

SECTION II -- ALTERNATIVE VIEWS

THE CASE AGAINST WOMEN IN COMBAT

EXECUTIVE SUMMARY

Background

In its historic deliberations, the Presidential Commission has addressed some of the most controversial and sensitive issues facing the military, American women and our country. At the conclusion of eight months of research, hearings and fact-finding trips, the signers of this section believe it is important to set out and summarize the considerable testimony and evidence gathered by the Commission that supports continuing America's long-standing exemption of women from combat duty.

Decisions on the principle questions before the Commission -- whether American women should be assigned to combat on land, at sea or in the air -- involved a wide variety of issues and concerns. They include the history and nature of war, physiology, psychology, sociology, family and cultural values, the legal consequences of a change in the law, and most importantly, the overarching, classic concerns of the military itself: combat readiness, unit cohesion and military effectiveness -- defined as the ability to deter aggression and if necessary, to fight and win wars.

Addressing these issues led the Commission to focus on, evaluate and determine the military significance of the many differences between the sexes and the ultimate purpose and mission of the Armed Forces. Secretary of Defense Richard Cheney restated the focus of the American military on March 26, 1992:

[I]t's important for us to remember that what we are asked to do here in the Department of Defense is to defend the nation. *The only reason we exist is to be prepared to fight and win wars* [emphasis added]. We're not a social welfare agency. We're not an agency that's operated on the basis of what makes sense for some member of Congress' concern back home in the district. This is a military organization. Decisions we make have to be taken based upon those kinds of considerations and only those kinds of considerations.

A Question of Priorities

COL Bryan D. Brown, USA, Commander 1/160th Special Operations Aviation Regiment (Airborne), Ft. Campbell, KY, spoke for many of the service members who testified before the Commission at hearings or out in the field:

I in no way doubt the female officers' and soldiers' bravery, dedication, or capability, but I do believe their assignment would not enhance the combat capability of the 160th.

To many, COL Brown's statement would seem to present a contradiction. If female officers and soldiers offer bravery, dedication and capability, shouldn't they be assigned to combat on the same basis as men? Shouldn't we be looking for the best qualified individuals for the job, regardless of gender?

But this approach -- focusing on the best or most capable *individual* -- fails for a very basic military reason. In combat training and in war, an individual's desires, interests or career aspirations are totally subordinated to the accomplishment of the military mission. Strengthening the capability of combat units is the essence of military readiness. Moreover, for the military as a whole to function as a capable fighting force, each unit, from the smallest up, must operate cohesively and in harmony with other units.

The key question in preparing to win and survive in combat is not what is best for the *individual*, but what is best for the *unit* and the military as a whole. This is why the Commission spent considerable time seeking and evaluating testimony and studies on unit cohesion, including the expert work of Commissioner Darryl Henderson.

Military Service v. Civilian Employment

The fundamental issue before the Commission is whether and in what specific ways the assignment of women to combat would affect the combat capability of the United States to wage war. If the military were substantially the same as a civilian employer, a decision to promote equal opportunity as the primary goal would have been easy to make.

Civilian society forbids employment discrimination. But the military, in building fighting units, must be able to choose those most able to fight and win in battle. There is good reason for this. In a combat unit serving on land, at sea or in the air, the inability of any member of the group to perform at levels demanded by the battlefield can present a direct risk to the lives of others and to the accomplishment of the military mission.

This is one of several reasons why the Armed Forces differ in many important respects from civilian employers, including police forces that preserve order close to home. It is a separate society governed by a different set of rules and regulations because its principle purpose is to fight and win wars. While civilian workers operate on a "9 to 5" schedule, units in combat operate 24 hours-a-day, seven-days-a-week. For the deployed American fighting man, there is no home and family waiting at the end of the day. The home is where the soldier stands to face the enemy. Good order and discipline are crucial for morale, survival and victory in battle.

