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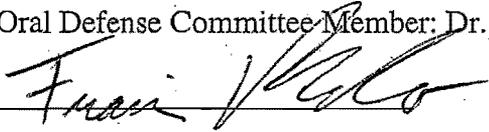
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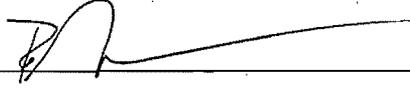
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## **Executive Summary**

**Title:** Rescinding the Ground Combat Exclusion Policy

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**Thesis:** Although the Military Diversity Leadership Commission's recommendation to eliminate the ground combat exclusion policy has legal and readiness ramifications, it is in the best interest of the U.S. military to implement it.

**Discussion:** In its March 2011 final report to Congress and the President, the Military Leadership Diversity Commission (MLDC) recommended the elimination of the ground combat exclusion policy (GCEP), a recommendation that has both legal and readiness ramifications. From a legal perspective, it could change the way that the U.S. Supreme Court interprets the application of the Due Process and Equal Protection clauses of the Constitution to selective service registration. It also has implications for the forced assignment of enlistees into combat arms specialties. From a readiness perspective, rescinding the GCEP has potential negative effects relating to differences in physical strength and effects on unit cohesion, but also has the potential to improve readiness by increasing the talent pool for recruiting and assignments, allowing for more efficient and flexible operations, and increasing morale. This paper seeks to assess the potential implementation of the MLDC's recommendation in terms of the best interests of the U.S. military.

**Conclusion:** Although the Military Diversity Leadership Commission's recommendation to eliminate the ground combat exclusion policy has legal and readiness ramifications, it is in the best interest of the U.S. military to implement it. The legal ramifications do not successfully argue against eliminating the GCEP, and the readiness benefits to be gained by welcoming women into the ranks of combat units far outweigh a set of risks that the military has proven it can counter with good leadership and sound policies.

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## Introduction

As of January 2011, more than 200,000 U.S. military women have served in Iraq and Afghanistan.<sup>1</sup> One hundred thirty-two women have been killed, and 721 have been wounded despite the fact that Department of Defense (DoD) and Army policies restrict women from assignment to ground combat roles.<sup>2</sup> Clearly, women have been in combat in Iraq and Afghanistan, though both the Defense Department and the Army maintain they are following the set of DoD and Army policies collectively known as the Ground Combat Exclusion Policy (GCEP).<sup>3</sup> Designed with a different type of war in mind, the GCEP has proved confusing and ill-suited to the complexities of war in Iraq and Afghanistan.

The current GCEP has its roots in the period following Operation Desert Storm. Between 1992 and 1994, Congress repealed the combat exclusion laws that had prevented women from serving in combat ships and aircraft, thus opening nearly every position in the Navy and Air Force to women.<sup>4</sup> Interestingly, women have never been legislatively barred from ground combat, though they had been restricted from it using a “Risk Rule” dating to 1988 that sought to limit the risk to women of “direct combat, hostile fire, or capture.”<sup>5</sup> In 1994, Secretary of Defense Les Aspin rescinded the Risk Rule on the grounds that it was “no longer appropriate” in light of the recent experience of Desert Storm; everyone in theater was deemed to be at risk.<sup>6</sup> In the same memorandum, he then issued DoD’s current policy regarding the assignment of women:

Rule. Service members are eligible to be assigned to all positions for which they are qualified, except that women shall be excluded from assignment to units below the brigade level whose primary mission is to engage in direct combat on the ground as defined below.

