

MILITARY LAW PROJECT: SHARON STUART, ATTY

Sharon Stuart is going to speak about Military Law. She's our first moderator. She is obviously qualified. She received her law degree from the University of Missouri at Kansas City. She holds a Masters in law librarianship. She served in the Military during the Vietnam Era as a Judge Advocate for the U.S. Marine Corp, and she knows an awful lot about Military Law. I know that if I knew then what I know now I would not have given up my regular Army commission quite so easily back in 1972.



By Sharon Stuart:

Thank you, Phyllis, I am very honored to be here and to participate in the conference. And I'd like to thank before I start, because she may leave in the middle of the presentation, my wife whose come all the way from New York with me to share this experience. Ginger sitting here in the front row.

Phyllis isn't the only one who can tell a good story. I hope this will be a good story, it's certainly pertinent to our subject. I'll begin with this antidote because it illustrates some of the essential problems that the transgender military person faces. And during my presentation when you hear me use the acronym, T-M-P, if I do use it, it stands for Transgendered Military Personnel. That's a good military practice adopting acronyms so I hope you won't mind my adding that to our growing lexicon of terminology. So the term is Transgendered Military Personnel.

The year was 1970. I was a Captain in the U.S. Marine Corp. I was a lawyer, a military Judge Advocate. I was assigned as the Chief Defense Counselor at a large Marine Corp base in the United States. This command was processing over 300 general special and summary courts marshal each month. Twelve lawyers worked in the defense section including myself and another dozen or so were on the prosecution side. Our work loads were staggering. We each carried more files than we could possibly process and do so on a rational and effective way. Many cases, of course, involved the Military's unique crime desertion and absence without leave.

When you work for the U.S. Military, it's not like working for General Motors. If you're absent from work they just don't dock your pay, they might put you in jail. Service in the U.S. Armed Forces is not the usual employment contract. It is a form of indenture, a form of slavery, if you will, because many served involuntarily and even those who served voluntarily submit to this unique contract. Your time is not your own and you are subject to uniform code of military justice which is a legal system within a legal system subject only to our federal constitution.

There were many felony cases as well as the desertion and absence without leave. These ranged from premeditated murder to armed robbery, rape, extortion and even arson cases. It was a confusing chaotic and disturbing time in our lives and in our history in the midst of a terrible war, the Vietnam War.

One morning as I reached my desk, a colleague approached and said, "Have you heard about Berryhill?" Berryhill was an acquaintance we had both known, and I am not using his real name. We had both known Berryhill in training, at Cuanaco, and Berryhill had just returned from Vietnam. He had served his infantry platoon commander near the D-M-Z, and he'd seen a lot of combat. He'd been wounded, not too seriously, but he had returned and earned some well deserved decorations for his service. "What about Berryhill," I responded.

I was totally unprepared for news my colleague imparted. Berryhill, my friend informed me, had been arrested by Military Police the night before. He'd been found on a street at 2:00 a.m. in the Officer's housing area, drunk. But that wasn't the real news. Marines got drunk every day and often got arrested for it. When Berryhill was arrested, he was dressed entirely in women's clothing borrowed from his wife's wardrobe. It had developed that he was a cross dresser.

That case took a very unusual course at first. We had an officer in the judge advocate department at the base command who was very homophobic, and who saw the Berryhill case as an opportunity to make an example of any Marine who would dare put a dress on --- not being female. That officer attempted to get this case referred to a general courts marshall which would have led to, of course, a dishonorable discharge and a conviction--- which would have been almost a certainty.

As Chief Defense Council, it was my job to assign this case. I felt a little terror in my heart, because I too committed this crime, this same crime almost weekly, if not daily. I had recently emerged from my closet of many years, had been in touch with Virginia Prince, had joined what has then since become Tri-Ess had participated in meetings of Tri-Ess off base, and was in touch with the community for the first time. I had told my wife just a year or two before. I was trying to deal with cross dressing issues in my own life and trying to get through the military myself without them discovering. The Berryhill case was a shock to my system as you might imagine.

Another officer took the case, and I worked with that officer to try to get Berryhill through the system in as good a shape as could be done. It was not an easy task. I won't bore you with all the ins and outs or details. We did manage to convince our superiors that a court marshall was not warranted in this case. He had served admirably in Vietnam, had been decorated, had given the Marine Corp no reason to be concerned about him as an officer until his arrest, cross dressed. The officer who wished to have him court marshalled eventually lost that argument. Berryhill essentially was administratively booted out of the Marine Corps and allowed to resign for the so-called good of the service.

