

Statement for the Record

**Hearing of House Armed Services Committee
2118 Rayburn House Office Building
“Recommendations and Report of the National Commission
on Military, National, and Public Service”**



**Submitted by Elaine Donnelly
President, Center for Military Readiness**

May 19, 2021

Introduction and Overview

The **Center for Military Readiness (CMR)** respectfully asks that this statement, addressing questions raised by recommendations of the **National Commission on Military, National, & Public Service** be included in the record of this House Armed Services Committee hearing.

I am Elaine Donnelly, president of the Center for Military Readiness (CMR), an independent 501(C)(3) public policy organization founded in 1993, which reports on and analyzes military/social issues. I was pleased to address the National Commission in November 2018 and appreciate the commissioners' efforts.

This Committee and the full Congress have the responsibility to answer several important questions. For example: Should the Congress act to discontinue **Selective Service** registration of young men? Should the **Military Selective Service Act (MSSA)** require young women to register on an equal basis? And should the government impose mandatory "national service" requirements on all Americans?

Congress should make decisions on these and related matters by applying sound priorities. Equal opportunity considerations are important, but national security and the needs of the military must come first.

What is the Purpose of Selective Service Registration?

The mission of Selective Service is to quickly locate, train, and mobilize military personnel to fight in what former Defense Secretary **Chuck Hagel** called a "*catastrophe yet unanticipated*." . . .¹

As the Supreme Court recognized in the landmark 1981 case *Rostker v. Goldberg*, the purpose of Selective Service is not to induct people for support or administration jobs. It is to find and train "*combat replacements*" for casualties fallen in battle.²

¹ Selective Service System [PowerPoint](#), slide 9, [Selective-Service-System-Briefing-1.pptx \(live.com\)](#) (Last visited May 17, 2021)

² [Report on the Purpose and Utility of a Registration System for Military Selective Service](#), Office of the Under Secretary of Defense for Personnel & Readiness, Mar. 17, 2017, p. 10, emphasis added, citations omitted. "*The military selective service system guarantees the certain and timely fulfillment of **military manpower requirements** in a national emergency. . . . Since the SSS resumed registration in 1980, each Administration has preserved the agency and its programs, with the realization that it is the only proven, **time-tested mechanism by which to expand the AVF in the event of a national emergency.***" Also see *Rostker v. Goldberg*, 453 U.S. 57, 75. 1981: "Congress determined that any future draft, which would be facilitated by the registration scheme, would be characterized by a need for combat troops."

In the **Army** and **Marine Corps**, the largest communities are **infantry**. It is therefore important to consider available research and up-to-date reports on the practicality of including women in combat arms, including infantry units that would be most in need of speedy replacements if a catastrophic national emergency made it necessary to reinstitute a draft.

No one questions the courage of women serving in harm's way in dangerous combat zones. Their service in the **All-Volunteer Force** inspires pride and gratitude. The experiences of women in contingent or incident-related combat, however, have not been the same as direct ground combat missions attacking the enemy with deliberate offensive action.

Direct Ground Combat – What Are the Physical Requirements?

When the Obama Administration announced policy changes regarding military women in 2012, the **U.S. Marine Corps** initiated a three-year, comprehensive research project called the **Women in Service Restrictions Review (WISRR)**. During the third year of that **\$38 million** study, the Marines established the **Ground Combat Element Integrated Task Force (GCEITF)**, which conducted unprecedented field tests at west-coast training bases.

The realistic GCEITF tests employed gender-neutral standards and organized volunteers in both gender-mixed and all-male infantry, armor, and artillery units. The **University of Pittsburgh** scientifically monitored and compared evaluations of all units as they performed simulated combat tasks in the field.

Male test participants were of average capabilities, but female participants were above-average graduates of newly opened enlisted infantry training.³

The GCEITF field exercises were designed to *prove* the hypothesis that men and women could perform equally well in all-male and mixed-gender units. After nine months of tests, however, empirical data *disproved* that hypothesis.

