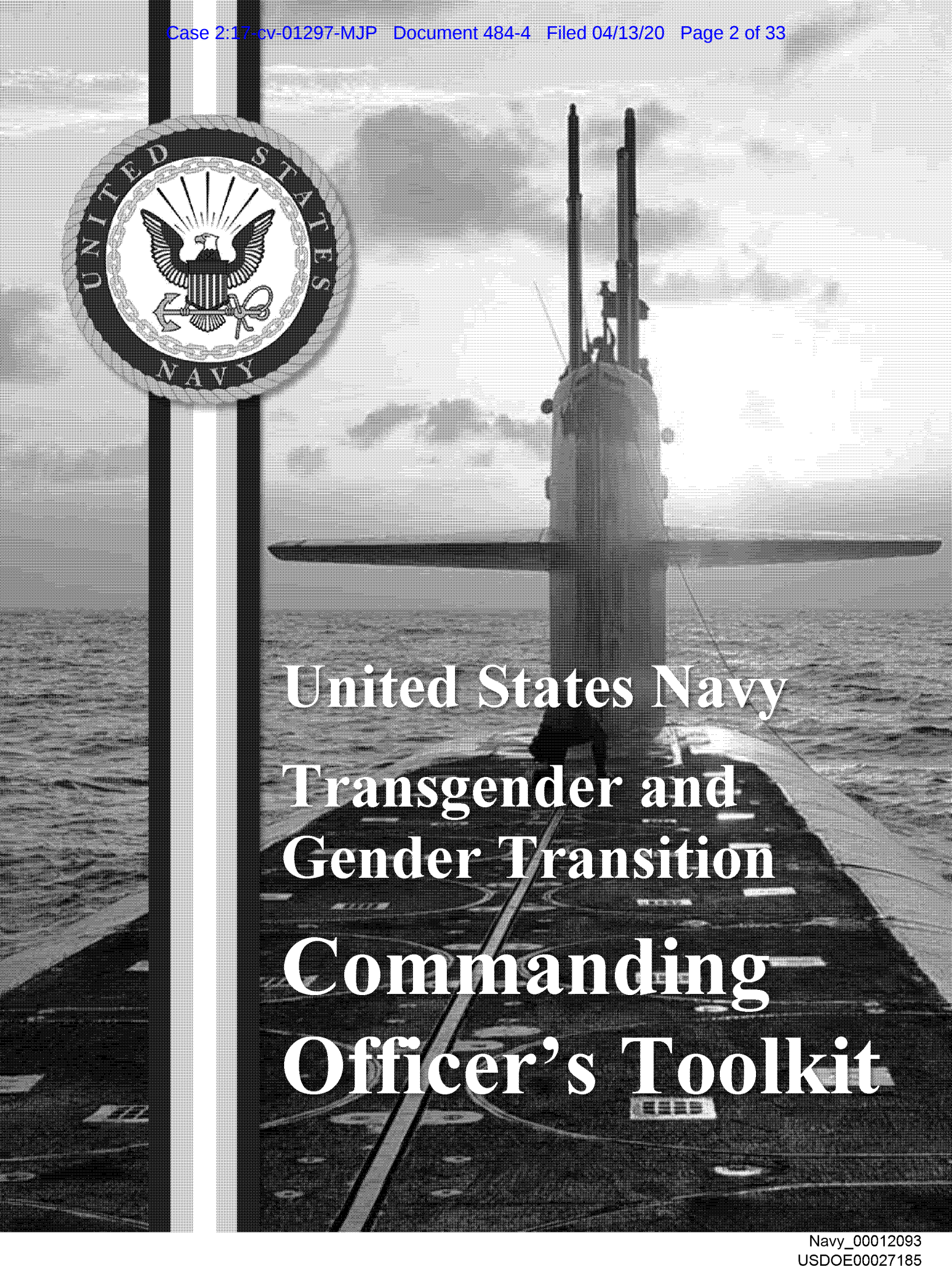
The Office of the Chairman of the Joint Chiefs of Staff

The Office of the Chairman of the Joint Chiefs of Staff ("OCJCS") issued a litigation hold concerning military service by transgender individuals and directed the J-1 (Personnel) and Legal Counsel staff sections to identify and preserve all documents and electronically stored information regarding the service of transgender individuals in the armed forces, including

prior policies, current policies, and ongoing review of those policies, as well as any future review or changes to those policies in response to presidential directives. The materials to be searched for included policies, directives, regulations, implementation guidelines, memoranda, studies, surveys, correspondence, and records created or collected by working groups. These staff sections were also directed to collect documents and ESI related to the President's statements regarding service of transgender individuals in the armed forces.

In addition, targeted searches of ESI (including emails) were conducted for each of the individual custodians whose names and titles have been previously provided. These searches used the broadest possible search terms: "transgender," "TG," and "trans." OCJCS search and collection efforts were deliberately designed to ensure collection of the maximum amount of potentially relevant materials in the custody and control of OCJCS. OCJCS counsel then reviewed all materials collected and carefully de-duplicated redundant materials, assessed responsiveness, and determined privilege.

EXHIBIT 4 TO CARMICHAEL DECLARATION

The background of the entire page is a black and white photograph of a submarine's conning tower on the deck of a ship. The conning tower is the central vertical structure, with various antennas and sensors. A horizontal structure, possibly a deck crane or part of the deck machinery, extends across the middle of the frame. The deck is visible in the foreground, showing various markings and equipment. The ocean and a cloudy sky are in the background.

United States Navy Transgender and Gender Transition Commanding Officer's Toolkit

This guide is intended as a supplement to the *Transgender Service in the US Military: An Implementation Handbook*. The Department of Defense (DoD) handbook addresses many topics to assist in understanding transgender terms, definitions, and related issues which are not fully repeated in this guide. The DoD guide and this guide are not all-encompassing. Should Commanding Officers have questions or discover situations which are not adequately addressed, they are encouraged to contact the USN Service Central Coordination Cell (SCCC) listed at the end of this guide for policy assistance.

Existing standards of conduct shall continue to apply to all Service Members with the continued expectation of treating each other with dignity, respect, and professionalism.

Commanding Officers should use this opportunity to review their local standards of personal and professional conduct to ensure that they provide adequate guidance in relevant areas, apply uniformly to all personnel, and promote an environment free from personal, social or institutional barriers. Place special emphasis during such review on the following areas: berthing, shower and head facilities, dress and appearance, and zero tolerance for harassment and hazing. Standards of conduct must clearly address the responsibility of leaders, supervisors, and subordinate personnel to foster unit cohesion, good order and discipline, respect for authority, and mission accomplishment.

Commanding Officers must promote the dignity and respect of all personnel to include transgender Sailors, prevent discrimination and harassment based on gender identity, and provide guidance to command personnel as required regarding gender transition by military personnel.

Understanding the Transition Process

Transition: Period of time when individuals change from the gender role associated with their sex assigned at birth to a different gender role. For many people, this involves learning how to live socially in another gender role, for others this means finding a gender role and expression that are most comfortable for them. Transition may or may not include feminization or masculinization of the body through cross-sex hormone therapy or other medical procedures. The nature and duration of transition are variable and individualized.

Gender Transition Process

Though the **Gender Transition** process (the process of changing the physical appearance of an individual to align with their preferred gender identity) involves medical, social, and administrative components, the starting point will always be a medical diagnosis. If a Sailor expresses to command leadership feelings of gender non-conformity, which in some cases can cause significant distress or anxiety, it is important to recognize the Sailor is likely under psychological strain that may place them in a vulnerable position. Assist the Sailor in obtaining an appointment with mental health professionals to obtain a medical diagnosis at the first available opportunity. Leadership needs to assure the Sailor of the command's support, address personal privacy concerns, and reiterate zero tolerance for any discrimination or harassment.

A medical diagnosis is a fundamental first step in a transition process. When a medical diagnosis of **Gender Dysphoria** (a medical diagnosis that refers to distress that some transgender individuals experience due to a mismatch between their birth gender and their sex and that may cause them difficulty in functioning in their social or work environment) indicates Gender Transition is necessary, the Sailor, Military Medical Provider (MMP), and Commanding Officer (CO) will jointly develop a **Transition Plan**.

Gender Dysphoria is a condition that will rarely require emergency care/medical intervention or removal from a command. A diagnosis of Gender Dysphoria involves a multi-visit, comprehensive medical review conducted at an appropriate Military Medical Treatment Facility. Transition will not be initiated simply on the basis of a declaration of a Gender Identity issue by the Sailor. There must be a medical diagnosis and medical treatment plan on record as developed by the MMP in conjunction with the BUMED Regional Transgender Care Team (TGCT) (See BUMEDNOTE 6000).

Medical courses of treatment vary from person to person and may include any or all of the following: behavioral health counseling, cross-sex hormone therapy, surgery, and real-life experience (RLE). Goals are to minimize impact to both the Command and the Sailor, and to maintain the Sailor's fitness for duty, or return the Sailor to duty as quickly as possible following periods of limited duty. A CO may not disapprove medically-necessary Gender Transition care or timing of urgent care, but may work with the Sailor's medical provider and the Sailor to adjust timing of periods of limited duty to support operational or work requirements.

Understanding the Transition Process

The Sailor's CO will approve the Transition Plan, which will include the **Medical Treatment Plan** as outlined and approved by the MMP, guidance regarding the immediacy and timing of recommended treatment, guidance on RLE, operational and mission requirements, length of the treatment plan, discussion on the expectation of maintaining standards based on the gender marker in personnel administrative systems/DEERS, communication requirements to include timing of disclosure to the workforce and taking the Sailor's desires into consideration.

Due to Navy operational requirements, transition should be completed within 18 months and no later than 24-months with waiver following the date the CO approves a Sailor's Transition Plan. However, there is not a standardized transition timeline. Once the Transition Plan is completed, there may be other medical procedures undertaken by the individual but these would be considered as a routine medical procedure and not to be affiliated with the Transition Plan. Each Sailor's transition will be handled on a case-by-case basis with medical determination of fitness for duty the controlling factor. A command-approved Transition Plan will detail the Sailor's anticipated transition timeline based on the individual's diagnosis and Medical Treatment Plan. Similar to other medical conditions, complications or unforeseen issues may arise which alter the treatment plan timeline.



Gender Transition Process: Gender transition in the military begins when a Service Member receives a diagnosis from a military medical provider indicating that the member's gender transition is medically necessary, and concludes when the Service Member's gender marker in DEERS is changed and the member is recognized in the preferred gender.

Understanding the Transition Process

Real Life Experience (RLE): RLE is the phase in the gender transition process during which the individual commences living socially in the gender role consistent with their preferred gender. RLE may or may not be preceded by the commencement of cross-sex hormone therapy, depending on the medical treatment associated with the individual Service Member's gender transition. The RLE phase is also a necessary precursor to certain medical procedures, including gender transition surgery. RLE generally encompasses dressing in the new gender, as well as using preferred gender berthing, bathroom, and shower facilities.

Real Life Experience

RLE refers to a period of time during transition when a transgender person changes outward gender expression and lives in their preferred gender.

- This will often start prior to an official administrative change of gender during off-duty hours and may include socialization, clothing, and appearance (hair style, cosmetic, etc.) changes. A transgender Sailor may desire to engage in RLE during a leave period or after duty hours.
- RLE expectations and timing must be discussed and codified in the Medical Treatment Plan and the Transition Plan. A Sailor who is undergoing transition and has been approved by the CO to conduct RLE in accordance with the agreement in the Sailor's Transition Plan is not considered to be cross-dressing. A more extensive discussion of cross-dressing and the limitations of such are listed on the Navy Personnel Command website under Support & Services/21st Century Sailor/LGBT Resources.
- There is no ability to conduct RLE shipboard/underway. Clear expectations for RLE in various social settings should be communicated and is typically not authorized at military functions in or out of uniform unless the CO has documented and approved.
- There are three situations where RLE may occur, each with its own considerations or restrictions:
 - Foreign Locations. Commands need to be cognizant of host-nation laws and social norms when considering RLE in an off-duty status in foreign nations. Travel warnings, the State Department's country-specific website, the DoD Foreign Clearance Guide, and any U.S. regional military Commander directives should be reviewed and heeded.
 - Stationed in the United States, Shipboard. When a Service Member is onboard a ship, they are considered in an on-duty status, even after working hours. In accordance with DoDI 1300.28, RLE takes place away from the working environment. As part of the approved Transition Plan, COs may allow for embarkation and debarkation from the ship for Sailors going on liberty to commence after-hours RLE.