Definition. Direct ground combat is engaging the enemy on the ground with individual or crew served weapons, while being exposed to hostile fire and to a high probability of direct physical contact with the hostile force’s personnel. Direct ground combat takes

place well forward on the battlefield while locating and closing with the enemy to defeat them by fire, maneuver, or shock effect.<sup>7</sup>

The secretary's memorandum included the provision that the services could implement their own personnel assignment policies, and that they may, but were not required to, restrict the assignment of women "where units and positions are doctrinally required to physically collocate and remain with direct ground combat units that are closed to women."<sup>8</sup> This statement was likely a nod to the Army's 1992 assignment policy, which restricts collocation and which the Army chose not to revise following the 1994 DoD policy change.<sup>9</sup>

In practice, the GCEP limits both the types of occupations and the types of units in which women may serve. For example, the military occupational specialties of infantry, artillery, armor, and special forces are completely closed to women because direct ground combat is central to their nature, even though there are positions coded for these specialties in units that allow women (such as a brigade headquarters).<sup>10</sup> Likewise, there are specialties that women are allowed to occupy, such as medic, that are routinely assigned to both support units and direct ground combat units. Under the requirements of the GCEP, female medics may be assigned to the former but not the latter. It is important to recognize that the GCEP is an assignment policy, not an employment or utilization policy. The Army's assignment policy, Army Regulation 600-13, states, "Once properly assigned, female soldiers are subject to the same utilization policies as their male counterparts. In event of hostilities, female soldiers will remain with their assigned units and continue to perform their assigned duties."<sup>11</sup> In other words, as long as a female soldier is assigned in accordance with the GCEP, a commander can have her perform any task, combat or otherwise, that he deems necessary to carry out the mission. In a 2007 study commissioned by the Defense Department, RAND researchers pointed out that this distinction between an assignment policy and an employment policy is the crux of the issue "when considering the

extent to which women have been involved” – and injured and killed – in direct combat in Iraq and Afghanistan: “the policy does not constrain what women can do in the theater.”<sup>12</sup>

The roles that women have been playing in the Iraq and Afghanistan wars may meet the letter of the law, but the GCEP has not succeeded in keeping women out of combat.<sup>13</sup> In fact, the two wars have proven the necessity of women on the battlefield and illuminated the problems with the GCEP. Due to the complex, asymmetrical nature of the wars, it is difficult or impossible to apply concepts like “enemy” and “well forward on the battlefield” that are required by the GCEP.<sup>14</sup> As a result, gender-integrated combat support units, such as those that run convoys through contested areas, might find themselves with as much exposure to direct ground combat as a maneuver unit. It is generally agreed that the U.S. would not be able to meet its mission in Iraq and Afghanistan without women in these units, as they make up such a significant portion of combat support troops in the Army.<sup>15</sup> Women are also necessary to these wars due to the cultural sensitivities of the Muslim faith in Iraq and Afghanistan. Only female soldiers can search Muslim women, an activity that is required in non-combat situations such as security checkpoints, but is also routinely required in decidedly “combat” missions such as accompanying infantry units on household raids searching for insurgents.<sup>16</sup> The complexities of the non-linear battlefield, unclear enemy, and asymmetrical tactics in Iraq and Afghanistan highlight the problems and contradictions inherent in the GCEP.

The Military Leadership Diversity Commission (MLDC) was established by the 2009 National Defense Authorization Act to “conduct a comprehensive evaluation and assessment of policies that provide opportunities for the promotion and advancement of minority members of the Armed Forces, including minority members who are senior officers.”<sup>17</sup> Convened in January 2010, the commissioners included flag and general officers and senior enlisted from all five

services (active duty and retired), business leaders with experience in diversity, and leading academics.<sup>18</sup> They were assigned sixteen “charter tasks,” none of which specified reviewing the GCEP, and directed to submit a report directly to the President and Congress within one year.<sup>19</sup> In the course of research into the category of “Branching and Assignments,” the MLDC determined that the GCEP constitutes a “structural barrier ... to tactical/operational career fields and key assignments,” and thus to command opportunities for women.<sup>20</sup> In their final report of March 2011, commissioners approved the following recommendation:

DoD and the Services should eliminate the "combat exclusion policies" for women, including the removal of barriers and inconsistencies, to create a level playing field for all qualified servicemembers. The Commission recommends a time-phased approach:

- a. Women in career fields/specialties currently open to them should be immediately able to be assigned to any unit that requires that career field/specialty, consistent with the current operational environment.
- b. DoD and the Services should take deliberate steps in a phased approach to open additional career fields and units involved in "direct ground combat" to qualified women.
- c. DoD and the Services should report to Congress the process and timeline for removing barriers that inhibit women from achieving senior leadership positions.<sup>21</sup>

This paper will show that although the Military Diversity Leadership Commission’s recommendation to eliminate the ground combat exclusion policy has legal and readiness ramifications, it is in the best interest of the U.S. military to implement it.

### **Legal Ramifications**

The elimination of the GCEP would have legal ramifications not only for members of the military, but also for the American public at large. Most significantly, it could change the way the U.S. Supreme Court interprets the application of the Fifth and Fourteenth Amendments’ Due Process Clauses and the Fourteenth Amendment’s Equal Protection Clause to selective service registration. Rescinding the GCEP also has implications for the forced assignment of enlistees

into combat arms specialties. The idea of drafting women into military service or forcing them into combat has a history characterized by emotion and misunderstanding, but when examined objectively, the legal changes do not successfully argue against elimination of the GCEP.

### *Women and the Draft*

The public debate about women being drafted to war has its origin in the battle over the Equal Rights Amendment in the late 1970s. The Equal Rights Amendment (ERA) was passed by both houses of Congress in 1972 and stated simply, "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex."<sup>22</sup> By 1977, it had been signed by thirty-five of the thirty-eight states required for ratification when attendees of the National Women's Conference included a statement about drafting women for military service in their political platform, vaulting the issue into the "national consciousness" for the first time.<sup>23</sup> In a section on the ERA's impact on military service, the platform hypothesized, "There is no draft now, but if a national emergency requires one in the future or if it is reinstated for any reason, women would be subject to the draft just as men would be."<sup>24</sup> Anti-ERA activists led by Phyllis Schlafly seized on this idea, arguing to America that the "ERA would require a women's draft (50 percent of conscripts) and would require women to serve in combat involuntarily."<sup>25</sup> President Jimmy Carter raised the stakes in 1980 when he asked Congress for funds to implement a peacetime selective service registration and amend the Military Selective Service Act (MSSA) to remove references to gender.<sup>26</sup> Though Congress did not amend the MSSA and the subsequent peacetime draft registration remained limited to males, ERA opponents successfully used the national attention on the issue to help defeat ratification of the amendment.<sup>27</sup>

A legal challenge to the new selective service registration came in 1981 with the case *Rostker v. Goldberg*, the result of which has important ramifications for eliminating the GCEP. In the case, the federal District Court ruled that the MSSA violated the Due Process Clause of the Fifth Amendment by requiring males but not females to register for the draft.<sup>28</sup> The Supreme Court took the case on appeal and ruled that in the area of military affairs, "Congress remains subject to the limitations of the Due Process Clause ... but the tests and limitations to be applied may differ because of the military context."<sup>29</sup> The Court reversed the District Court's ruling, basing its decision on the military purpose for which the registration was authorized: providing combat troops. In the majority opinion, Justice William Rehnquist wrote:

Congress' decision to authorize the registration of only men, [453 U.S. 57, 79] therefore, does not violate the Due Process Clause. The exemption of women from registration is not only sufficient but also closely related to Congress' purpose in authorizing registration ... The fact that Congress and the Executive have decided that women should not serve in combat fully justifies Congress in not authorizing their registration, since the purpose of registration is to develop a pool of potential combat troops.<sup>30</sup>

Based on the rationale used to uphold the all-male draft in *Rostker v. Goldberg*, the door would be open to overturn the precedent should Congress authorize the elimination of the GCEP.

