

History of LGBTQ+ Veterans in the U.S. Military

Dating back to the American Revolution in 1778, there has been a documented juxtaposition within the ranks regarding the service of LGBTQ+ veterans in the military. Before 1940s, soldiers accused of committing sodomy were often court martialled, discharged, and sent to military prisons. But with the mass mobilization of troops during WWII, court martial for each soldier accused of being gay would have created an unsustainable economic drain. To speed up the process of discharging gay service members, draft board started to screen for suspected homosexuals and issued them “*Blue Discharge*” papers which were named for the color of paper they were printed on. (Military.com. 2019. p. 2)

By the 1950s and during the Korean War, discharges for homosexuality soared. The *Red Scare*, an anti-Communist campaign, was also known as McCarthyism (making accusations of subversion or treason, especially when related to Communism, without any proper regard for evidence). This was coupled with the *Lavender Scare*, the federal government’s official response to both visible lesbian and gay culture, and a perceived homosexual menace. It was often suggested these individuals were national security risks and Communist sympathizers, susceptible to blackmail—and therefore be more likely to give away sensitive information, which ultimately lead for calls to remove them from state and federal employment. (Oxford Research Encyclopedia of Politics. 2020. p. 3-5)

It is estimated that by 1980, over 100,000 gay and lesbian service members had been discharged from the U.S. military based on their sexual orientation. Through the 1980s, military investigators, usually working in pairs, employed long interrogations and threats of public humiliation to coerce the service members to confess and name names. (*New York Times*. 2015. p. 1)

In 1982, the U.S. Department of Defense (DoD) released a policy stating that, “Homosexuality is incompatible with military service and impairs the accomplishment of the military mission.” Between 1980 and 1990, an [average of 1,500 military service members](#) were discharged annually on the basis of sexual orientation. (DOD’s Policy on Homosexuality. 1992. p. 2-3)

In 1993, President Bill Clinton signed the “*Don’t Ask, Don’t Tell*” policy, barring openly gay and lesbian American citizens from military service—while prohibiting harassment of all “closeted” military service members. Although infrequent, sodomy prosecutions continued after the enactment of the, "Don't Ask, Don't Tell" policy.

2024 Federal Pardons For LGBTQI+ Veterans

On Wednesday, June 26, 2024, President Joe Biden issued a blanket pardon to lesbian, gay, bisexual, transgender, queer/questioning (one's sexual or gender identity), and intersex (LGBTQI+) service members removed from the military because of their sexual orientation or gender identity. It is estimated that there were over 100,000 U.S. Troops expelled over the years.

Conduct covered under the pardon includes those convicted of aggravated offenses based on consensual, private conduct with persons aged 18 and older. Those charged with an aggravated factor, like coercion or adultery, are not covered in the pardon. The Biden administration will still consider pardoning offenses charge to other LGBTQI+ individuals that do not fall under these guidelines on an expedited case-by-case basis according to the proclamation.

Program Background

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State of Maine Law

On April 7, 2021, Governor Janet T. Mills signed (H.P. 126 - L.D. 173) into law, *An Act to Restore Honor to Certain Service Members*, and in accordance with the Maine State Legislature, the Maine Bureau of Veteran's Services (MBVS) observed a change in treatment of certain discharges.

United States Law:

In June of 2024, President Joe Biden announced a plan to pardon thousands of LGBTQ veterans who were criminally charged and forced from the service because of their sexual orientation.

Also in 2024, VA starting taking steps to provide legal assistance to LGBTQ veterans who received a "bad paper" discharge due to their sexual orientation, allowing them to potentially access benefits by reviewing their discharge status through a process called "character of discharge determination" and potentially upgrading their discharge if necessary; this means that the VA may provide attorneys to help these veterans navigate the process of seeking a discharge upgrade and access to benefits.

Key points about this development:

- **Policy change:**

The VA has updated policies to allow LGBTQ veterans discharged due to their sexual orientation to potentially qualify for benefits even with a less-than-honorable discharge, depending on their case.

- **Legal assistance:**

To support this process, the VA is providing access to legal services to help these veterans navigate the complex process of discharge upgrades and benefit applications.

- **Discharge review process:**

Veterans can apply for a review of their discharge through a military board, such as the Board for Correction of Military Records, to potentially have their discharge status upgraded.

- **Compelling circumstances exception:**

In some cases, the VA may consider a "compelling circumstances exception" to grant benefits to veterans with less-than-honorable discharges based on factors related to their sexual orientation or other relevant circumstances.