These are a few of the relevant findings, quoted from a summary of voluminous empirical data produced during the GCEITF:⁴

- In tasks resembling requirements of infantry, armor, and artillery units, all-male teams outperformed gender-mixed units in **69%** of ground combat tasks. (93 of 134)

³ Brig. Gen. George W. Smith, Jr., Director, **Marine Corps Force Innovation Office**, [Memorandum for the Commandant, USMC Assessment of Women in Service Assignments](#), Aug. 18, 2015, p. 4. https://web.archive.org/web/20170714084334/http://cdn.sandiegouniontrib.com:80/news/documents/2015/09/24/USMC_WISR_Documents_Not_releasable. (Last visited May 17, 2021)

⁴ [Marine Corps Force Integration Plan – Summary, USMC Sept. 10 four PG Summary WISRR.pdf \(cmrlink.org\)](#) uploaded by Dan Lamothe, *Washington Post*, Sept. 10, 2015: [Marine Corps gender integration research executive summary | United States Marine Corps | Military \(scribd.com\)](#). (Last visited May 17, 2012, pp. 3-4)

- Gender-related physical deficiencies negatively affected gender-mixed units’ speed and effectiveness in simulated battle tasks, including **marching under heavy loads, casualty evacuations, and marksmanship** while fatigued.
- Disadvantages in upper and lower-body strength resulted in **higher fatigue levels** among most women, and increased incidents of **overuse injuries**, such as stress fractures.
- During the GCEITF assessment, **musculoskeletal injury rates** were **roughly double** for females. (**40.5%** compared to **18.8%** for men).
- During research at the **Infantry Training Battalion (ITB)**, enlisted females were injured at more than **six-times** the rate of their male counterparts. (**13% vs. 2%**). Most of the injuries were associated with load carrying tasks.
- Testing revealed that “[f]emales possessed **15%** less [anaerobic] power than males; the female **top 25th percentile** overlapped with the **bottom 25th percentile** for males.
- In addition, the study found that males **graduated** from various Marine training programs at significantly higher rates than females.

The 978-page **Report of the Marine Corps Ground Combat Element Integrated Task Force** study, which supported the Summary points above, prompted then-Marine Corps Commandant **General Joseph Dunford** to seek an exception to policy from Secretary of the Navy **Ray Mabus** to keep certain combat assignments, such as the infantry, all-male.⁵

Secretary Mabus and Defense Secretary **Ashton Carter** disregarded General Dunford’s best professional advice.

The Department of Defense and Marine Corps have refused to fully release Gen. Dunford’s September 17, 2015 request for exceptions and his supporting rationale.⁶ The Defense Department’s withholding of this historic, highly relevant document, requesting exceptions to decisions that the Secretary of the Navy already had made, gives rise to legitimate questions.

⁵ **Marine Corps Operational Test and Evaluation Activity (MCOTEA) [Ground Combat Element Integrated Task Force Experimental Assessment Report](https://dod.defense.gov/Portals/1/Documents/wisr-studies/USMC%20-%20Line%20Of%20Effort%203%20GCEITF%20Experimental%20Assessment%20Report2.pdf)**, Aug. 15, 2015, <https://dod.defense.gov/Portals/1/Documents/wisr-studies/USMC%20-%20Line%20Of%20Effort%203%20GCEITF%20Experimental%20Assessment%20Report2.pdf> (last visited May 17, 2021).

⁶ CMR obtained a redacted copy of the September 17, 2015 Dunford Memorandum, titled Memorandum to the Secretary of Navy from then-Commandant Gen. Joseph Dunford, Subject: [United States Marine Corps Assessment of Women in Service Assignments -- Recommendations for the Secretary of the Navy. *DunfordSep172015MemoExceptionsWICRedctd.pdf* \(cmrlink.org\)](#) (Last visited May 17, 2021) Repeated FOIA requests failed to produce the full, unredacted document. **Judicial Watch** has been seeking the same document, but a judge recently denied their lawsuit. See *Judicial Watch v. DoD*, No. 19-cv-01384, (D. D.C. Jan. 27, 2021) (denying release under FOIA).

What is the Pentagon trying to hide? Did Gen. Dunford suggest that Marines might die needlessly if men and women were treated as interchangeable in combat missions, based on false illusions of “equality?” Was Gen. Dunford primarily concerned about injuries to women, or did he foresee compromised standards that would put all Marines at greater risk?

Deliberate denial of relevant documents invites such conclusions, and worse.

Commission Recommendations Disregarded Combat Research and Realities

The National Commission’s Final Report correctly noted that women are no longer barred by either statute or military policy from serving in combat billets. In August 2015, three exemplary women made it through the Army’s rugged **Ranger** training course, and more have succeeded since then.

The commission erred, however, in concluding that since female volunteers are now eligible for combat arms positions, all women should share equally in Selective Service obligations.

This simplistic argument emphasizes the accomplishments of some remarkable women who have been able to meet the high standards required to qualify for combat arms assignments, but it ignores the draft’s fundamental purpose in providing large numbers of combat replacements during a national emergency.

No one is suggesting that Selective Service obligations should be imposed only on the few women who are capable of performing at levels comparable to men. Rather, conscription on an equal basis would require call-ups of great numbers of average-ability men and women, even though women would be far less likely to be combat qualified.