In the current political climate, it is unlikely that Americans will ever again be drafted into military service, and it may seem moot to argue that lifting the GCEP will have ramifications for the draft. Even though a draft will probably never be activated again, the MSSA still has practical consequences for Americans. Young men are required by law to register for selective service within thirty days of their eighteenth birthday, and if they do not, they can be permanently barred from eligibility for student financial aid, federal job training, federal employment, or citizenship (for resident aliens).<sup>31</sup> If prosecuted for failure to register, men are subject to maximum penalties of a \$250,000 fine and five years in prison.<sup>32</sup> Because of *Rostker v. Goldberg*, women are not currently subject to these same risks and consequences. Based on

the legal arguments backing the all-male draft, it is reasonable to expect that if the GCEP were eliminated, women would be required by law to register for selective service and be subject to the same legal consequences as men for failure to do so.

#### *Forced Assignment to Ground Combat*

Another issue related to repealing the GCEP is the idea that women could be involuntarily forced into combat specialties if Congress were to open them to women. One respondent to a survey of the U.S. Army War College Class of 2006 summed up the concern:

Once women are allowed in combat, a male or males will sue the government for discrimination for not making females register for the selective service. Once women are allowed to enter combat duty, then women in the U.S. will have to face being drafted as well as men. If women being in combat is made “voluntary” for females, ... then a male or males will sue that it is discriminatory because males are not given the choice to either enter combat or not to enter combat. Eventually, there will be no choice for females to go to combat, ... it will be mandatory like males. Do we as a nation really want this?<sup>33</sup>

The issue cuts both ways; a logical corollary is that if women were allowed to volunteer for the infantry, it would not be “fair” to male recruits of the All-Volunteer Force who may be assigned to the infantry against their preference.

While both issues are valid emotional and moral arguments that resonate with many people, they are not necessarily valid legal arguments. Though members of the military swear to support and defend the Constitution of the United States, they are not protected by the Constitution in the same way as the citizens they defend.<sup>34</sup> Historically, the Supreme Court has given Congress wide latitude in its application of constitutional rights to members of the military based on its constitutional authority to “make rules for the government and regulation of the land and naval forces.”<sup>35</sup> In his opinion in *Rostker v. Goldberg*, Justice Rehnquist writes of this deference to Congress regarding military affairs, “We of course do not abdicate our ultimate responsibility to decide the constitutional question, but simply recognize that the Constitution

itself requires such deference to congressional choice.”<sup>36</sup> In essence, Congress is not required to recognize the concepts of equality, due process, and equal protection within the military in the same way that they are recognized for other citizens. This fact is widely misunderstood, as military sociologist Dr. Darlene Iskra points out: “When egalitarian feminists use the rhetoric of equality and equal rights in their arguments about women’s roles in the military, they may not understand that these arguments are not completely valid.”<sup>37</sup> This misunderstanding contributes to fears like the U.S. Army War College survey respondent’s that women will be litigated into fighting in ground combat against their will. Congress’ constitutional authority to make rules for the military and the Supreme Court’s long-standing precedent of deference to Congress when exercising that authority are both protections against that happening. Though lower courts have not always deferred to Congress in such matters (for example, the District Court in *Rostker v. Goldberg* or the 9th Circuit Court in the case of Don’t Ask, Don’t Tell), the Supreme Court itself has maintained its precedent of deference. If the GCEP were eliminated, it would most likely be Congress’ (and thus the American people’s) decision whether or not to make combat voluntary for women.

#### *Legal Ramifications Conclusion*

The elimination of the GCEP will have legal ramifications of concern to service members and the American public. It will likely spur a court challenge to the MSSA that could overturn *Rostker v. Goldberg* and result in the selective service registration of women. If that happened, women would face the same legal risks and consequences as men for failure to register. However, rescinding the GCEP does not mean that women will someday be forced into ground combat involuntarily as a result of court decisions. Service members do not have the same due process and equal protection rights as other citizens that would allow them to sue successfully

for equality in assignments. The Constitution grants Congress alone the authority for making rules governing the military, an authority that the Supreme Court continues to uphold. The legal ramifications of permitting women in combat do not successfully argue against elimination of the GCEP.

