

No. 25-5087

IN THE UNITED STATES COURT OF APPEALS
FOR THE D.C. CIRCUIT

NICOLAS TALBOTT, ET AL., *Plaintiffs-Appellees*,

v.

UNITED STATES OF AMERICA, ET AL., *Defendants-Appellants*.

On Appeal from the United States District Court
for the District of Columbia
No. 1:25-cv-240-ACR
Hon. Ana C. Reyes

**BRIEF OF THE JAPANESE AMERICAN CITIZENS LEAGUE,
THE FRED T. KOREMATSU CENTER FOR LAW AND
EQUALITY, AND ADDITIONAL RACE CENTERS AS AMICI
CURIAE IN SUPPORT OF PLAINTIFFS-APPELLEES AND FOR
AFFIRMANCE**

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CERTIFICATE AS TO PARTIES, RULINGS, AND RELATED CASES

Pursuant to D.C. Circuit Rule 28(a)(1), the undersigned counsel certifies as follows:

A. Parties and Amici

Except for the following, all parties, intervenors, and amici appearing before the district court and in this Court are listed in the Brief for Appellants. The states of California, Colorado, Connecticut, Delaware, Hawai'i, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New York, North Carolina, Oregon, Rhode Island, and Wisconsin appeared as amici curiae in the district court.

Lt. Gen. Michael T. Flynn (USA-Ret.), America's Future, Citizens United, Public Advocate of the United States, Public Advocate Foundation, U.S. Constitutional Rights Legal Defense Fund, and Conservative Legal Defense and Education Fund appeared as amici curiae supporting Appellants in this Court.

B. Rulings Under Review

References to the rulings at issue appear in the Brief for

Appellants.

C. Related Cases

The case on review was not previously before this Court or any other court. There are no related cases currently pending in this Court. *Shilling v. Trump*, No. 25-2039 (9th Cir.), involves similar parties and issues.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rules of Appellate Procedure 26.1 and 29(a)(4)(A), amici curiae state that no amicus has a parent corporation and that no publicly held corporation owns 10% or more of the stock of any amicus.

TABLE OF CONTENTS

	Page
CERTIFICATE AS TO PARTIES, RULINGS AND RELATED CASES	
CORPORATE DISCLOSURE STATEMENT	
TABLE OF CONTENTS	i
TABLE OF AUTHORITIES	ii
INTEREST OF AMICI CURIAE	1
INTRODUCTION AND SUMMARY OF ARGUMENT	3
ARGUMENT	5
I. What the Nation Loses When It Excludes People Based on Race, Sex, Gender Identity, and Sexual Orientation from Serving in Our Nation’s Armed Forces.....	5
A. Exclusion of Black Americans	5
B. Exclusion of Japanese Americans During WWII	9
C. Exclusion of Women	12
D. Exclusion of LGBTQ+ Individuals	15
II. What Individuals from Excluded Groups Lose When Barred from Military Service.....	21
A. Pathways to Equality and Belonging.....	21
B. Pathways to Opportunities in Politics	24
C. Pathways to Private Sector Leadership Opportunities	26
D. Pathways to Individual, Family, and Generational Upward Economic Mobility	28
III. Harms Unique to the LGBTQ+ Community.....	33
A. The Trauma of Forced Secrecy under DADT for LGB Servicemembers	34
B. The Trauma of Erasure for Transgender and Nonbinary Servicemembers	36
CONCLUSION.....	37
CERTIFICATE OF COMPLIANCE	
CERTIFICATE OF SERVICE	

TABLE OF AUTHORITIES

CASES

<i>Beller v. Middendorf</i> , 632 F.2d 788 (9th Cir. 1980)	15
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INTEREST OF AMICI CURIAE¹

The Japanese American Citizens League (JACL), founded in 1929, is a national organization whose mission is to secure and safeguard the civil and human rights of all Americans. The unique historical experience of Japanese Americans during World War II obligates the Japanese American community to address civil and human rights abuses. The JACL strives to promote a world that honors diversity by respecting values of fairness, equality, and social justice.

The Fred T. Korematsu Center for Law and Equality (Korematsu Center) is a non-profit organization based at the University of California, Irvine School of Law. Inspired by the legacy of Fred Korematsu, who defied military orders during World War II that ultimately led to the unlawful incarceration of over 120,000 Japanese Americans, the Korematsu Center works to advance justice. The Korematsu Center does not, in this brief or otherwise, represent the official views of the University of California, Irvine School of Law.

¹ The parties have consented to the filing of this brief. No counsel for a party authored any part of the brief. No person other than amici or their counsel paid for the preparation or submission of the brief.

The Center for Civil Rights and Critical Justice (CCRCJ) is based at Seattle University School of Law and works to achieve a legal system where racism, oppression, and marginalization no longer contribute to inequality. The CCRCJ has a special interest in ensuring that participation in civil life, including military service, is not limited based on sex, gender, or gender identity. The CCRCJ does not, in this brief or otherwise, represent the official views of Seattle University.

The Center for Racial and Economic Justice (CREJ) is based at the University of California College of the Law, San Francisco (UC Law SF). The mission of CREJ is to advance equity and justice for marginalized groups through education, research, and academic-community partnerships. CREJ does not, in this brief or otherwise, represent the official institutional views of UC Law SF.

The Center on Law, Race & Policy at Duke University School of Law (CLRP) is a nonpartisan, nonprofit university-based center that supports research, public engagement, teaching, and programs related to race, law, policy, and people. CLRP has an ongoing commitment to fostering racial equity by promoting material change in law and public policy. CLRP does not, in this brief or otherwise, represent the official

views of Duke University or Duke University School of Law.

The Center on Race, Inequality, and the Law (CRIL), based at New York University School of Law, envisions a world where everyone can thrive, regardless of race, class, or any dimension of identity. Exclusion of any group from public service risks undermining the hard-won advances made against racial discrimination and sets a dangerous precedent for continued injustice. CRIL does not, in this brief or otherwise, represent the views of New York University School of Law or New York University.

Amici are keenly aware of what our nation loses when individuals are dismissed or excluded from military service because of their race. Amici also know what is denied to individuals when they are not permitted to serve because of their race, not just the denial of full membership in the nation but also the panoply of opportunities foreclosed.

INTRODUCTION AND SUMMARY OF ARGUMENT

The military has a history of excluding groups based on stereotype-driven presumptions about race, national origin, sex, and sexual orientation dating back to the Revolutionary War. From banning

Black Americans and Japanese Americans from enlisting, to excluding women from combat roles as recently as 2013, to prohibiting LGB servicemembers from serving openly, history demonstrates that these exclusionary policies have never benefited the nation, the excluded communities, or the individuals directly affected. And all of these groups, when permitted to serve, proved invaluable to the nation's war efforts.