Calling up equal numbers of young men and women would jam the system, making it more difficult to quickly fill the combat casualty replacement stream in a time of catastrophic national emergency.

This is not necessary, since at all times in history when our nation has been in peril, women have volunteered to serve. There is no reason to believe they would not do so again.

Congress has the constitutional responsibility under **Article 1, Section 8** to raise armies and provide for the nation’s defense. In fulfilling this responsibility, Congress cannot act on disproven assumptions and imaginations about battlefields where physical size, strength, speed, and endurance simply do not matter. These qualities do matter, and combat effectiveness depend on them.

Gender-Neutral Standards for Combat MOSs Do Not Work

After the Obama administration changed policies regarding female soldiers, Army leaders confidently promised that women would qualify for physically demanding specialties such as the infantry under “**gender neutral**” standards identical to men. Since then, however, undeniable realities have been shattering illusions of gender equality.

In 2018, **Training & Doctrine Command (TRADOC)** announced plans for a six-event **Army Combat Fitness Test (ACFT)** to be a “gender-neutral” replacement for the longstanding **Physical Fitness Test (PFT)**. The PFT, which was relatively easy to administer and pass, had training requirements and scoring systems that allowed for significant differences in men’s and women’s physical capabilities.

At the same time, however, leaders of the various services pushed for gender quotas of **25%**.⁷

Pressures to achieve demographic, percentage-based “gender diversity metrics” make it impossible to maintain gender neutral standards in the combat arms. The Army’s difficulty in implementing the ACFT, which is widely perceived to be a fiasco, support that conclusion.

Problems first became apparent when unofficial pass/fail records of **3,206** soldiers in 11 battalions performing resulted in an **84%** failure rate among female trainees and **30%** among male trainees.⁸

Plank exercises were substituted for the more difficult “leg tuck” event, but higher failure rates persisted. **Senators Kirsten Gillibrand and Richard Blumenthal** complained in an October 2020 letter about Army data showing a **65%** failure rate for females and **10%** for males.⁹

The Army has tried to fix the ACFT without setting women up to fail, but the caisson’s wheels keep falling off. The Army recently had to admit that more than seven months after the launch of the ACFT, **nearly half** of female soldiers are still falling short, with enlisted women struggling the most.¹⁰

One proposal under discussion would attempt to account for biological differences by establishing “blind scoring,” which would rate women in “percentile” bands without displaying individual scores.¹¹

⁷ Derrick Perkins, *Marine Corps Times*, [Mabus: 1 in 4 Marine Recruits Should be Women](#), May 26, 2015. [Mabus: 1 in 4 Marine recruits should be women \(marinecorpstimes.com\)](#) (Last visited May 17, 2021)

⁸ David Brown, ClearanceJobs: [Army Combat Fitness Test Fiasco! Slides Reve Army Combat Fitness Test Fiasco! Slides Reveal 84% of Women Failing ACFT - ClearanceJobs](#) [Army Combat Fitness Test Fiasco! Slides Reveal 84% of Women Failing ACFT - ClearanceJobs](#) [sal 84% of Women Failing ACFT](#), Oct. 5, 2015 (Last visited May 17, 2021)

⁹ Letter from Senators Kirsten Gillibrand and Richard Blumenthal to leaders of the Senate and House Armed Services Committees, Oct. 20, 2020, p. 2. [1603297227.pdf](#), (Last visited May 17, 2021).

¹⁰ Steve Beynon, Military.com: [Nearly Half of Female Soldiers Still Failing New Army Fitness Test, While Males Pass Easily](#), May 10, 2021. [Nearly Half of Female Soldiers Still Failing New Army Fitness Test, While Males Pass Easily | Military.com](#), Last visited May 17, 2021.

¹¹ Kyle Rempfer, [Army Looking at Ways to ‘Account for Biological Differences’ With New Fitness Test](#), Feb. 12, 2021. [Army looking at ways to ‘account for biological differences’ with new fitness test \(armytimes.com\)](#). (Last visited May 17, 2021) Also see Haley Britzky, Task & Purpose: [Scores for the Army’s New Fitness Test May Not End Up ‘Gender-Neutral’ After All](#), Feb. 11, 2021. [Army ACFT may not use gender-neutral scoring system \(taskandpurpose.com\)](#). (Last visited May 17, 2021)

With names, photos, and other gender-identifiers omitted, a blind scoring system would compare women's percentile bands with men's rankings in separate percentile bands. As a result, a "Top 5%" female would be considered the same as a "Top 5%" man.

In the real world, no such "equality" exists. Gender-normed or blind scores to obscure or disguise physical differences between men and women do not make sense in advanced training for the combat arms.¹² In fact, illusions such as this could cost lives and cause mission failure on the battlefield.

