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## Pentagon Officials Misled Congress on Transgender Troops by Asserting Falsehoods that DoD's Own Data Contradict, and by Calling Equal Treatment "Special" Treatment

Alan Bishop, PhD\*

Former Professor, U.S. Military Academy

Colonel Mark V. (Marcie) Mayer, USAF (Ret.)\*

Assistant Professor, U.S. Air Force Academy,  
Transgender Veteran

Tammy S. Schultz, PhD\*

Professor, U.S. Marine Corps War College

Marc J. Ventresca, PhD\*

Former Research Associate Professor,  
Graduate School of Business and Public Policy,  
Naval Postgraduate School

Erik Wingrove-Haugland, PhD\*

Professor, U.S. Coast Guard Academy

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## **Introduction**

Two senior Pentagon officials testified on February 27, 2019 before the House Armed Services Subcommittee on Military Personnel in defense of President Trump’s proposed ban on transgender service members, which the Defense Department plans to reinstate once permitted by courts. In their testimony, James N. Stewart, performing the duties of Undersecretary of Defense for Personnel and Readiness, and Vice Admiral Raquel Bono, Director of the Defense Health Agency, misled Congress by asserting falsehoods about readiness and deployment and by saying that applying a single standard of fitness equally to all service members means giving transgender troops “special accommodations.” Their mischaracterizations echoed many of the main points in DoD’s 2018 “Report and Recommendations on Military Service by Transgender Persons,” known as the “Mattis Report.”

Both the written and verbal testimony introduced deceptive, erroneous, and false assertions about the ostensible risk that gender dysphoria poses to readiness and deployment and about standards that DoD plans to apply to transgender service members. DoD witnesses deemed gender dysphoria a risk despite the fact that 1) every Service Chief testified in Congress that inclusive policy has not compromised readiness; 2) no evidence supports the assertion; 3) a global medical consensus finds the medical condition is treatable and should not be disqualifying; and 4) DoD’s own data concerning the successful deployment of hundreds of service members with the diagnosis contradict the claim. DoD witnesses defined transgender individuals as a deployment risk and then blamed them for being “unwilling” to adhere to standards *written specifically to exclude them from service*.

### **Pentagon witness deception #1: Gender dysphoria and transition pose a risk to readiness.**

Having crafted a standard designed to restrict service by transgender people who have been diagnosed with gender dysphoria or who need to transition gender, the Pentagon argued that the “special accommodations” needed to “exempt” transgender troops from that standard pose “a significant risk,” in Mr. Stewart’s words, of “undermin[ing] readiness” and would “place unfair burdens” on other service members who are ready to deploy. “Categorical accommodations or exemptions from military standards undermine” efforts to maintain readiness, discipline and cohesion,” he stated.

#### *Why the claim is deceptive:*

Every Service Chief testified in Congress that inclusive policy has not compromised readiness. Neither the DoD witnesses nor the Mattis Report, written nearly two years after the implementation of inclusive policy, identified any evidence suggesting that inclusion has harmed readiness. As explained below, it is inaccurate to call transgender-inclusive service a “special accommodation” given that the only standard from which transgender troops would need “accommodation” is the one that was written to exclude them.

## **Pentagon witness deception #2: Gender dysphoria and transition substantially limit deployability.**

Mr. Stewart's testimony claimed that gender transition "can lead to substantial periods of unavailability for deployment," which "could well exceed a year." Vice Admiral Raquel Bono, director of the Defense Health Agency, asserted at the hearing that the Pentagon's experience with transgender troops has borne out the Department's claims of deployability limitations. The Mattis Report maintained that service members commencing hormone therapy would have to "forego treatment, monitoring, or the deployment" if ordered to serve in "austere environments."

### *Why the claim is deceptive:*

The suggestion that transition-related care is likely to make service members non-deployable for more than a year is contradicted by DoD data and by the global medical consensus that gender dysphoria is treatable and that the transition process generally takes much less time than a year. The five service members who testified at the February 27 hearing about their multiple overseas deployments, many to combat zones in "austere environments," typify service members diagnosed with gender dysphoria who have deployed overseas successfully. The Pentagon's own data show that 393 service members with gender dysphoria have deployed to the Middle East, and of those, only one was unable to complete the deployment for mental health reasons.

