



# Center for Military Readiness — Policy Analysis —

August 2020

## Issues of Concern in the National Defense Authorization Act (NDAA) for 2021

### *Background & Overview*

Both the **House** and **Senate** versions of the pending **National Defense Authorization Act (NDAA) for FY 2021** raise serious concerns, some of which have escaped notice in the media. Problems include proposals to establish commissions empowered to change the names of military bases and to create new “diversity” bureaucracies and quotas. Both would accomplish controversial goals and take them to extremes, with or without specific language in the bill.

The House package of **Diversity & Inclusion** provisions are most objectionable because they would invert priorities, elevating “equal opportunity” above military necessity and readiness. Since passage of the House bill’s open-ended diversity measures would fundamentally change the culture of our military in irreversible, harmful ways, they are more deserving of a presidential veto than House and Senate proposals for renaming military bases.

This CMR analysis highlights problematic issues and possible ways to resolve them constructively.

### *House NDAA Proposal for Renaming Military Bases*

**President Donald Trump** has expressed justifiable concern about several provisions in the FY 2021 NDAA, particularly those that mandate changes in military base names associated with the **Confederate States of America** (the **Confederacy**) within one year. Trump pledged to veto any bill mandating changes in military base names.<sup>1</sup>

The July 21 **Statement of Administration Policy (SAP)** objects to base renaming mandates because they would “*rewrite history and . . . displace the enduring legacy of the **American Revolution** with a new left-wing cultural revolution.*” The SAP further objects to arbitrary base-renaming provisions that “*would not stop at the limits written into [House] section 2829. [This] is part of a sustained effort to erase from the history of the Nation whose who do not meet an ever-shifting standard of conduct.*”

The Statement adds, “[L]oud voices in America are also demanding the destruction or renaming of monuments and memorials to former Presidents, including our first President, **George Washington**; the author of the **Declaration of Independence**, **Thomas Jefferson**; and the **Great Emancipator**, **Abraham Lincoln**.”

The Statement of Administration Policy reflects rational concerns about an unending process of renaming or removing items of historic interest – a process that already has begun and in many cases spun out of control.

### *Problematic Senate NDAA Proposals for Renaming Military Bases*

**Senate Armed Services Committee (SASC) Chairman James Inhofe** (R-OK) agrees with President Trump on the base re-naming issue, but both the House and Senate versions of the NDAA, which included

such language, passed with veto-proof majorities. The Senate bill includes several provisions that are problematic. For example:

- The legislation, reportedly written by **Sen. Elizabeth Warren** (D-MA), specifies that changes will be made “*no later than three years after enactment of this Act.*” This language does not rule out accelerated action on a shorter timetable.
- **Section 377 of S. 4049** would direct the Secretary of Defense to “*remove all names, symbols, displays, monuments, and paraphernalia that honor or commemorate the Confederate States of America . . . or any person who served voluntarily with the [Confederacy] from all assets of the Department of Defense.*” [excepting grave markers]<sup>2</sup> This language is very broad, but other than one-way briefings before the HASC and SASC, there is no provision for congressional involvement or approval.
- The Senate bill also would establish a Commission “*relating to assigning, modifying, or removing of names, symbols, displays, monuments, etc.*” **Sen. Tim Scott** (R-SC) expressed support for a “study” to gather facts for Congress’ consideration, but the legislation does not require congressional approval of Commission recommendations.
- The Senate-established Commission would have eight members – none of them directly appointed by the President. (The Defense Secretary would have four appointments, and the Chairs/Ranking members of the HASC and SASC would have one each.)
- Commission members would brief the HASC and SASC on “criteria” used to rename bases, but the legislation does not state what the objectives and priorities should be. With blank check authority, the members of the Commission could do whatever they want.
- The Senate did not consider or approve an amendment sponsored by **Sen. Josh Hawley** (R-MO) calling for more community involvement in base renaming decisions. Commission members would brief the HASC and SASC on “*methods of collecting and incorporating local sensitivities associated with the removal of naming of assets,*” but the language would not prevent actions taking “wokeness” to extremes.
- The Secretary of Defense would be required to implement Commission recommendations as presented; there is no provision for congressional or presidential approval in this or future administrations. (How would the current or future Secretary of Defense respond if commissioners recommended that divisive woke murals be painted on the streets of **Fort Bragg**?)
- The Senate bill would offset operational expenses by shifting **\$2 million** from the Operations and Management budget. The Commission would report on costs for implementing their recommendations, but there are no limits on costs for implementation, tangible or intangible.

