Center for Military Readiness
– Policy Analysis –

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Presidential Authority vs. Activist Judges – Which Side Will Prevail?

Summary of Justice Department Arguments Filed in Reply to Lawsuits and Preliminary Injunctions Seeking to Nullify President Trump's Policy Re: Transgenders in the Military

In 2017, several ***LGBT (lesbian, gay, bisexual, transgender)*** *groups filed litigation in four federal district courts, petitioning for preliminary injunctions to halt implementation of policy changes regarding transgenders in the military, which were advocated by* ***President Donald J. Trump****. The following statements, shown in bold blue, paraphrase and summarize typical arguments made by Plaintiffs in the district courts --* ***Washington, D.C.****,* ***Baltimore****,* ***Seattle****, and the* ***Central District of California****. Each of the lower court judges, who have no constitutional power to run the military, issued preliminary injunctions ordering the Trump Administration to reinstate* ***President Barack Obama's*** *military transgender policies.*

Statements below each argument are excerpted from a 49-page reply that the ***Department of Justice*** *filed in one of the cases,* ***Jane Doe v. Donald J. Trump****, in Washington, D.C. on June 6, 2018. Citations are omitted, and emphasis is added throughout. The full document is available here:*

https://cmrlink.org/data/sites/85/CMRDocuments/DoeVTrumpCivilActionNo17-cv-1597.pdf

No one can predict the outcome of future court rulings, but a review of the following arguments and responses clearly show that the government is vigorously defending sound policy and presidential prerogatives in the federal courts. Ultimately, the ***U. S. Supreme Court*** *likely will decide.* **- CMR**

Plaintiff Argument #1: President Trump changed the transgender policy without sufficient study or military professional guidance.

Reply: "The policy is the result of an independent, extensive review by a panel of military experts . . . [It] is rooted in the understanding that both historically and today, the military has not permitted individuals to serve if they have medical conditions that may excessively limit their deployability, pose an increased risk of injury to themselves or others, or otherwise require measures that threaten to impair the effectiveness of their unit. In DoD's professional military judgment, these criteria are met for the medical condition of gender dysphoria, particularly when a person requires or has undergone gender transition to treat this condition.

"As Secretary Mattis observed, generally allowing service by such individuals poses 'substantial risks' and threatens to 'undermine readiness, disrupt unit cohesion, and impose an unreasonable burden on the military that is not conducive to military effectiveness and lethality.' This conclusion is based on 'the Department's best military judgment,' the recommendations of the panel of military experts who thoroughly studied the issue, and the Secretary's 'own professional judgment.' Plaintiffs' experts may disagree with these conclusions, but their opinions are not on equal footing with the judgments of current military leaders. **The Constitution allocates military decision-making authority to the political branches, not to expert witnesses in lawsuits."** (pp. 1-2)

Plaintiff Argument #2: The new Mattis/DoD policy, announced on March 23, 2018, is no different from President Trump's statements in tweets and his August 2017 Memo.

Reply: "Plaintiffs' filings mischaracterize the nature of the military's new policy. In particular, they fail to recognize that DoD's new policy is in many respects consistent with the policy adopted by then-Defense Secretary

("Carter Policy"), currently in place as a result of preliminary injunctions in this and the related cases. Both policies presumptively disqualify individuals with gender dysphoria. Both policies permit transgender individuals without gender dysphoria to serve in their biological sex. And both policies contain exceptions allowing some transgender individuals who have previously been diagnosed with gender dysphoria to serve. The difference between the two policies comes down to the scope of their exceptions—a matter that is well within the discretion owed to the nation's senior military leadership." (p. 1)

"[Unlike the President's 2017 Memorandum], the military's new policy differs from that pre-Carter framework in at least two critical respects. First, the new policy, like the Carter policy, turns not on transgender status, but on **a medical condition (gender dysphoria) and a related medical treatment (gender transition**). In other words, [under certain circumstances] the new policy allows transgender individuals without a history or diagnosis of gender dysphoria to serve, a possibility that was generally unavailable during the pre-Carter era. (pp. 19-20)