Even in peacetime, continuous deployments and training prepare our military to confront violence worldwide. Successfully waging war under difficult conditions imposes extraordinary demands upon service members. These include surrendering a great deal of personal freedom

and identity, the obligation in many cases to deploy worldwide on short notice, and the ultimate risk of injury, capture or death in the line of duty.

The duties, obligations and life and death struggles that are inherent considerations of combat assignments rarely come into question in civilian life. Military units must be able to function effectively over protracted periods of time against an equally determined enemy. A military unit at maximum combat effectiveness is a military unit least likely to suffer casualties. Winning in war is often only a matter of inches, and unnecessary distraction or any dilution of that combat effectiveness puts the mission and lives in jeopardy. Risking the lives of a military unit in combat to provide career opportunities or accommodate the personal desires or interests of an individual, or group of individuals, is more than bad military judgment. It is morally wrong.

Service members are encouraged to pursue opportunities and career enhancements in the Armed Forces, limited only by the needs and good of the Service. But when it comes to combat assignments, the needs of the military must take precedence over all other considerations, including the career prospects of individual service members. The military service is not a corporation, and being a soldier, sailor or airman is more than just a job. Civil society protects individual rights, but the military, which protects civil society, must be governed by different rules.

That is why Congress and the courts have held that Title VII of the Civil Rights Act of 1964, which ensures all individuals are treated equally before the law with respect to civilian employment, does not apply to the military profession. No less than seven major Supreme Court decisions are distilled in the these words from Goldman v. Weinberger:

[T]he military is, by necessity, a specialized society [separate] from civilian society.... 'The military must insist upon a respect for duty and a discipline without counterpart in civilian life,' in order to prepare for and perform its vital role.... The essence of the military service 'is the subordination of the desires and interests of the individual to the needs of the service.'

The history of the courts deferring to the judgment of military leaders on matters affecting the Armed Forces is one of the most consistently upheld principles of constitutional law. Furthermore, serving in the military is a privilege and sometimes an obligation, conferring neither the right to serve nor the right to avoid service [see Kennedy v. Mendoza-Martinez 372 U.S. 144 (1963)].

Some have suggested the issue before the Commission is a civil rights issue comparable to racial integration of the Armed Forces in 1948. That analogy fails for several reasons. Dual standards are not needed to compensate for the physical differences between racial groups, but they are needed where men and women are concerned. A proud history as successful warriors exists among men of different races, but not among women.

History also shows that the Soviet Union, which in desperation deployed women to fight during the darkest days of World War II, rescinded that action when their national survival was no longer at stake. By contrast, as the Commission found in the course of its international fact-finding trip, countries that have repealed combat exemption policies in recent years, such as Canada, Denmark and the Netherlands, have done so for reasons of equal opportunity. After the trip, the Commission learned these nations recognize that assigning women to combat specialties might adversely affect combat readiness and effectiveness.

But the United States is not Canada or Denmark. Retired Army General Norman Schwarzkopf, former Commander of Operations Desert Shield and Desert Storm, spoke for many Americans when he declared, "Decisions on what roles women should play in war must be based on military standards, not women's rights."

The Alternative View

An objective review of the body of research and testimony before the Commission reveals that although some witnesses argued that including women would improve combat effectiveness, the case for unprecedented change was most often framed as the "right" or "equal opportunity" of individuals to serve in all positions they desire regardless of military need.

Those skeptical about assigning women to combat, however, primarily have focused on the needs of the military and combat effectiveness, as well as deep-seated cultural and family values millions of Americans hold and are still teaching their children. As one Commissioner put it, those values can be summed up in one simple phrase: Good men respect and defend women.

A reasonable conclusion against assigning women to combat is drawn not from any *single* factor in the Commission's record, but from the *cumulative* body of evidence suggesting such assignments would adversely affect military readiness, cohesion and effectiveness.