A process that is needlessly divisive would not unify the armed forces within the ranks or in local communities that military people rely on for support.

### ***Defense Secretary Esper Memo re: Public Display of Flags***

**Section 1749** of the House NDAA (**H.R. 6395**) would require the Secretary of Defense to prohibit the public display of the Confederate battle flag on all Defense Department property, with certain exceptions. The legislation is unnecessary, since Defense Secretary Esper already has signed a directive authorizing the display of military-related flags only, not including the Confederate flag.<sup>3</sup>

Esper’s action simultaneously removed other flags and banners that are inherently divisive in military

settings, such as flags celebrating sexual minorities, the controversial organization (not the statement) **Black Lives Matter Global Network**, white supremacist and anti-Semitic groups, and extremist political movements that advocate or engage in violence.<sup>4</sup>

Some members of Congress and LGBT activist groups are demanding exceptions for favored causes and flags, but Secretary Esper's policy should not be altered due to political pressures from special interest groups.<sup>5</sup>

### *House NDAA "Diversity & Inclusion" Agenda*

The July 21 Statement of Administration Policy refers to the "*DoD's strong commitment to advancing equal opportunity, diversity, and inclusion throughout our Armed Forces,*" but strongly objects to the **Diversity & Inclusion (Section 912)** of the House defense bill.

In particular, the SAP objects to the House's call for five **Chief Diversity Officers (CDOs)** in the Department of Defense and each of the military services.<sup>6</sup> The objection, however, primarily focuses on organizational *process* and potential conflicts with established Pentagon offices, including the **Under Secretary of Defense for Personnel & Readiness**.

The Administration should have addressed the *substance* of the issue, meaning the harmful consequences of setting up diversity offices and commissions empowered to discriminate against individuals whose skin color or sex do not fit percentage-based demographic quotas.

The House-passed NDAA clearly authorizes gender- and race-based quotas that would require detailed records and hyper-sensitivity to skin-deep qualities that should not matter in personnel matters. The Statement of Administration Policy should have strongly opposed all proposals in the bill that rely on deliberate discrimination or changes in standards to achieve percentage-based demographic quotas.

If the House diversity measures are retained in the **House/Senate Conference Committee** and signed into law, many objectionable policies – including actions to rename bases without presidential or congressional involvement or approval – likely would result. Non-discriminatory, merit-based promotion policies cannot co-exist with pressures to meet diversity metrics and quotas that compromise or redefine standards to levels that are equal but lower than before.

### *Pentagon Diversity Power Bases*

The House NDAA would establish a new **Diversity and Inclusion Advisory Council of the Department of Defense**, and the H.R. 6395 **Summary of the Chairman's Mark** suggests that the new commission should revive the name (and recommendations) of the **2011 Military Leadership Diversity Commission (MLDC)**.<sup>7</sup>

Demographic "diversity" mandates are inconsistent with **Executive Order #9981**, signed by **President Harry Truman** on July 26, 1948, which ordered integration of the armed forces many years before similar advances in the civilian world. Truman's Executive Order advanced equal opportunity (EO), but the primary reason for the directive was military necessity, not career advancement or equal opportunity.<sup>8</sup>

The original Military Leadership Diversity Commission was largely composed of academics, professional diversity advisors and a few military officers. In 2011, the MLDC issued a voluminous, multi-sectioned report promoting percentage-based quotas and group rights, which the report admitted are not the same as non-discrimination and recognition of individual merit.<sup>9</sup>

The MLDC report presaged a culture of "wokeness," which has gained ground in recent months. Civilian academics and "experts" who promote "**critical race theory**" certainly would be involved with Diversity

Council programs within the Pentagon and all Defense Department educational institutions worldwide. A Council such as this would be empowered to promote divisive “unconscious bias” programs that assume racism, revise history, and increase racial tensions between military personnel rather than reducing them.<sup>10</sup>

The Administration should have strongly objected to formation of a Commission modeled after the 2011 MLDC.<sup>11</sup> Establishment of such a commission, either by legislation or executive action, would be a huge mistake for an Administration pledged to promote a culture of non-discrimination, recognition of individual merit, and military effectiveness as the highest priority.