"Second, [under certain circumstances], the new policy categorically permits individuals with gender dysphoria to serve in their preferred gender (and receive transition-related treatment) as they did under the Carter policy, an option that likewise did not exist before June 2016. Thus, rather than implement a 'return' to the pre-Carter policy, the new policy substantially departs from it. This is why Secretary Mattis had to recommend that the President 'revoke' his 2017 Memorandum in order to 'allow' the military to implement its preferred framework." (p. 20)

Plaintiff Argument #3: President Trump's policies are causing irreparable harm.

Reply: ". . . Plaintiffs repeatedly attempt to show injury-in-fact through declarations that were executed **before the new DoD policy was developed**, and that do not mention any harms arising from the new policy." (p. 2)

Plaintiff Argument #4: Transgender personnel are being singled out for unfair treatment because of "animus" against them.

Reply: "Given the stakes of warfare, the DoD 'has historically taken a conservative and cautious approach' in setting standards for military service. **DoD has long disqualified individuals with 'physical or emotional impairments that could cause harm to themselves or others, compromise the military mission, or aggravate any current physical or mental health conditions that they may have' from entering military service.** And it has taken a particularly cautious approach with respect to mental-health standards in light of the unique mental and emotional stresses of military service.

"Most mental health conditions are automatically disqualifying for entry into the military absent a waiver, even when an individual no longer suffers from that condition. In general, the military has aligned these disqualifying conditions with the ones listed in the **Diagnostic and Statistical Manual of Mental Disorders (DSM)**, published by the **American Psychiatric Association (APA).** Military standards for decades therefore presumptively disqualified individuals with a history of 'transsexualism,' consistent with the inclusion of that term in the third edition of the DSM. In 2013, the APA published a new edition of the DSM, which replaced the term 'gender identity disorder' (itself a replacement for 'transsexualism') with 'gender dysphoria.'

"In doing so, the APA explained that it no longer considered identification with a gender different from one's biological sex (i.e., transgender status) to be a disorder. **It stressed, however, that a subset of transgender people suffer from the medical condition of gender dysphoria, a 'marked incongruence between one's experience/expressed gender and assigned gender, of at least 6 months duration,' that is 'associated with clinically significant distress or impairment in social, occupational, or other important areas of functioning.'** Individuals diagnosed with gender dysphoria sometimes transition genders—through cross-sex hormone therapy, sex-reassignment surgery, or simply living and working in their preferred gender—in an attempt to treat this condition." (Quoting RAND Report 6-7, Exh. B.) (pp. 2-3)

Plaintiff Argument #5: Gender dysphoria does not justify disqualification from military service.

Reply: "[The Defense Department's] judgment rests on **numerous military concerns**, including evidence that individuals with gender dysphoria continued to **have higher rates of psychiatric hospitalization and suicidal**

behavior even after transition, evidence that transition-related treatment could render servicemembers non-deployable for a significant time, the creation of irreconcilable privacy demands that would create friction in the ranks, the safety risks and perceptions of unfairness arising from having training and athletic standards turn on gender identity, the frustration of other servicemembers who also wish to be exempted from uniform and grooming standards, and disproportionate transition-related costs." (p. 8) [Note: Evidence cited comes from **Military Health System (MHS)** data records since 2016, when the Carter policy took effect.)

Plaintiff Argument #6: It is unfair to make Plaintiffs ineligible for military service after many of them relied on promises made during the Obama Administration.

Reply: "Recognizing . . . that a number of individuals with gender dysphoria had 'entered or remained in service following the announcement of the Carter policy,' DoD included a categorical **reliance exemption** [grandfather clause] in its 2018 policy. Specifically, those servicemembers 'who were diagnosed with gender dysphoria by a military medical provider after the effective date of the Carter policy, but before the effective date of any new policy, may continue to receive all medically necessary treatment' as well as 'serve in their preferred gender, even after the new policy commences.'