He disappeared. Through Virginia Prince, I made arrangements for literature, what literature existed at that time about our organization, to be sent to him. I haven't seen him since. I have never met him again. I do not know what happened to him.

His case in many ways is very typical and very ways it's untypical. There is no clear path for transgendered military personnel. There is no clear answer for them in the military. There are some things which can be said, and I will try to outline for you some of the ways which the military has in the past and which they continue to use to deal with transgendered personnel when they are confronted with the issue.

It is not untypical for the military to become confused when confronted with a cross dresser or transgendered person and to confuse them with the homosexual community. Indeed, a transgendered person or cross dresser may be homosexual as we know or bi-sexual. Very often, however, sexual preference is not the issue. And the issue is simply, why does this person wish to wear dresses as a male, and that becomes the focus.

However, there have been instances in which the military confused homosexuality and cross dressing and tried to discharge personnel as homosexuals when indeed they were not. There is a growing body of evidence that many people discharge from the service under the homosexual regulations are indeed not homosexual. A recent article in the New York papers detailed the phenomena where women are discharged from the service as lesbians and indeed are not lesbians but are accused of being lesbians. This is another issue, of course, but it is reminiscent of the confusion which exists over the transgendered person.

It is a crime under military law to cross dress, to wear clothing that is inappropriate to your sex, to flaunt military regulations concerning uniform attire. Those regulations extend to underwear, believe me. There is such a thing as military underwear, for better or worse. They don't have inspections for the most part but indeed those regulations do exist in all of the services.

Articles 133 and 134 of the UCMJ, -- the acronym for Uniform Code of Military Justice -- are the two articles which are of most concern to officers with a list for cross dressers. Article 92, which deals with disobeying orders, is also a great concern because it is that article which is sometimes cited as violation of uniform regulations, as is applying to the violation uniform regulations. I'd just like to read into the record the substance of Articles 133 and 134 so we know what we're talking about.

Article 133 reads, and I won't read all of it but I'll read the essential parts, Any commissioned officer, cadet, or midshipman who is convicted of conduct unbecoming an officer and a gentleman shall be punished as a court marshall may direct. Elements: 1) that the accused did or omitted to do certain acts and 2) that under the circumstances these acts or omissions constituted conduct unbecoming an officer and gentleman. 1) Gentlemen as used in this article, Gentlemen includes both male and female commissioned officers, cadets, and midshipman, 2) Nature of offense. This is under subparagraph C. Conduct violating of this article is action or behavior in an official capacity which in dishonoring or disgracing the person as an officer seriously compromises the officer's character as a gentleman or action or behavior in an unofficial or private capacity which in dishonoring or disgracing the officer personally seriously compromising the person's standing as an officer.

There are certain moral attributes common to the ideal officer and the perfect gentleman. A lack of which is indicated by acts of dishonesty, unfair dealing, indecency in decorum, lawlessness, injustice, or cruelty. Not every one is or can be expected to meet unrealistically high moral standards. But there is a limit of tolerance based on customs of the service and military necessity below which the personal standards of an officer, cadet, or midshipman cannot fall without seriously compromising the person's standing as an officer, cadet, or midshipman or the person's character as a gentleman.

This article prohibits conduct by a commissioned officer, cadet or midshipman which, taking all the circumstances into consideration, is thus compromising. This article includes acts made punishable by any other article, provided these acts amount to conduct unbecoming an officer and a gentleman. And then some examples follow.

Article 134 is even more sweeping. The text of Article 134, the so-called general article reads: Though not specifically mentioned in this chapter all disorders and neglects to the prejudice of good order and discipline in the Armed Forces. All conduct of the major to bring discredit upon the Armed Forces and crimes and offenses not capital of which persons subject to this chapter may be guilty shall be taken cognizances by a general, special, or summary court marshall. According to the major and degree of the offense, it shall be punished at the discretion of that court. The proof required for conviction of an offense under Article 134 depends upon the nature of the misconduct charged. If the conduct is punished as a crime or offense not capital, the proof must establish every element of the crime or offense as required by the applicable law. If the conduct is punished as a disorder or neglect to the prejudice of good order and discipline in the Armed Forces or of a nature to bring discredit upon the Armed Forces then the following proof is required. 1) That the accused did or failed to do certain acts, and 2) that under the circumstances the accused's conduct was to the prejudice of good order and discipline in the Armed Forces or was of a nature to bring discredit upon the Armed Forces.