National Commission Fails to Make Case for Co-Ed Conscription

Last year the National Commission on Military, National, and Public Service recommended that "*Congress amend the Military Selective Service Act (MSSA) to eliminate male-only registration and expand draft eligibility to all individuals of the applicable age cohort.*"

The commission's four-word rationale for this change was, "*The time is right.*"¹³ This unsupported, shallow statement, which glosses over evidence to the contrary, should not be taken seriously or enacted in law.

The Commission's Final Report makes 49 recommendations, but it failed to meet congressional expectations for a comprehensive study of the Selective Service issue. The Commission also failed to make a convincing case for changing the *purpose* of Selective Service, or for replacing Americans' **Presumption of Freedom** under the U.S. Constitution with a **Presumption of Service** directed by the government.

In 1980, Congress decided to reinstate Selective Service registration of young men, but after considerable discussion it did not approve **President Jimmy Carter's** call for the inclusion of women in a possible future draft. The 6-3 landmark *Rostker v. Goldberg* Supreme Court decision (1981) recognized that Congress, not the lower district court, had the constitutional authority to impose Selective Service requirements on young men only.

The Court said that because women were not "similarly situated" in land combat units, exempting them from the draft did not violate equal protection principles. That was an easy call to make. Now that women are eligible for direct ground combat assignments, would the Supreme Court decide the issue in a different way?

No one can guarantee what a future court might do, but a formal Defense Department notice to Congress following the December 2015 decision to open all combat arms positions to women varied from previous statements on the subject: "*The Court in Rostker did not explicitly consider*

¹² The 1992 **Presidential Commission on the Assignment of Women in the Armed Forces**, on which I served, concluded that "gender-normed" standards to accommodate physical differences between men and women make sense in basic, pre-commissioning, or entry-level training, but not in advanced training for the combat arms.

¹³ [Report to Congress of the National Commission on Military, National, and Public Service](#), p. 12 and p. 122. [Report to Congress of the National Commission on Military, National, and Public Service \(inspire2serve.gov\)](#), (Last visited May 17, 2021)

whether *other* rationales underlying the statute would be sufficient to limit the application of the MSSA to men.¹⁴

Former Campbell University Law **Prof. William A. Woodruff**, who retired as a Colonel in the U.S. Army Judge Advocate Corps and was Chief of the Litigation Division, has analyzed possible reasons why the Supreme Court could still uphold the constitutionality of women’s current exemption from Selective Service registration and a possible future draft.¹⁵

Prof. Woodruff noted that the Military Selective Service Act was written to provide for the rapid induction of sufficient numbers of civilians capable of replacing casualties fighting in a major national emergency. If the draft were reinstated, some women might be able to meet minimal qualifications, but that would not be a good enough reason for determining that all women should be subject to Selective Service mandates. Wrote Prof. Woodruff:

*“[T]he question is whether **the expenditure of time, effort, and resources to cull from the thousands of women who would be drafted the few who might meet the demanding standards required of combat units, and enter the casualty replacement stream, is a wise use of time, effort, and resources during a time of national mobilization where the very survival of our nation depends upon success on the battlefield.***

*“Congress could reasonably, rationally, and appropriately decide that even though women who can meet the high standards of combat positions can volunteer and serve in those positions, the physiological reality is that **most women cannot meet those standards while, physiologically, most men can.***

*“In light of that reality, Congress could decide that in a period of national mobilization, when time is of the essence, when the blood of our soldiers is being spilled on the field of battle, when the situation is so grave that we must abandon the all-volunteer principle that produced the greatest military force in the history of the world, **we simply cannot afford to devote time and resources to identifying those few women who may qualify.***

*“This is especially true in light of the fact that those women who can qualify and who wish to serve are free to volunteer to do so. Excluding the remainder from the draft-eligible pool is an exercise in **reasoned judgment** to provide for the national defense in a time of crisis, not unlawful gender discrimination.”*

As Prof. Woodruff explained in his analysis, if Selective Service called up women and men ages 18-26 in roughly equal numbers, the administrative burden of finding the theoretical one-in-four woman who might be qualified would make it more difficult to find better-qualified persons:

¹⁴ Department of Defense, [Detailed Legal Analysis – Selective Service. Women in Service Review Selective Service Legal Analysis.pdf \(defense.gov\)](#) (Last visited May 17, 2021)

¹⁵ Prof. William A. Woodruff, [Women, War, and Draft Registration](#), April 2016, 10 pages. [Women at War-041116.pdf \(cmrlink.org\)](#) (Last visited May 17, 2021)

“Congress may well determine that in a time of national emergency, devoting resources to a demographic where three-fourths of the members will be unqualified hinders the ability to efficiently screen [potential draftees.]”