"DoD has since confirmed that this exemption will extend to any servicemember 'who was diagnosed with gender dysphoria prior to the effective date of the Carter policy and has continued to serve and receive treatment pursuant to the Carter policy after it took effect. . . [T]he exemption [also] will cover any servicemember diagnosed with gender dysphoria while the preliminary injunctions in this or the related cases are in place." (p. 8)

Plaintiff Argument #7: Transgender individuals added to the original group of Plaintiffs who sued President Trump in 2017 have standing, even under the new Mattis/DoD policy.

Reply: The Justice Department brief systematically challenges the standing of each Plaintiff in the case, noting that none of them can point to injury they are suffering or will suffer under the Mattis/DoD policy. ". . . plaintiffs (inexplicably) continue to challenge the now-revoked executive decision by the President – the August 2017 Presidential Memorandum." (pp. 10-17)

Plaintiff Argument #8: The Mattis/DoD policy is discriminatory and unacceptable because it targets and bans transgenders as a class.

Reply: "As the RAND Report explained, only 'a subset' of transgender individuals 'choose to transition, the term used to refer to the act of living and working in a gender different from one's sex assigned at birth.' In other words, while all transgender individuals 'identify with a gender different from the sex they were assigned at birth,' only some choose to live and work in accordance with that identity. In fact, although an estimated 8,980 servicemembers identify as transgender according to one study, to date only **937** of them have taken advantage of the Carter policy's framework for gender transition in the nearly two years of its existence. [Note: The 937 number, which is far smaller than the 2016 RAND report estimated, reflects Military Health System data since 2016. The 8,980 figure is an estimate extrapolated from an online DoD "Workplace" survey, not actual data.]

"In addition, Plaintiffs fail to acknowledge that a central focus of their challenge—the new policy's requirement that some transgender individuals serve in their biological sex—is consistent with the Carter policy currently in place. **Under both the Carter policy and DoD's new policy, transgender persons who have not transitioned may serve only in their biological sex** . . . which may be changed only after a 'military medical provider determines that a Service member's gender transition is complete.' (p. 21)

Plaintiff Argument #9: DoD's new policy is unacceptable because it bars accession by transgender individuals who no longer have gender dysphoria because they have successfully transitioned.

Reply: ". . . Plaintiffs fail to acknowledge that considering a prospective servicemembers history of a medical condition is a **standard military practice**—and one used with respect to gender dysphoria under the Carter Policy. Indeed, prospective servicemembers are presumptively disqualified based on a history of many different medical conditions." (pp. 22-23)

Plaintiff Argument #10: The DoD's new policy is a unique standard that differs completely from standards that apply to people with other treatable medical conditions.

Reply: ". . . [T]he military presumptively prohibits accession for those suffering from dozens of other medical conditions, ranging from diabetes to rheumatoid arthritis to sleep apnea. Nor is DoD's new policy unique with respect to separation and retention. Plaintiffs point to the Carter policy, asserting that it permits 'separation, discharge, or denial of reenlistment or continued service under existing processes . . . but not due solely to [a servicemember's] gender identity or an expressed intent to transition genders.' But the same is true of DoD's new policy. Under the new policy, neither possessing a particular gender identity nor expressing an intent to transition genders is grounds for separation or discharge. In sum, Plaintiffs provide no basis on which to conclude that DoD's new policy constitutes a complete ban on transgender service, or that it turns on anything other than a medical condition and its associated treatment." (p. 23)

Plaintiff Argument #11: President Trump announced his policy regarding transgenders in the military without obtaining the independent advice of military leaders.