Following that is a great deal of explanation and many, many examples and specific pleadings or specific offenses and the requirements that are under that particular article. None of those specific paragraphs deal essentially with cross dressing, but there have been cases, not a great many of them, but enough for us to know that a criminal offense can lie under these two articles. Essentially cross dressing or transgendered behavior while a member of the military service is a crime and we need to keep that in mind.

Our behavior as criminals in the Marine Corps was not damaging in any way. I want to say that most of the cross dressers I know who have served in military services had served honorably and well, had been a credit to the military service and a credit to this country. It is of great concern to me that our behavior would be perceived legally to be a crime, but that is presently the reality.

Non-judicial punishment under Article XV of the UCMJ is a way of disciplining service personnel. It has lesser implications than a court marshal and does not lead to discharge, but it does reflect on service records and in fitness reports. It largely consists of counseling, of fines and is used by unit commanders to maintain discipline within their command. The legal standards for non-judicial punishment are much lower and there have been instances of cross dressers receiving non-judicial punishment.

Administrative separation is another path which is quite common. This is done in the services in various ways by Board action. Usually a Board of three officers may be appointed, and various reasons can be cited for the separation. Those separations can lead to bad conduct discharges which are less than honorable. The penalties for a bad conduct discharge are very similar to dishonorable discharges or general discharges which may be assessed by court's marshal. Administrative separations also frequently lead to resignations by officers, resignations for the good of the service. Essentially the service says to the officer, if you will resign your commission we will forego other proceedings. It's almost a form of plea bargaining. This indeed was the disposition eventually of the Berryhill case. Resigning in disgrace.

Medical separation is another possible path, but instances of this are rare, and I have no case to offer at this point. I would not be surprised if there was one. It would be most likely to arise as a result of combat duty. One could have argued in the Berryhill situation that his cross dressing behavior was a product of combat stress. That, however, was not done. It did not even occur to us at the time that that was a possible solution. That defense was not made as I recall. Arguably a person who is a cross dresser, or whose cross dressing or transgendered behavior is manifested for the first time in the service after a long period of combat, a psychiatrist might see that connection. But we have no known cases to cite.

Medical separation is an honorable separation. It may result in disability payments if the disability is evaluated at a high enough level. It may just result in separation and the disability assessed at a lower percentage and essentially no benefits offered.

Retirement voluntarily, is another option when one retires from the military, of course, voluntarily after a period of years and receives retirement benefits. There may well have been instances of cross dressers who chose that route to go. They were career people who reached a point and said, I am ready to get out. The military may have learned of their cross dressing or may not have learned of their cross dressing. Very often when Marines were very close to retirement and were faced with minor legal problems or charges, the command said let them go if they agree to retire and do so in a timely fashion. We will not press the charges. That remains an option but it's a sort of back door option for transgendered military personnel in those very specific circumstances.

Involuntary retirement is another matter after reaching your 20th year. You have, in many services and in many situations, the option of going on to 30. But you may not have that opportunity if the military learns of your transgendered behavior. They may in effect initiate proceedings which put you on the retired list whether you like it or not. So, involuntary retirement may terminate a transgendered person before they are ready to leave the military service. There are some instances of this known to us.

Another option which is probably the least desirable is just to remain in limbo. The service has found out about your transgendered status in the military. It has become known. You're not charged with an offense. Nothing in effect is done. You're simply kept on duty for the duration of your enlistment or career and subjected to whatever harassment the knowledge brings from others around you.

We have several cases of this, and I want to share one of them with you in some detail. There is presently in the military service on active duty an individual who is transgendered, who is a heterosexual cross dresser potentially transsexual, potentially remaining as a heterosexual cross dresser. This individual's family broke up with a divorce in 1986. In a dispute over base housing this individual's spouse informed command of her husband's cross dressing. This was their first knowledge that this individual had gender dysphoria. I should say of his background that he has a very important MOS and a very important role in the military. The military has made a huge investment in his training and he is a valued member of this Armed Forces.