When individuals are denied the ability to participate in the armed forces, or are excluded from certain roles within the military, they are barred from a central civic institution that confers status, community, leadership, and the dignity of equal citizenship. Exclusion strips intangible but consequential benefits and forecloses practical pathways to lifetime opportunity and generational social mobility.

Amici urge the Court to view the current ban on transgender military service within the larger historical context of military exclusion based on stereotypes and the associated harms to the nation and its citizens. Before turning to what individuals lose and harms unique to the LGBTQ+ community, amici highlight what the nation loses when it excludes persons from service based on their identity.

ARGUMENT

I. What the Nation Loses When It Excludes People Based on Race, Sex, Gender Identity, and Sexual Orientation from Service.

A. Exclusion of Black Americans.

Though periodically and inconsistently banned from military service, Black Americans served in every U.S. conflict, including the one that led to our nation's founding. George Washington in 1775 initially banned Black Americans from enlisting in the Continental Army;² however, the “desperate need to fill Continental regiments”³ led him to reverse course.⁴ Many states eventually recruited both free Black soldiers and enslaved individuals.⁵ By the end of the Revolutionary War, between

² Phillip S. Greenwalt, *George Washington's Integrated Army: The American Armies of the Revolution* (last updated July 31, 2024), <https://www.battlefields.org/learn/articles/george-washingtons-integrated-army>.

³ Am. Battlefield Tr., *10 Facts: Black Patriots in the American Revolution* (last updated June 14, 2024), <https://www.battlefields.org/learn/articles/10-facts-black-patriots-american-revolution>.

⁴ Greenwalt, *supra* note 2.

⁵ Edward Ayres, *African Americans and the American Revolution*, <https://www.jyfmuseums.org/learn/research-and-collections/essays/african-americans-and-the-american-revolution> (last visited Nov. 6, 2025).

5,000 to 8,000 Black Americans had served the American cause.⁶

Despite Black servicemembers' critical role during the American Revolution, the Second Militia Act of 1792 again banned Black Americans from service.⁷ And although Black soldiers initially fought during the War of 1812, racial animus and concerns about slave rebellions again lead to bans.⁸

When the Civil War broke out, Black Americans were not permitted to serve, though some Union generals defied official policy. The Lincoln administration and Congress only relented after abolitionists' substantial lobbying efforts and the loss of almost 40% of Union forces due to death, injuries, and illness. Even then, Black servicemembers were largely shuffled into "menial tasks, auxiliary roles, and support positions."⁹ By the war's end, approximately 199,000 Black Americans

⁶ *Id.*

⁷ Second Militia Act of 1792 § 1, 1 Stat. 271 (1792) (limiting service to "every free able-bodied white male citizen").

⁸ Jacob M. Henry, *United States Colored Troops in the American Civil War*, Nat'l Museum U.S. Army, <https://www.thenmusa.org/articles/united-states-colored-troops-in-the-american-civil-war/> (last visited Nov. 6, 2025).

⁹ *Id.*

had served in the Union Army or the Navy,¹⁰ and roughly one-third of enlisted Black Americans lost their lives.¹¹ But military leaders finally recognized how critical these soldiers were to military success. For example, after Black soldiers forced the retreat of a Confederate unit in Honey Springs, Oklahoma, General James Blunt observed that Black Americans “make better soldiers in every respect than any troops I have ever had under my command.”¹² Abraham Lincoln ultimately credited the inclusion of Black soldiers “as the tipping point in the war.”¹³

During WWII, the military again restricted Black Americans to labor-intensive service positions based on the perception they were

¹⁰ James A. Percoco, *The United States Colored Troops* (last updated Feb. 4, 2025), <https://www.battlefields.org/learn/articles/united-states-colored-troops>.

¹¹ *African-American Soldiers During the Civil War*, Libr. Cong., <https://www.loc.gov/classroom-materials/united-states-history-primary-source-timeline/civil-war-and-reconstruction-1861-1877/african-american-soldiers-during-the-civil-war/> (last visited Nov. 6, 2025).

¹² *African American Civil War Memorial Stories*, Nat’l Park Serv., <https://www.nps.gov/afam/learn/historyculture/stories.htm> (last visited Nov. 7, 2025).

¹³ Percoco, *supra* note 10.

“unmoral and untruthful” and “unsuited to serve as officers.”¹⁴ Nevertheless, Black soldiers proved invaluable. Stories of their heroism demonstrate the steep price the country would have paid by excluding them from service. For example, Dorie Miller, a Black servicemember with no combat training, saved his injured commanding officer at Pearl Harbor and operated a machine gun to defend the base, ultimately receiving a Navy Cross for bravery. And approximately 2,500 Black soldiers fought with distinction at the Battle of the Bulge.¹⁵ Over 695,000 Black soldiers had served by the war’s end; their distinguished contributions lead President Truman to desegregate the military in 1948.¹⁶

In sum, even the briefest survey of the shifting policies regarding whether—and in what capacity—Black Americans may serve demonstrates the profound value Black servicemembers have added and the deep losses that resulted from their exclusion. This is evident in

¹⁴ *Race and the Army During World War II*, PBS, <https://www.pbs.org/wgbh/americanexperience/features/alaska-WWII/> (last visited Nov. 7, 2025).

¹⁵ *Id.*

¹⁶ Douglas W. Bristol, Jr., *Two Worlds: African American Servicemembers, WWII and Today*, 50 *PARAMETERS* 45, 46 (2020).

countless stories of individual or unit-level heroism and in the number of Black Americans willing to serve. Black Americans have “much higher rates of service to the nation.”¹⁷ As of 2022, there were over 2.4 million Black veterans and over 350,000 Black servicemembers in active duty, guard, or reserve positions.¹⁸

B. Exclusion of Japanese Americans During WWII.

After the bombing of Pearl Harbor on December 7, 1941, animus towards Japanese Americans swept through the U.S. military. Many Japanese Americans servicemembers were discharged while others were relieved of their weapons and ordered to perform menial tasks.¹⁹ The draft system reclassified Japanese Americans as “4C,” a classification of “alien” ineligible for service.²⁰

¹⁷ Richard V. Reeves & Sarah Nzau, *Black Americans Are Much More Likely to Serve the Nation, In Military and Civilian Roles*, Brookings Inst. (Aug. 27, 2020), <https://www.brookings.edu/articles/black-americans-are-much-more-likely-to-serve-the-nation-in-military-and-civilian-roles/>.

