

March 4, 2016

Chairman John McCain
Senate Armed Services Committee
228 Russell Senate Office Building
Washington, DC 20510

Chairman Mac Thornberry
House Armed Services Committee
2216 Rayburn House Office Building
Washington, DC 20515

Dear Chairman McCain and Chairman Thornberry:

We, the undersigned individuals and organizations, write to express our concerns about the Obama Administration's plan to lift current restrictions on military service by those persons claiming to be transgendered. The Administration is putting this new policy into effect for ideological and political reasons without regard to the effects it will have on military readiness and combat effectiveness. We believe these policy changes will impair the operational capabilities of our nation's armed forces.

The 1993 law that codified the longstanding ban on openly homosexual individuals serving in the military did not address matters relating to "gender identity." The 2010 bill repealing the 1993 law and overturning the "Don't Ask, Don't Tell" policy also had nothing to say on this topic.

However, regulations have prevented transgendered persons from being permitted to serve in the American armed forces. The Department of Defense (DoD) lays out the *medical* standards required for the appointment, enlistment, or induction of any person into military service in DOD Instruction 6130.03. For both males and females, one disqualifying condition is a "[h]istory of major abnormalities or defects of the genitalia" such as "change of sex."¹ Additionally, "Learning, Psychiatric, and Behavioral" conditions can disqualify individuals from service. These include, among other things, "[c]urrent [presentations of] or [a] history of psychosexual conditions [], including but not limited to transsexualism, exhibitionism, transvestism, voyeurism, and other paraphilias."²

¹ "Medical Standards for Appointment, Enlistment, or Induction in the Military Services," *Department of Defense Instruction* No. 6130.03, April 28, 2010 (incorporating Change 1, September 13, 2011), Enclosure 4, sections. 14(f) and 15(r).

² "Medical Standards for Appointment, Enlistment, or Induction in the Military Services," *Department of Defense Instruction* No. 6130.03, April 28, 2010 (incorporating Change 1, September 13, 2011), Enclosure 4, section 29(r).

On July 13, 2015, Secretary Ashton Carter announced that DoD would review its policies on transgender service and issued two accompanying directives. In one of the directives, Secretary Carter elevated “decision authority in all administrative discharges” in gender dysphoria cases to Mr. Brad R. Carson, Acting Under Secretary of Defense for Personnel and Readiness. It would be Carson personally “who [will] make determinations on all potential separations.” The implications of this directive were clear: the burden had shifted heavily against separations from service in these cases.

In the other directive, Mr. Carter instructed DoD to create “a working group to study over the next six months the policy and readiness implications of welcoming transgender persons to serve openly.”³ The study was due to be completed in mid-January, but it has not been released as of the final week of February.

Accordingly, we are writing to apprise you of the potential danger posed by this working group and its study. Needless to say, the deck has been stacked in favor of the Administration’s desired policy change in that Secretary Carter states:

At my direction, the working group will start with the presumption that transgender persons can serve openly without adverse impact on military effectiveness and readiness, unless and except where objective, practical impediments are identified.⁴

The working group and its study appear to be nothing more than a rubber stamp with no serious thought given to the complexities such cases pose for the effective operation of military units.

Profound questions about military readiness arise when dealing with individuals who are undergoing psychological counseling and medical treatment. Yet these significant changes are being effected *without any Congressional guidance or direction*. The Administration’s aim is not increased military effectiveness. Rather, it is advancing its agenda to undermine the basic biological understanding of male-female sexual identity and coercively advance its radical interpretation of “gender” by altering all military institutions whole cloth.

Our troops are being treated as pawns in a series of social experiments. This is not the best time to be engaging in profound institutional changes, for our military’s morale and combat strength are balancing on a knife’s edge. For example, deep personnel and budgets cuts required by sequestration have led to the loss of many thousands of commissioned and non-commissioned officers who had planned to make a career in the

³ “Statement by Secretary of Defense Ash Carter on DoD Transgender Policy,” Department of Defense (Rel. No. NR-272-15) (July 13, 2015) (Statement by Secretary Carter (July 13, 2015)). Sec. Carter detailed that the working group would be led by Brad Carson, Under Secretary of Defense for Personnel and Readiness (Acting) and “composed of military and civilian personnel representing all military services and the Joint Staff. The final report will be given to Deputy Secretary of Defense Bob Work.

⁴ Statement by Secretary Carter (July 13, 2015).

military.⁵ One analysis indicates that in the Air Force, the most talented service members are affected disproportionately and are separating from the service at a higher rate than their cohort as a whole.⁶ Our military is struggling with instability. Consequently, this is not the time for critical, unilateral imperatives.

Moreover, President Obama has become highly unpopular with active-duty service members who indicated in July-August 2014 only a 15% approval rate of his performance as Commander-in-Chief.⁷ The President should not be making long-term decisions about the structure and personnel policies of our armed forces. Congress should.

In closing, we believe Congress needs to investigate these proposed policy changes, and determine the effects they will have on the military readiness of the U.S. armed services. Thereafter, legislation may be needed to correct actions taken by the Administration.

Sincerely,

⁵ Not surprisingly, America's armed forces are the smallest they have been since the period between the two world wars. Brian Slattery, "The Army Is the Smallest It Has Been Since Before World War II, And Other Signs of the Military's Decline," *Daily Signal* (Oct. 28, 2015) (<http://dailysignal.com/2015/10/28/the-army-is-the-smallest-it-has-been-since-before-world-war-ii-and-other-signs-of-the-militarys-decline/>); see also, Dakota L. Wood, Ed., "2016 Index of U.S. Military Strength" (Heritage Foundation, Davis Institute for National Security and Foreign Policy) (https://s3.amazonaws.com/ims-2016/PDF/2016_Index_of_US_Military_Strength_FULL.pdf).

⁶ John G. Swisher, "By the Numbers: U.S. Military Brain Drain," *Real Clear Politics* (Sep. 8, 2014) (http://www.realcleardefense.com/articles/2014/09/08/by_the_numbers_us_military_brain_drain_107422.html) (For example, the Air Force "1995 class" showed a 70% departure for its "Top Ten" group versus 50%).

⁷ "America's Military: A Conservative Institution's Uneasy Cultural Evolution," *Military Times* (Dec. 21, 2014) (<http://www.militarytimes.com/story/military/2014/12/21/americas-military-a-conservative-militarys-cultural-evolution/18959975/>).



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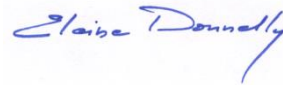
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