



After Repeal: LGBT Service Members and Veterans The Facts

President Obama's signing of the *Don't Ask, Don't Tell (DADT) Repeal Act* marked a historic step in the direction of progress and equality for members of the United States military. For decades, service members endured a policy that was not only based on homophobia, but also disproportionately targeted women and service members of color and was out of line with public opinion². Although repeal is the first step toward securing the rights of lesbian, gay, bisexual and transgender³ (LGBT) service members, repeal alone does not make the military safer for LGBT service members who will continue to face harassment, discrimination and sexual assault in the military. Equal Opportunity (EO) policy in the military provides no protection or redress for LGBT service members who find themselves victims of sexual harassment or discrimination based on sexual orientation. Furthermore, LGBT veterans suffer from a host of service-connected mental health issues yet continue to endure discrimination and often struggle with the reintegration process after service, particularly through their experiences with the Veterans Administration (VA). Therefore, while DADT repeal represents great progress toward eradicating a significant barrier to formal equality, the military is far from a safe, equitable environment for LGBT service members and veterans.

- An estimated 70,871 LGB individuals currently serve in the U.S. military. DADT repeal is expected to attract almost 37,000 additional LGB service members. Over 1,000,000 veterans are LGB.⁴

The Challenges that Still Remain

Although lesbian, gay and bisexual individuals are no longer formally excluded from the military, they may continue to endure informal discriminatory treatment from their peers and supervisors in the military. Service members suspected of homosexuality are frequently harassed, mocked and generally experience hostile treatment based on their real or perceived sexual orientation. Women are especially vulnerable to so-called *lesbian baiting*, defined as "the practice of pressuring women for sex and sexually harassing women by using the threat of calling them lesbians as a means of intimidation."⁵ Women in the military who do not conform

¹ The author wishes to thank Jack Harrison of the National Gay and Lesbian Task Force and Monica Helms and Denny Meyer of the Transgender American Veterans Association for graciously providing much of the data that informs this report. Thank you also to Estefania Ponti for research assistance.

² Brittany L. Stalsburg. 2010. "Lesbian, Gay, Bisexual, and Transgender (LGBT) Women in the Military: The Facts." New York: Service Women's Action Network (SWAN). Available: <http://servicewomen.org/wp-content/uploads/2011/07/LGBTmilitaryFactSheet.pdf>.

³ Even though transgender service members were excluded from DADT repeal, SWAN has chosen to use the term "LGBT", unless otherwise noted, to acknowledge the actual presence of transgender service members in the military and the impact of a homophobic and discriminatory climate on their lives.

⁴ Gary J. Gates. May 2010. "Lesbian, gay, and bisexual men and women in the US military: Updated estimates." UCLA: The Williams Institute. While the number of transgender service members and veterans is notoriously difficult to count, the National Center for Transgender Equality estimates that transgender individuals are twice as likely to join the U.S. military compared to the general population (Jaime M. Grant, Lisa A. Mottet, Justin Tanis, Jack Harrison, Jody L. Herman, and Mara Keisling. 2011. "Injustice At Every Turn: A Report Of The National Transgender Discrimination Survey." Washington, D.C.: National Center for Transgender Equality and National Gay and Lesbian Task Force).

⁵ Legal Policy Department of the Campaign for Military Service (1993).

to gender stereotypes or refuse to engage in sexual activity with men are at risk of being labeled a lesbian, regardless of their true sexual preferences. Some of the increased scrutiny of service women's sexuality is undoubtedly the result of women's hyper-visibility in the military, along with the attitude that women do not belong in the armed forces.