¹⁸ Inst. for Vet. & Military Families Syracuse U., *Missing Perspectives: Black & African Americans in the Military—From Service to Civilian Life* (2022), <https://surface.syr.edu/ivmf/434>.

¹⁹ Shirley Castelnovo, SOLDIERS OF CONSCIENCE: JAPANESE AMERICAN MILITARY RESISTERS IN WORLD WAR II 11 (2008).

²⁰ *Distrust and Prejudice Towards AJAs As the Nation Goes to War*, Nisei Vet. Legacy, <https://www.nvlchawaii.org/distrust-and-prejudice-toward-ajas-nation-goes-war> (last visited Nov. 10, 2025).

Out of fear the large Japanese population in Hawaii would attack, Japanese Americans were removed from the Hawaii Territorial Guard and shipped to the mainland, where they were designated the 100th Infantry Battalion (100th).²¹ Citing “universal distrust” in Japanese Americans, the Board of Military Utilization of U.S. Citizens of Japanese Ancestry counseled against forming an all-Japanese American unit.²² But, in part due to the 100th’s outstanding training performance, President Roosevelt formed the 442nd Regimental Combat Team (442nd), an all-Japanese American unit.²³

The 100th and the 442nd are among the highest-decorated units in history. The 442nd earned 9,486 Purple Hearts, 21 Medals of Honor and eight Presidential Unit Citations among its nearly 14,000 soldiers.²⁴ The

²¹ Franklin Odo, *100th Infantry Battalion*, Densho Encyclopedia (last updated June 18, 2024), https://encyclopedia.densho.org/100th_Infantry_Battalion.

²² Masayo Umezawa Duus, *UNLIKELY LIBERATORS: THE MEN OF THE 100TH AND 442ND* 56 (1987).

²³ *Timeline*, 100th Infantry Battalion Vet. Educ. Ctr., <https://www.100thbattalion.org/learn/timeline/> (last visited Nov. 10, 2025).

²⁴ *Key Military Unit: The 442nd Regimental Combat Team*, U.S. Army Pub. Affs. (Mar. 15, 2025), https://www.army.mil/article/283793/key_military_unit_the_442nd_regimental_combat_team.

3,147 soldiers who served in the 100th earned 1,703 Purple Hearts, 4,340 individual medals and awards, and three Presidential Unit Citations.²⁵ Approximately 33,000 Japanese Americans served during WWII, their service and contributions recognized as invaluable to the nation's war efforts.²⁶

The record of both units is replete with acts of individual heroism. Private First Class Sadao Munemori of the 100th destroyed a German machine gun emplacement and threw himself on a live grenade, saving his comrades at the cost of his life. He was the only Japanese American to receive the Medal of Honor during the war. Even after a grenade shattered his right arm, Captain Daniel Inouye of the 442nd refused medical evacuation to continue directing his platoon.²⁷

These invaluable acts of service would never have taken place had

²⁵ *Battalion and Individual Honors*, 100th Infantry Battalion Vet. Educ. Ctr., <https://www.100thbattalion.org/history/battalion-history/battalion-and-individual-honors> (last visited Nov. 10, 2025).

²⁶ *Japanese Americans in World War II*, Fla. Atl. U. Libr., <https://libguides.fau.edu/united-states-ww2/japanese-americans> (last visited Nov. 10, 2025); *442nd Regimental Combat Team Legacy Website*, <http://www.the442.org/> (last visited Nov. 10, 2025).

²⁷ “Go For Broke:” *Stories from the 442nd Regimental Combat Team*, Nat’l Vet. Mem’l & Museum (May 9, 2022), <https://nationalvmm.org/go-for-broke>.

the military permanently excluded Japanese Americans. The actions of these units paint a clear picture of the bravery and skill the military loses through the baseless exclusion of a group based on fear and animosity.

C. Exclusion of Women.

For over two centuries, women of all racial and ethnic backgrounds have served their country through military service. From fighting in the American Revolution and Civil War disguised as men, to serving as Yeomen (F) in World War I and WACs, WAVES, and WASPs in World War II, women have played a vital role in our nation's armed forces. After Congress granted regular status to women in 1948²⁸ and opened the service academies in 1976,²⁹ successive reforms integrated women into every domain, culminating in the 2013 repeal of the ban on women in combat and the 2015 decision to open all military occupations to women.³⁰

Within ten years, women swiftly achieved an array of historic firsts

²⁸ Women's Armed Services Integration Act of 1948, Pub. L. No. 80-625, 62 Stat. 356 (1948).

²⁹ Department of Defense Appropriation Authorization Act of 1976, Pub. L. No. 94-106, 89 Stat. 531 (1975).

³⁰ Secretary of Def. Ash Carter, Remarks on the Women-in-Service Review at the Pentagon Press Briefing Room (Dec. 3, 2015) (transcript available at the U.S. Dep't of Defense).

in the military—the first female graduates of the Army Ranger School, the first female Marine to lead an infantry platoon—and thousands of women served in combat roles, including senior command.³¹ Approximately one in six active-duty servicemembers are women,³² and women represent the fastest growing cohort of veterans.³³

But the government has recently suggested a return to exclusionary efforts,³⁴ announcing directives to ensure every combat position “returns to the highest male standard.” According to the Secretary of War, “If that means no women qualify for some combat jobs, so be it.”³⁵

³¹ Leon Panetta & Shelly Stoneman, *It’s Been 10 Years Since Women Were Allowed to Serve in Combat. There’s a Lot Left to Accomplish*, The Hill (Jan. 28, 2023), <https://thehill.com/opinion/national-security/3834021-its-been-10-years-since-women-were-allowed-to-serve-in-combat-theres-a-lot-left-to-accomplish>.

³² Military OneSource, *2023 Demographics Dashboard*, <https://demographics.militaryonesource.mil/chapter-2-gender/> (last visited Oct. 29, 2025).

³³ See Dep’t of Vet. Affs., *Women Veterans Report: The Past, Present and Future of Women Veterans* 10 (2017), available at <https://www.dol.gov/agencies/vets/womenveterans/wvrr15>.

³⁴ Sonner Kehrt, *Women Have Served in Combat Roles for a Decade. The Pentagon Is Reopening the Debate*, The 19th (April 28, 2025), <https://19thnews.org/2025/04/women-combat-roles-military-debate>.