Understanding the Transition Process

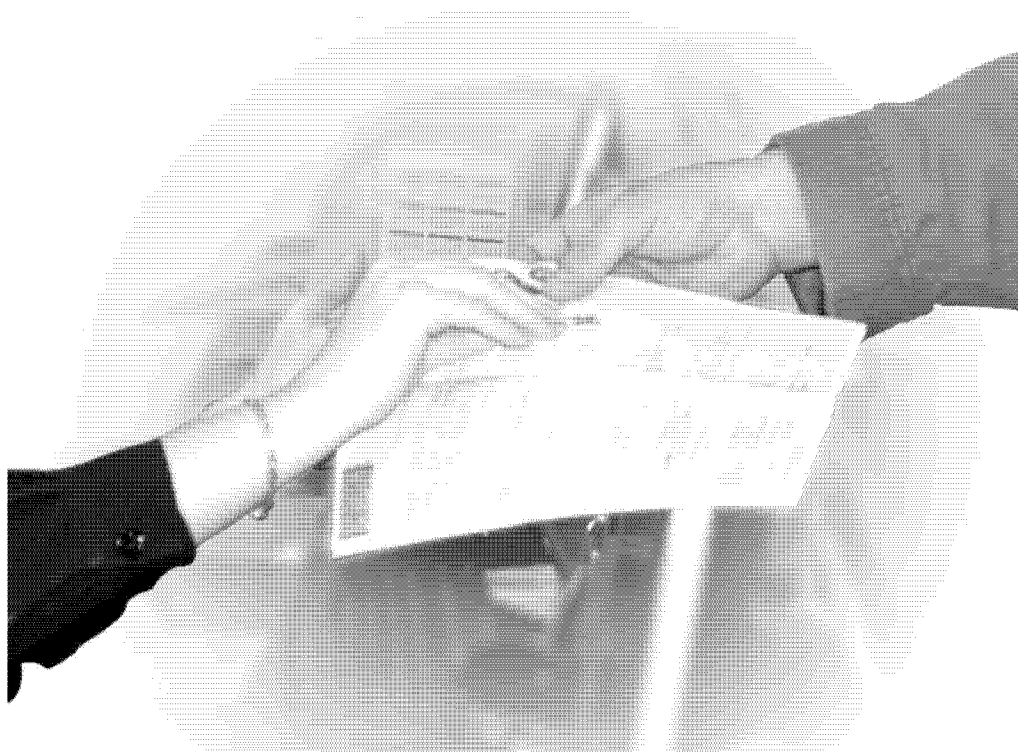
- Stationed in the United States, Shore Based. When a Service Member is stationed at a shore facility, they may execute RLE away from the workplace.

Transition Process Complete

When the MMP determines that the Medical Treatment Plan is complete, the Sailor obtains the required State or Federal legal documents, as outlined in DoDI 1300.28 (amended passport, updated birth certificate, or court order). Following CO written approval (sample on pg. 25), the Sailor may submit a request to execute the gender marker change in DEERS.

When the Service Member's gender marker in personnel administrative systems/DEERS is changed (as completed per MILPERSMAN 1000-131), apply the preferred gender standards for uniform, grooming, PFA, and Military Personnel Drug Abuse Testing Program (MPDATP). The requirement to meet preferred gender standards after the gender marker change must be clearly communicated to the transitioning Sailor so that they are prepared, particularly for the PFA.

Direct the use of military berthing, head, and shower facilities according to the Service Member's gender marker as reflected in DEERS.



Gender Transition Complete: A Service Member has completed the medical care identified or approved by a military medical provider in a documented medical treatment plan as necessary to achieve stability in the preferred gender. The Service member obtains appropriate documentation and the Commanding Officer provides written permission to change the gender marker in personnel administrative system/DEERS.

Counseling Tips

Transgender Service Member: *A Service Member who has received a medical diagnosis indicating that gender transition is medically necessary, including any Service Member who intends to begin transition, is undergoing transition, or has completed transition and is stable in the preferred gender.*

First Steps for Commanding Officers

When a Sailor Informs the Commanding Officer that they are/suspect they are Transgender

The CO should be supportive, respect privacy concerns, and describe the basic tenets of policies and processes outlined in instruction and the DoD Handbook relevant to Navy transgender personnel. Be cognizant that the Sailor may know very little or have incorrect information about existing DoD and Navy transgender policy, what options are available to them, and what, if any, immediate actions will be taken. Assure the Sailor that any actions regarding performance of duties will be based on readiness and the Sailor's ability to perform tasks as determined by medical evaluations and operational requirements. This will likely be a good opportunity to discuss the basics of how gender transition might typically occur, to include the need for medical diagnosis, a Medical Treatment Plan, and development of a Transition Plan which will detail the steps and timing of the Sailor's gender transition, in the event their personal decision includes transition. Tips for discussion:

- The timing of undergoing transition. There are distinct differences between shipboard and shore-based transitions. Ideally, transitions are conducted in a shore environment to allow greater access to health care, greater opportunity to conduct real-life experience and to reduce the added stressors of operational requirements. The timing discussion should include any potential career implications, especially with regard to sea duty completion, and whether Sailor may prefer transfer or staying in the current command.
- The CO may not deny medically necessary care but may adjust the timing of transition or surgical procedures based on mission unless the care is medically urgent as determined by the MMP. While the care outlined in the Medical Treatment Plan is considered medically necessary, it is typically not medically urgent. This can be verified through the MMP.

Counseling Tips

- If a Sailor desires to remain shipboard during transition, they are required to maintain standards up to and through the legal change (must maintain birth gender grooming and appearance standards and use birth gender head, shower, and berthing facilities until the CO receives medical proof of transition complete and provides the Sailor the written approval to make the DEERS gender marker change per MILPERSMAN 1000-131). Once a Sailor's gender marker is changed in DEERS, they will shift grooming and uniform standards and use the head, shower, and berthing facilities associated with their preferred gender. This shift should be accompanied by communications with shipmates in the work center and shared living spaces. The transitioning Sailor should be consulted on how this will be communicated.
- In either case (shipboard or shore-based transitions), Sailors should be counseled that they will be required to meet all gender standards associated with their gender marker in DEERS. This means that upon completing their transition they are expected to be able to meet their new physical fitness requirements.
- The Navy will allow up to 18 months for gender transition completion. Waivers for an additional 6 months up to two years maximum for transition may be considered. If Sailors desire additional medical procedures after the legal transition is complete, it is considered to be as any other medical procedure but is not considered part of the transition process by the Navy.



Gender Marker: Data element in DEERS that identifies a Service Member's gender. A Service Member is expected to adhere to all military standards associated with the member's gender marker in DEERS and use military berthing, bathroom, and shower facilities in accordance with the DEERS gender marker.

Counseling Tips

Stable in Preferred Gender: *Medical care identified or approved by a military medical provider in a documented medical treatment plan is complete, no functional limitations or complications persist, and the individual is not experiencing clinically significant distress or impairment in social, occupational, or other important areas of functioning. Continuing medical care, including but not limited to cross-sex hormone therapy, may be required to maintain a state of stability.*

- Physical Fitness Assessment (PFA). Since PRIMIS gender marker data is fed by personnel systems, there is no ability to change testing standards until the legal gender marker change in DEERS. Personnel will be subject to assessment standards of their birth gender prior to the change in DEERS unless medically waived as required like any other medical condition.
- Sailors requiring adjustments to a Transition Plan may do so with CO approval. CO's may adjust the Transition Plan as required or as it makes sense in consultation with the Sailor.

Communication

Communication between the CO and Sailor is critical throughout the transition process. Discuss who will communicate the Sailor's transition to shipmates - the Sailor, CO, or together. A Department Head or another senior member of the command may also be chosen to communicate to the Sailor's work center, but the CO will want to ensure the message content is appropriately non-stigmatizing.

The goal is to keep the transitioning Sailor and other command members as comfortable as possible throughout the entire process. While the transitioning Sailor's privacy is to be respected, there will be a point where other members of the command will notice changes and communication is necessary.



Grooming and Uniform Standards / Facilities Use

Uniform and Grooming Standards

Standards for uniform and grooming must match the official gender as annotated in DEERS, therefore, a transgender Sailor's shift of uniform and grooming standards will occur concurrently with the administrative change of gender in DEERS. Sailors who transition gender will not receive a special uniform allowance for uniforms of their acquired gender. Service Members will be responsible for purchasing any required uniforms after completing a Gender Transition using their current clothing replacement allowance (CRA). An adjustment in the type of clothing allowance (male-to-female or female-to-male) will be made when DFAS is made aware of a gender change. The rate change may not be reflected in the Service Member's pay account until the next year of their anniversary. Keep in mind the NWU are unisex, there are not male and female versions. Optional items (such as skirts, relax fit jackets, sweaters) are not funded as part of the clothing allowance. Remember that Service uniforms and Service Dress White uniforms have a 24-month wear life and the Service Dress Blue has a 36-month wear life and should be replaced accordingly or as required to maintain a neat and professional appearance. Sailors are provided the full amount of a new uniform in their annual CRA during the wear life of each uniform. The key to this and all important decisions that involve fiscal expenditures is planning.

Berthing

Updated Standard Organization and Regulations Manual (SORM) guidance will be published via NAVADMIN and included at a future date in OPNAVINST 3120.32D. COs should consider developing command modesty policies as required. Courteous behavior and individual privacy of each command member should be addressed. The creation of separate living quarters based on gender identity is prohibited, and the CO is not authorized to establish practices that physically segregate Service Members according to gender identity.

Berthing assignment must match gender as annotated in DEERS, therefore, a transgender Sailor's shift of berthing will occur concurrently with an administrative change of gender in DEERS. Prior to the DEERS gender marker change, the Sailor will be assigned to the corresponding berthing of their birth gender. After the DEERS change, the Sailor will be assigned to the corresponding berthing of their preferred gender.

Preferred Gender: The gender in which a transgender Service Member will be recognized when that member's gender transition is complete and the member's gender marker in DEERS is changed.

Grooming and Uniform Standards / Facilities Use

Head/Restroom and Shower Facilities (referred to as “facilities”) Usage

Similar to assignment of berthing, head and shower facilities use must match gender as annotated in DEERS, therefore, a transgender Sailor’s shift of facilities usage will occur concurrently with administrative change of gender in personnel administrative systems/DEERS upon submission of legal documentation of gender change in accordance with MILPERSMAN 1000-131.



Physical Fitness Assessment (PFA) and Urinalysis

Physical Fitness Assessment (PFA) Program standards

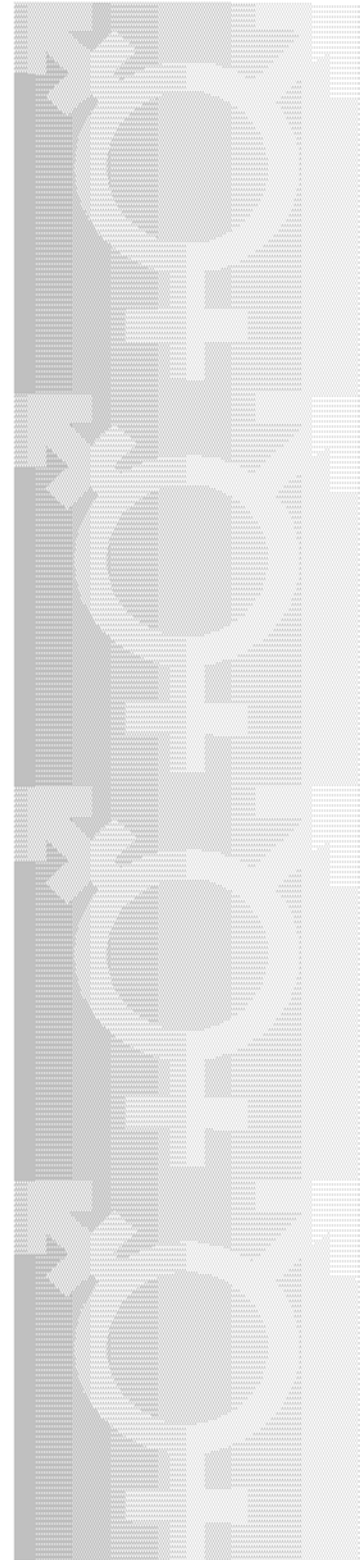
There are no separate or distinct standards for transgender Service Members. Service Members must adhere to applicable fitness program standards commensurate with the gender marker currently reflected in DEERS. Service Members and MMPs must carefully consider the time required to adjust to new PRT standards as part of the medical treatment and transition planning process.