- Survey data from the Department of Defense (DOD) indicates that 80% of active duty service members stated they had heard offensive speech, derogatory names, jokes or remarks about non-heterosexual service members in the last year (before the survey). Additionally, 37% witnessed or experienced an event or behavior toward a service member that they considered to be harassment based on perceived sexual orientation.⁶
- LGBT service members are not a protected class under the military's Equal Opportunity (EO) policy, which protects service members from unfair treatment in the workplace, such as discrimination, harassment and retaliation. The repeal of DADT itself will not prevent harassment and discriminatory treatment of LGBT service members.
- The DADT policy perpetuated the occurrence of sexual violence in the military. Same-sex survivors of rape, sexual assault and sexual harassment were especially reluctant to report sexual violence because of the fear that their experience might be confused with homosexual activity.⁷ DADT policy likely contributed to the fact that 86.5% of sexual assault cases go unreported.⁸ Even post-repeal, LGBT service members may still be subject to sexual violence.
- Service members who were forced to conceal their sexual orientation under DADT experienced and continue to experience negative mental health effects related to discrimination, as numerous studies have demonstrated. Despite these consequences, few resources are available for traumatized LGBT veterans.⁹
- LGBT service members' partners are also denied many rights and benefits that heterosexual partners and spouses enjoy, including increased pay, health benefits and family support services.¹⁰
- LGBT veterans' partners also lack benefits to which heterosexual spouses are entitled. Because the VA is subject to federal law, which restricts the definition of "spouse" as a member of the opposite sex, same-sex spouses or partners are precluded from receiving a variety of VA-administered benefits including: dependency indemnity compensation, death pensions and access to medical services and products through CHAMPVA.¹¹

⁶ Department of Defense, Office of the Inspector General. 2000. "Military Environment With Respect to the Homosexual Conduct Policy." Report No. D-2000-101. Although this report is more than ten years old, it represents virtually the only survey research of active duty service members' perceptions of LGBT discrimination in the military.

⁷ Jessica A. Turchik and Susan M. Wilson. 2010. "Sexual assault in the U.S. military: A review of the literature and recommendations for the future." *Aggression and Violent Behavior* 15: 267-277.

⁸ Department of Defense, SAPRO. 2011. "Fiscal Year 2010 Annual Report on Sexual Assault in the Military." Available: http://www.sapr.mil/media/pdf/reports/DoD_Fiscal_Year_2010_Annual_Report_on_Sexual_Assault_in_the_Military.pdf; Department of Defense, DMDC. 2011. "2010 Workplace and Gender Relations Survey of Active Duty Members." Available: http://www.sapr.mil/media/pdf/research/DMDC_2010_WGRA_Overview_Report_of_Sexual_Assault.pdf.

⁹ See Moradi 2009 for a review: Bonnie Moradi. 2009. "Sexual Orientation Disclosure, Concealment, Harassment, and Military Cohesion: Perceptions of LGBT Military Veterans." *Military Psychology* 21 (4): 513-533.

¹⁰ Increased pay also includes food and housing allowances.

¹¹ Andrew Cray. 2011. "Reaching All Who Served: An LGBT Analysis of Department of Veterans Affairs Health Policies." National Coalition for LGBT Health.

Transgender Service Members and Veterans

Individuals who self-identify as transgender can include transsexuals, androgynous people, cross-dressers, gender queers and other gender non-conforming individuals whose gender identity and expression is different than their assigned sex at birth, or who break societal expectations and stereotypes related to gender. The military, however, narrowly defines transgender as individuals who have undergone sex reassignment surgery or whose gender presentation is visibly not aligned with socially accepted gender identity—definitions which exclude the diverse lived experiences of transgender individuals.

Unlike lesbian, gay and bisexual service members, transgender service members were not included in the DADT Repeal Act, and therefore cannot openly serve in the military. Additionally, transgender service members endure other forms of exclusion in the military. In the first place, individuals who have undergone genital surgery in order to change their gender are denied the opportunity to serve in the military at all. Furthermore, individuals diagnosed with “gender identity disorder” are also barred from serving in the military, which effectively excludes most open transgender individuals. Like lesbian, gay and bisexual service members, transgender service members are subject to harassment, hostile treatment and are generally unwelcome in the military.¹² They also may experience discrimination after service through institutions like the VA and many struggle with unemployment, homelessness and mental health disorders.¹³