Simply stated, it would not be worth it for Selective Service to seek and find a small percentage of females who might meet minimal infantry qualifications. Including women in the draft pool on an equal basis would hinder the flexibility, efficiency, and speed necessary to respond to a national crisis

The substantial body of highly credible empirical findings that the Marines’ three-year research projects produced, together with the Army’s inability to implement gender-neutral standards in combat training, contradict the commission’s conclusion that *“The time is right”* to treat women like men for purposes of Selective Service registration and a possible future draft.

Congress Should Not Change the Purpose of Selective Service Registration

The National Commission recommended that the law should be changed to omit the need for **“combat replacements”** as the primary rationale for a draft. Such a change, which would authorize conscription for less than compelling reasons, would be an obvious, unwise step in the direction of mandatory national service.

Adoption of this recommendation would elevate social/political goals over the needs of the military, ultimately weakening the **All-Volunteer Force** instead of strengthening it.

Registration and conscription of women and mandatory national service are separate issues. They should not be bracketed together as if one is needed to implement the other.

Congress Should Not Establish a New Bureaucracy to Enforce Mandatory National Service

Congress should not alter the purpose of Selective Service registration, making it possible to commandeer the lives of young people for less than compelling reasons. Nor should Congress support the Commission’s call for a new, cabinet-level **Council on Military, National, and Public Service**, funded by Congress on a permanent basis.

Such a council would be an unprecedented, open-ended expansion of federal government power. Enactment also would amount to Congress abdicating to an executive agency its constitutional power and responsibility to raise armies.

Volunteer community service is a good thing and very popular. Americans of all ages engage in volunteer activities all the time, without government encouragement or subsidies of any kind. Opportunities to help others are everywhere; we do not need a permanent, well-funded government bureaucracy to make volunteerism happen.

More importantly, there is **no compelling reason** for giving government bureaucrats power to control young people’s lives by coercing them to spend time in non-critical government service or involvement with government-approved organizations.

Americans willingly accept some restrictions on personal liberty, such as taxes, speed limits, or even mask mandates to fight a global pandemic. These mandates only work when the clear purpose is to advance the common good.

There is no clear reason why government bureaucrats should be empowered to oversee and restrict the activities of young Americans for two years. Mandatory national service would be a dangerous violation of individual liberty in the **Home of the Brave** and the **Land of the Free**.

Volunteer service benefits communities, but there is no evidence that government mandates to “serve” others would be more beneficial to society than productive individual life choices. For example, if a young person chooses to do uncompensated work as an intern in a career field he or she is interested in, that experience often helps to advance their future plans, including formation of a family. The choice to start a family increases personal wealth and strengthens communities in many ways that mandatory national service could not begin to duplicate.

The claim that parents need not worry about their daughters being drafted because they could opt for mandatory national service instead begs the question. *Where in the Constitution is there authorization for the federal government to commandeer the lives of young people for less than compelling reasons?*

The National Commission’s report and website suggest that all citizens should be “Inspired to Serve.” There is a world of difference, however, between inspiration motivated by patriotism and coercion enforced by government.

Patriotism is the True Inspiration to Serve

Instead of changing the purpose of Selective Service registration and the draft, Congress should reinforce education about the purpose of national defense itself. It is unfortunate that many schools have dropped American History and Civics classes, substituting courses and supplementary materials that are hyper-critical of America’s history and Constitution.

Critical Race Theory (CRT) programs, which divide and antagonize participants with accusations of “systemic racism” and “white privilege,” have become a national security issue. Young people are getting the demoralizing message that America is not worth defending.

CRT indoctrination insists that all participants agree that American institutions are racist. Non-minority participants must confess their own “white privilege,” and a person’s denial of racism *proves* they are racist. Toxic “anti-racist” ideology nurtures division and resentment by politicizing immutable, skin-deep characteristics.¹⁶

¹⁶ Waltz Requests Critical Race Theory Materials & Presentations from West Point, Apr. 8, 2010, [Waltz Requests Critical Race Theory Materials & Presentations from West Point | U.S. Representative Mike Waltz \(house.gov\)](#); Dakota Wood, Daily Signal: [Identity Politics and Critical Race Theory Have No Place in US Military](#); Mar. 29, 2021; [Identity Politics and Critical Race Theory Have No Place in US Military \(dailysignal.com\)](#); Mackubin Thomas Owens, National Review: [Slandering the U.S. Military . . . Again](#), Mar. 20, 2021; [U.S. Military Accusations of Rampant Racism & Extremism in Ranks Are False and Damaging | National Review](#) (Last visited May 17, 2021)

It is difficult to imagine a more demoralizing course of instruction for potential recruits or military service academy graduates who will soon lead soldiers, sailors, airmen, and Marines into combat. Unresolved accusations and suspicions of racism eviscerate mutual trust and team cohesion, which are essential for survival and mission accomplishment.