³⁵ Ellen Mitchell, *Hegseth Reignites Battle over Women’s Role in Military*, The Hill, (October 2, 2025), <https://thehill.com/policy/defense/5534095-hegeth-women-combat->

Restricting women from combat would lead to disastrous and enduring setbacks for the progress of women in the military. It also poses an immediate threat to the efficacy of the U.S. military by requiring resources to transition and retrain thousands of skilled female servicemembers out of combat roles and find men to fill those now-vacant roles.³⁶

The potential loss recalls World War II, when over a thousand female pilots were allowed to fly due to necessity, but were banned from flight after the war. It was not until 1974 that the Army and Navy finally opened pilot jobs to women. When considering that history in today's context, Colonel Samantha Weeks, the first female solo pilot on the Air Force's Thunderbirds demonstration flight team, posited that the country may well have lost out on "innovations and ingenuity or different perspectives" simply because "this group of capable aviators was no longer allowed" to fly. Colonel Weeks stated, "Does our nation have the

standards.

³⁶ Steve Beynon et al, *Thousands of Women Serve in Combat Roles. Pentagon Nominee Hegseth Says They Shouldn't*, Military.com (Nov. 18, 2024), <https://www.military.com/daily-news/2024/11/18/thousands-of-women-serve-combat-roles-pentagon-nominee-hegseth-says-they-shouldnt.html>.

ability to pause, stop, restart, and then pick back up? ... I would say the answer is no.”³⁷

D. Exclusion of LGBTQ+ Individuals.

From the Revolutionary War to today, LGBTQ+ Americans have faithfully served in the Armed Forces, even as they faced cycles of formal exclusion and stigmatization.³⁸ Before 1993, gay and lesbian Americans were categorically barred.³⁹ “Don’t Ask, Don’t Tell” (DADT)⁴⁰ then permitted closeted service, forcing LGB servicemembers to conceal who they were or face discharge, until its repeal in 2011,⁴¹ which was implemented successfully and without the predicted harms.⁴² In 2016,

³⁷ Kehrt, *supra* note 34.

³⁸ See Christopher Wiggins, *Trans service members have always been part of U.S. history*, Advocate (Nov. 3, 2025), <https://www.advocate.com/history/history-of-trans-military-members>.

³⁹ See, e.g., U.S. Gen. Accounting Office, GAO/NSIAD-92-98: *Defense Force Management: DOD Policy on Homosexuals* 2 (Jun. 12, 1992) (documenting that “homosexuality is incompatible with military service”); *Beller v. Middendorf*, 632 F.2d 788 (9th Cir. 1980) (upholding Navy discharge based on homosexual conduct under then-existing categorical policies).

⁴⁰ 10 U.S.C. § 654 (2006) (repealed 2010).

⁴¹ Don’t Ask, Don’t Tell Repeal Act of 2010, Pub. L. No. 111-321, 124 Stat. 3515 (effective Sept. 20, 2011).

⁴² Aaron Belkin et al., *One Year Out: An Assessment of DADT Repeal’s Impact on Military Readiness* (2012), <https://palmcenterlegacy.org/wp->

the Department of Defense opened service to transgender Americans.⁴³ Two years later, the Trump Administration imposed restrictions that largely disqualified transgender individuals.⁴⁴ In 2021, President Biden restored open service.⁴⁵

Now the ban is back. On January 27, 2025, President Trump signed Executive Order 14183, which excludes transgender people from enlisting and requires transgender servicemembers to separate because “expressing a false ‘gender identity’ divergent from an individual’s sex cannot satisfy the rigorous standards necessary for military service.”⁴⁶

[content/uploads/2017/12/One-Year-Out_0.pdf](#).

⁴³ Directive-type Memorandum (DMT) 16-005, Military Service of Transgender Service Members (Jun. 30, 2016), <https://permanent.fdlp.gov/gpo158578/794019.pdf>.

⁴⁴ Directive-type Memorandum (DMT) 19-004, Military Service by Transgender Persons and Persons with Gender Dysphoria (Mar. 12, 2019), <https://www.washingtonblade.com/content/files/2019/03/DTM-DRAFT-151-MILITARY-SERVICE-BY-TRANSGENDER-PERSONS-AND-PERSONS-WITH-GENDER-DYSPHORIA-OSD002299-19-RES-Final.pdf>.

⁴⁵ Exec. Order No. 14004, 86 Fed. Reg. 7471 (Jan. 25, 2021).

⁴⁶ Exec. Order No. 14183, 90 Fed. Reg. 8757 (Jan. 27, 2025); C. Todd Lopez, *DOD Issues Implementation Guidance on Separation of Service Members With Gender Dysphoria*, U.S. Dep’t of War (May 16, 2025), <https://www.war.gov/News/News-Stories/Article/Article/4188279/dod-issues-implementation-guidance-on-separation-of-service-members-with-gender>.

This re-exclusion threatens readiness, morale, and national security.

The high stakes of exclusion are underscored by the scale of LGBTQ+ service: tens of thousands of LGB personnel serve across all military domains,⁴⁷ and over one million veterans identify as LGBTQ+.⁴⁸ As of 2018, transgender personnel numbered an estimated 14,700.⁴⁹ Overall, LGBTQ+ servicemembers represent about 2.2% of the force.⁵⁰

LGBTQ+ servicemembers have proven their valor and contributions time and again. Former Navy SEAL Kristin Beck deployed thirteen times to Bosnia, Afghanistan, and Iraq, earning a Bronze Star and a Purple Heart; she came out as a transgender woman after retiring

⁴⁷ Agnes Gereben Schaefer et al., *Assessing the Implications of Allowing Transgender Personnel to Serve Openly*, Rand Corp. 11-17 (2016), available at https://www.rand.org/pubs/research_reports/RR1530.html; Gary J. Gates, *Lesbian, Gay, and Bisexual Men and Women in the U.S. Military: Updated Estimates*, Williams Inst. (2010), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGB-US-Military-May-2010.pdf>.

⁴⁸ Schaefer et al., *supra* note 47; Gary J. Gates & Jody L. Herman, *Transgender Military Service in the United States*, Williams Inst. (2014), <https://williamsinstitute.law.ucla.edu/publications/trans-military-service-us/>.

⁴⁹ Aaron Belkin & Diane H. Mazur, *Department of Defense Issues First-Ever Official Count of Active Duty Transgender Service Members*, Palm Center (2018), <https://palmcenterlegacy.org/wp-content/uploads/2019/06/14700-Transgender-Troops-.pdf>.

⁵⁰ Schaefer et al., *supra* note 47; Gates & Herman, *supra* note 48.

in 2011.⁵¹ Today's openly transgender servicemembers continue that tradition. Colonel Bree Fram's work in the Space Force and Air Force helped implement life-saving battlefield technologies.⁵² Commander Emily Shilling is a decorated Navy aviator with over 60 combat missions and high-risk experience as a test pilot flying experimental aircraft.⁵³ In the words of Lindsey Muller, a decorated 19-year Army combat veteran who is transgender, "Once you meet transgender people who have served ... it's really hard to dismiss the fact that you will find Purple Heart recipients, Bronze Star winners, attack aviators, Navy SEALs"⁵⁴

No credible evidence shows that open LGBTQ+ service harms the

⁵¹ Chuck Hadad et al., *Former Navy SEAL comes out as transgender: 'I want some happiness,'* CNN (Jun. 7, 2013), <https://www.cnn.com/2013/06/07/us/transgender-veteran>.