### **Readiness Ramifications**

One of the principal arguments against women in combat is that their inclusion will decrease the readiness of the U.S. military. Many opponents believe that the military is being used as an experiment to “further social change in our society without regard for military effectiveness,” and that eliminating the GCEP would degrade the military’s overall effectiveness.<sup>38</sup> Elaine Donnelly, president of the Center for Military Readiness, calls the gender-integrated force a “social engineering project gone awry” in her paper “Constructing the Co-Ed Military” in the *Duke Journal of Gender Law and Policy*.<sup>39</sup> This reasoning has been used over the years to argue against racial integration, integration of women in non-ground combat roles, and the open inclusion of homosexuals. In the first two cases at least, the pessimistic predictions have not been borne out, while the latter remains to be seen. Central to the argument of decreased readiness are concerns about women’s relative physical strength and the effect of women on unit cohesion. In contrast to the potentially negative effects of rescinding the GCEP, there are also many potential benefits to readiness to be gained by allowing women in ground combat. Overall, the potential readiness benefits to be gained by rescinding the GCEP outweigh the potential negative effects, most of which can be mitigated.

#### *Physical Strength*

The most frequently voiced argument against women in ground combat is that women simply do not have the same physical strength as men, as author Brian Mitchell argues in his

book *Women in the Military: Flirting With Disaster*.<sup>40</sup> While that statement is undoubtedly true when looking at both populations as a whole, it does not always hold true when comparing individuals. The military has physical fitness standards precisely because not all men have the physical strength for military service; likewise, some women have physical strength that exceeds that of many men and could handle the physical requirements of combat. If the GCEP were rescinded, a gender-neutral, task-based physical standard could be implemented for combat specialties to mitigate the potential negative risks to readiness of including women.

In her chapter of the book *Women in Combat: Civic Duty or Military Liability?*, former Army chaplain Marie deYoung makes much of the fact that military fitness standards are “gender-normed” – standards for females are lower than those for males – though fails to mention or object to the fact that standards are also age-normed.<sup>41</sup> This selective reasoning regarding the fitness standards is fairly common in the public debate about women in combat. Unfortunately, the military’s physical fitness standards are inconsistent and arbitrary. In 1998, the General Accounting Office investigated general physical fitness standards in the armed services at the behest of Senator Charles Robb, the ranking minority member of the Subcommittee on Readiness. Their report found that “fitness standards varied from service to service and that the divergent criteria applied to genders, races, ethnic, and age groups often made little sense.”<sup>42</sup> The report particularly criticized the fitness standards for women, which “were often estimated, inferred from male data, or based on command judgment rather than data on actual performance.”<sup>43</sup> A 1998 report by a committee of the National Academy of Sciences’ Institute of Medicine recommended that the services develop “task-specific, gender-neutral strength and endurance tests ... for placing people in jobs that require moderate and heavy lifting.”<sup>44</sup> Neither the General Accounting Office’s nor the National Academy of Sciences’

concerns have been fully addressed. Marie deYoung reports that the services continue to justify their fitness standards based on the argument that the tests are designed to measure an “individual’s general cardiovascular fitness” rather than the ability to perform a specific job.<sup>45</sup> The Army Physical Readiness Training manual states that the purpose of physical testing is to “ensure the maintenance of a base level of physical fitness essential for every Soldier, regardless of Army MOS [military occupational specialty] or duty assignment.”<sup>46</sup> This testing basis serves as the justification for gender- and age-norming, but does not address who can perform the job.