Within a week after being informed of his cross dressing by the wife, without investigation of any sort, they just simply called him in and said we are sending you for psychiatric evaluation. They ordered him to a base to a hospital for 30 days where he was subjected to a great many tests, and of course he cooperated. At the end of this 30 days, a team of doctors and psychiatrist pronounced him entirely fit to perform the duties of a service officer. They sent him back to duty.

In the meantime, he had become the subject of a great deal of comment and common knowledge in his command. In various ways, this knowledge leaked out and was spread about the base to his friends and work associates and to many strangers.

It became such a subject of comment in the command that he received this counseling letter from his commanding officer. He has sent me several documents which I have permission to share with you, but I will not share essential details about location name or other fact and circumstances which I do not feel are appropriate for this record. The subject of this memo is formal counseling, and I think this gives some inside into the military's mind set about cross dressing and transgendered behavior. The first paragraph reads: I have recently reviewed a copy of the recommendation from your medical evaluation conducted in 1986. This particular document by the way is dated in June of '92. The medical evaluator recommended that had you receive counseling. At the end of last year you expressed dissatisfaction with your counseling program and you decided to discontinue it. In your best interest I have decided to schedule you for another medical evaluation to determine if further counseling or other treatment would be beneficial and provide updated information on your current medical situation. You will be advised of the date and time of the evaluation as soon as scheduling is complete.

I've also learned from several sources that you've openly spoken of your transvestism and have on occasion failed to police aspects of your appearance in uniform. This is not conducive to good order and discipline and adversely affects the morale of this community. I am ordering you to restrict all public display evidence of transvestism to include in the display from the presence of your suite mate and to limit all discussion of your transvestism while on duty to the commander, first Sergeant, or health workers. I remind you that as a Senior non-commissioned officer you are expected to maintain the highest standards of dress and appearance in accordance with regulation uniform. The wearing of fingernail polish, make-up, female clothing, etc., while on duty is a violation of regulation and so on. If this occurs I will seriously consider taking action against you under Article 92 of the Uniform Code of Military Justice.

He had the right, of course, to file a rebuttal to the commander's counseling letter, which he did. It gives us some further insight into his problems and what he's facing everyday as a member of the Armed Forces. In part, I officially request that if you feel I am still in need of a psychological medical evaluation that I be sent to a particular base or some other local area hospital on an outpatient basis. And he goes on about that problem for a while.

Paragraph 2, I have told you that there was no medical justification for another evaluation and that you should contact my therapist that I had seen for over four years for her recommendations concerning your request for evaluation and mandatory counseling. Both the evaluation and your request for mandatory counseling was not recommended.

I do not deserve to be restricted or locked up in a mental ward in any medical establishment along with manic depressant psychotics that are potentially dangerous individuals. I feel that this would be cruel and dehumanizing and totally unwarranted. My medical history in the Air Force records are from one in-patient evaluation and another would only adversely affect my challenges for limitation upon retirement.

I should also like to bring to your attention that there is no knowledge of my cross dressing by my previous commanders. No mention of cross dressing or any other problems were ever submitted until you assumed command of this organization. It was under your command at that time that a record was made and several other people were informed. These individuals, without any regard for my privacy or an evaluation of my rights, decided to tell everyone else. Subsequently, it became a well-known topic. This is a direct violation of my civil rights as an individual.

As I have stated before, I take pride in my uniform and what it stands for. I do not take things too far in its image or that of the United States Air Force. I take personal exception to what I do, while at the same time you allow another Master Sergeant to accept his command in uniform wearing an earring. I have worked hard all of my military career. To be so mistreated during my final tour is not only dishardening but distasteful, especially when I did nothing to deserve your non-support. The violation of my rights, that we are here to defend and uphold for our country, and the back stabbing prejudiced N-C-O's are all because of your decision to tell the world of someone's personal medical situation.

In another paragraph he goes on about the freedom of speech. Yes, I have openly spoken of my cross dressing to others that approach me and were curious about this phenomena. I believe being open and frank about cross dressing will dispel the stereotyping and this information that is prevalent in our society today. It's a shame that there are many others with this phenomena which are afraid of what their families and friends may think. We are all children of God and deserve the same understanding, love, support, and consideration, we are all equal. Open your mind and heart and

try to understand and accept. There are billions of people in the world all uniquely different. They all can't conform to the narrow range of acceptable behavior that society considers normal. As long as people don't harm themselves or others then society should learn to accept us. I've sole searched all my life on why I cross dress and to no avail. I need to accept myself for who I am and what I do in order to enjoy my life.