Sailors who complete transition are expected to meet Navy standards of the preferred gender at the same time as the administrative gender marker change in DEERS. MMPs should take this into account when signing off transitioning individuals as complete.

Military Personnel Drug Abuse Testing (Urinalysis) Program (MPDATP)

Transgender personnel are subject to all urinalysis program requirements, and direct observation of urine collection by a trained observer is required. Not all transgender people who transition gender make the full surgical change – therefore, COs retain the discretionary authority in assigning observers to ensure the dignity of the transgender Sailor and the designated observer are upheld while maintaining the requirements of the urinalysis program. An observer is not required to conduct this duty if they are uncomfortable doing so. Examples of allowances include:

- Use of medical personnel as observers if available and/or as authorized by the medical command.
- Finding an observer who is comfortable observing a transgender Sailor who may have different genitalia than the gender marker listed in DEERS.



Transfer / Reassignment

Command Transfer/Reassignment

Recommended duty reassignments based on a medical diagnosis and a treatment plan will be coordinated on a case-by-case basis consistent with other medical conditions that may require transfer for medically indicated reassignment.

As a general rule, Gender Transitions will only be allowable shipboard if a transitioning Service Member can maintain deployability standards, with exceptions for minor convalescent leave periods, up to and through the legal change (birth gender standards up to legal change and then preferred gender standards will apply after the gender marker is changed in DEERS). Berthing and head reassignment will only occur after this point.

During a Gender Transition, Service Members may enter periods of non-deployability during a Gender Transition. Each transition will be different. Timing of a Transition Plan should include consideration of a Sailor's planned rotation date (PRD) and planned deployment/operational requirements. Service Members should normally attempt to finalize transition during one tour to avoid interrupting medical treatment and having to coordinate a new Transition Plan at the next command, where operational requirements may be different. It is the Service Member's and their MMP's responsibility to inform leadership regarding an unforeseen medical condition when, as a result of any medical treatment, the Service Member will or has become non-deployable. For Active Duty Service Members, after a diagnosis has been made, while the treatment and Transition Plan are being created with involvement of the Service Member, their CO, and the MMP, part of the process will be discussing timing of treatment and procedures to minimize impact on potential deployments or mission readiness. Communication between the Service Member/CO and the Service Member's community manager/detailer will also be important. The Service Member may need to discuss with their MMP and CO whether they want to transition while in their current unit or upon arrival at a new unit, as there are advantages and disadvantages to both. Transferring during transition is typically not a good idea as it will require a new Transition Plan signed by the new CO in order to account for the new command's operational requirements.

Career Specialty / Assignment

Community assignment restrictions will be in accordance with the Navy's Bureau of Medicine (BUMED) current assessment of disqualifying medical status. Individuals undergoing medical or surgical treatment may have periods of being restricted from flight duty and diving operations. Refer questions to the BUMED Regional Transgender Care Teams or the SCCC.

Similarly, there are impacts with Service Members who are part of the **Personnel Reliability Program (PRP)** with regards to being diagnosed and initiating a Gender Transition:

- **Medication use:** If any treatment (not just related to transgender service) involves a new medication, the Service Member will be suspended until the effects of the medication can be understood. For hormone treatment, this may result in a period of 6 months to evaluate the side effects/stability on the medication.
- **Mental health:** Just like any major life stressor/change, BUMED PRP medical authority requires a mental health evaluation to assess a member's stability and reliability as it relates to PRP.
- **Surgery:** Just as in any other surgical treatment a member must be pronounced fit for full duty by their surgeon and stable on any pain medication. If the pain medication calls into question a person's attentiveness or may cause sudden or subtle incapacitation, this medication would be grounds for suspension. With regards to surgery, not every transition includes sex reassignment surgery (SRS).
- **Suspension** is the term that is used for anything from being SIQ for a day or an issue that could last for one year. After one year, the member must be decertified. Decertification is NOT permanent but does require a board for reinstatement.



Cross-sex Hormone Therapy: The use of feminizing hormones in an individual assigned male at birth based on traditional biological indicators or the use of masculinizing hormones in an individual assigned female at birth. A common medical treatment associated with gender transition.

Initial Entry Education / Training

Gender Transitions are generally not supportable during entry-level training due to the rigorous military requirements and schedule. In general, the compressed training timeline does not permit transitions to be accommodated at Recruit Training Command (RTC), U.S. Naval Academy (USNA) or in a Reserve Officers Training Corps (ROTC) program though situations will be evaluated on a case-by-case basis.

RTC

A Service Member is subject to separation in an entry-level status during the period of initial training (defined as 180 days per DoDI 1332.14) based on a medical condition that impairs the Service Member's ability to complete such training.

Transitioning USNA and ROTC Midshipmen

Midshipmen must continue to meet medical accession standards while at USNA or enrolled in ROTC. If midshipmen do not maintain the standards for appointment into the U.S. Military Services, a one-year Medical Leave of Absence (MLOA) may be warranted as determined by the Secretary of the Navy or designee. When an MLOA is recommended, a medical record review will determine whether the health-related incapacity or condition presents clear evidence that, following medical treatment, the midshipman will be able to meet the physical standards for appointment into the Navy within a reasonable period of time. USNA midshipmen who cannot meet medical accession standards and become medically disqualified may be disenrolled in accordance with DoDI 1322.22.



Reserve Component

Reserve Component Applicability

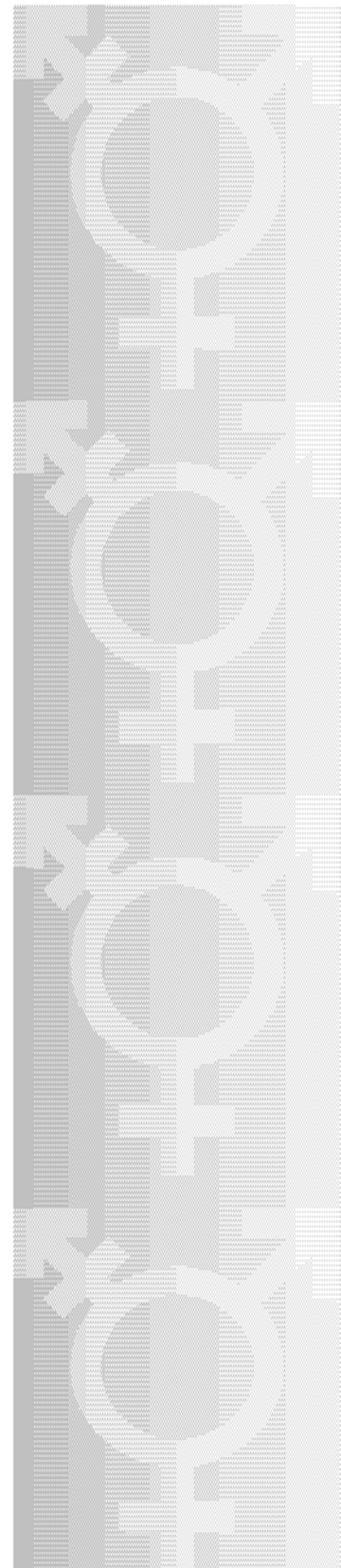
DoD and Navy policies regarding accessing and retaining transgender personnel are applicable to both Active Component (AC) and Reserve Component (RC) Sailors. Unique aspects of policy application and execution for the Reserve Component are listed below.

Medical Diagnosis

In accordance with DoDI 6025.19 Individual Medical Readiness, Sailors must report significant health information to their chain of command. RC Sailors must consult with a MMP concerning the potential impact on military readiness of any medical diagnosis and proposed treatment. Any member receiving a diagnosis of Gender Dysphoria must report the diagnosis and submit relevant medical information to their Navy Reserve Activity (NRA) Medical Department Representative (MDR), in addition to informing their Reserve Unit leadership. Once the NRA CO receives a Gender Transition request, the member becomes Temporarily Not Physically Qualified (TNPQ) and the MPQ (temporarily not physically qualified for mobilization) Manpower Availability Status (MAS) code will be applied to the member. The MPQ MAS code will indicate the member is awaiting validation of the diagnosis and treatment plan. The medical diagnosis and treatment plan for Gender Dysphoria may be provided by a civilian medical provider but must be forwarded for validation to the BUMED Medical Support Cell that services the USN Service Central Coordination Cell (SCCC). Once the diagnosis and Medical Treatment Plan are approved, a Transition Plan can be developed.

Transition Plan Approval

The Transition Plan (see *Create a Transition Plan* section) serves as documentation of the Reserve Sailor's anticipated timeline for the medical, social, and administrative aspects of Gender Transition in the Navy. The NRA CO with administrative responsibility for mobilization readiness is the approval authority for a transitioning Reserve Sailor's Transition Plan. The plan must be developed by the NRA CO in coordination with the Navy Reserve Force Surgeon (COMNAVRESFORCOM N9), the Reserve Unit CO, and the Sailor.



Reserve Component

Readiness Implications

Individual Medical Readiness (IMR) status will be determined on a case-by-case basis as dictated by the Transition Plan. Generally, the MPQ MAS code will remain in effect until the Reserve Sailor's Transition Plan is completed, or if at any time during the transition a medical condition arises to warrant a change in medical status, or if the Transition Plan is not approved.

Administration of the Temporarily Not Physically Qualified (TNPQ) status is well established and supports documentation of readiness for many different medical conditions. The MPQ MAS code will be applied in accordance with RESPERSMAN 6000-010.

Entitlement Participation (IDT/AT) and Assignment

The inherent flexibility of entitlement participation, to include rescheduling Inactive Duty Training (IDT) periods, granting Authorized Absences (AAs), and waiving Annual Training (AT), should be maximized to provide the Sailor an opportunity to achieve satisfactory participation and unit readiness during the transition process. In certain situations where significant operational tasking is anticipated, reassignment to a different Reserve Unit may best enable a smooth transition. Guidelines for assignment flexibility will be in accordance with RESPERSMAN articles 1570-010 and 1570-020. Sailors will not be summarily assigned to the IRR unless that is the Sailor's choice.

Restrictions on Mobilization and Other Participation

Once the NRA CO receives a Gender Transition request, the member initially becomes TNPQ and the MPQ MAS code (temporarily not physically qualified for mobilization) will be applied to the member in accordance with RESPERSMAN 6000-010. This appropriately identifies the member as having a medical condition and supports documentation of readiness in the same manner as other medical conditions. The Service Member's mobilization status will be reviewed monthly to determine their physical readiness status. Transitioning Sailors may have periods of ineligibility for participation, including AT and other active duty assignments (Active Duty for Training (ADT), Active Duty for Special Work (ADSW), and definite recalls) due to planned medical procedures in accordance with the approved treatment plan. Members classified as TNPQ may be authorized drill participation but are limited to performing IDT drills and completing correspondence courses. They may not perform any other type of training or active duty orders including AT, ADT, ADSW, IDTT, or recall in accordance with BUPERSINST 1001.39F. However, RESPERSMAN article 6000-010 allows members in a TNPQ status to request consideration for Inactive Duty Training Travel (IDTT), AT, and ADT on a case-by-case basis for periods of less than 29 days within CONUS.