Implementing physical fitness standards that truly reflect the way the military works and fights could neutralize the effects of the argument that women are not strong enough for combat. Rather than different standards based on gender and age, as is currently the practice, the military should adopt different standards based on the tasks a person is expected to perform in their military occupational specialty, and those should be the minimum for acceptance into that occupation. There is no doubt the standards for infantry would be high, and many women would not be able to meet them. However, it is reasonable to argue the strength and stamina requirements for other combat specialties, such as armor and artillery, may not be significantly different from those required of women who are currently loading and driving supply convoys in Afghanistan. This argument is supported by military research showing that a percentage of women – sometimes a quite significant percentage – can perform at the same level as men in strength tests. A 1985 Navy study examined the ability of men and women to perform various strength tests based on the tasks of the most physically demanding Navy occupational specialties. Researchers found that the degree of overlap (percentage of scores of women that were matched by those of men) ranged from 7 percent to 90 percent for the task-based strength tests, with an average overlap of 31 percent.<sup>47</sup> This statistic means that even on the most difficult test for

women (a flight deck tow-bar run), 7 percent of women had scores that could be found within the male sample. On average, 31 percent of women could match male scores for the eighteen tasks.

Despite the gender-based disparities in fitness standards and their exclusion from ground combat units, many women are currently serving in military occupations that require significant physical strength. To assess women's real world physical capacity in combat requires looking no further than Iraq, where women satisfactorily participated in combat on a daily basis. Lieutenant Colonel (Retired) Michael Baumann is a former commander of a field artillery battalion in a dangerous part of Baghdad who had women attached to his patrol units in 2004 and 2005.

Though initially doubtful of the women's abilities to perform what he described as "infantry duties" due to the weight of armor and gear combined with the heat of Iraq, he became a convert when he actually saw them in action. "Not only could they handle it," he said, "but in the same way as males. I would go out on patrols every single day with my battalion. I was with them. I was next to them. I saw with my own eyes. I had full trust and confidence in their abilities."<sup>48</sup>

Perhaps the most compelling anecdote from Iraq that demonstrates the ability of women to perform physically in direct ground combat is that of Silver Star winner Sergeant Leigh Ann Hester, whose convoy was ambushed by insurgents in 2005. She "led her team through the kill zone into a flanking position, where she assaulted a trench line with grenades."<sup>49</sup> After linking up with her squad leader, they maneuvered to assault and clear two trenches; Hester is personally credited with killing at least three insurgents with her rifle.<sup>50</sup> Her actions that day "saved the lives of numerous convoy members," and are tangible proof that the physical requirements of combat are not beyond the reach of all women.<sup>51</sup> The risks to physical readiness of rescinding the GCEP could be mitigated by task-based standards that would allow capable women, such as Sergeant Hester, to serve in combat specialties without diminishing the readiness of a unit.

## *Unit Cohesion*

Another common argument against eliminating the GCEP is that including women in combat units will damage or destroy the quality called “unit cohesion,” harming readiness or combat performance.<sup>52</sup> This argument was made by the 1992 Presidential Commission on the Assignment of Women in the Armed Forces, which voted unanimously not only to maintain the GCEP, but to codify it into law.<sup>53</sup> Opponents argue that the presence of women will disrupt male bonding, and that fraternization, sexual misconduct, and gender harassment (“hostile attitudes, sexist remarks, undermining of authority”) will erode cohesion.<sup>54</sup> It is possible to measure cohesion and its corresponding effect on performance, and social scientists have done so for decades, conducting research both inside and outside of the military “to better analyze how interpersonal dynamics impact the performance of small organizations.”<sup>55</sup> They recognize two types of cohesion, “task cohesion” and “social cohesion.”

- *Task cohesion* is the shared commitment among members to achieving a goal that requires the collective efforts of the group. A group with high task cohesion is composed of members who share a common goal and who are motivated to coordinate their efforts as a team to achieve that goal.
- *Social cohesion* is the extent to which group members like each other, prefer to spend their social time together, enjoy each other’s company, and feel emotionally close to one another.<sup>56</sup>