Reply: "Notably, Plaintiffs carefully omit statements that '[t]he Panel made recommendations based on each Panel member's independent military judgment,' or that the new DoD policy is, in Secretary Mattis's words, the product of the Panel's 'professional military judgment,' 'the Department's best military judgment,' and his 'own professional judgment.' Plaintiffs discuss none of these statements, and do not even attempt to explain why representations by senior military leadership, including the Secretary of Defense himself, should be called into question. Nor do Plaintiffs dispute that the statements they cite are entirely consistent with the 2017 Memorandum's direction to the military to conduct **"further study"** and maintain the pre-Carter accession policy while doing so.

"Plaintiffs also overlook the President's instruction to the Secretary of Defense to 'advise [him] at any time, in writing, that a change to this policy is warranted,' as well as the Secretary's explicit reliance on that fact in recommending that the President revoke his 2017 Memorandum. . . But regardless, there is no disputing that the new policy was the result of an extensive and independent deliberative process by military experts, as reflected in the new policy itself, Secretary Mattis's memorandum, DoD's 44-page report, and the more than 3,000-page administrative record." (pp. 24-26)

Plaintiff Argument #12: The court should handle cases challenging the Trump transgender policy under a heightened standard of review; i.e., "strict scrutiny," not "rational basis."

Reply: "As one of the 'complex, subtle, and professional decisions as to the composition … of a military force,' which are 'essentially professional military judgments,' DoD's 2018 policy is subject to a **highly deferential form of review**. After all, decisions about who should serve 'are based on judgments concerning military operations and needs, and the deference unquestionably due the latter judgments is necessarily required in assessing the former as well.' (*Rostker v. Goldberg*, 1981)

"Plaintiffs argue that this case's military context is irrelevant in determining and applying the appropriate level of constitutional scrutiny, and that 'the same demanding level of scrutiny [applies] regardless of the context in which it occurs[.]' That argument is flatly inconsistent with Supreme Court precedent and is not supported by the cases Plaintiffs cite. As discussed below, the Court should afford substantial deference in evaluating the constitutionality of DoD's new policy, which on its face deals with the **composition, training, equipping, and control of the armed forces.**" (p. 27) [Note: The brief analyzes and refutes the applicability of several court precedents cited by the Plaintiffs.]

Plaintiff Argument #13: The military is not entitled to judicial deference because the DoD did not follow an "independent process."

Reply: "Military deference stems from the Supreme Court's recognition that control of the armed forces is vested in the Executive and Legislative branches by the text of the Constitution itself. Article I gives Congress the power to raise and support armies, to provide and maintain a navy, to make rules regulating the armed forces, and to declare war. Article II makes the President the Commander in Chief of the armed forces. As the Supreme

Court has explained, '[m]ilitary interests do not always trump other considerations, and the Court has not held that they do, but courts must give deference to the professional judgment of military authorities concerning the relative importance of a particular military interest.' There is no question that a lower court should apply military deference here, or that the Supreme Court has mandated that it must. Rather, the only relevant question is whether other interests override military concerns despite mandatory deference.

"Thus, military deference is not something the Court may decide to follow based on whether it agrees that the military followed an independent process. Instead, it is a constitutionally mandated prerequisite derived from the fact that the text of the Constitution itself commits control over the military to the Executive and Legislative branches. . . Here, because this case undisputedly involves **the composition of the military force** both through accessing new troops into the armed forces and retaining those already in, **deference must be applied** and no further inquiry into the robustness of that deliberative process is required or appropriate. (pp. 32-33)

Plaintiff Argument #14: Declarations from former DoD appointees and civilian doctors prove that the Trump policy is wrong.

Reply: "Plaintiffs . . . seek to have this Court substitute its own judgment for that of current military leaders on matters of military policy, including through consideration of expert opinion. But the fact that Plaintiffs can identify experts with opinions contrary to the military's judgment is irrelevant. **Rather, the Constitution commits military decisions 'to the political branches directly responsible—as the Judicial Branch is not—to the electoral process,' and nowhere suggests that disputes over military policy should be resolved through a 'battle of the experts.'** (p. 34)

Plaintiff Argument #15: Persons who are or have been diagnosed with gender dysphoria do not present significant risks that detract from military readiness.