Reserve Component

RC Sailors on Temporary Active Duty Orders

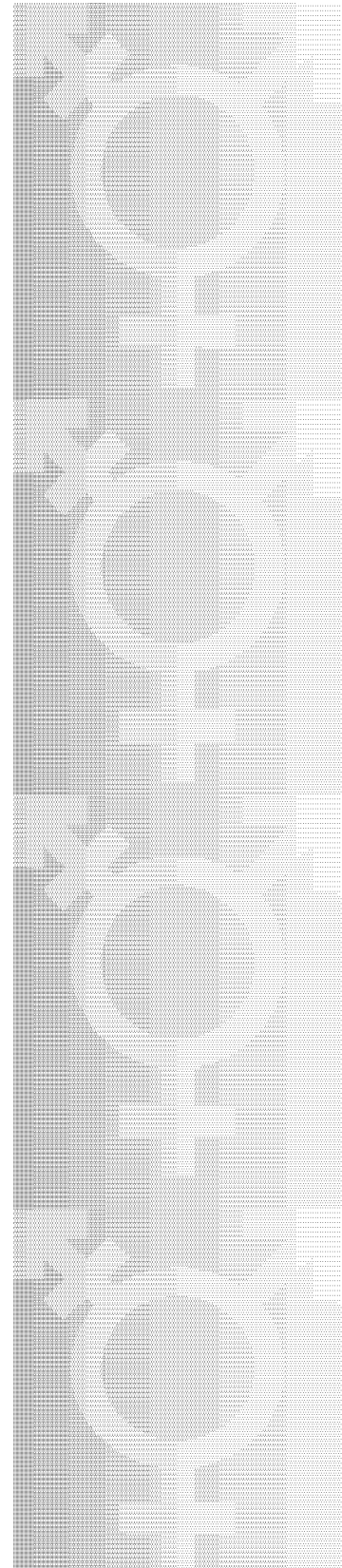
RC Sailors serving on active duty orders (e.g., ADT, ADSW, mobilization, definite recall) for a finite period will generally be precluded from beginning the Gender Transition process. Comparable to AC Sailors, RC Sailors may also be released from active duty based on a medical determination. Determinations will be made on a case-by-case basis by the chain of command in coordination with the USN Service Central Coordination Cell (SCCC) and the BUMED Medical Support Cell.

Implication of Transferring Between AC and RC

Members will be treated according to the same medical standards as any other Sailor transferring from AC to RC. Members should be counseled on the physical qualification processes and timing of affiliation with the Navy Reserve per MANMED 15-22.

IRR to SELRES

Members transferring from the IRR to SELRES are subject to the same affiliation policies and medical standards as any other member.



Privacy Concerns

Personal privacy is a concern for all Service Members. Members of the Armed Forces accept living and working conditions that are often austere, primitive, and characterized by close quarters with little or no privacy. Consistent with current policy, COs retain discretion to alter berthing or billeting assignments to maintain morale and good order and discipline when consistent with mission accomplishment in accordance with Service policy. The creation of separate head and shower facilities or living quarters for transgender personnel is prohibited. During development of the Sailor's Transition Plan, there should include discussion regarding Service Member and unit privacy concerns. There may be points where communication with the work force is necessary to attempt to ensure that all Sailors' privacy needs are being met. Ask the transgender Sailor how they would like to do this to include them in the decision making.

Personally Identifiable Information (PII)

The Navy is required to protect personally identifiable information (PII) at all times in accordance with instruction and annual training. For transgender personnel specifically, when a Sailor's Gender Transition is complete, there should be no requirement to communicate the individual's transgender status when transferring commands. This should be left up to the individual.

Health Insurance Portability and Accountability Act of 1996 (HIPAA)

Health Insurance Portability and Accountability Act of 1996 (HIPAA) only applies to the "covered entity" or in other words the medical facility or health care provider. Once the information is released pursuant to a HIPAA exception to an outside entity (i.e. CO), HIPAA no longer applies and only the Privacy Act would apply to further releases by a CO. Health care providers can only release the "minimum necessary" medical information to COs. In the case of transgender personnel, providers will be able to coordinate with COs the timing of the treatment plan and the effect that such treatment will have on the member's ability to perform his/her duties, but will not be able to release specific medical information.

Records

Service records, awards, FITREPS, and Evaluations are considered historical documents and any previous name/gender used will not be changed. All documents created after the DEERS gender marker change will reflect the preferred gender. Navy Personnel Command already incorporated board precept language into board proceedings to prohibit discrimination based on gender identity or taking into account an individual's transgender status as relevant.

Other Considerations

Standards of Conduct

A CO has a powerful role in setting the tone and defining the degree of inclusion within your Command. Your leadership and attitude towards transgender Service Members will have a strong impact on whether transgender Service Members feel they can be themselves in the command, and how others treat them.

Protect the Service member's privacy consistent with their wishes. Some will prefer socialization of their desire to transition with shipmates and others will not. Information management is very important.

Listen to the Service Member's wishes with respect to disclosure to the workcenter and the broader command.

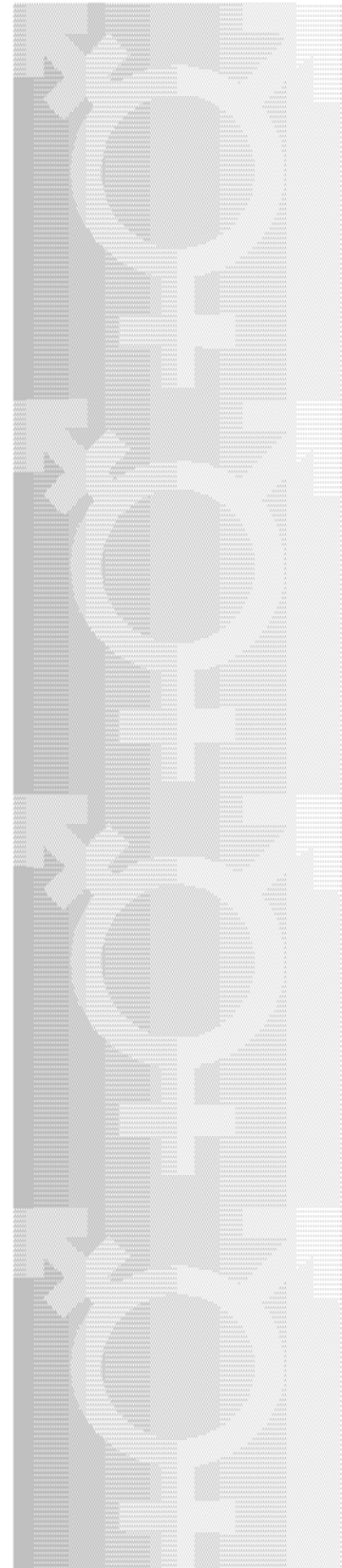
Be open with your transitioning Sailor. Feel free to ask them questions.

Exceptions to Policy (ETP)

Service Members shall comply with all standards of the gender marker currently in Navy personnel administrative systems/DEERS. Individual Service Members and COs may request exceptions to policy (ETP) via the first Flag Officer in the chain of command to Deputy Chief of Naval Operations for Manpower, Personnel, Training, and Education (DCNO N1) for any service policy waivers as part of the approved Transition Plan in accordance with DoDI 1300.28 and SECNAVINST 1000.11, when it is in the best interest of the individual and as it makes sense for good order and discipline within the command. Examples of ETPs requiring DCNO N1 approval include grooming, uniform and appearance standards, change of berthing, head and shower facilities, and preferred gender urinalysis observation, prior to completion of the gender marker change in DEERS. Physical readiness testing, body composition assessment standards or deployability determinations require medical waivers.

Pronoun Usage

Pronoun usage can be a confusing issue for people when addressing someone who is transitioning gender. Since the transitioning Sailor is required to be in birth gender standards prior to the gender marker change (unless the Sailor has an OPNAV N1-approved exception to policy for uniform, grooming and appearance standards), it is appropriate to retain birth gender pronouns and shift to preferred gender pronouns after the gender marker change.



Other Considerations

Discuss this topic with the transitioning Sailor and remind them that people may make mistakes for a bit but also remind coworkers that it is inappropriate to intentionally mix pronoun usage.

If there is an ETP (as described above) in place, then it would be appropriate to use preferred gender pronouns. Discuss the Sailor's preferences, in this case, on name and pronoun usage and help them communicate that to the workforce.

Addressing Foreign Port Visits and/or Cultures that may Present Challenges when Sailors are Ashore (in a Duty or Liberty Status)

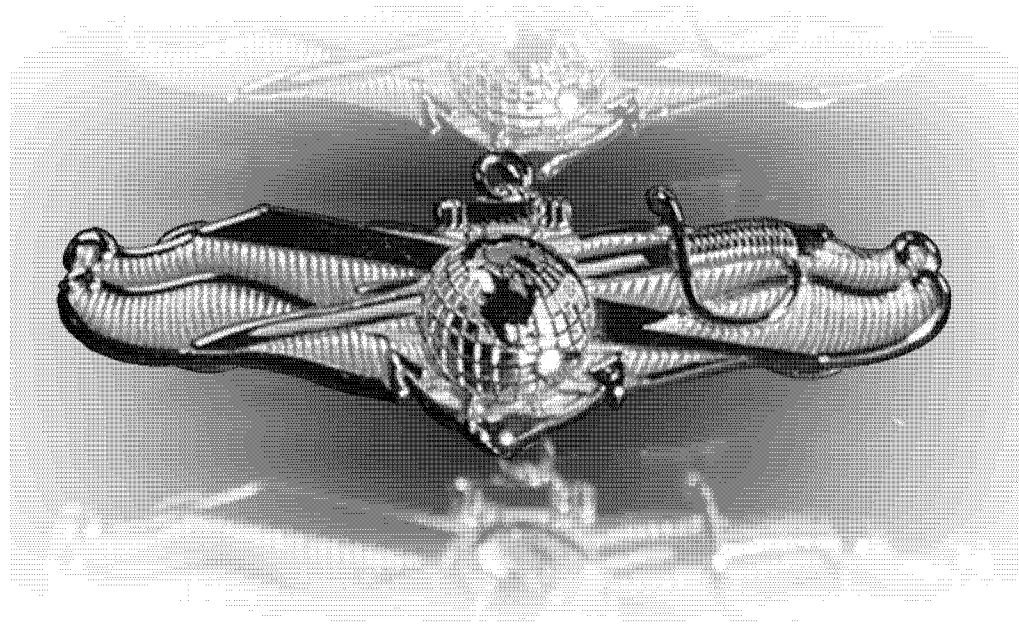
Service Members will continue to be eligible for world-wide assignment without consideration of gender identity. Existing Commander's authority and discretion in enforcing guidelines for appropriate civilian attire during liberty remains unchanged.

Moral and Religious Concerns/Freedom of Speech Policy Changes

None. Existing policies remain in place.

Security Clearances

Any change in a Service Member's status (e.g. marriage, divorce, addition of dependents) is reportable to the command security manager in order to maintain a national security clearance. This includes changes to name and gender. A Standard Form 86 Certification (SF 86C) allows reporting of changes in previously reported information on the SF 86.



Create a Transition Plan

Transition Plan

A notification of intention to undergo transition obligates the Navy to consider a transgender member's needs. This requires a Transition Plan tailored to the coordination of each individual on a case-by-case basis to ensure diagnosis, treatment timeline, operational requirements, and medical, social, and administrative needs. Communication between the transitioning Sailor and the CO is an integral part of this process. The Transition Plan will outline anticipated stages of the transition process which includes but is not limited to:

Starting the Process

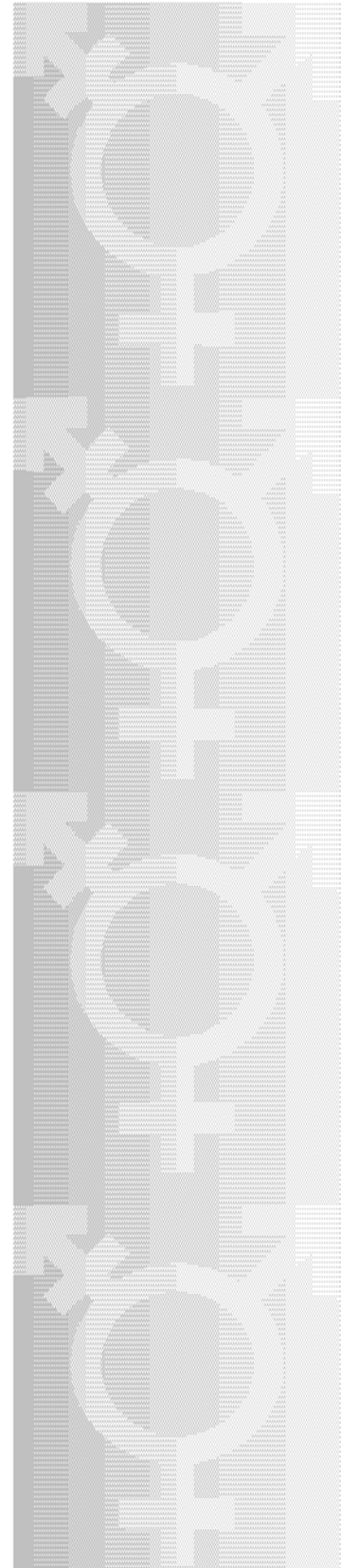
- Visit to Military Treatment Facility
- Diagnosis of Gender Dysphoria
- Develop Medical Treatment Plan with the MMP

Medical Treatment Plan and Timeline

- Plan must be approved by the CO, considering personal readiness and operational schedule / deployability impact, if any
- Hormone Replacement Therapy and resulting personal readiness impact, if any
- Other anticipated medical procedures and resulting personal readiness impact, if any

Social Transition

- Timing and strategy for engagement with non-military family and friends
- Strategy, timing, and manner of engagement with remaining Command personnel
- Off-duty RLE prior to administrative change in gender
- Timing for a change in berthing, facilities (heads), uniform/grooming standards, PFA standards (gender marker change or ETP)



Create a Transition Plan

Administrative

- Only ONE of the following is required: amended passport, updated birth certificate, or court order. No other federal or state documentation is considered sufficient.
<https://travel.state.gov/content/passports/en/passports/information/gender.html>
- CO written approval certifying a Sailor as transition complete and eligible to make the gender marker change in DEERS
- Change in personnel administrative systems/Defense Enrollment Eligibility Reporting System (DEERS) Gender Marker per MILPERSMAN 1000-131



travel.state.gov > Passports & International Travel > Your Passports > Gender Transition Applicants

Print Email

Gender Transition Applicants

We can issue two different kinds of passports to you depending on where you are in your gender transition. You must provide extra documentation in both cases.

| Status of Gender Transition | Kind of Passport | Validity of Passport |
|-----------------------------|------------------|----------------------|
| Completed | Full Validity | 10 years |
| In-Process | Limited Validity | 2 years* |

*A limited validity passport book can be extended to the full ten-year validity book with no additional fee by submitting Form DS-5504 within two years of the passport issue date.