Although some have argued that adverse affects and additional burdens on combat units are justified on grounds of equal opportunity, virtually no one has argued they are justified by military necessity. Centuries of military experience should not be disregarded if the burden of proof has not been met. It is not up to the skeptics to disprove a case that has not been made.

This is why the Commission voted, on two out of three major issues, to maintain the exemption with respect to the assignment of women to close combat in ground troops, combat aviation, amphibious ships and submarines. The signers of this section maintain, however, that the Commission's limited support for the assignment of women to some combatant ships is *inconsistent* with the other major recommendations the Commission submitted for the consideration of the President.

The purpose of this section is to emphasize areas of agreement with recommendations that call for sound military policies that enhance -- or at the very least do not detract from -- the strength, cohesiveness and readiness of combat units.

Conclusion

Congress charged this Commission with examining all aspects of the role of women in the military, which kept in mind the past, present and future in its research and deliberations.

The Commission did just that, providing a comprehensive record for future researchers and historians. Its work will provide insights and guidance for policymakers and elected officials for years to come. It remains to be seen whether policy makers will objectively assess the Commission's comprehensive record, or make personnel decisions disregarding the facts the Commission has pulled together. The signers of this section weighed those facts, and came to an unavoidable conclusion:

The proponents of assigning women to combat have not made their case.

The Commission heard no compelling evidence that the military *needs* women to fight its wars. Demographically, the military does not face a manpower shortage that would demand a radical change in settled American law, policy and custom.

The case for assigning women to combat fails for the very basic reason that it is grounded principally in the concept of equal opportunity, which is an important American value. When national security is at stake, however, the need to maintain a strong military must take precedence over concerns about equal opportunity.

The American people must bear in mind that the advocates of women in combat are asking the military to conduct an experiment meaningful only under wartime conditions. Judging from the experience of other countries and the evidence presented to this Commission, it would be an experiment fraught with immense risks and foreseeable consequences, which is why it is incumbent on the supporters of women in combat to meet a high burden of proof for their case, particularly when lives are at stake.

As Commissioner Charles Moskos said in a short statement to the Commission:

You raised a question, Mr. Chair, where the burden of proof should lie. Other things being equal, you say, well, then let equal opportunity triumph. Well, most of the evidence that we've heard here -- and there will be some debate about the degree -- is that mixed-gender units, particularly as it [sic] gets closer to the combat area, have lower deployments rates, higher attrition, less physical strength, more sexual activity, higher costs, et cetera, et cetera.

It would seem to me the burden of the proof would be on the side of saying equal opportunity is of such significance that we're going to override some of these costs.

Those costs are a series of consequences and problems that will ultimately result from ignoring the nature of war and the military significance of the differences between men and women. No one problem will degrade the military's ability to fight and win wars, its one and only mission. Rather, an accumulation of problems, such as those Commissioner Moskos described, will have a devastating impact on combat readiness, unit cohesion and military effectiveness. Yet supporters of women in combat argue it will be worth the costs.

The facts suggest otherwise. A compelling body of evidence and personal testimony reveals a variety of consequences and problems that might result from assigning women to combat positions. The proponents of women in combat argue that "leadership" is the answer. Unfortunately, the Commission learned, leadership did not solve these problems during the Gulf War. The unstated but very real argument of some Commission witnesses was that the military must pay any price and bear any burden to promote equal opportunities and career progression for an ambitious few.

But military policies must be based on actual experience and sound judgment, not doctrinaire notions of sexual equality unsupported by human experience and history. By necessity, the military must be free to pursue policies aimed at maximizing combat readiness, unit cohesion and military effectiveness.

The Commission learned that assigning women to combat would adversely affect these critical components of a successful military. It would leave women exposed to the possibility of involuntary assignment to combat and conscription. Most importantly, it would overturn two centuries of settled law and military policy based on deeply held and commonly shared cultural assumptions defining how men should treat women. Lastly, the Commission learned the military does not need women in combat units.

The Armed Forces should not assign women to combat.