Hundreds of studies have researched the relationship among task cohesion, social cohesion, and group pride. Research shows that of the three, high task cohesion is by far the “strongest predictor of performance.”<sup>57</sup> In fact, studies demonstrated that high “social cohesion and group pride had no reliable effects on [positive] performance once task cohesion was statistically controlled.”<sup>58</sup> On the other hand, multiple studies have shown that high social cohesion “has sometimes been linked to bad team performance” and that it is high “social cohesion rather than task cohesion ... that is responsible for any negative effects.”<sup>59</sup> Another

researcher explains the phenomenon, noting that high social cohesion “can have deleterious effects on performance outcomes and task cohesion, because people start to prioritize friendship and social activities over performing their jobs.”<sup>60</sup> Thus the type of cohesion – one that includes male bonding, feelings of brotherhood, and hypermasculine jocularity – that most people think of when they worry about the effect of women on the dynamics of a combat unit is not necessarily desired in large amounts.

Based on the U.S. military’s own history of integrating combat ships and fighter squadrons in the early 1990s, there is no evidence that the inclusion of women in a combat unit has a significant negative effect on cohesion and readiness. In 1997, four years after combat aviation was open to women and three years after they joined combat ships, the Secretary of Defense commissioned a RAND study on the readiness effects of integrating women into previously closed military occupations.<sup>61</sup> Researchers found that commanders and their subordinates in integrated units perceived gender to have only a “relatively small effect on readiness, cohesion, and morale.”<sup>62</sup> In written responses, only two out of 934 respondents in recently integrated units cited gender as a factor in their unit’s readiness.<sup>63</sup> In fact, many respondents believed that the inclusion of women resulted in improved performance. They told researchers that the presence of women often “raised standards and reduced drinking and hazing.”<sup>64</sup> While discussing the “loss of all-male bonding environments” with researchers, “even those who longed for the ‘good old days’ of high social cohesion admitted that some now-abandoned types of social bonding between men were actually unprofessional and detracted from the work environment.”<sup>65</sup> Going a step beyond the idea that women simply make men behave better, supervisors in gender-integrated units found that women contribute uniquely to task

cohesion in a way that improves readiness. In a different study, a supervisor of a tank maintenance unit described the effect women had on task cohesion:

When women were placed on his team, they took better care of the tools and equipment than the men, worked more carefully at their tasks, and kept their areas cleaner and better organized. The men on the team also acquired these habits, thus improving the status of the work unit overall.<sup>66</sup>

The successful integration of each service's combat squadrons and the Navy's fleet of surface and amphibious combatants provides historical evidence that the presence of women in formerly all-male combat units not only does not detract from readiness, but can also enhance it.

The evidence of the success of gender integration does not illustrate that there were no initial problems with cohesion, but rather leaders were able to preempt or mitigate these problems. Though decades of research shows that strong cohesion among group members plays a less important role in performance than historically thought, it does not mean "we know nothing about where cohesion comes from or how to build it."<sup>67</sup> Commanders who are concerned about a lack of cohesion in their unit can certainly take steps to improve it. Researchers have identified six critical factors that are known to build cohesion:

- propinquity (spatial and temporal proximity – the people who happen to be around us)
- shared group membership – belonging to a social category that is salient in the immediate situation (e.g., two parties who are rooting for Navy in the annual Army-Navy football game)
- attitude similarity
- success experiences (...)
- shared threat (...)
- leadership and training<sup>68</sup>

Virtually none of these are gender-specific, and research shows that leadership is the most important factor. One study demonstrated that "leader emotional support and task support both predicted the development of unit cohesion."<sup>69</sup> Another study showed that in a light infantry platoon conducting a simulated combat exercise, performance of the unit was directly correlated

to soldiers' ratings of their leaders' skills. The researchers concluded that "by articulating clear standards and expectations for performance and showing recognition to platoon members for specific milestones achieved, platoon leaders may establish a basis for working together that prepares the unit to function in an environment where knowing what to do, when to do it, and with whom is essential to successful performance."<sup>70</sup>