### *Defense Secretary Mark Esper’s Initiatives*

The House NDAA proposals, if adopted, would be added to a long list of commissions, panels, task forces, working groups and committees that already exist in the Pentagon. Many of these time-consuming bureaucracies, which have outlived their usefulness, should be discontinued.

In addition, the Administration should not add Chief Diversity Officers to the vast EO bureaucracy. High-level CDOs would be empowered to prevent promotions for anyone who does not endorse the full “diversity” agenda.

The House “diversity” proposals also run contrary to Secretary Esper’s recently announced efforts to eliminate discrimination and to recognize individual merit in promotion policies. In a June 19 Memorandum, Esper announced he would eliminate factors that might contribute to bias.

Secretary Esper’s order will bar the use of photos, names, or even pronouns from each candidate’s promotion, school, and command selection board packages. This merit-based policy is interesting and deserving of a chance to work, even though implementation might disadvantage military women in many occupational fields.<sup>12</sup> Removing indicators of race or sex will make it impossible to comply with accelerated “goals” and percentage-based diversity metrics.

In addition, Secretary Esper set up an internal **Defense Board on Diversity and Inclusion in the Military**, an internal group of uniformed and civilian personnel who will have six months to make recommendations on what the Defense Department should do to end inequality in the personnel policies.

Esper’s Memorandum also announced his intent to establish in December a permanent **Defense Advisory Committee on Diversity and Inclusion**, modeled after the long-standing **Defense Advisory Committee on Women in the Services (DACOWITS)**.

This idea, which mirrors the House NDAA call for an advisory commission with a different name, should be reconsidered and suspended. Regardless of its name, such a commission would destroy any illusions that non-discrimination and recognition of merit will be used to select people for promotion.

Military Leadership Diversity Commission recommendations for a powerful new “diversity” infrastructure should not be planted and allowed to grow in the Pentagon like the carnivorous plant in the play *The Little Shop of Horrors*.<sup>13</sup> The Pentagon does not need another permanent, tax-funded, in-house pressure group empowered to push for extreme “woke” agendas.

This bad idea should be dropped and vigorously opposed in the NDAA. Instead, consideration should be given to abolishing the DACOWITS, which used to support military women in constructive ways but in recent years has betrayed the best interests of the majority. The DACOWITS never stops to consider whether its own policy recommendations have worsened problems of sexual harassment and assaults that keep escalating year after year.<sup>14</sup>

## *Possible Options for the NDAA*

President Trump is threatening to veto the NDAA for 2021, primarily because of the base-renaming language and additional consequences that would follow. Even people who favor new names for military bases share his concerns about where the process would stop. The following suggestions might be helpful in achieving acceptable results:

- If there is a compromise to be made on the base-renaming issue in the Conference Committee, it should ensure presidential appointments for a commission that would really study the issue and come up with recommendations for involvement of people in affected communities, followed by presidential and congressional approval.
- Revised legislation should specifically state the purpose of considering changes in military base names, and authorize the option *not* to make changes after a careful, rational process.
- Priority should be assigned to reconciliation, respect for history, and recognition of past military heroes, including **Medal of Honor** recipients, who had ties to each base in question.
- Many outstanding names might be better than current ones, but nothing should be done for political reasons or advancement of social agendas that are not consistent with military readiness and morale.

In exchange for cooperation and compromise that avoids a veto of the defense bill, the administration should insist on removal of House-passed diversity proposals, which would prioritize demographic quotas and woke agendas over military necessity, morale, and readiness.