⁵² Jo Yurcaba, *These trans service members are being forced out of the military due to Trump's ban*, NBC News (Jun. 19, 2025), <https://www.nbcnews.com/nbc-out/out-news/transgender-military-troops-forced-out-trump-ban-rcna212685>.

⁵³ Lisa Desjardins, *"I want to keep serving": Navy commander fights Trump's trans military ban*, PBS News Hour (Feb. 19, 2025), <https://www.pbs.org/newshour/show/i-want-to-keep-serving-navy-commander-fights-trumps-trans-military-ban>.

⁵⁴ Associated Press, *Decorated transgender troops to testify before Congress*, NBC News (Feb. 27, 2019), <https://www.nbcnews.com/feature/nbc-out/decorated-transgender-troops-testify-congress-n976651>.

military. Studies conducted after DADT's repeal found no negative impact on readiness, cohesion, or morale.⁵⁵ Open service by transgender personnel is likewise unharmful; in fact, a study has shown that the 2018 ban inflicted concrete harms on readiness.⁵⁶

The categorical ban will remove fully deployable personnel, severing trained talent, negatively affecting readiness, and wasting costly investments in recruitment and training. As transgender Naval officer Sam Rodriguez explained, “We’re not going to be one-for-one swapped tomorrow, and some people it will take two decades to replace.”⁵⁷

A categorical ban also chills enlistment among LGBTQ+ Americans

⁵⁵ Aaron Belkin et al., *One Year Out: An Assessment of DADT Repeal's Impact on Military Readiness*, Palm Center (2012), https://palmcenterlegacy.org/wp-content/uploads/2017/12/One-Year-Out_0.pdf; Nathan S. Lowrey, *Repealing Don't Ask, Don't Tell: A Historical Perspective From the Joint Chiefs of Staff*, Jt. Hist. & Res. Off. at 158 (2021), https://www.jcs.mil/Portals/36/Documents/History/Dec21/SHS_15_Repealing_DADT.pdf (Joint Chiefs of Staff review of DAT repeal concluded open service was a “nonissue”).

⁵⁶ Vice Admiral Donald C. Arthur et al., *DoD's Transgender Ban Has Harmed Military Readiness*, Palm Center (2020), <https://www.palmcenter.org/wp-content/uploads/DoDs-Transgender-Ban-Has-Harmed-Military-Readiness-copy-3.pdf>.

⁵⁷ Yurcaba, *supra* note 52.

and their allies. An intolerant military attracts fewer qualified recruits, especially among youth who constitute the largest recruitment pool and overwhelmingly favor diversity and inclusion.⁵⁸ Transgender people have historically had a high propensity to serve, enlisting at higher rates than the general population.⁵⁹ Retention likewise suffers: stigma and instability drive away trained, capable personnel. As one transgender serviceperson said, “The [2018] ban has cemented my decision to separate after my term of service is complete.”⁶⁰

Exclusion regimes force decisionmakers to discard qualified Americans who, but for their identity, would be considered fit to serve. The exclusion of LGBTQ+ individuals, as it has when other groups have been excluded, diminishes readiness, wastes talent, and betrays the values the military exists to protect. LGBTQ+ Americans, including transgender people, have shown that open service strengthens the Armed Forces. The categorical bar harms our nation.

⁵⁸ Arthur et al., *supra* note 56, at 6.

⁵⁹ S.E. James et al., *Report of the 2015 U.S. Transgender Survey*, Nat’l Center for Transgender Equality 166 (2016), <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>.

⁶⁰ Arthur et al., *supra* note 56, at 16.

II. What Individuals from Excluded Groups Lose When Barred from Military Service.

A. Pathways to Equality and Belonging.

Military service has long been viewed as offering a pathway to full inclusion and belonging in the national community.⁶¹ This pathway has been especially important for racial minorities. The sentiment that patriotism through service will confer equal rights on marginalized groups was expressed poignantly during the Civil War when Frederick Douglass urged Black Americans to enlist, saying: “He who fights the battles of America may claim America as his country and have that claim respected.”⁶²

Service holds the promise of creating a better and more equal society.⁶³ Military experience empowered and equipped Black veterans to

⁶¹ Cf. Lesley Bartlett & Catherine Lutz, *Disciplining Social Difference: Some Cultural Politics of Military Training in Public High Schools*, 30 URB. REV. 119, 131 (1998) (Junior Reserve Officers’ Training Corps curriculum says military service will provide “first-class citizenship” to minorities).

⁶² Frederick Douglass, *Why Should a Colored Man Enlist?*, DOUGLASS’ MONTHLY, April, 1863, *reprinted in* FREDERICK DOUGLASS, SELECTED SPEECHES AND WRITINGS 528, 530 (Philip S. Foner ed., Yuval Taylor abr. & adapted by, 1999).

⁶³ Reeves & Nzau, *supra* note 17.

advocate for equal rights upon their return from WWII, with many veterans becoming leaders in the civil rights movement.⁶⁴ One example is Women's Army Corps veteran Dovey Roundtree, who represented private Sarah Keys in the landmark desegregation case in interstate travel, *Keys v. North Carolina Coach Company*, 64 MCC 769 (1955).⁶⁵

Many Japanese Americans believed that “volunteering to fight for America was the only way to prove [their] loyalty and to win equality for the Japanese.” Private First Class Ted Teruo Fujioka, killed in action, wrote of his decision to enlist: “Whatever I do for my country will benefit not only the Nisei, but all the minorities of America.”⁶⁶ In 2018, Captain Marina Hierl became the first woman to lead a Marine infantry platoon, earning belonging and respect: “I wanted to do something important with my life. I wanted to be part of a group of people that would be willing to

⁶⁴ Christopher S. Parker, *When Politics Becomes Protest: Black Veterans and Political Activism in the Postwar South*, 71 J. POL. 113, 117 (2009).

⁶⁵ Jennifer Davis, *Dovey Johnson Roundtree, Civil Rights Lawyer*, Lib. Cong. Blogs (Feb. 9, 2022), <https://blogs.loc.gov/law/2022/02/dovey-johnson-roundtree-civil-rights-lawyer/>.