Your verbal written order for me to limit my discussion of my transvestism to you, the First Sergeant, or health workers is a violation of my right to freedom of speech. Your letter says in regard to my openness about transvestism is not conducive to good order and discipline and adversely affects the morale of the unit. When I asked you the who, what, where, when and why concerning the aforementioned statement you did not respond. I see it as a statement without substance. Additionally, I do not think it is fair for you to restrict me with this order and to allow the bigots to talk freely spreading this information about my cross dressing to every single active duty, civil service, or dependent on this base.

I am unable to defend myself when curious people approach me wanting to learn about this phenomena either because they know of friends or family that have this affliction or because they are just curious. It's the bigots spreading the misinformation and stereotyping that is not conducive to good order and discipline and adversely affects the morale of the unit.

I think that is a very eloquent statement from someone who is experiencing this first hand at the moment.

There are many different factors that will affect the path which a case takes in the military concerning a transgendered persons. Whether you are officer or enlisted can have a great impact on the disposition of your case. Officers are accorded more respect but they are also held to higher standards. Officers are better paid and may better able to afford civilian counsel. Enlisted people are often at a disadvantage educationally and financially.

Whether you are male or female can make a big difference in the military, as we know, and in view of recent events and the long history of the military's discrimination against the minority groups including females. Minority groups such as blacks, hispanics, Asian-Americans may face different treatment. This is a fact. It's regrettable the military has made great strides in race relations in the last 20 years but much remains to be done.

Your commanding officer's views, the type of community the person is serving, the M-O-S or military occupational specialty, the perceived investment which the military has in the individual, are other important factors in what happens to a transgendered person. That person's length of service, their combat record, if any, and their fitness report may also be factors in whether they get a break or not.

The nature in the flagrancy of the gender dysphoria and the objective behavior from the military's perspective is probably the single largest factor. If the conduct is on base or off base it makes a big difference. If it's on duty or off duty it may make a big difference. If it has been the subject of any civilian complaint or charges, that will make a difference. If it involves other service personnel, that is a great concern to the military. The rank, of course as I mentioned, officer or enlisted can, also be a major factor in legal disposition of a transgendered military person's case.

Our committee considered some basic questions about transgendered military personnel. Should the TMP, as I called them, be in the Armed Forces in the first place? Do we have a right to serve as transgendered people? Many minority groups in this country have served and served honorably and have served well. We are in the best of company with the women, and blacks, and other minorities.

Many transgendered people do not emerge until they are in the Armed Forces. They enter the Armed Forces at a very young age and their gender dysphoria is not known to them. When they do enter and it manifests itself, they can be subjected to the extreme homophobia and the hyper masculinity which is present in the Armed Forces. The committee feels that off base, off duty conduct should be tolerated by the military, but, in fact technically, it is a crime whether you are off base or off duty and not in the presence of military personnel. Technically, it makes no difference from the standpoints of the UCMJ.

Are retirees at risk? Reservists and National Guard Members? Yes, retirees are covered by the UCMJ. As long as you're drawing military pay or pension benefits or using military benefits or services as a result of your Armed Forces service you are subject to the uniform code of military justice. But it's unlikely that you will be charged unless your conduct is very public and very flagrant. There are no cases that we know of other than one involving a homosexual admiral whose benefits and commission were removed as a result of his public conduct and involvement with

other service members after his retirement. Reservists who are in the active reserves are definitely at risk as our National Guard personnel and they are subject of course to the UCMJ.

What are the obligations of transgendered persons who emerged during their enlistment. Do they have an obligation to reveal their status? This is the "catch-22", of course. If they do, they will be discharged or dealt with legally. If they do not, then they are subject to all of the penalties that come from hiding and they may be discovered.

Security clearances may be denied. The military says we don't want these people because they may be blackmailed. The committee felt that a transgendered person is justified in concealing their transgendered status to avoid discharge. But in blackmail, there is a clear duty at that time to seek legal advice and to reveal your transgendered status if you have not done so. No one wants to think that a cross dresser or transgendered person would jeopardize our national security by being subjected to blackmail and revealing secrets.