- These would include provisions to establish a new “diversity” bureaucracy in the Pentagon, including career-controlling political operatives called Chief Diversity Officers (CDOs) to enforce diversity quotas in promotions.
- The administration also should refuse to sign NDAA provisions to establish demographic diversity mandates and bureaucracies in the Pentagon, including a new advisory committee modeled after the 2011 MLDC or the DACOWITS.

## *Conclusion*

The Democratic Chairman of the House Armed Services Committee issued a statement following passage of the House NDAA hailing provisions that reflect misplaced priorities. As **Heritage Foundation** analyst **Dakota Wood** has noted, three out of the top ten House priorities focused on diversity, Confederate flags and base names, and establishment of yet another Council to enforce even more percentage-based diversity quotas.<sup>15</sup>

*Unity* in mission, execution, vision, goals, preparation, training and commitment is what makes our military successful on the battlefield. When the emphasis is on diversity and inclusion of non-combat related characteristics such as sexual orientation, the military is working at cross purposes. The goal should be equal treatment for everyone in a rigorously merit-based organization.

In the armed forces, equal opportunity is important, but if there is a conflict between EO and the needs of the military, the needs of the military must come first. Inverting these priorities would change the very character of our military, weakening its potential to fight and win against potential adversaries that do not care about diversity.

The Administration should reject short-term pressure group demands and concentrate on the long-term interests of our military. A thoughtful process would reject problematic legislation and promote



reconciliation and unity of purpose, not extreme social agendas. To do this, the administration must reinforce objections to the Diversity and Inclusion section of the House NDAA and maintain high priorities that put military readiness first.

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*Prepared by the Center for Military Readiness, an independent public policy organization that reports on and analyzes military/social issues. More information is available on the CMR website, [www.cmrlink.org](http://www.cmrlink.org).*

## Endnotes:

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<sup>1</sup> [Statement of Administration Policy, H.R. 6395 – William M. \(Mac\) Thornberry National Defense Authorization Act for FY 2021](#), July 21, 2010 (House), p. 2.

<sup>2</sup> “Assets” are defined as “any base, installation, street, building, facility, aircraft, ship, plane, weapon, equipment, or any other property owned or controlled by the Department of Defense.”

<sup>3</sup> [Memorandum](#) from the Secretary of Defense, Subject: “Public Display or Depiction of Flags in the Department of Defense,” July 16, 2020; Rebecca Kheel, *The Hill*: [Democrats Demand Esper Explicitly Ban Confederate Flags and Allow Pride, Native Nations Flags](#), July 31, 2020.

<sup>4</sup> The House NDAA Short Summary indicates that the bill would add a “**Violent Extremism**” punitive article to the **Uniform Code of Military Justice (UCMJ)**. “*The Article would punish individuals subject to the Code who knowingly commit murder, manslaughter, assault, and other covered offenses with the intent to intimidate, coerce a person or class of people or influence, affect, or retaliate against the policy or conduct of the government, in order to achieve political, ideological, religious, social, or economic goals or because of the race, religion, color, ethnicity, sex, age, disability status, national origin, sexual orientation, or gender identity of the person or class of people.*” (p. 2) This language, if enacted in law, could apply to some persons affiliated with the organization BLM Global Network, which was founded by self-described Marxists.

<sup>5</sup> Laura Widener, American Military News, [Pentagon Bans All Confederate Flags from US Military Installations, Housing and More](#), July 17, 2020.

<sup>6</sup> Statement of Administration Policy on HR 6395, p. 3. CDO political officers would be empowered to overrule individual rights and recognition of merit to achieve demographic “metrics” and quotas in the name of “equality.” The SAP complains that the language would “*create four new presidentially appointed, Senate-confirmed (PAS) officials who would compete directly with the Under Secretary of Defense for P & R and the Assistant Secretaries of the Military Departments for Manpower and Reserve Affairs. This bifurcation of responsibility would add unnecessary bureaucracy and internal competition into this critical area at a time when a focused effort is needed and is already underway at the highest levels of DoD and the U.S. Coast Guard.*” (The House bill would require five CDOs, not four since it would cover the Coast Guard as well.)

<sup>7</sup> [Summary of the Chairman’s Mark](#), NDAA for FY 2021, prepared by House Armed Services Committee Democratic Staff, Full Committee as Referred, p. 13.