The military currently has in place a clear standard that applies to all service members: anyone who is non-deployable for more than 12 months must be evaluated for separation. This standard already screens all service members for deployability so there is no reason to develop a separate, transgender-specific standard to restrict service of those with gender dysphoria. Separate standards serve only to disqualify transgender service members who otherwise meet deployability standards applicable to all.

Endocrine Society standards of care for civilian patients of all ages and health status recommend one year of monitoring after the commencement of hormone therapy, but medical experts have made clear that such monitoring is not a bar to military deployment worldwide, with the author of those guidelines telling DoD in writing that monitoring hormone levels for three months prior to deployment, not twelve, is sufficient for necessary care, and that "there is no reason to designate individuals as non-deployable after the commencement of hormone replacement therapy." A panel of retired military Surgeons General—the senior medical officers in their Services—released a comprehensive report in 2018 finding that DoD's rationale for the transgender ban "is contradicted by ample evidence clearly demonstrating that transition-related care is effective, that transgender personnel diagnosed with gender dysphoria are deployable and medically fit."

### **Pentagon witness deception #3: Transgender troops seek “special accommodations.”**

Mr. Stewart’s testimony repeatedly alleged that allowing military service by transgender individuals who are diagnosed with gender dysphoria but meet the same deployment standards as everyone else would mean granting transgender people “categorical accommodations or exemptions from military standards.” As a result, he claimed, the Mattis policy would merely “end the policy of categorically providing special accommodations for individuals with a diagnosis or history of gender dysphoria.”

*Why the claim is deceptive:*

The claim that equal treatment is “special” treatment is false. There are no “special accommodations” provided to individuals with gender dysphoria in the 2016 policy established under Defense Secretary Ash Carter. Indeed, that policy explicitly applies the same, single standard to all service members, with no exceptions for transgender personnel. DoD Instruction 1300.28 states that inclusive policy is “premised on the conclusion that open service by transgender persons who are subject to the same standards and procedures as other members with regard to their medical fitness for duty, physical fitness, uniform and grooming standards, deployability, and retention, is consistent with military service and readiness.”

Current policy, applicable to *all* service members, requires that “Service members who have been non-deployable for more than 12 consecutive months, for any reason” be evaluated for separation. DoD’s current claim takes the Carter policy’s explicit direction that one standard be applied to all troops, and disingenuously flips a call for equal treatment into “special” treatment.

### **Pentagon witness deception #4: Inclusive policy means that transgender personnel “opt out” from military standards.**

Mr. Stewart’s testimony claimed that the Carter policy allows individuals who have transitioned gender to “opt out of the sex-based standards associated with their biological sex” and suggested this is unfair, in that “no other class of Service members is exempted from the sex-based standards associated with their biological sex.” He stated that the Mattis policy would simply ensure “equal application of military standards to all persons regardless of gender identity.”

*Why the claim is deceptive:*

The Mattis plan would not ensure “equal application of military standards to all persons regardless of gender identity”; rather, it creates a new, separate standard targeting a particular medical diagnosis associated only with transgender people while describing it as a neutral standard applicable to all.

The only way to conclude that inclusive policy lets transgender individuals “opt out” of sex-based standards is to construct those standards specifically to define transgender

people out of existence, consistent with the approach of the Trump administration on transgender equality generally. This is what the Mattis plan does. It tacks on the transgender-specific qualifier “associated with their biological sex” to the current understanding of “sex-based standards” in a transparent effort to isolate and penalize transgender individuals.

Transgender people, by definition, do not identify with their birth sex (or what DoD calls “biological sex”), so a standard requiring that they identify with, or serve in, their birth sex is clearly a standard designed to exclude transgender people specifically. This sleight of hand is what allows DoD to claim that transgender service entails an “exemption” from a single standard—a standard that is not, in fact, neutral but anti-transgender.