Cultural influences such as this, over time, could eviscerate the foundation and strength of the All-Volunteer Force. This Committee does not have jurisdiction over civilian educational programs, but it could support our troops by supporting legislation that would put an end to CRT indoctrination in the military's service academies, colleges, and schools worldwide.

Alternative Suggestions to Inspire Service to America

Some have suggested that universal Selective Service registration would remind civilians of our men and women in uniform, and this might inspire thoughts about possible military service in the same way that advertising does. But there are better alternatives for achieving such goals.

For example, the **Department of Education** and state or local **Boards of Education** could encourage school counsellors to inform young people of the advantages they might derive from taking the military **ASVAB (Armed Services Vocational Aptitude Battery)** test (perhaps with different, more inviting name). High school students should know that the test is not for military recruits only; the test can help to identify personal talents, strengths, and capabilities that could be developed into a successful career.

Finally, when the next national emergency occurs, comparable to September 11 or worse, the President of the United States should specifically ask for volunteers to serve. This would be especially important if volunteers are needed in the combat arms or positions requiring special skills, such as medical personnel or specialists in cyber warfare. There is no need to impose universal conscription to find these people in a time of greatest need.

Conclusion

Instead of rubber-stamping commission recommendations, Congress should conduct its own review of the military, legal, and social consequences of drafting young women. Your review should include a close examination of facts like those referenced above.

In particular, the House Armed Services Committee should seek and make public conclusions drawn by former Commandant General Dunford, which were supported by three years of empirical research. Public disclosure of that information, which some advocates do not want the public to see, would help in reaching sound conclusions.

Contemporary research findings discredit the notion that calling up equal numbers of men and women in time of national emergency would improve readiness instead of harming it. The National Commission has done its work, but Congress has the responsibility to make policies that are rooted in reality, not illusions about gender equality.

* * * * *

Appendix A

Center for Military Readiness Responses to Testimony and Statements of the National Commission on Military, National, and Public Service Senate Armed Services Committee – March 11, 2021

The following comments were made to the Senate Armed Services Committee in a letter dated March 26, in response to the a [Statement for the Record](#) filed by the Chairman and members of the National Commission on Military, National, and Public Service on March 11: ¹⁷

1. The Purpose of Selective Service

On page 7 of its Statement for the Record, the National Commission claims that Selective Service exists to “*meet a wide range of Department of Defense personnel needs in the event of a national emergency, which includes non-combat and combat positions.*” The statement is footnoted to a reference regarding circumstances during World War II, before establishment of the All-Volunteer Force.

The purpose of Selective Service has not changed – nor should it change, as the National Commission recommended.

The landmark Supreme Court *Rostker v. Goldberg* decision recognized that in requiring only men to register for the draft, Congress grounded its policy decision on the need for a rapid stream of qualified combat replacements. “*Congress determined that any future draft, which would be facilitated by the registration scheme, would be characterized by a need for combat troops.*” (453 U.S. 57, 75)

The Supreme Court also noted that Congress considered and specifically *rejected* the idea that the draft could be used to fill various non-combat billets. (453 U. S. at 80-81) The purpose of the draft was not to fill various non-combat billets; rather, the purpose of the draft was to quickly provide qualified replacements for combat casualties.

2. Misinterpretation of Project 100,000

The commission statement continues on page 7, “*In times of unmet personnel needs, the Department of Defense has regularly resorted to reducing quality standards, harming our armed forces’ ability to respond to national security threats.*” This comment is footnoted to several articles about **Project 100,000**, a Vietnam-era program ordered by then-Secretary of Defense **Robert McNamara**.

¹⁷ [Statement for the Record](#), National Commission on Military, National, and Public Service, Senate Armed Services Committee, March 11, 2021 [Heck Wada Khazei 03-11-21.pdf \(senate.gov\)](#) (Last visited May 17, 2021)

As explained in Matt Davis's [Project 100,000: The Vietnam War's Cruel Experiment on American Soldiers](#) and Hamilton Gregory Spring's article [McNamara's Boys](#), Project 100,000 was one of the worst social experiments ever conducted in our military.

Defense Secretary McNamara recruited and sent to Vietnam about 300,000 men who failed to meet minimum criteria for military service, both physically and mentally. Most had not passed the AFQT and were classified Category IV.