Reply: "As DoD explained, service by individuals with gender dysphoria, and especially those who need or have undergone gender transition, poses at least two significant risks to military readiness. **First, DoD is concerned that the unique stresses of military life could exacerbate the symptoms of gender dysphoria.** Indeed, servicemembers suffering from '[a]ny DSM-5 psychiatric disorder with residual symptoms' that 'impair social or occupational performance require a waiver … to deploy,' as the military must consider the '**risk of exacerbation** if the individual were exposed to trauma or severe operational stress.' . . . As preliminary evidence from DoD's experience with the Carter policy reveals, **servicemembers with gender dysphoria were eight times more likely to attempt suicide and nine times more likely to have mental-health encounters than servicemembers as whole. In fact, over a two-year period of study, the nearly 1000 active servicemembers with gender dysphoria accounted for 30,000 mental-health visits.**

"This data, which was unavailable to DoD when the Carter policy was first announced, was also consistent with data concerning individuals with gender dysphoria more generally, a group that suffers from high rates of suicidal ideation, attempts, and completion, as well as other mental-health conditions such as anxiety, depression, and substance-abuse disorders. **Given recent evidence that military service can be a contributor to suicidal thoughts, DoD has legitimate concerns that generally allowing those with gender dysphoria to serve would subject them and their comrades to unacceptable risks.**

"Second, even if it were guaranteed that the risks associated with gender dysphoria could be fully addressed by gender transition, it remains the case that transition-related medical treatment—namely, cross-sex hormone therapy and sex-reassignment surgery—could render transitioning servicemembers 'non-deployable for a potentially significant amount of time.' **Some commanders, for example, reported that transitioning servicemembers under their authority would be non-deployable for up to two to two-and-a-half years.**

"More generally, Endocrine Society guidelines recommend 'quarterly bloodwork and laboratory monitoring of hormone levels during the first year' of therapy, meaning that if 'the operational environment does not permit access to a lab for monitoring hormones,' then the transitioning servicemember 'must be prepared to forego treatment, monitoring, or the deployment,' each of which 'carries risks for readiness." **That period of potential non-deployability only increases for those who obtain sex-reassignment surgery, which in addition to a**

recommended '12 continuous months of hormone therapy … prior to genital surgery,' comes with 'substantial' recovery time even without complications." (pp. 35-36)

Plaintiff Argument #16: Being transgender is personal; it does not affect military readiness.

Reply: "In addition to being inherently problematic . . . limits on deployability would have harmful effects on transitioning servicemembers' units as a whole. **As DoD explained, any increase in non-deployable servicemembers will require those who can deploy to bear 'undue risk and personal burden,' which itself 'negatively impacts mission readiness.'** On top of these personal costs, servicemembers deployed more frequently to 'compensate for' their unavailable comrades face risks to family resiliency as well. And when servicemembers with conditions do deploy but then fail to meet fitness standards in the field, '**there is risk for inadequate**

treatment within the operational theater, personal risk due to potential inability to perform combat required skills, and the potential to be sent home from the deployment and render the deployed unit with less manpower.' All of this, DoD concluded, posed a 'significant challenge for unit readiness.' " (p. 36)

Plaintiff Argument #17: Newly enlisted servicemembers do not present a deployability problem because, in order to join the military, they must establish that they are no longer transitioning.

Reply: "DoD concluded that completing transition does not eliminate all deployability concerns. As DoD's Report explains, **'there is considerable scientific uncertainty concerning whether [transition-related] treatments fully remedy … the mental health problems associated with gender dysphoria,'** and '[i]n managing mental health conditions, while deployed, providers must consider the risk of exacerbation if the individual were exposed to trauma or severe operational stress. These determinations are difficult to make in the absence of evidence on the impact of deployment on individuals with gender dysphoria.' " (p. 39)

Plaintiff Argument #18: The presence of transgenders in deployable units would not detract from readiness, morale, or unit cohesion.