⁶⁶ *Ted Teruo Fujioka*, The Nisei Soldier: Congressional Gold Medal, <https://apa.si.edu/cgm/stories/ted-fujioka.html> (last visited Nov. 10, 2025).

die for each other.”⁶⁷

A categorical ban on service denies Americans the chance to be patriotic, to serve, and be recognized for sacrifice, severing opportunities to build an honorable identity and meaningful achievement that are not readily replicated elsewhere. Many veterans describe service as transformative. As former Senior Airman Andrea Borchlewicz (USAF) reflected on her Afghanistan deployment: “This deployment was life changing... Without the Air Force, I would not be where I am today.”⁶⁸

B. Pathways to Opportunities in Politics.

Military service is an acknowledged pipeline to leadership in public life. Command responsibilities, service academies, and line units cultivate judgment, resilience, and public credibility for such public service. Veteran status is a powerful political credential for those seeking to enter public service in many fields,⁶⁹ and veterans remain a significant

⁶⁷ Thomas Gibbons-Neff, *The Marines Didn't Think Women Belonged in the Infantry. She's Proving Them Wrong*, N.Y. Times (Aug. 9, 2018), <https://www.nytimes.com/2018/08/09/us/politics/marines-women-combat-platoon.html>.

⁶⁸ Andrea Borchlewicz, Veterans of Foreign Wars: Women Veterans, <https://www.vfw.org/advocacy/women-veterans/our-stories/andrea-borchlewicz> (last visited Oct. 29, 2025).

⁶⁹ See Drew DeSilver & Katherine Schaeffer, Around One-In-Five

cohort in elected office, comprising nearly 19% of the 119th Congress.⁷⁰

Many Japanese Americans launched public service careers after serving in World War II with the hope of spearheading change and fighting discrimination. 100th veteran Sakae Takahashi was the first Japanese American appointed to Hawaii's territorial government cabinet.⁷¹ 442nd veterans Spark Matsunaga and Daniel Inouye won seats in the Hawaiian legislature and were later elected to the U.S. Senate. Military Intelligence Service veteran George Ariyoshi became Hawaii's longest-serving governor and the first U.S. governor of Japanese ancestry.⁷²

Candidates for Congress or Governor This Year Are Veterans, Pew Research Center (Oct. 14, 2022), <https://www.pewresearch.org/short-reads/2022/10/14/around-one-in-five-candidates-for-congress-or-governor-this-year-are-veterans/>.

⁷⁰ See Leo Shane III, *Breaking Down the Number of Veterans in the 119th Congress*, MilitaryTimes (Jan. 2, 2025), <https://www.militarytimes.com/news/pentagon-congress/2025/01/02/breaking-down-the-number-of-veterans-in-the-119th-congress/>.

⁷¹ *AJA Political Advancements — Inouye, Matsunaga, Mink & Ariyoshi, Nisei Vet. Legacy*, <https://www.nvlchawaii.org/aja-political-advancements-inouye-matsunaga-mink-ariyoshi/> (last visited Nov. 10, 2025).

⁷² Kelli Y. Nakamura, *George Ariyoshi*, Densho Encyclopedia (last updated June 21, 2024), https://encyclopedia.densho.org/George_Ariyoshi/.

Senator Tammy Duckworth, a Thai American Army helicopter pilot whose legs were amputated serving in Iraq, translated military leadership into a sequence of public roles: state veterans' affairs director, Assistant Secretary of Veterans Affairs, U.S. Representative, and U.S. Senator.⁷³ Her career demonstrates how service can counter stereotypes about women's lack of "toughness" and confer credibility on defense and national security issues.⁷⁴

Wes Moore, an Afghanistan Army veteran, is Maryland's first Black governor.⁷⁵ He enlisted after being inspired by former Secretary of State and four-star Army general Colin Powell.⁷⁶ Closing the door on military service for any group denies this leadership pipeline and the civic benefits

⁷³ Erika Cornelius Smith, *SERVICE ABOVE SELF: WOMEN VETERANS IN AMERICAN POLITICS* 66 (2022).

⁷⁴ Jennifer Haberkorn, *More Female War Vets Take the Fight to Politics*, Los Angeles Times (2018), https://enewspaper.latimes.com/infinity/article_share.aspx?guid=5b34be5f-72fa-4b28-aff2-ed5b24ce41a1.

⁷⁵ *Governor Wes Moore*, The Office of Governor Wes Moore, <https://governor.maryland.gov/leadership/pages/governor.aspx> (last visited Nov. 10, 2025).

⁷⁶ Cheyanne M. Daniels, *Black Veterans Sound the Alarm Over Military DEI Purge*, The Hill (Apr. 5, 2025), <https://thehill.com/policy/defense/5233381-black-veterans-pentagon-dei-purge/>.

that flow from it.

C. Pathways to Private Sector Leadership Opportunities.

Veterans can capitalize on military-acquired skills, such as leadership under pressure, mission planning, logistics, technology, and security clearances, to succeed in the private sector. Retired Lieutenant General Mary Legere, a former Army senior intelligence officer, serves as Managing Director for National Security at Accenture Federal Services, bringing operational intelligence expertise to complex client missions.⁷⁷ Retired Lieutenant General Patricia Horoho, former Army Surgeon General, is CEO of Optum Serve, a multibillion-dollar federal health services enterprise.⁷⁸ These trajectories illustrate how service builds portable skills and reputational capital that open business leadership roles.

Women veterans have founded nonprofits that strengthen

⁷⁷ *Former U.S. Army General and Senior Intelligence Officer Mary A. Legere Joins Accenture Federal Services*, Accenture Newsroom (Apr. 27, 2017), <https://newsroom.accenture.com/news/2017/former-us-army-general-and-senior-intelligence-officer-mary-a-legere-joins-accenture-federal-services>.

⁷⁸ *Our Team: Patricia D. Horoho*, Gary Sinise Found., <https://www.garysinisefoundation.org/team/patricia-horoho> (last visited Nov. 10, 2025).

communities and fill gaps in care, advocacy, and public memory, providing concrete evidence of how service catalyzes lifetime public contribution. To name a few, Diane Carlson Evans (USA nurse, Vietnam) founded the Vietnam Women's Memorial Foundation and led the successful effort to honor women's wartime service on the National Mall;⁷⁹ Major Jas Boothe (USA) created Final Salute Inc. to provide housing and support for homeless women veterans and their children;⁸⁰ and Anu Bhagwati (USMC) co-founded Service Women's Action Network to advance policy reforms and legal advocacy for servicemembers and veterans.⁸¹ Foreclosing access to service would diminish this pipeline of nonprofit founders and leaders, weakening community supports, public understanding, and policy advocacy driven by lived military experience.