Requirements

If you are in the process of or have had clinical treatment for a gender transition, please note that you must apply using the DS-11. Your supporting documentation should include the following, in addition to the normally required documents:

- ID that resembles your current appearance
- Passport photo that resembles your current appearance
- Proof of birth date (DS-11 application)




WHERE TO APPLY

Make an Appointment

Call the National Passport Information Center 24 hours a day to make an appointment at a passport agency.

1-877-487-2778;
TDD/TTY: 1-888-874-7793



Enroll in STEP

Enrolling in this free service will allow us to better assist you in case of an emergency while you are abroad.

ENROLL

Create a Transition Plan

Transition Plan Draft Sample



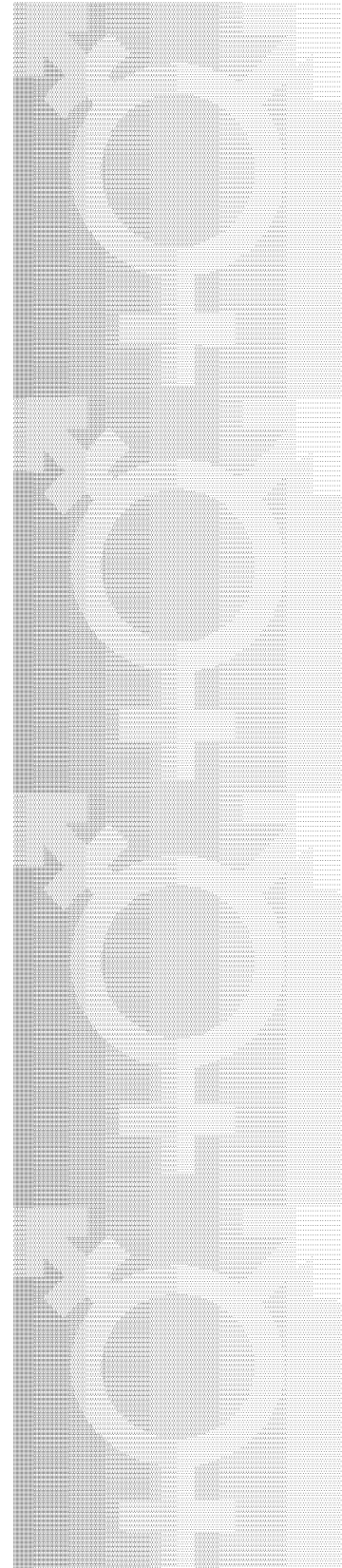
5000

From: Commanding Officer, COMMAND
To: Sailor Y, USN

Subj: GENDER TRANSITION PLAN

Ref: (a) Directive-type Memorandum (DTM) 16-005
(b) DODI 1300.28 In-Service Transition for Transgender Service Members
(c) ALNAV 053/16 dtg 051937Z AUG 16 SUBJ/SERVICE OF TRANSGENDER SAILORS AND MARINES INTERIM GUIDANCE
(d) Your request of DD MON YR

1. In accordance with references (a) through (c), I approve your request to transition gender.
2. In accordance with reference (b), you must complete the following steps prior to requesting my approval for your gender marker to change in the Defense Enrollment Eligibility Reporting System (DEERS). Report completion of each step through your chain of command and provide copies of any relevant supporting documentation.
 - a. Establish a medical treatment plan with your military medical provider.
 - b. Live in your preferred gender while in an off-duty status, off the ship and off base, for a timeframe as recommended by your military medical provider.
 - c. Submit any leave requests necessary for gender reassignment procedures in advance to minimize impact to Command readiness.
 - d. Receive a determination from your military medical provider that you are stable in your preferred gender.
 - e. Legally record your gender change with the appropriate state vital records department.
 - f. Submit your gender marker change to DEERS via the Command Admin Department after receiving my written approval.



Create a Transition Plan

Transition Plan Draft Sample (Continued)

3. You may seek guidance from your chain of command, your medical provider, psychologist, or Command Judge Advocate.

A. B. Charlie

Date: _____

FIRST ENDORSEMENT

From: Sailor Y, USN
To: Commanding Officer, COMMAND

I acknowledge receipt of the above Gender Transition Plan and agree to the terms and milestones contained therein.

X. Z. Yankee

Gender Marker Change

Sample CO Approval Letter

5000
Ser XXX/XXX
DD MM YY

ENDORSEMENT on LT John V. Doe, XXX-XX-XXXX/XXX, USN, ltr of DD MM YY

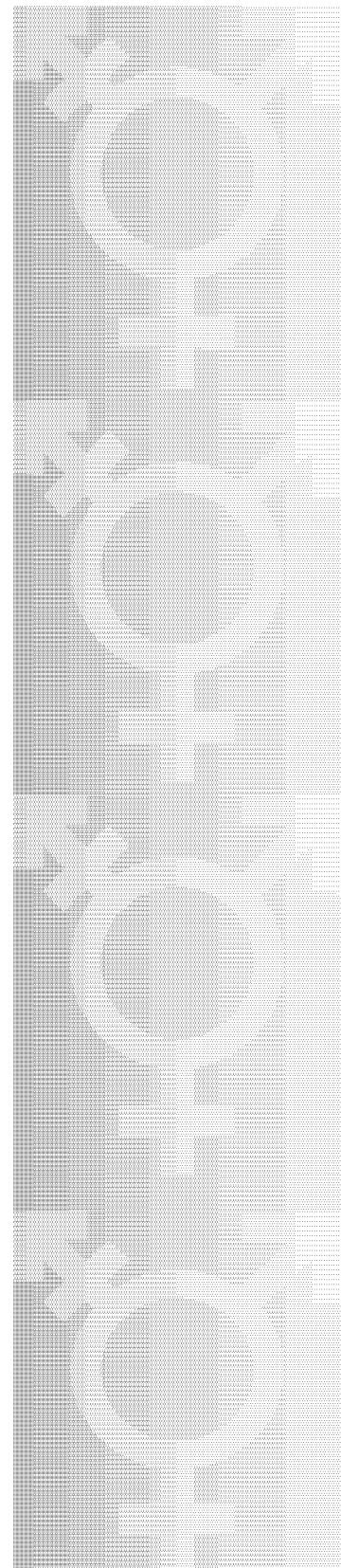
From: Commanding Officer, USS Neversail (XXX XX)
To: NSIPS HELPDESK

Ref: (a) DoD Instruction 1300.28
(b) SECNAVINST 1000.11
(c) MPM 1000-130

Encl: (1) LT Doe ltr of DD MM YY
(2) Copy of State or Federal document with preferred gender (as appropriate)

1. Forward recommending approval.
2. Pursuant to references (a) and (b) and in accordance with reference (c), LT Doe has my approval to request a gender marker change via the Navy Standard Integrated Personnel System (NSIPS) help desk.
3. In consultation with LT Doe's Military Medical Provider, I determined that LT Doe completed the command-approved transition plan.
4. My admin point of contact in this matter is LCDR XXXXX, who can be reached by email at xxxx.xxxx@navy.mil or by phone at XXX-XXX-XXXX.

J. P. Jones



Frequently Asked Questions

Q1: What are the reasons behind this policy change?

A1: In July 2015, the Secretary of Defense directed the Department of Defense to identify the practical issues related to transgender Americans serving openly in the military and to develop an implementation plan that addresses those issues consistent with military readiness. On June 30, 2016, the Secretary announced a new policy allowing open service of transgender Service Members and outlined three reasons for this policy change:

- 1) The Army, Navy, Air Force, Marine Corps, and Coast Guard need to avail themselves of all available talent in order to remain the finest fighting force the world has ever known. The mission to defend this country requires that the Services do not have barriers unrelated to a person's qualification to serve or preventing the Department of Defense (DoD) from recruiting or retaining Service Members.
- 2) There are transgender Service Members in uniform today. DoD has a responsibility to them and their commanders to provide clearer and more consistent guidance.
- 3) Individuals who want to serve and can meet the Department's standards should be afforded the opportunity to compete to do so.

Q2: Will the military pay for the transition costs?

A2: Medical care for Gender Transition is managed in the same way as other medical conditions. The military will pay for all medically necessary care to resolve any feelings of Gender Dysphoria and any ongoing cross-sex hormone therapy and mental health requirements. Additional procedures are considered elective and may be covered in the MTF on a space-available cost basis as with any other Service Member who desires an elective medical procedure. Reserve health care requirements are typically accomplished through a civilian health care provider.

Q3: What about my privacy rights?

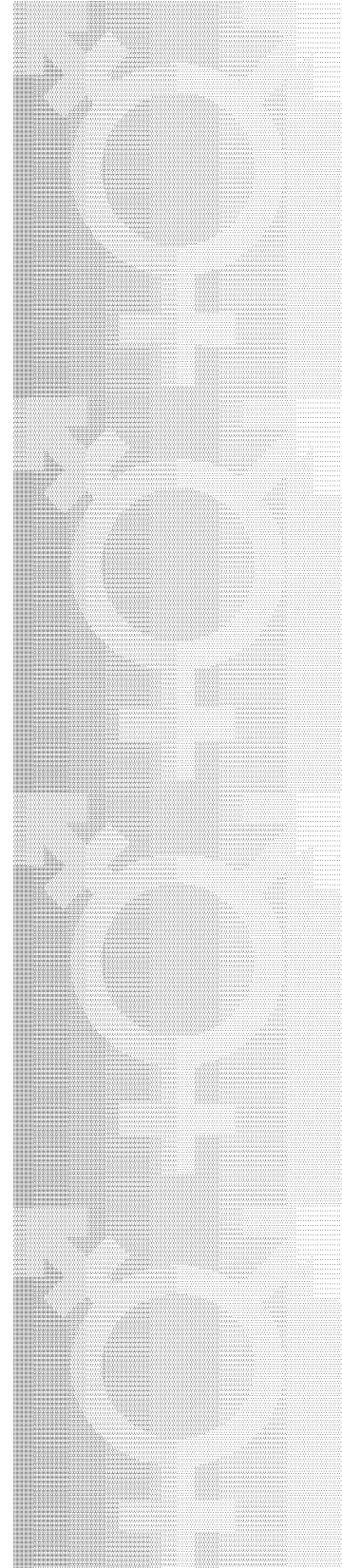
A3: To the extent feasible, a commander may employ reasonable accommodations to protect the privacy interests of all Service Members, while avoiding a stigmatizing impact to any Service Member. This is a common question from Sailors who will be required to share berthing, head, and shower facilities with transgender Sailors who may not make the full surgical change. Most transgender personnel will want to be accepted fully in their preferred gender and will likely attempt to maintain personal privacy so as not to be seen as different from their preferred gender counterparts.

Frequently Asked Questions

The Navy SORM is being updated to require a minimum standard of coverage for all personnel in berthing, head, and shower facilities. The new language is outlined in the policy NAVADMIN until the SORM can be updated. Bottom line, this is a leadership issue that requires conversation to further understanding of transgender personnel and may take time to achieve a level of comfort with this policy change. Commanders are encouraged to consult with their SCCC for guidance.