Reply: "Apart from readiness concerns, DoD determined that exempting individuals with gender dysphoria who need or have undergone gender transition—whether through hormones, surgery, or simply living and working in their preferred gender—from the military's longstanding sex-based standards **would inevitably undermine the critical objectives served by those rules, namely, 'good order, discipline, steady leadership, unit cohesion, and ultimately military effectiveness and lethality.'**

"As DoD observed, '[g]iven the unique nature of military service," servicemembers must often live in extremely close proximity to one another when sleeping, undressing, showering, and using the bathroom.' To protect reasonable expectations of privacy, the military has therefore 'long maintained separate berthing, bathroom, and shower facilities for men and women while in garrison,' including on deployments. **In DoD's judgment, allowing individuals who retain some, if not all, of the anatomy of their biological sex to use the facilities of their preferred gender 'would invade the expectations of privacy' of the other servicemembers sharing those facilities.**" (pp. 40-41)

Plaintiff Argument #19: Courts have rejected the use of Defendants' rationale to justify discrimination against transgender individuals in other settings; the military is no different.

Reply: "Aside from these privacy-related considerations, DoD also was concerned that exempting servicemembers from **sex-based standards in training and athletic competition on the basis of gender identity would generate perceptions of unfairness. Moreover, DoD was concerned that exempting servicemembers from uniform and grooming standards on the basis of gender identity would create additional friction in the ranks.** For example, allowing someone with male physiology but a female gender identity 'to adhere to female uniform and grooming standards' could frustrate male servicemembers who are not transgender but who 'would also like to be exempted from male uniform and grooming standards as a means of expressing their own sense of identity.' **Combined with the significant limits on deployability, DoD determined that the Carter policy's departure from military**

uniformity poses 'a direct threat to unit cohesion and will inevitably result in greater leadership challenges without clear solutions.'

"[Furthermore,] Plaintiffs nevertheless diminish the unique concerns of our nation's armed forces by comparing the military to 'schools, workplaces, [and] public accommodations[.]' **Plaintiffs' argument misunderstands the nature of the military, where sex-based standards are necessary to maintain an integrated force and are integral to daily life, applying to, among others things, physical fitness and height and weight standards; berthing, showering, and restroom facilities; and contact sports and combat training.** Comparisons to experience in civilian life or to case law from the civilian context are inapposite." (pp. 40-41)

Plaintiff Argument #20: To the extent there is anything unique about the military, that argument is belied by the military's successful implementation of extensive guidance and training since the adoption of the open service policy."

Reply: "But DoD is not obligated to adhere to one policy approach that it now judges to be inadequate. Indeed, the guidance Plaintiffs are referring to itself acknowledged the unique military challenges associated with a departure from sex-based standards for a subset of servicemembers. The prior administration's **implementation handbook** for the Carter policy repeatedly stressed the need to respect the 'privacy interests' and 'rights of Service members who are not comfortable sharing berthing, bathroom, and shower facilities with a transitioning Service member,' and urged commanders to try to accommodate competing interests to the extent that they could.

"The RAND report also acknowledged these challenges, particularly as they apply to austere and deployed environments. As RAND observed, '[t]here do appear to be some limitations on the assignment of transgender personnel, particularly in combat units. Because of the austere living conditions in these types of units, necessary accommodations may not be available for Service members in the midst of a gender transition. As a result, transitioning individuals are typically not assigned to combat units.' **Nothing forecloses DoD from reaching a different policy judgment for dealing with these undisputed concerns than that taken by the Carter policy**.

". . . Given that '[l]eaders at all levels already face immense challenges in building cohesive military units', DoD reasonably concluded that it would be unwise to maintain a policy that 'will only exacerbate those challenges and divert valuable time and energy from military tasks,' **Plaintiffs have provided no reason why that military judgment regarding matters of discipline should be cast aside.**" (pp. 42-43)

Plaintiff Argument #21: Concerns about costs associated with accommodating transgender personnel have been exaggerated and are not a problem.