D. Pathways to Individual, Family, and Generational Upward Economic Mobility.

⁷⁹ See *Message From the Founder*, Vietnam Women's Memorial, <https://vietnamwomensmemorial.org/message-from-the-founder/> (last visited Nov. 10, 2025).

⁸⁰ See *Founder/President: Jaspen (Jas) Boothe*, Final Salute Inc., <https://www.finalsaluteinc.org/Founder.html> (last visited Nov. 10, 2025).

⁸¹ See *Anu Bhagwati*, Petra Leaders for Justice, <http://petrafoundation.org/fellows/anu-bhagwati/index.html> (last visited Nov. 10, 2025).

Service unlocks statutory benefits that shape lifetime professional opportunity and increase upward mobility.⁸² One example is the GI Bill of Rights, which offered education funds, low-cost mortgages, unemployment compensation, and low-interest business loans for WWII, Korea, and Vietnam War veterans.⁸³ Today, the Post-9/11 and Montgomery GI Bills expand access to education⁸⁴ and the veteran hiring preference opens federal careers.⁸⁵ Veterans from marginalized groups have used these benefits as pathways to professional careers. As a result, Black veterans have higher earnings, higher rates of homeownership, and greater educational attainment than Black nonveterans.⁸⁶ Through

⁸² See, e.g., Arturo Conde, *For Many Black Families, Military Service Is a Chance at Upward Mobility*, NBC News (Nov. 11, 2021), <https://www.nbcnews.com/news/nbcblk/many-black-families-military-service-chance-upward-mobility-rcna4865>.

⁸³ Servicemen's Readjustment Act of 1944, Pub. L. 78-346, 58 Stat. 284; Veterans' Readjustment Assistance Act of 1952, Pub. L. 82-550, 66 Stat. 663; Vietnam Era Veterans' Readjustment Assistance Act of 1974, Pub. L. No. 93-508, 88 Stat. 1593.

⁸⁴ 38 U.S.C. §§ 3311–3320; see also *Post-9/11 GI Bill*, U.S. Dep't of Vet. Affs., <https://www.va.gov/education/about-gi-bill-benefits/post-9-11/> (last visited Oct. 19, 2025); *Montgomery GI Bill Active Duty*, U.S. Dep't of Vet. Affs., <https://www.va.gov/education/about-gi-bill-benefits/montgomery-active-duty/> (last visited Oct. 19, 2025).

⁸⁵ 5 U.S.C. § 2108.

⁸⁶ *Income of Black Working-Age Veterans*, Cong. Budget Office (2024),

the GI Bill, Japanese American veterans became the first in their families to complete college and became businesspeople, doctors, lawyers, and teachers.⁸⁷

Many veterans have used military-provided opportunities and skills to attend law school and build legal careers. Former Navy helicopter pilot Representative Mikie Sherrill (USN (Ret.)) earned a Georgetown law degree, practiced at Kirkland & Ellis, served as an Assistant U.S. Attorney, ran successfully for Congress and the New Jersey governorship; her military background signaled leadership and public responsibility to voters.⁸⁸ Former Marine officer Judge Margaret A. Ryan earned a Notre Dame law degree, clerked at the Supreme Court, and served on the U.S. Court of Appeals for the Armed Forces, exemplifying the military-to-legal leadership pipeline.⁸⁹

<https://www.cbo.gov/publication/60245>; Robert Bartolotta, et al., *Black Veterans and Employment: A Literature Review* 10 (2023), available at <https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/CEO-BlackVeteransLitReview-20230807-508.pdf>.

⁸⁷ *Waging a Second Battle on the Home Front*, Nisei Vet. Legacy, <https://www.nvlchawaii.org/waging-a-second-battle-on-the-home-front/> (last visited Nov. 10, 2025).

⁸⁸ Smith, *supra* note 73, at 41–43.

⁸⁹ Margaret Ryan, Harvard Law School Faculty, <https://hls.harvard.edu/faculty/margaret-ryan/> (last visited Nov. 10,

In medicine, retired Lieutenant General Nadja Y. West, M.D., a West Point graduate and Army physician, rose to become the first Black Army Surgeon General.⁹⁰ At a time when it was a milestone for Japanese Americans to teach in high school, Second Lieutenant Susumu Ito became a professor at Harvard Medical School.⁹¹

Other veterans use their education to give back to the military and veteran communities. Black Air Force Veteran Dariell Cooper, who chose employment with the VA, says: “The Post-9/11 G.I. Bill played a pivotal role in my success today. I was able to break the education-less cycle in my family [M]y education has also opened a professional door that would not have been available to me without it.”⁹² Retired Lieutenant Colonel Shawna Rochelle Kimbrell, the first Black female fighter pilot of the U.S. Air Force, dedicated her career to training future officers at the

2025).

⁹⁰ *Lieutenant General Nadja West*, Army Women’s Found., <https://www.awfdn.org/trailblazers/lt-general-nadja-west/> (last visited Nov. 10, 2025).

⁹¹ *Susumu “Sus” Ito*, The Nisei Soldier: Congressional Gold Medal, <https://apa.si.edu/cgm/stories/susumu-ito.html> (last visited Nov. 10, 2025).

⁹² *G.I. Bill Success Story: Dariell Cooper’s Transition*, U.S. Dep’t of Vet. Affs., <https://news.va.gov/121238/g-i-bill-success-story-dariell-coopers-transition/> (last visited Nov. 3, 2025).

Air Force Academy.⁹³

The military invests heavily in developing leadership, crisis management, and strategic planning skills,⁹⁴ which are directly transferable to executive roles in corporate, non-profit, and governmental sectors. Army Staff Sergeant Trish King described her twelve years of leadership roles in the military as what permitted her to become an advocate for other transgender servicemembers: it was “a very natural extension of [her] leadership within the military to stand up and be the voice that [others] needed.”⁹⁵ That experience provided her with the expertise and ability to start a company where she lobbies Congress on

⁹³ Lois Elfman, *The Air Force's First Female African American Fighter Pilot Is Paving the Way For Women of Color*, The EduLedger (Sept. 4, 2020),

<https://www.theeduledger.com/demographics/women/article/15107684/the-air-forces-first-female-african-american-fighter-pilot-is-paving-the-way-for-women-of-color>.

⁹⁴ *Training System Overview*, U.S. Dep't Def. Army Cool https://www.cool.osd.mil/army/training_system_overview/index.html (last visited Oct. 30, 2025).

⁹⁵ Molly Sprayregen, *The First Out Trans Soldier in the U.S. Talks Coming Out, Speaking Up, and Launching Her Own Company*, Forbes (Feb. 28, 2020),

<https://www.forbes.com/sites/mollysprayregen/2020/02/28/the-first-out-trans-soldier-in-the-us-talks-coming-out-speaking-up-and-launching-her-own-company/>.