Lyndon Johnson's "War on Poverty" was starting up, and military "opportunities" were offered to Category IV personnel as a way out of poverty. Good intentions did not matter. These recruits, who were called "**New Standards Men**," were killed in disproportionate numbers. Those who survived the war fared worse in their lives than civilian peers.

McNamara's disastrous social experiment is not likely to be repeated, but the National Commission nevertheless cited that tragic experience in suggesting that young women should be registered for a possible future draft.

There is an obvious irony here that the National Commission has failed to recognize: Without question, American women are as smart, patriotic, and as courageous as men. However, policies that would draft unwilling women to fight in physically demanding combat arms units would repeat the same type of social experiment that cost the lives of thousands of "New Standards Men" in Vietnam.

There have been times when recruiters have adjusted standards and bonuses to meet induction goals, especially in times of economic prosperity or high demand for troops, but the commission's misleading references to Project 100,000, which was not "regular" at all, overlook serious lessons that ought to be learned.

3. Unjustified Low Expectations of Women

The National Commission claimed without evidence that registering women with Selective Service would "*[acknowledge] the value women bring to the U.S. Armed Forces, and the talents, skills and abilities women would offer in defending the nation in a national emergency.*" (page 8)

Whether intended or not, the commission itself has failed to recognize women's contributions in times of national emergency by implying that it is necessary to force women to register with Selective Service or else they (women) will not do their part.

The insinuation is belied by the fact that millions of American women repeatedly have demonstrated their "talents, skills, and abilities" by volunteering to serve in times of national emergency. There is no reason to believe patriotic women would not do so again.

4. Misleading Claims Re Capabilities to Meet Military Standards

On pages 7-8 (and restated by Ms. Wada in answer to a question), the testimony claims, "*Should circumstances necessitate a draft, including women in the pool of individuals eligible for*

selection would improve the military's ability to maintain higher military standards. Of the 17- to 24-year-old cohort, equal proportions of women and men meet initial military accession standards – an estimated 29.3 percent of women versus 29.0 percent of men.”

This highly misleading assertion (supported by a reference to **JAMRS**, the **Joint Advertising Market Research & Studies** outfit that conducts DoD surveys on young people's propensity to serve) seems to suggest that the 29% of healthy women without disqualifying health problems or criminal records are functionally interchangeable with the 29% of men who do not have disqualifying health problems or criminal records.

But those eligibility factors should not be confused with physical capabilities. Voluminous research that the National Commission barely mentioned contradicts the misleading claim that calling up equal numbers of women would somehow *“maintain higher military standards.”*

The National Commission's Final Report glossed over or omitted objective research findings confirming that physical capabilities of men and women are significantly different, and mixed-gender units do not perform at the same levels as all-male units. The achievements of a few outstanding military women do not change unassailable biological facts. Men, as a group, are bigger, stronger, faster, and have greater endurance and deployability than women as a group.

CMR's Statement for this Committee includes references to a substantial body of evidence supporting this assertion, including the Army's difficulties in trying to finesse physical differences with the new “gender-neutral” Army Combat Fitness Test. Since then, the Army has announced the **ACFT 3.0**, which essentially gives up on gender-neutral standards.¹⁸

The new system will omit names, photos, and other gender identifiers on promotion packet records, and use color-coded “percentile bands” to obscure ACFT performance differences between men and women. Under this type of blind gender-norming, promotion evaluators will have to pretend that women taking the test who perform in their own group's top 5% ranking are the equals of men scoring in the men's top 5%.

The Army's attempts to obscure the failure of gender-neutral standards have not fooled anyone. What could go wrong? If Congress joins the Army in relying on illusions, lives could be needlessly lost.

Members of the House Armed Services Committee should not be misled by the National Commission's misinterpretations of military history and objective research that belies theories about gender equality. Social/political objectives, no matter how well-meaning or righteous, cannot justify repetition of a dangerous social experiment with men and women in our military.

¹⁸ Ben Wolfgang, *Washington Times*, Army Pulls the Pin on ‘Gender Neutral’ Combat Fitness Test, Creates Separate Tiers for Men, Women; Mar. 22, 2021. [Army pulls the pin on 'gender neutral' combat fitness test; creates separate tiers for men, women - Washington Times](#) (Last visited May 17, 2021)

Appendix B

***Amicus* Brief asks Supreme Court to Let Congress Decide on Selective Service “Draft Our Daughters” Legislation**

The **Center for Military Readiness** and eight additional public policy organizations, experts, and military general officers have filed an *amicus* brief with the **Supreme Court of the United States**, asking the Court to deny a petition seeking a Supreme Court order to include young women in **Selective Service** registration for a possible future draft.¹⁹

The friend of the court brief, submitted on Friday, March 12, asked the Supreme Court to deny a petition for a *writ of certiorari*, which the **National Coalition for Men (NCFM)** filed after the government successfully appealed a lower court decision finding that male-only Selective Service registration was unconstitutional.