The committee has drafted a legal do's and don'ts which I will read into the record quickly. The do's: 1) do seek information about gender dysphoria and support from organizations within the gendered community. We would advise people to write to IFGE, the International Federation for Gender Education for a directory list of gender community organizations and support groups. 2) do express your gender of choice and participate actively in gender community organizations, but do so only when off duty, out of uniform and not physically on military property or in the presence of other military personnel except those who are also members of the gender community. And the note is even cross dressing which is confined to off duty hours and which occurs off base and not in the presence of other military personnel may be subject to criminal prosecution under Articles 133 and 134 of the UCMJ. Currently, there are no known military prosecutions under Articles 133 and 34 of the UCMJ based solely on off duty, off base conduct but such prosecutions are probable under Military Law. We're checking that because it may very well that they had been, and my research is not complete, but that is our statement for the moment.

3) do obey all military regulations and policies regarding dress and personal appearance. The wearing of underwear appropriate for the opposite sex under regulation military uniforms can constitute a criminal offense under Article 92, UCMJ, as a violation of general order and regulations. 4) Do seek legal advice from a military judge advocate and/or a civilian lawyer regarding your rights if you are arrested and charged with an offense linked to your gender dysphoria, and if you are exposed as a transgendered person, and if you are blackmailed by a third party who has learned of your gender dysphoria. Note: Armed Service

regulations may not provide for military counseling unless you are charged with a criminal offense or subject to administrative proceedings or physical evaluations for a proceedings. In this event civilian counsel must be retained at your own expense.

5) do exercise your constitutional and Article 31 UCMJ right to remain silent and to refrain from self incrimination if you are the subject of a military or civilian investigation from which criminal charges could arise. 6) Do serve your country in time of peace and war. Uphold the Constitution. Obey all military orders and regulations to the best of your ability. The note is that thousands of transgendered persons have served their country honorably and with distinctions as members of the Armed Forces.

Now here are the Don'ts: 1) do not wear outer or under clothing, cosmetics, or jewelry which is inappropriate for your biological sex while off duty or while you're on military property or in the presence of other military personnel. 2) do not discuss your gender dysphoria with other military personnel except those who approach you directly concerning that subject and while acting in their official capacity. For example, a military police investigator, a commanding officer, a medical officer, or a psychiatrist. Note: Be aware that military doctors and psychiatrists are not bound by doctor-patient privilege rules and are obligated to report cases of gender dysphoria to command. Transgendered military persons who are ordered to undergo psychiatric evaluation must comply but should seek legal counsel if possible before psychiatric evaluation or medical evaluation proceeds. Military chaplains are bound to confidentiality and may be consulted regarding religious concerns without fear of exposure.

3) Do not feel obligated to reveal your gendered dysphoria in response to general questions on recruitment, medical or security clearance questionnaires. For example, are you now, or have you ever been treated for mental disease or defect. Or do you know of any reason why you cannot serve in the U.S. Army. Note: transgendered military personnel who are asked directly to specifically confirm or deny that they are gendered dysphoric by military authorities should seek legal advice before answering. Obtaining security clearance, clearances or re-enlistment contracts and bonuses by intentionally concealing gender dysphoria may subject the individual to criminal charges and other penalties. For example, suspension of the security clearance, revocation of re-enlistment contracts, the return of bonuses as well as criminal purgery charges. The re-enlistment situation is a tricky and if a person in that situation answers falsely and they have information to the contrary it could subject you fairly serious criminal charges.

I have made these recommendations for future action and I'll give them to you as quickly as I can. A permanent military law committee within the gender community should be established, to carry out the following tasks. We need to form that committee from ex-military lawyers who are members of the gendered community or who are sympathetic to our cause. We need to collect pertinent military laws, regulations, policy statements and case law regarding transgendered military persons. We need to enlist the cooperation of the gendered community organizations in this effort. We need to draft and disseminate a military legal do's and don'ts pamphlet which I've given you one draft of. We need to send that out to all gendered community organizations for distribution to interested military personnel. We need to monitor cases and programs, cases and programs rather. We need to monitor cases and progress and to publicize them to the community as appropriate. We need to provide information to the legal counsel representing transgendered military personnel nationwide.