Q4: How do exceptions to policy work?

A4: In cases where a transitioning Service Member is unable to meet standards or requests an ETP during the Gender Transition there are actions that may be taken to balance the needs of the individual Service Member and unit readiness. A Sailor may request an ETP through the CO and the first flag officer in the chain of command to Deputy Chief of Naval Operations for Manpower, Personnel, Training and Education (DCNO N1) for adjudication. ETP requests for application of standards for uniforms and grooming, MPDATP participation (urinalysis observation) and the use of berthing, bathroom, and shower facilities may be requested. Questions on ETPs may be addressed to the SCCC after review of Navy policy.



Resources and References

Service Central Coordination Cell (SCCC): Service-level cell of experts created to provide multi-disciplinary (e.g., medical, legal) advice and assistance to commanders regarding transgender Service Members and gender transition in the military.

Navy Transgender Service Central Coordination Cell (SCCC)

The SCCC was established to assist COs in the execution of the DoD, and Navy policies and procedures on transgender service, and to provide multi-disciplinary (e.g., medical, legal) expert advice to COs regarding service by transgender Service Members and Gender Transition in the military. Individuals are encouraged to work with their chain of command prior to contacting the SCCC.

For questions contact the SCCC:

Office of the Chief of Naval Personnel
Transgender Service Central Coordination Cell
701 South Courthouse Road
Room 3R180
Arlington VA 22204

SCCC email address:

usn_navy_sccc@navy.mil

Navy 311 contact information:

1-855-628-9311

1-855-NAVY311

NAVY311@navy.mil

US Navy LGBT Resources:

http://www.public.navy.mil/bupers-npc/support/21st_Century_Sailor/lgbt/Pages/default.aspx

On-line training for all personnel will also be available on the LGBT Resources website:

http://www.public.navy.mil/bupers-npc/support/21st_Century_Sailor/lgbt/Pages/default.aspx

Resources and References

Commander's Toolkit References

The references below were used to develop the content of the Commanders Toolkit. Additional information can be found by following the Web links.

American Psychological Association Website:

<http://www.apa.org/topics/lgbt/transgender.aspx>

HRC Workplace Gender Transition Guidelines:

<http://www.hrc.org/resources/workplace-gender-transition-guidelines>

Kime, Patricia. "Advocates: Transgender care costs not a barrier to service." Aug 31, 2015. Military Times

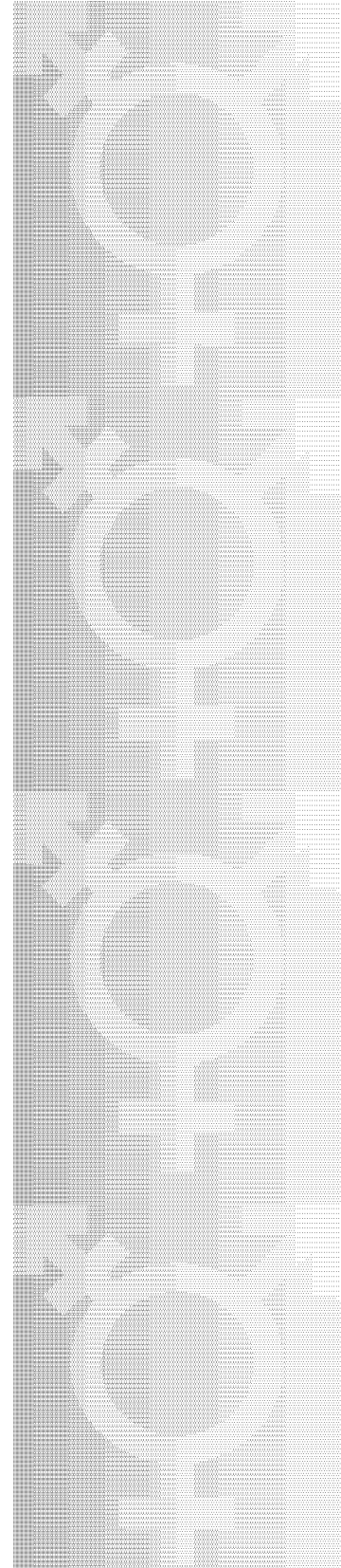
<http://www.militarytimes.com/story/military/benefits/health-care/2015/08/07/advocates-transgender-care-costs-not-barrier-service/31285327/>

Lewis, Tanya. "Bruce Jenner's Transition: How Many Americans Are Transgender?" Live Science Website. Apr 27, 2015

<http://www.livescience.com/50635-bruce-jenner-transgender-prevalence.html>

Monash University of Medicine, Nursing, and Health Sciences Website

<http://www.med.monash.edu.au/gendermed/identity.html>



Resources and References

DoD Instructions

Department of Defense Directive-type Memorandum (DTM) 16-005, “Military Service of Transgender Service Members”

Department of Defense Instruction (DoDI) 1300.28, In-Service Transition for Transgender Service Members, October 1, 2016

Department of Defense Instruction (DoDI) 1322.22, Service Academies, September 24, 2015

DoDI 6130.03 Incorporating Change 1, Effective September 13, 2011, “Medical Standards for Appointment, Enlistment, or Induction in the Military Services”

MILPERSMAN Instructions

MILPERSMAN 1000-130, Name Change of Member

MILPERSMAN 1000-131, Member Gender Marker Change

SECNAV Instructions

Secretary of the Navy Instruction (SECNAV) 1000.11 Service of Transgender Sailors and Marines

Secretary of the Navy Instruction (SECNAV) M-5510.30 Secretary of the Navy Security regulations

OPNAV Instructions

OPNAV Instruction 3120.32E, “Standard Organization and Regulations of the U.S. Navy”

OPNAV Instruction 5354.1 Series, “Navy Equal Opportunity Policy”

OPNAV Instruction 5350.4D4E, “Navy Alcohol and Drug Abuse Prevention and Control”

BUMED Instructions

BUMED Note 6000, Medical Treatment of Transgender Service Members – Interim Guidance

EXHIBIT 5 TO CARMICHAEL DECLARATION



TGHC Module 1

Introduction to Policy Guidance and Concepts in Transgender Healthcare

Presented by members of the Transgender Education and Training Work Group

DATE: 10/5/2016

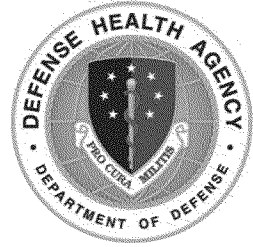
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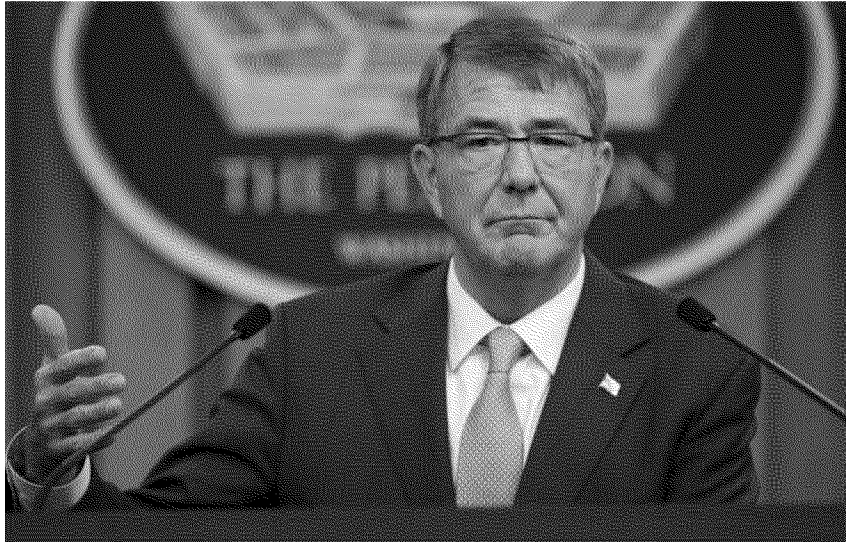


Learning Objectives

- Describe current DoD policy guidance related to transgender healthcare
- Define key terms and concepts related to sex, sexual orientation, gender, gender identity, and transgender
- Describe common medical treatments for the treatment of gender dysphoria



Transgender Policy



On June 30, 2016, Secretary of Defense Ash Carter announced that transgender individuals will now be able to openly serve in the U.S. armed forces.



DoD Policies Related to Transgender Healthcare



- Directive-type Memorandum (DTM) 16-005, “Military Service of Transgender Service members,” June 30, 2016
- Department of Defense Instruction (DoDI) 1300.28, In-Service Transition for Transgender Service Members
- Assistant Secretary of Defense for Health Affairs (ASD (HA)) Memorandum, “Guidance for Treatment of Gender Dysphoria for Active Duty Service Members,” July 29, 2016
- Interim Procedures Memorandum (IPM) 16-00x, Guidance for Medical Care of Transgender Active Duty Service Members with a Diagnosis of Gender Dysphoria (pending)
- TRICARE Policy Manual, Chapter 7, Section 1.2, “Gender Dysphoria”, September 6, 2016

DTM 16-005 Military Service of Transgender (TG) Service Members



- ❑ Allows transgender individuals to serve in the military if they meet standards for military service and readiness
- ❑ Allows open service by transgender Service members while being subject to the same standards and procedures as other members with regard to their medical fitness for duty, physical fitness, uniform and grooming, deployability, and retention
- ❑ Establishes policy, assign responsibilities, and prescribe procedures for the standards for retention, separation, in-service transition, and medical coverage for transgender personnel serving in the Military Services



DoDI 1300.28 In-Service Transition for Transgender Service Members



- Establishes a construct by which transgender Service members may transition gender while serving
- Enumerates prerequisites and prescribes procedures for changing a Service member's gender marker in DEERS
- Specifies medical treatment provisions for Active Component and Reserve Component transgender Service members*
- Implements policies and procedures in Directive-type Memorandum 16-005

“Gender transition begins when a Service member receives a diagnosis from a military medical provider indicating that gender transition is medically necessary, and concludes when the Service member’s gender marker in DEERS is changed and the member is recognized in the preferred gender.”



ASD (HA) Memo Guidance for Treatment of Gender Dysphoria for Active Duty Service Members



- ❑ MHS will provide medically necessary care for Service members on active duty for a period of more than 30 days
- ❑ MHS is to provide an interdisciplinary team approach to transition care in accordance with evidence-based guidelines and practices
- ❑ HA memo outlines the medical care requirements and the medical training and education requirements



Interim Procedures Memorandum (IPM) 16-00x Guidance for Medical Care of Transgender Active Duty Service Members with a Diagnosis of Gender Dysphoria



- Establishes a singular Military Health System (MHS) guidance for the provision of medically necessary care for transgender (TG) Service members.

- Requires that quality TG care incorporates an interdisciplinary approach by a skilled team or Transgender Care Team (TGCT) with expertise in TG care that is located in Service-designated medical treatment facilities (MTFs)
 - Establish or validate the formal diagnosis of gender dysphoria for a Service member, and
 - Develop or validate an individual transition plan.



TRICARE Policy Manual, Chapter 7

Section 1.2 Gender Dysphoria



- TRICARE will cover hormone therapy and psychological counseling for gender dysphoria.

- Surgery remains prohibited by statute and is not a covered benefit for dependent beneficiaries.
 - Active Duty Service member (ADSM) Supplemental Health Care Program waiver is required for ADSM surgical treatment.



Definition of Terms: Sex and Sexual Orientation

- **Sex** refers to a person's biological status assigned at birth, also referred to as natal sex, and is categorized as male, female, or intersex (i.e., combinations of features that usually distinguish male from female). There are a number of indicators of biological sex, including sex chromosomes, gonads, internal reproductive organs, and primary and secondary sex characteristics.
 - In the past, sex was primarily viewed in a strictly binary fashion (i.e., male or female). Intersex is a variation.
 - In everyday language sex and gender are often used interchangeably; however, there are differences which become important when discussing transgender healthcare.

- **Sexual orientation** describes sexual attraction. It is NOT directly related to gender identity.
 - For transgender individuals, sexual orientation may be described based on the lived gender (e.g., a transgender woman attracted to another woman may describe herself as a lesbian).