LGBTQ+ and veterans issues.

Military service opens concrete pathways for individuals from all walks of life, materially equipping them with skills, credentials, networks, and benefits that translate into lifetime opportunity and public contribution. Foreclosing their ability to serve would impose dignitary and material harms: stripping equal membership, shutting leadership pipelines, slowing upward economic mobility, and erasing educational and professional ladders. This would lead to a significant net loss for our nation and for these individuals.

III. Harms Unique to the LGBTQ+ Community.

As with members of other marginalized groups, LGBTQ+ individuals have long sought to affirm their loyalty and willingness to sacrifice for their country through military service,⁹⁶ only to be repeatedly met with institutionalized exclusion, trauma, and dismissal.⁹⁷ LGBTQ+

⁹⁶ *E.g.*, *Army Values*, U.S. Army, <https://www.army.mil/values> (describing service as the ultimate reflection of “loyalty, duty, respect, selfless service, honor, integrity, and personal courage”) (last visited Nov. 10, 2025).

⁹⁷ Vanessa Meade, *Patriotism as a Construct for Understanding Military Service Among LGBTQ+ Veterans: A Call for Research Grounded in Institutional Oppression*, 7 J. VET. STUD. 38, 39–40 (2021).

community members excluded from service suffer the same harms as other groups. However, LGBTQ+ servicemembers have faced additional harm grounded in discrimination based on sexual orientation or gender identity. LGB Americans serving during absolute bans or under DADT had to do so in secret, denying a key part of their identity to escape detection. And for transgender and nonbinary Americans, the effect of the bans has been government-sanctioned erasure of their identities.

A. The Trauma of Forced Secrecy under DADT for LGB Servicemembers.

Whether under absolute bans or DADT, military service for LGB Americans has required a profound act of self-denial, forcing servicemembers to live under constant threat of investigation, blackmail, and involuntary discharge—a reality that often led to psychological stress and the loss of hard-earned careers simply for being who they were.⁹⁸ One pre-DADT example is the story of Mary “Maria” E. Hanson-

⁹⁸ See Casey Parks, *A Decade after ‘Don’t Ask, Don’t Tell,’ LGBTQ Veterans Say They Still Feel the Effects*, Wash. Post (Sept. 23, 2021), <https://www.washingtonpost.com/dc-md-va/2021/09/23/dont-ask-dont-tell-lgbtq-vetarians/>; Jared Odessky, *LGBTQ+ Veterans Still Suffer Harms From “Don’t Ask, Don’t Tell” Ten Years After Repeal*, Impact Fund (Aug. 31, 2021), <https://www.impactfund.org/social-justice-blog/dadt-appeal>.

Bailey, Army Traffic Management Coordinator; the Criminal Investigation Division investigated her for being gay, and the Army separated her from service.⁹⁹ Despite receiving an honorable discharge, the trauma of serving in secret and subsequently losing a career of service never left her. She reflected,

We were hunted like animals. We lost our careers. We lost our dreams. We lived in the shadows... I can remember the tea dances on Sundays, when we [would] go to Frankfurt and dance... But then we had to walk back to the base and go back into hiding.¹⁰⁰

Upon her discharge, she was “completely lost and confused,” noting that “[e]verything I believed in had been tossed aside ... I realized I had lost everything I hold most dear.”¹⁰¹

And the harm continued under DADT. Stories of highly skilled personnel dismissed under DADT reveal that the policy was less about unit cohesion or a commitment to military values and more about state-

⁹⁹ *Gay Veterans Reflect On Their Service Experiences*, Wis. Vet. Museum (May 28, 2025), <https://wisvetsmuseum.com/gay-veterans-reflect-on-their-service-experiences/>.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

sanctioned discrimination. The repeal of DADT¹⁰² was a watershed moment that validated the sacrifices of those previously discharged and signaled that the government was finally beginning to recognize LGB servicemembers as citizens worthy of trust and full inclusion.

B. The Trauma of Erasure for Transgender and Nonbinary Servicemembers.

For transgender and nonbinary individuals, the uniform signifies not just a commitment to country, but also an unwavering personal dedication to fight for the mere right to exist in a system that often attempts to erase them. For example, Patricia “Trish” King was the first transgender infantry soldier to come out publicly in 2015 after fifteen years of serving in secrecy.¹⁰³ As she noted of her decision to come out, it was “almost all for the better,” allowing her to feel “more comfortable in [her] skin.”¹⁰⁴ On the ability to serve openly, she observed that she finally

¹⁰² Don’t Ask, Don’t Tell Repeal Act of 2010, Pub. L. No. 111-321, 124 Stat. 3515.

¹⁰³ Will Heilpern, *Meet the First Openly Transgender Infantryman in the U.S. Army*, Business Insider (June 27, 2016), <https://www.businessinsider.com/tricia-king-the-first-transgender-infantryman-in-the-us-army-2016-6>.

¹⁰⁴ *Id.*

“felt like this was who [she] was meant to be.”¹⁰⁵

While previous bans on lesbian and gay military service relied on a rationale that being LGB was *wrong*, the rationale behind the current iteration of the ban on transgender and nonbinary individuals is even more insidious and dehumanizing. The claim is that these individuals cannot be what they claim to be, because what they claim to be *does not exist*.¹⁰⁶ This government-sponsored denial of the existence of gender identities outside of two genders moves beyond expressing moral judgment of behavior into the insidious realm of total *erasure* of classes of people based on immutable characteristics.

CONCLUSION

History has shown what our nation loses when good soldiers are discarded. Amici urge the Court not to allow this to happen again.

¹⁰⁵ *Id.*

¹⁰⁶ *See* Exec. Order No. 14168, 90 Fed. Reg. 8615 (Jan. 20, 2025) (declaring that the U.S. would recognize only “two sexes, male and female,” and asserting that this classification was “grounded in fundamental and incontrovertible reality”); Exec. Order No. 14183, 90 Fed. Reg. 8757 (Jan. 27, 2025) (declaring any gender identity other than that assigned an individual at birth as “false”).

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CERTIFICATE OF COMPLIANCE

This amicus curiae brief complies with the word limit of Fed. R. App. P. 29(a)(5) because it contains 6,473 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f) and Circuit Rule 32(e)(1).

This amicus curiae brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared using Microsoft Word in Century Schoolbook 14-point font.

November 13, 2025

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CERTIFICATE OF SERVICE

I certify that on November 13, 2025, I electronically filed the foregoing document with the Clerk of Court for the United States Court of Appeals for the D.C. Circuit by using the appellate CM/ECF system.

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