And we have a toll free number. 1-800-824-7122 will reach my office and I'll try to get you to the right people or try to give you whatever help is needed.

We need to publish a bi-annual news bulletin reviewing developments in Military Law and providing up-to-date guidance for transgendered military personnel. And we need to compile a list of all gender community members who have served honorably in the Armed Forces. I'm told that someone has attempted to do this, but I am not presently in touch with them, and if anyone can indicate to me who that is, I will be very interested in that information. Future transgender law conferences and planning sessions should include military law component

There are third strategies, our long-range goals. These are sort of a wish list. We'd like to educate the military community regarding gender dysphoria and gender issues. We see that as the key rather than legal precedent or court action. We need to decriminalize this conduct as it relates to gender dysphoria at least in the off-duty, off-base status, if not further. And we need to involve active duty judge advocates and medical and psychiatric personnel from the military in our future transgender law conferences, if possible.

The U.S. Army's favorite recruiting slogan reads, be all you can be, join the Army. But the fine print reads, don't be gay or lesbian, don't be disabled and above all don't be a cross dresser or a transsexual. Not too long ago the Army's fine print use to read, Don't be black or hispanic or Asian-American and if you are a woman don't be assertive.

In spite of the shortcomings, the Army and the military services have at various times in our history and various ways acted as a social laboratory, and as an instrument for social and cultural evolution. We have many examples of that. It's our hope that the military will reform itself and will welcome us into its ranks and that we can continue to serve our country honorably.

Thank you.

By Phyllis Frye

I am really excited about that report because that did exactly what we've been wanting, a report on the current status of the law, how bad it really is in that area. I would like to also remind you that those of you listening or reading that if you are in the military and you do have a problem she just left her 1-800 number. I suggest that you call them. The presentation that Sharon did was fantastic and I know that the next seven speakers are going to have a difficult time matching it, however, I also know that Sharon is going to have a tough time keeping up with them because all of our speakers so far and I know from listening to them in committee are terrific.

8. State highest rank achieved, if you served in the enlisted ranks: Example: Sergeant Major

9. State highest rank achieved, if you served as a commissioned officer: Example: Captain

10. Circle answers which apply to service following active duty and note years of service:

Reserve Component

Note Branch and Years Served:

National Guard

Note Years Served:

Civilian Employee of Military or Defense Establishment

Note Years Served:

11. List any war zones or U.N. Police Actions in which you served: Example: Korean War

12. List any combat decorations you received as a result of your military service: Example: Purple Heart

13. What is your current military service status? Circle answer:

Active Duty

Active Reserve

Inactive Reserve

Discharged

Retired

National Guard Member

Civilian Employee of Military Service or Defense Establishment

Retired/Disability Pension

Other (Please describe status)

14. If you were discharged, what type of discharge did you receive? Circle answer:

Honorable General Dishonorable Bad Conduct Administrative Separation

Resignation For Good of Service Medical Separation Other (Please describe below)

15. a. Were you discharged pursuant to action of a General, or Special Court-martial?

Circle answer: Yes No General Court-martial Special Court-martial

b. If your answer is yes to question 15 a., did your court-martial involve gender-related issues?

Circle answer: Yes No

16. a. Please indicate your anatomical sex during active duty: Circle answer:

Male Female

b. Please indicate current anatomical sex: Circle answer:

Male Female

c. If you could now determine your own anatomical sex, which sex would you choose? Circle answer:

Male Female

d. Please indicate your dominant gender orientation during active duty: Circle answer (circle both if appropriate)

Masculine Feminine

e. Please indicate your dominant gender orientation currently: Circle answer (circle both if appropriate):

Masculine Feminine

f. If you could now determine your own gender, which gender would you choose? Circle answer (circle both if appropriate):

Masculine Feminine

17. Circle appropriate answers. Do you now consider yourself to be:

Transvestite Transsexual Transgendered BI-gendered Gender Dysphoric

Heterosexual Homosexual Bisexual Asexual Other _____

18. If you circled Transvestite above in question 17, at what age did you know you were a transvestite?

19. If you circled Transsexual above in question 17, at what age did you know you were a transsexual?

20. If you circled Transgendered above in question 17, at what age did you know you were a transgendered person?

21. If you circled BI-gendered above in question 17, at what age did you know you were a bi-gendered person?

22. If you circled Gender Dysphoric above in question 17, at what age did you know you were gender dysphoric?

23. If you circled Heterosexual above in question 17, at what age did you know you were heterosexual?

24. If you circled Homosexual above in question 17, at what age did you know you were homosexual?

25. If you circled Bisexual above in question 17, at what age did you know you were bisexual?

26. If you circled Asexual above in question 17, at what age did you know you were asexual?

27. If you circled Other above in question 17, at what age did you know you were other?

28. a. Indicate your marital status during most of your active duty period: Circle answer:

Single Married Separated Divorced Living With Companion - Not Married

b. Indicate your current marital status: Circle answer:

Single Married Separated Divorced Living With Companion - Not Married

c. If you divorced during active duty service, were gender-related issues a factor?

Yes No Please summarize below; use additional paper as necessary.

29. Summarize below the extent to which you engaged in crossdressing while on active duty. Crossdressing is defined as wearing any article of clothing (including underwear) which would be considered by military authorities to be inappropriate for a member of your anatomical sex. Use additional paper as necessary.

30. At any time during your military service have you revealed or discussed your status (as described by any of the categories listed in question 17) to other military personnel acting in their official capacity?

Circle appropriate answers: Recruiter Commanding Officer Military Police/Investigator
Military Doctor Military Psychiatrist Military Judge Advocate Military Chaplain

31. Did you receive any medical treatment, psychological counseling, or psychiatric treatment during your military service for any of the categories listed in question 17? If answer is Yes, please summarize circumstances, treatment, results. Use additional paper as necessary.

Yes No

32. Which statements accurately characterize your performance as a member of the armed forces and/or accurately state your feelings, beliefs or opinions. Check all that apply.
- a. I served with honor and distinction and without a significant disciplinary incident.
 - b. Gender issues in my life were not a factor in my military service and did not significantly affect my ability to perform my duties.
 - c. Gender issues in my life were a significant factor in my military service and affected my ability to perform my duties effectively.
 - d. If I could live my life over, I would choose to serve in the armed forces.
 - e. If I could live my life over, I would not choose to serve in the armed forces.
 - f. If I could determine my own sex and/or gender, I would choose to serve in the armed services as a man/woman.
 - g. If I could determine my own sex and/or gender, I would not choose to serve in the armed services as a woman/man.
 - h. I believe that persons who manifest gender dysphoria and related gender identity behavior should be allowed to serve in the armed forces and be able to freely express the gender of their choice.
 - i. I believe that persons who manifest gender dysphoria and related gender identity behavior should be exempted from military service and discharged from active-duty when their condition becomes known.
 - j. I believe that sex reassignment surgery should not be grounds for exemption from military service, nor should it be a basis for medical or administrative discharge.
 - k. I believe that sex reassignment surgery should be grounds for exemption from military service, and it should be grounds for medical or administrative discharge.
 - l. I believe that my military service caused me to become gender dysphoric and/or aggravated my gender dysphoria to some degree.
 - m. I do not believe that military service caused me to become gender dysphoric and it did not significantly aggravate my gender dysphoria.
 - n. I do not believe that military service caused me to become gender dysphoric but it did significantly contribute to my gender dysphoria.
 - o. Please compose your own statement. If any of the above can be altered to accurately describe your feelings, beliefs or opinions:

33. If legal procedures were available to accomplish the actions described below, which actions would be of interest to you? Check all that apply.

- a. I would like to have military records altered to reflect my correct sex/gender.
- b. I would like to have military records altered to reflect my new name.
- c. I would like to re-enlist in the armed forces, but as a member of my gender/sex of choice.
- d. I would like to have my less-than-honorable discharge, received as a direct result of gender-related issues, upgraded to honorable status.

34. Check all of the statements below which apply to you: Note: Do not answer this question if you are currently on active duty or serving in the active reserves or National Guard.

- a. I am interested in de-criminalizing crossdressing and other transgendered behavior in the military service and support the efforts of the Military Law Project.
- b. I am prepared to assist with the work of the Military Law Project. Please contact me and let me know how I can be of help.
- c. Please let me know how I can obtain reports of studies by the Military Law Project.

When you have completed this questionnaire, please return it to the following address:

Military Law Project
P.O.Box 930
Cooperstown, NY 13326

If you need any assistance in completing this questionnaire, please write to the address above or call toll free: 1-800-824-7122.