### **Pentagon witness deception #5: The Mattis Policy is not a transgender ban.**

Mr. Stewart’s testimony claimed it is “not accurate” to call the Mattis policy a “ban” because it does not prevent service “solely on the basis of gender identity” but instead turns on a medical diagnosis. Listing a string of transgender-specific criteria that must be satisfied in order to serve, his testimony asserted that, “So long as transgender persons, even those with a diagnosis or history of gender dysphoria, are willing and able to adhere to all military standards, including the sex-based standards associated with their biological sex, and have met any applicable stability requirements, and have not had disqualifying medical treatments, they may serve, and we welcome them.”

#### *Why the claim is deceptive:*

Mr. Stewart conceded under questioning that the Mattis policy would bar applicants who have undergone gender transition. Those with a history or diagnosis of gender dysphoria would also be disqualified unless they meet strict additional standards applied only to transgender individuals, and agree to serve in their birth sex, a form of “don’t ask, don’t tell” for transgender troops. Those currently in service would, similarly, be required to serve in their birth sex except for the small fraction whose transition during the Carter policy window was “grandfathered” in. A new diagnosis of gender dysphoria would put transgender troops at immediate risk of separation. Finally, transgender troops would be the only military personnel denied their statutory entitlement to medically necessary health care. The Mattis policy is thus a transgender ban, affecting all 14,700 transgender troops and all Americans who wish to serve.

The Mattis plan tries to shift the burden of non-cooperation to transgender individuals, claiming that many are simply “unwilling to adhere to the standards associated with their biological sex.” This is disingenuous since the standard was written to exclude transgender people, who, by definition, do not identify with their birth sex. This created a new and separate standard designed to be *impossible for transgender people, alone, to meet*.

**Pentagon witness deception #6: High suicidality of transgender people justifies a ban.**

Vice Admiral Raquel Bono cited high rates of suicidality in explaining why the Pentagon should ban those who have been diagnosed with gender dysphoria or who need to transition gender.

*Why the claim is deceptive:*

Many population groups face higher risk of suicide as a group, including children of service members and white males, who are 2.5 times more likely to die by suicide than black men. Yet the military does not exclude children of service members or white men from service, because the military assesses risk on an individual basis. According to a comprehensive 2018 report by retired military Surgeons General, DoD data “demonstrate that rates of suicidal ideation among transgender and non-transgender service members are roughly equivalent.” Given the emphasis that military leaders rightly place on preventing suicide, it is counterproductive to ban transgender troops from obtaining the healthcare needed to identify and redress suicidality.

**Pentagon witness deception #7: Transgender troops require copious mental health visits.**

Vice Admiral Bono stated that service members with gender dysphoria have logged more behavioral therapy visits than their peers, suggesting this is evidence that having gender dysphoria limits fitness and deployability, hence justifying the ban.

*Why the claim is deceptive:*

As part of the process of gender transition in the military, current policy requires transgender service members to attend multiple individual or group support sessions, what one report called administrative “ticket-punching” to verify requirements imposed by the policy. These requirements are far more onerous than what is required for comparable medical care. Satisfying them necessitates extensive documentation, which creates incentives for over-prescribing health care appointments. Indeed, roughly 73% of the military’s cost of transition-related medical care since 2016 was for psychotherapy visits. Since transgender service members are required to see therapists for administrative, not medical reasons, psychotherapy usage is artificially inflated. It is circular reasoning to cite *mandated* mental health care visits for transgender troops as a rationale for why transgender troops require extra care or are likely to have limited deployability.

**Conclusion**

DoD witnesses ignored DoD data as they asserted falsehoods about readiness and deployment and flipped the simple principle of “a single standard, equally applied to all” on its head by establishing “not being transgender” as the standard. This allowed the

witnesses to claim that transgender people should be disqualified for being “unwilling” to meet a standard written to exclude them. The transgender ban would permit transgender people to serve only if they live as though they are not transgender, based on the untenable reasoning that fairness requires applying a “single standard” that one must not be transgender. Banning gender transition is a proxy for banning transgender people, and overwhelming evidence shows that there is no honest rationale for banning transgender service members, whether or not they have been diagnosed with gender dysphoria, have transitioned, or need to transition.

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