Definition of Terms: Gender and Gender Identity

- **Gender** refers to the behavioral, cultural, or psychological traits that a society associates with male and female sex
 - Behavior that is compatible with cultural expectations for the assigned natal sex is referred to as gender-normative; behaviors that are viewed as incompatible with these expectations constitute gender non-conformity
- **Gender expression** refers to the outward manner in which a person expresses their gender. This may include choices in hairstyle, clothing, speech or mannerisms.
 - Gender identity and gender expression may differ (e.g. a woman [transgender or non-transgender], may have an androgynous appearance, or a man may have a feminine appearance). (UCSF Guideline, 2016)
- **Gender identity** refers to how a person feels inside regarding the assigned gender at birth. Gender identity refers to “one’s sense of oneself as male, female, or transgender.” (American Psychological Association, 2006)

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Definition of Terms: Transgender

- **Transgender** is a person whose gender identity is different from the sex assigned at birth; also known as natal sex.
 - May be abbreviated as “trans”
- **Transgender man** is a person with a male gender identity and a female birth assigned sex/natal sex.
- **Transgender woman** is a person with a female gender identity and a male birth assigned sex/natal sex.
- **Transexual** is an older term for transgender people who sought medical treatment. This term is used less frequently today.
- **Non-transgender person** is a person whose gender identity is congruent with their birth assigned sex/natal sex. Also known as “cisgender”, which in Latin means same side.



Common Treatments and Procedures

- **Medical/Surgical interventions**
 - It should be noted that some individuals may not engage in any sort of medical intervention and instead opt solely for “social transition” without medical intervention
 - Hormone therapy is currently the primary medical intervention sought by transgender individuals
 - Sex reassignment surgery (also known as gender confirming surgery) is a selected intervention for some and is usually done at Centers of Excellence in TG healthcare.
- **Mental health care**
 - Gender-affirming psychotherapy is recommended by the American Psychological Association and is primarily composed of the provision of support and specific cognitive behavioral skills to manage social transition
 - Co-occurring disorders such as mood disorders, anxiety disorders, or substance use disorders may also be addressed, as appropriate, via evidence based treatment modalities.
- **Real Life Experience (RLE)**
 - RLE is a component of the transition process that involves living and interacting with others in a variety of settings, in the gender role that is congruent with the person’s gender identity. RLE is important to psychological adjustment and support from a mental health professional can be useful.

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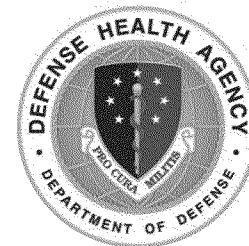


In Conclusion

- Knowledge of DoD instructional and interim policy guidance will help promote high quality transgender healthcare services
- Knowledge and use of the proper terminology for caring for transgender individuals promotes patient centered care
- Common treatments and procedures include supportive psychotherapy and gender affirming hormone therapy



Questions?





References

- Guidelines for the Primary and Gender-Affirming Care of Transgender and Gender Nonbinary People. Center of Excellence for Transgender Health, University of California, San Francisco, 17 June 2016.
- American Psychological Association. Guidelines for Psychological Practice with Transgender and Gender Nonconforming People. *American Psychologist*, Dec 2015, 70(9); 832-864. Available on-line at www.apa.org/practice/guidelines/transgender/pdf
- Hembree, Cohen-Kettenis, et. al, Endocrine Treatment of Transsexual Persons: An Endocrine Society Clinical Practice Guideline, *Journal of Clinical Endocrinology Metabolism*, September, 2009.
- VA Directive 2013-003, Providing Health Care for Transgender and Intersex Veterans, 8 February 2013.

EXHIBIT 6 TO CARMICHAEL DECLARATION



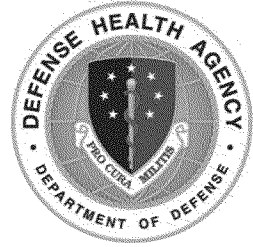
TGHC Module 2a Evidence Based Practice Guidelines and Standards of Care Transgender Patient Populations

**Presented by members of the Transgender
Education and Training Work Group**

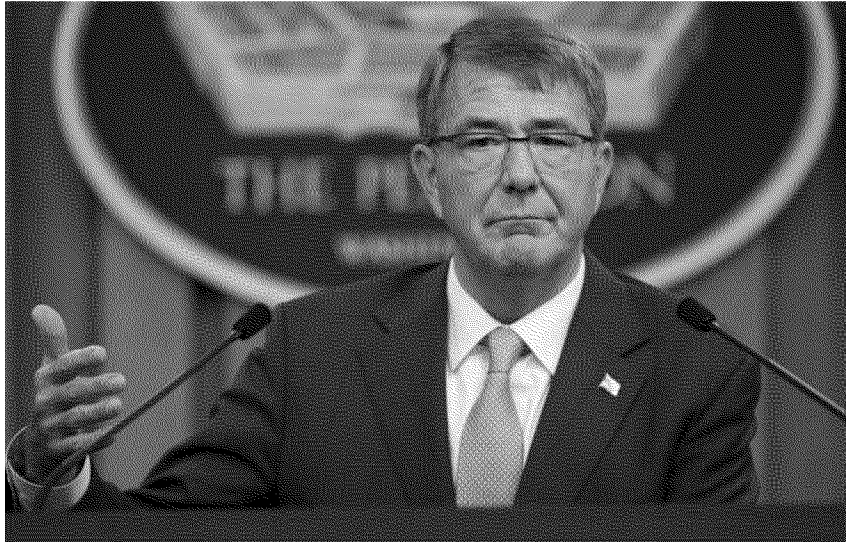
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Transgender Policy



On June 30, 2016, Secretary of Defense Ash Carter announced that transgender individuals will now be able to openly serve in the U.S. armed forces.



Learning Objectives

- Describe the continuum of treatments available for gender dysphoria in transgender persons
- Describe common barriers to obtaining healthcare for transgender persons
- Describe strategies for creating an effective clinical environment for the transgender patient
- Identify and describe the currently available Standards of Care and Evidence-based Clinical Practice Guidelines

Continuum of Available Gender Dysphoria Treatments



- Available treatments include:
 - Psychotherapy to provide psychological support during transition
 - Hormone therapy to achieve hormone levels for secondary sexual characteristic transition
 - Sex reassignment surgery is available to ADSMs via Supplemental Health Care System waiver per the medical treatment plan. This is not a covered benefit for dependent beneficiaries, as it is prohibited by statute.
- Treatment is highly individualized as identified in each individual's medical treatment plan. Assumptions cannot be made about which treatments a transgender individual may or may not choose.
- Psychotherapy to provide psychological support and hormone therapy are commonly utilized interventions.
- Real Life Experience (RLE) is a component of the transition process that involves living and interacting with others in a variety of settings, in the gender role that is congruent with the person's gender identity. RLE is important to psychological adjustment and support from a mental health professional can be useful.

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Common Barriers to Healthcare for Transgender Patients

- Negative past experiences may have fostered a reluctance to disclose gender identity with significant consequences to health status
 - Historically, transgender individuals may have avoided seeking healthcare due to negative past experiences of disrespect and/or experiences of discrimination.
 - Previously, Active Duty Service members (ADSMs) identifying as Transgender faced discharge or unfit to serve designations.
 - Although ADSM may openly serve and receive medically necessary healthcare treatment today, embarrassment about pursuing treatment due to past negative experiences and experience of stigma may persist.
- Financial barriers
 - Coverage of costs for ADSMs as well as TRICARE coverage of non-surgical care for other patients are anticipated to be a welcome relief for transgender ADSMs seeking treatment. Past costs may have been extensive barriers.
- Cultural barriers may also exist

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Defense Health Agency

USDOE00068344

Overcoming Barriers to Care: Creating an Effective Clinical Environment



- Patients form their first impressions soon after walking into the clinic waiting room. Front desk staff and other non-privileged medical personnel set the tone for how comfortable a transgender patient may feel about openly communicating healthcare needs.
 - Approach all patients with empathy and respect, and safeguard privacy.
 - Establish rapport and recognize that it may take the transgender patient longer to feel comfortable and establish trust.
 - Ask the patient how they would like to be addressed and address them using their chosen name and chosen pronoun.
 - When asking a patient about intimate relationships, use gender neutral terms such as significant other, spouse, or partner. Use the same language the patient does to describe relationships.
 - Ask domestic violence screening questions in a gender neutral way.



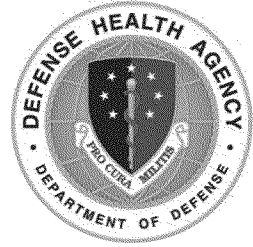
Overcoming Barriers to Care: Providing Patient Centered Care and Cultural Humility



- Patient-centered care is defined as care that is “compassionate, empathic, and responsive to the needs, values, and expressed preferences of the individual patient.” Institute of Medicine (2001)
- Cultural humility is the concept through which providers recognize that their own experiences may not project onto the experiences of others.
 - ❑ Non-privileged and privileged medical personnel using cultural humility learn to develop basic skills in appropriate and respectful terms of address and limit historical questions to those that are relevant to the current visit or problem.
 - ❑ Approach each patient as an individual.
 - ❑ Interview all patients with empathy, open-mindedness and without judgement.



Resources: Primary Guideline



- *Endocrine Treatment of Transsexual Persons: An Endocrine Society Clinical Practice Guideline.* Endocrine Society. September 2009. Available from the Endocrine Society at: <http://dx.doi.org/10.1210/jc.2009-0345>



Resources: Guidelines for Information Only

- *Guidelines for the Primary and Gender-Affirming Care of Transgender and Gender Nonbinary People*. Center of Excellence for Transgender Health, University of California, San Francisco. June 2016. Available from the University of California, San Francisco at: <http://transhealth.ucsf.edu/protocols>
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 - WPATH is cited as an Advocacy Group resource. DoD does not refer to WPATH for clinical guidance but rather for general transgender advocacy group information only



Endocrine Treatment of Transsexual Persons: An Endocrine Society Clinical Practice Guideline (2009)



- Provides evidence-based guidance on hormonal treatment for gender dysphoria in transgender individuals.
- This guideline is helpful to primary care providers and endocrinologists alike for guidance on hormone therapy.
- The guideline also provides guidance on treatment recommendations for children and adolescents.



Guidelines for the Primary and Gender-Affirming Care of Transgender and Gender Nonbinary People (2016)

- Provides comprehensive evidence-based clinical guidance on transgender healthcare.
- Synthesizes the latest research, other evidence-based clinical practice guidelines and clinical experience.
 - Compliments the Endocrine Society Guideline (2009) for every day use in the Primary Care setting.
- Compiled by University of California, San Francisco Center of Excellence for Transgender Health along with other resources.



Guidelines for Psychological Practice with

Transgender and Gender Nonconforming People (2015)

- Stated purpose of these guidelines are to assist psychologists in the provision of culturally competent, developmentally appropriate and trans-affirmative psychological practice with transgender and gender non-conforming (TGNC) people.

- Outlines sixteen guidelines for psychologists in various areas of work
 - Guideline 10. Psychologists strive to understand how mental health concerns may or may not be related to a TGNC person's gender identity and the psychological effects of minority stress.



Standards of Care for the Health of Transsexual, Transgender and Gender Nonconforming People (2011)



- World Professional Association for Transgender Health (WPATH) publishes the Standards of Care and Ethical Guidelines, which articulate a professional consensus about the psychiatric, psychological, medical, and surgical management of gender identity disorders.
- The organization's mission is to promote evidence based care, education, research, advocacy, public policy, and respect in transgender health.
 - WPATH is an *advocacy group* whose vision is to bring together diverse professionals dedicated to developing best practices and supportive policies worldwide that promote health, research, education, respect, dignity, and equality for transgender, transsexual, and gender-variant people in all cultural settings.
 - DoD does not refer to WPATH for clinical guidance but rather for general transgender advocacy group information only.

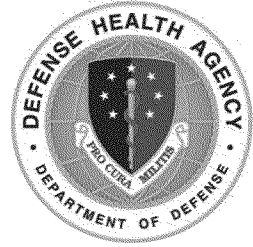
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Questions?