<sup>8</sup> This was noted in the **Final Report of the Presidential Commission on the Assignment of Women in the Armed Forces**, Nov. 15, 1992. President Truman knew that minority race soldiers had proven themselves in battle and they were needed to fight during the **Korean War** era. Findings #1.33 and 1.33A, p. C-40.

<sup>9</sup> Final Report of the Military Leadership Diversity Commission: [From Representation to Inclusion: Diversity Leadership for the 21<sup>st</sup> Century](#), p. 18. Excerpts: “*Successful implementation of diversity initiatives requires a deliberate strategy that ties the new diversity vision to **desired outcomes via policies and metrics.***” (p. xviii) . . . *In particular, although good diversity management rests on a foundation of fair treatment, it is not about treating everyone the same. This can be a difficult concept to grasp, especially for leaders who grew up with the EO-inspired mandate to be both color and gender blind.*” On p. 97, the MLDC recommended establishment of a DoD “**Chief Diversity Officer**” (CDO) who would ensure promotion of only officers who embrace the new definition of “diversity.” (Emphasis added)

<sup>10</sup> Krystina Skurck, *Real Clear Public Affairs*: [Critical Race Theory in K-12 Education](#), July 21, 2020. Critical race theory is the claim that American institutions, laws, and history are inherently racist. The *New York Times* “**1619 Project**,” which is being taught in many schools, relentlessly criticizes “white privilege” and “supremacy culture” in American life. Also see [The Problem of ‘Anti-Racism.’](#) by columnist **Ben Shapiro**, Townhall, July 1, 2020. Quoting *How to Be An Antiracist* author **Ibram X. Kendi**, Shapiro writes, “*Racism is no longer to be defined as the belief that someone is inferior based on race. Instead . . . any system that ends with different outcomes must be racist.*” Shapiro continues, “*To be anti-racist means to tear down these*

*systems. Any obstacle in the pursuit of equality of outcome must be torn down, assumed to be a product of discrimination. . . . The product of the woke crusade will not be a less racist America but a more polarized one. That's because the woke crusade is not truly about reducing racism; it is about attacking fundamental institutions, American history, and our very culture of rights. All the things we share must be eviscerated."*

<sup>11</sup> House Armed Services Committee, [Short Summary of National Defense Authorization Act for FY 21](#), "Defense Policy with American Principles" p. 2. The Summary repeatedly refers to "diversity metrics," "goals," "outcomes" and "mirroring the US population." These percentage-based provisions run contrary to the armed forces' long-standing principles of non-discrimination and recognition of individual merit.

<sup>12</sup> [Memorandum](#) from the Secretary of Defense, Subject: Actions for Improving Diversity and Inclusion in the Department of Defense, June 19, 2020. Also see Meghann Myers, *Military Times*, [New Pentagon Team is Going to Take on Racial Justice in the Military](#), June 18, 2020. If the Defense Department eliminates all race and gender identification, including names and pronouns, a pure merit selection process could be the result. Many women will be disadvantaged, however, because they have not served or gained command experience in combat arms units such as the infantry. Some women might feel pressured to harm their own health and personal desires (like starting a family) to meet those promotion requirements in competition with men. (There would be a lesser effect in the smaller specialty branches, such as the Judge Advocate Corps and Medical Corps.) The question becomes: Will the DoD stick to its policy when the promotion lists do not have the requisite number of women and minorities needed to meet diversity quotas? Doing so would move toward a color-blind system, but diversity bureaucrats might tinker with the system to make it appear color-blind when it really is not.

<sup>13</sup> [The Little Shop of Horrors](#), 1960, Roger Corman, Director. In this black comedy, which also was a Broadway musical, a clumsy young man nurtures a plant and discovers that it's carnivorous, forcing him to kill to feed it.

<sup>14</sup> CMR: [Are Military Social Experiments Increasing Sexual Assaults on Men and Women?](#)

<sup>15</sup> Dakota Wood, *Real Clear Defense*: [Let's Keep the NDAA Focused on Defense](#), Aug. 1, 2020.