The ruling was the result of an NCFM lawsuit, filed on behalf of two men, which claimed that the male-only registration requirement under the Military Selective Service Act (MSSA) violated the Fifth Amendment.

A federal district court in Texas ruled in favor of the NCFM plaintiffs in February 2019, but the **Court of Appeals for the Fifth Circuit** overturned that ruling in August 2020.²⁰

In the opinion of the Fifth Circuit Court, the 1981 *Rostker v. Goldberg* landmark Supreme Court decision, which upheld the right of Congress to include only men in Selective Service registration requirements, still prevailed.

CMR and *amici* co-signing the brief asked the Supreme Court to deny the NCFM petition for *certiorari*. This would allow the Fifth Circuit Court decision to stand, leave *Rostker* as the controlling authority, and keep the authority to make decisions about “**Draft Our Daughters**” legislation with Congress, where it belongs under **Article 1, Section 8** of the **U.S. Constitution**.

The CMR *amicus* brief maintains that the Supreme Court should deny *cert.* because **Article 1, Section 8** of the **U.S. Constitution** assigns decision making power on matters involving the military to **Congress**, not the courts. Nothing has changed to justify federal courts’ usurping of congressional authority to determine what Selective Service requirements will be.

¹⁹ [Brief of the Center for Military Readiness et. al.](#), On Petition for a *Writ of Certiorari* to the United States Court of Appeals for the Fifth Circuit, National Coalition for Men v. Selective Service System, No. 20-928, Mar. 12, 2021; [Microsoft Word - 40752 Woodruff cv 02.docx \(supremecourt.gov\)](#) (Last visited May 17, 2021)

²⁰ CMR: [Court Order to ‘Draft Our Daughters’ Caused by Congress Indifference](#), Mar. 11, 2019, [Court Order to ‘Draft Our Daughters’ Caused by Congressional Indifference - CMR \(cmrlink.org\)](#) (Last visited May 17, 2021)

In particular, the brief cites several key points of information resulting from the three-year scientific study that the **Marine Corps** conducted from 2012 to 2015. The Marine Corps study used scientific monitoring methods to compare the performance of all-male and mixed-gender units in nine months of field exercises simulating combat requirements.

A September 2015 Summary of voluminous research findings, included in the *amicus* brief as Appendix A, reported, among other things: “All-male squads, teams and crews demonstrated higher performance levels on **69%** of tasks evaluated (**93 of 134**) as compared to gender-integrated squads, teams, and crews.” (p. 12, emphasis added) ²¹

The *amicus* brief recognizes that *some* women have proved themselves capable of meeting the high standards that combat demands, and previous policies regarding women in combat billets have been repealed. “[Petitioners] fail to acknowledge, however, that the **physiological differences between man and women have not been repealed.**” (p. 12, emphasis added)

The *amicus* further states, “. . . drafting large numbers of women who cannot meet [combat] standards will **hinder** the process of providing timely combat replacements” during a time of catastrophic national emergency.

Amici co-signing the brief with the **Center for Military Readiness** include **Eagle Forum** and **Concerned Women for America**, two respected and effective national organizations that advocate for women and families, former **Vice Chief of Naval Operations Adm. (Ret.) Jerome Johnson**, **Lt. Gen. (Ret.) Benjamin R. Mixon**, who served as Commander of the **U.S. Army Command in the Pacific** and the **25th Infantry Division**, **Lt. Gen. (Ret.) William G. Boykin**, former **Commander** and an original member of the Army’s elite **Delta Force**, **Maj. Gen. (Ret.) William K. Suter**, who served as **Assistant Judge Advocate General of the Army** and the **19th Clerk of the Supreme Court**, **Rear Adm. (Ret.) Hugh P. Scott**, a physician and expert in medical physical standards who served as **Director, Medical Plans and Policy, Office of the Chief of Naval Operations**, and **Paul O. Davis, Ph.D.**, an expert in physical fitness and employment standards in the public safety sector.

A response from the Supreme Court to the petitioners’ *writ of certiorari* could come in mid-May.

* * * * *

²¹ Marine Corps Force Integration Plan – Summary, Sept. 2015, [USMCSept.10fourPGSummaryWISRR.pdf \(cmrlink.org\)](#), (Last visited May 17, 2021)