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EXHIBIT 7 TO CARMICHAEL DECLARATION



Module 2b Evidence Based Practice Guidelines and Standards of Care Primary Care

**Presented by the members of the Transgender
Education and Training Work Group**

DATE : 10/27/2016

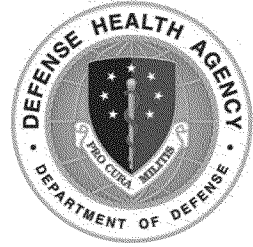
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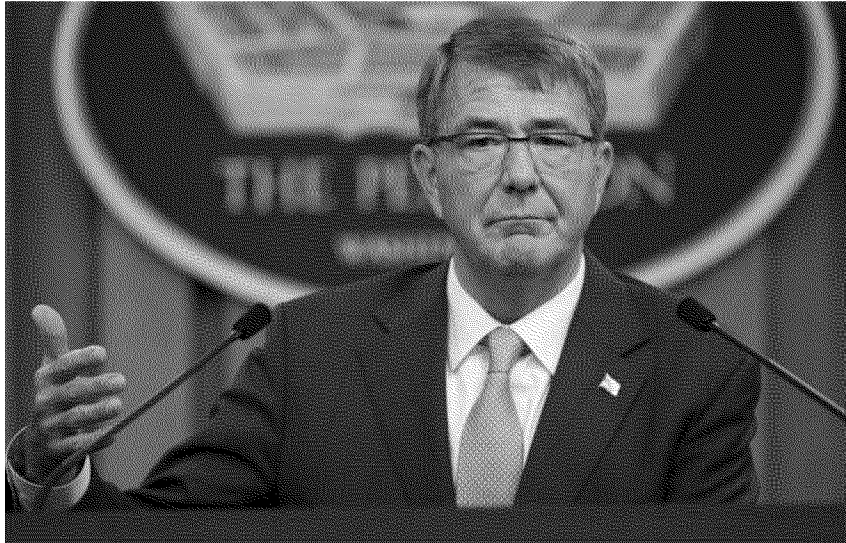


Learning Objectives

- Provide an overview of the University of California San Francisco, Center of Excellence for Transgender Care, Guidelines for the Primary and Gender-Affirming Care of Transgender and Gender Nonbinary People including:
 - Describe patient centered care, cultural humility, and sensitively taking a sexual history
 - Describe common treatments and procedures
 - Describe important traits of the physical examination
 - Provide an overview of Male To Female (MTF) and Female To Male (FTM) treatments
 - Discuss cancer screening, care of diabetes mellitus, coronary artery disease and mental health



Transgender Policy



On June 30, 2016, Secretary of Defense Ash Carter announced that transgender individuals will now be able to openly serve in the U.S. armed forces.



Guidelines for the Primary and Gender-Affirming Care of Transgender and Gender Nonbinary People

- Guidelines for the Primary and Gender-Affirming Care of Transgender and Gender Nonbinary People. Center of Excellence for Transgender Health, University of California San Francisco (UCSF). June 2016.
- The UCSF Guidelines complement the existing Endocrine Society Guidelines (2009) in that they are specifically designed for implementation in every day evidence-based primary care, including settings with limited resources.
- This training provides a brief snapshot of these guidelines. However, additional review of the guidelines and additional resources available on the site is encouraged.
- Available from the University of California, San Francisco (UCSF) at: <http://transhealth.ucsf.edu/protocols>



Patient Centered Care and Cultural Humility



- Patient-centered care is defined as care that is “compassionate, empathic, and responsive to the needs, values, and expressed preferences of the individual patient.” Institute of Medicine (2001).
- UCSF guidelines encourage using a frame of cultural humility.
- Cultural humility is the concept through which providers recognize that their own experiences may not project onto the experiences of others.
 - Providers using cultural humility learn to develop basic skills in appropriate and respectful terms of address and limit historical questions to those that are relevant to the current visit or problem.
 - Each patient is approached as an individual.

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Overcoming Barriers to Care: Creating a Welcoming Clinical Environment



- Set the tone for the transgender patient to feel comfortable openly communicating their healthcare needs.
 - Approach all patients with respect and empathy, and safeguard privacy.
 - Establish rapport and recognize that it may take the transgender patient longer to feel comfortable and establish trust
 - Ask the patient how they would like to be addressed and address them using their chosen name and chosen pronoun.
 - When asking a patient about their intimate relationships, use gender neutral terms such as significant other, spouse, or partner. Use the same language the patient does to describe their relationships.
 - Ask domestic violence screening questions in a gender neutral way.



Sensitively Obtaining Sexual History



- When assessing sexual history:
 - Do not make assumptions about behavior or anatomy
 - Understand that discussion of genitalia or sex acts may be complicated by discomfort or disassociation with specific anatomy. This discussion may be stressful to the patient. Explaining the purpose of these questions may assist in establishing crucial doctor/patient trust.
 - Ask the patient to clarify terms or behaviors with which you are unfamiliar.
 - When referring to sex reassignment surgery, the term gender confirmation surgery may be preferred.



Common Treatments and Procedures

- **Medical interventions**
 - It should be noted that some individuals may not engage in any sort of medical intervention and instead opt solely for “social transition” without medical intervention.
 - Hormone therapy is currently the primary medical intervention sought by transgender individuals.
- **Mental health care**
 - Gender-affirming psychotherapy is recommended by the American Psychological Association and is primarily composed of the provision of support and specific cognitive behavioral skills to manage social transition
 - Co-occurring disorders such as mood disorders, anxiety disorders, or substance use disorders may also be addressed, as appropriate, via evidence based treatment modalities.
- **Real Life Experience (RLE)**
 - RLE is a component of the transition process that involves living and interacting with others in a variety of settings, in the gender role that is congruent with the person’s gender identity. RLE is important to psychological adjustment and support from a mental health professional can be useful.



Common Treatments and Procedures

- Surgical intervention is the least common type of intervention in the civilian community. We do not yet know how common surgical intervention will be among ADSMs.
- Surgeries can be grouped into those specific to transgender populations and those not specific to transgender populations.
- Surgeries specific to transgender populations include:
 - Feminizing vaginoplasty
 - Masculinizing phalloplasty/scrotoplasty
 - Metaoidioplasty
 - Masculinizing chest surgery
 - Facial feminization procedures
 - Voice surgery
- Surgeries not specific to transgender populations include:
 - Augmentation mammoplasty
 - Hysterectomy/oophorectomy
 - Orchiectomy
 - Vaginectomy

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Useful Diagnostic Codes

- DSM-5: 302.85, Gender Dysphoria in Adolescence and Adults
- ICD-10: F64.0, Transsexualism
- ICD-10: F64.1, Gender Identity Disorder in Adolescence and Adulthood; effective Oct 1, 2016, Dual Role Transvestism
- Specify if: With a disorder of sex development (e.g., a congenital adrenogenital disorder, such as congenital adrenal hyperplasia 255.2 [E25.0])
- Specify if: Posttransition: The individual has transitioned to full-time living in the desired gender (with or without legalization of gender change) and has undergone (or is preparing to have) at least one cross-sex medical procedure or treatment regimen—namely, regular cross-sex hormone treatment or gender reassignment surgery.



Physical Examination

- Consideration should be given throughout the visit to potential prior negative experiences within the health care setting.
- Thorough history taking is imperative.
- The physical examination is relevant to the anatomy that is present, regardless of gender presentation.
 - Keep in mind TG patients may have had negative experiences with health care providers and may or may not hold negative feelings towards specific anatomy that is present.
 - Trauma informed chaperoned exams should be provided.
 - A trauma informed approach is one that seeks to actively resist re-traumatization of the patient through using a collaborative approach with the patient to provide the physical exam.
- Providers should maintain an organ inventory to guide screening and the management of specific complaints.
 - If present, appropriate monitoring/screening completed

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Considerations Prior to Initiating Hormone Therapy

- Reproductive health and fertility considerations should be discussed during the informed consent process prior to initiating hormones.
- Patients may wish to preserve their eggs or sperm prior to initiating hormone therapy (although this is not a covered benefit under TRICARE).
- Hormone therapy affects fertility. For those on hormone therapy without gonadectomy, fertility may return 3-6 months after coming off hormones, though some may experience permanent loss of fertility.
- Infertility is not absolute or universal in transgender people undergoing hormone therapy; all transgender people who have gonads and engage in sexual activity that could result in pregnancy should be counseled on the need for contraception.
- Testosterone is a teratogen that is contraindicated in pregnancy.
- Prolonged estrogen exposure of the testes in MTFs has been associated with testicular damage.



Overview of Male To Female (MTF) Hormone Therapy



- Goal of feminizing hormone therapy is the development of female secondary sex characteristics, and suppression/minimization of male secondary sex characteristics.
 - General effects include breast development (usually to Tanner stage 2 or 3), redistribution of subcutaneous fat, reduction of muscle mass, reduction of body hair, change in sweat and odor patterns, and arrest and possible reversal of scalp hair loss.
 - Sexual and gonadal effects include reduction in erectile function, changes in libido, reduced or absent sperm count and ejaculatory fluid, and reduced testicular size
 - Changes in emotional and social functioning (due to feminizing hormone therapy) may also be expected, although these can vary and stereotypes should be avoided
 - General approach is combine an estrogen with an androgen blocker, and in some cases progestogen.



Overview of Female To Male (FTM) Hormone Therapy



- Goal of masculinizing hormone therapy is the development of male secondary sex characteristics, and suppression/minimization of female secondary sex characteristics.
 - General effects include the development of facial hair, virilizing changes in voice, a redistribution of subcutaneous fat, increased muscle mass, increased body hair, change in sweat and odor patterns, frontal and temporal hairline recession, and possible male pattern baldness.
 - Sexual and gonadal effects include an increase in libido, clitoral growth and vaginal dryness. Changes in emotional and social functioning may also occur (due to effects of masculinizing hormone therapy), although these can vary and stereotypes should be avoided.
 - General approach involves the use of one of several forms of parenteral testosterone.



Gender Non-Conforming Persons

- A gender nonconforming person (a non-binary transgender person who identifies as neither male or female) may present requesting hormone treatment that is non-binary.
 - For the person who identifies as gender non-conforming, gender identity may be more complex, fluid, multifaceted, or otherwise less clearly defined than a transgender person. **Genderqueer** is another term used by some with this range of identities.
 - Target hormone ranges for non-binary patients may fall somewhere between therapeutic levels for either male or female.



Cancer Screening

- Insufficient evidence exists to determine if transgender people have increased or decreased overall risk as well as organ-specific cancer risk.
- Primary care providers should conduct an organ based routine cancer screening for all TG patients in accordance with current guidelines.
- As a rule, if an individual has a particular body part or organ or otherwise meets criteria for screening based on risk factors or symptoms, screening should proceed regardless of hormone use.
 - Some TG patients may attempt to avoid specific screenings due to negative feelings regarding natal anatomy.
 - Primary care providers should note that it may take time to establish the trust required for a transgender patient to consent to a cancer screening exam.

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Diabetes Mellitus (DM)

- Recommendations for DM screening in transgender patients (regardless of hormone status) do not differ from current national guidelines.
- The effect of hormone therapy on DM risk or disease course is unclear as management of DM in TG patients has not been specifically studied.
- It is reasonable to maintain heightened monitoring of indicators such as fasting glucose and hemoglobin A1c when initiating or adjusting hormone therapy.



Coronary Artery Disease

- Evidence from several studies suggests cardiovascular risk is unchanged among TG men using testosterone, compared with non-TG women.
- Evidence in TG women is less clear with some studies finding increased morbidity and mortality from myocardial infarction and stroke, compared with non-TG men.
 - These studies did not adjust for risk factors such as tobacco use, obesity, and DM.
- Depending on the age at which hormones are begun and total length of exposure, providers may choose to use the risk calculator for the natal sex, affirmed gender, or an average of the two.

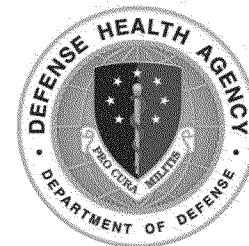


Mental Health

- Mental health is important to positive physical outcomes and, as for all patients, should be addressed for TG patients in primary care.
- Mental health care in general, may address 3 types of needs in TG individuals:
 - Exploration of gender identity (discernment, self-acceptance and individuation)
 - Coming out and social transition (developing tools to cope with being transgender in sometimes discriminatory environments)
 - General mental health, possibly unrelated to gender identity (e.g. mood disorders, substance abuse, and PTSD).



Questions?



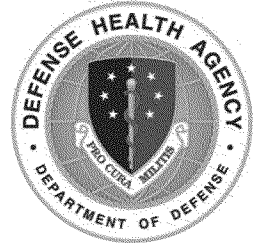
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Resources: Primary Guideline



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