- DOD regulations currently bar transgender service members from serving in the U.S. military. Specifically, DOD Instruction 6130.03 lists change of sex and hermaphroditism as medically disqualifying factors. The same regulation specifies “psychosexual” conditions such as “transsexualism” or “transvestism” as disqualifying mental conditions that preclude individuals meeting these criteria from serving in the military.¹⁴ Conduct regulations can also affect transgender service members, such as prohibitions against cross-dressing.
- Unlike the U.S., other industrialized democracies (e.g. U.K., Israel) allow transgender individuals to serve openly in their militaries and some will pay for sex reassignment surgery (e.g. U.K., Canada).¹⁵
- Even though transgender individuals are not necessarily gay, lesbian or bisexual, they are often assumed to be and were targeted disproportionately under DADT.¹⁶ Although the DADT policy prohibited military leadership from questioning service members about their sexual orientation, 26% of active duty and transgender veterans report being asked about their sexual orientation; 14% report being asked by an officer. Transmen were more likely to be questioned than transwomen.¹⁷

¹² Karl Bryant and Kristen Schilt. 2008. “Transgender People in the U.S. Military: Summary and Analysis of the 2008 Transgender American Veterans Association Survey.” Paper prepared for The Palm Center and the Transgender American Veterans Association (TAVA).

¹³ *Ibid.*

¹⁴ Department of Defense Instruction 6130.03, April 28, 2010. Available: <http://www.dtic.mil/whs/directives/corres/pdf/613003p.pdf>.

¹⁵ At least ten countries allow transgender individuals to serve, including: Australia, Belgium, Canada, the Czech Republic, Israel, the Netherlands, Spain, Sweden, Thailand and the United Kingdom (SLDN, <http://www.sldn.org/pages/transgender-issues>).

¹⁶ Servicemembers Legal Defense Network. “Transgender Servicemembers.” Available: <http://www.sldn.org/pages/transgender-issues>; Bryant and Schilt 2008.

¹⁷ Bryant and Schilt 2008.

- Transgender individuals, including veterans, report high rates of workplace discrimination. Over 90% of the transgender population report experiences of harassment, mistreatment or discrimination at work or took actions such as hiding their identities to avoid it. ¹⁸
- 26% of transgender veterans have experienced physical assault and 16% have been raped. Of transgender individuals who have experienced sexual assault, 64% have attempted suicide. ¹⁹
- Almost one-third of transgender veterans believe they were not hired for a job specifically because they were transgender; almost 40% of transgender veterans are working for less than minimum wage. ²⁰
- 21% of transgender veterans have been homeless at some point in their lives. ²¹
- Transgender veterans experience a host of mental health issues, and 40% have attempted suicide compared to 1.6% of the general population. ²²
- Transgender veterans are reluctant to seek healthcare, and many report negative experiences with healthcare institutions. 24% of transgender veterans report being refused medical treatment for being transgender, and 43% say they have postponed or neglected to seek medical care when they were sick for fear of discrimination or maltreatment. ²³
- While the VHA has made significant progress in the availability of medical care to transgender veterans, (including hormonal therapy, mental health care, preoperative evaluation and medically necessary post-operative and long-term care following sex reassignment surgery), the VHA still will not perform or pay for sex reassignment surgery. ²⁴

What SWAN Does

- SWAN is calling for open service for transgender service members.
- SWAN advocates directly for inclusion of all LGBT service members in Military Equal Opportunity policies and programs.
- SWAN works to increase cultural competency training on the needs of LGBT service members and veterans for VA employees and members of the military.
- SWAN continues to research and advocate on LGBT-specific issues, with a focus on issues of sexual violence.
- Through our National Peer Support Helpline, SWAN provides confidential peer support, legal referrals and counseling referrals to LGBT service members, veterans and family members.

For more information, please contact policy@servicewomen.org or call (212) 683-0015 x324.

¹⁸ Jaime M. Grant, Lisa A. Mottet, Justin Tanis, Jack Harrison, Jody L. Herman, and Mara Keisling. 2011. "Injustice At Every Turn: A Report Of The National Transgender Discrimination Survey." Washington, D.C.: National Center for Transgender Equality and National Gay and Lesbian Task Force.

¹⁹ Bryan and Schilt 2008; Grant et al 2011.

²⁰ Bryan and Schilt 2008.

²¹ Ibid.

²² Based on survey data from the *National Transgender Discrimination Survey*, provided by the National Gay and Lesbian Task Force and National Center for Transgender Equality.

²³ Ibid.

²⁴ VHA Directive 2011-024 (June 9, 2011)

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