Reply: "But Plaintiffs first ignore the fact that since the Carter policy's implementation, the **medical costs for servicemembers with gender dysphoria 'have increased nearly three times' compared to servicemembers without this condition.** And that is 'despite the low number of costly sex reassignment surgeries that have been performed so far' -- non-genital procedures and one genital surgery—which likely would only increase as more servicemembers avail themselves of these measures. **Notably, 77 percent of the 424 treatment plans available for study 'include requests for transition-related surgery' of some kind.**

"Several commanders also reported that providing servicemembers in their units with transition-related treatment 'had a negative budgetary impact' due to the use of 'operations and maintenance funds to pay for … extensive travel throughout the United States to obtain specialized medical care.' This is not surprising given that transition-related treatments 'require frequent evaluations' by both a mental-health professional and an endocrinologist, and most military treatment facilities 'lack one or both of these specialty services.' **Transitioning servicemembers consequently 'may have significant commutes to reach their required specialty care,' with those 'stationed in more remote locations fac[ing] even greater challenges.'** "(pp. 43-44)

". . . Given the military's interest in maximizing efficiency through minimizing costs, and the fact that **the prior administration dramatically underestimated the number of servicemembers who would seek transition-related health care services, it was certainly reasonable for DoD to now come to a different conclusion."** (p. 44)

"The RAND report estimated that between 29 and 129 active duty servicemembers would seek transition-related health care annually. (RAND Report xi.) **In reality, 937 servicemembers had been diagnosed with gender dysphoria in the approximately eighteen months between June 30, 2016 and when the panel of experts conducted its review—nearly five times the upper bound of RAND's estimate."** (footnote #17, p. 44)

Plaintiff Argument #22: The new DoD policy is arbitrary and has no reasonable relationship to any legitimate governmental objectives.

Reply: "As discussed in detail above, that plainly is not so. The new policy is rationally related to the military's legitimate objectives in promoting military readiness; ensuring order, discipline, leadership, and unit cohesion; and in reducing military costs. Nor does the new DoD policy infringe on what Plaintiffs term their 'fundamental right to live in accord with a basic component of their identity.' **As a general matter, there is no constitutional right to serve in the military, nor to receive tax-payer funded sex-reassignment surgery or cross-sex hormone therapy."** (p. 45)

CONCLUSION

"For the foregoing reasons and for the reasons set forth in Defendants' motion, the Court should grant Defendants' motion, deny Plaintiffs' cross-motion for summary judgment, and dismiss Plaintiffs' Second Amended Complaint, or, in the alternative, grant summary judgment for Defendants." (p. 45)

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On June 6, 2018, Acting Assistant Attorney General **Chad A. Readler** filed the 49-page brief excerpted above in one of the four cases that LGBT activist groups filed against President Trump, ***Jane Doe v. Donald J. Trump***, Civil Action No. 17-cv-1597 (CKK), pending before **Judge Colleen Kollar-Kotelly** in Washington, D.C. Numbered **Document #138**, the DoJ brief is titled: "DEFENDANTS' REPLY IN SUPPORT OF THEIR MOTION TO DISMISS PLAINTIFFS' SECOND AMENDED COMPLAINT, OR, IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT, AND OPPOSITION TO PLAINTIFFS' CROSSMOTION FOR SUMMARY JUDGMENT." The government brief can be downloaded here:

https://cmrlink.org/data/sites/85/CMRDocuments/DoeVTrumpCivilActionNo17-cv-1597.pdf

The **Center for Military Readiness**, which prepared this CMR Policy Analysis of publicly-available documents, is an independent, non-partisan public policy organization that reports on and analyses military/social issues.

CMR's Policy Analysis and Special Report analyzing the Mattis/DoD transgender policy can be downloaded here: https://cmrlink.org/issues/full/trump-transgender-policy-promotes-military-readiness-not-political-correctness More background information is available at www.cmrlink.org.