Positive leadership can certainly smooth over the rough edges of cohesion in groups with minor difficulties, but it can also counter truly devastating problems that can kill both cohesion and performance, such as fraternization, sexual and gender harassment, and sexual misconduct. Research shows "committed leadership, education, and rigorous and fair enforcement of the expected standards by all in the chain of command are keys to ensuring all in a unit are treated, and act, professionally."<sup>71</sup> The Department of Defense conducts periodic surveys in order to provide benchmark data on unprofessional, gender-related behaviors in the armed forces. Their data supports the notion that leadership can positively effect change in this area. From 1995 to 2002, the percentage of women reporting sexual harassment declined from 46 percent to 24 percent – a significant 22 percent drop – and sexual assaults against women decreased from 6 percent to 3 percent.<sup>72</sup> Crude or offensive behavior – gender harassment – dropped 18 percentage points.<sup>73</sup> This interval of study coincides with the critical period following the repeal of the combat exclusion laws for ships and aircraft and the rescission of the "risk rule" for combat support unit assignments.<sup>74</sup> It represents seven of the first eight years of large-scale gender integration in combat squadrons and surface ships, a 10% increase in Army occupations open to women, and an 88% increase in Marine Corps occupations open to women.<sup>75</sup> Thus, this dramatic drop in sexual and gender harassment happened even as a revolution was taking place at sea, in the air, and on the ground. An increase in women in combat and combat support units coincided

with 22 percent less sexual harassment and 18 percent less gender harassment in the armed forces. The official report of the *Armed Forces 2002 Sexual Harassment Survey* places the credit squarely on leadership:

The 2002 survey results indicate that Defense officials and military leaders have taken the issue of sexual harassment seriously and significant improvements have occurred since 1995. Effective leadership ... and organizational climate ... are the strongest predictors of whether or not sexual harassment will occur in any particular location.<sup>76</sup>

The trends and conclusions of the 2002 survey reinforce the notion that the risks to unit cohesion of including women in combat units can be, and has been, mitigated by effective leadership.

#### *Potential Readiness Benefits*

While rescinding the GCEP does have the potential for some negative effects on readiness, it also has the potential to improve readiness in a meaningful way. One of the primary arguments in support of rescission is that it will greatly increase the talent pool from which combat soldiers may be drawn. This consequence is important not only from a recruiting perspective, but from an assignment perspective, allowing for more efficient and flexible operations in current and future wars. There is also evidence to suggest that women may actually enhance the morale of combat units.

#### Increased Talent Pool for Recruiting

One of the most compelling arguments in favor of rescinding the GCEP is that it will greatly expand the talent pool from which to recruit combat soldiers. In the Chief of Naval Personnel's 1993 testimony to Congress regarding opening combat aircraft and ships to women, he highlighted the fact that "force reductions and austere budgets" combined with ever-changing mission sets make it critical that the service is able to "draw from the most talented personnel available," male or female, to keep readiness at its peak.<sup>77</sup> The conditions and needs on which he

based his argument are much the same today, as the United States finds itself fighting two wars in a fiscally constrained environment with fewer recruits.<sup>78</sup>

Commanders truly need the best person for the job, and they may not be getting it. The U.S. Army Accessions Command estimates that only 12 percent of the 15.4 million males aged seventeen to twenty-four in the United States are fully qualified for military service. Further reducing the applicant pool is the fact that 67 percent of high school graduates go on to college, and only 15 percent demonstrate a propensity to enlist in the armed forces.<sup>79</sup> Though the recruiting climate has improved in the wake of the recession that began in December 2007, prior to that time the Army was accepting increasingly greater numbers of less qualified males in order to meet its recruiting numbers.<sup>80</sup> From 2005 to 2007, the number of waivers given to recruits with serious misdemeanors increased 175 percent, and only 79 percent of 2007 recruits had high school diplomas, despite Department of Defense and Department of the Army recruiting mandates of 90 percent.<sup>81</sup> Journalist Anna Quindlen summed up the dilemma of not including women in the recruiting pool for combat arms specialties: “At a time when the straitened military is making room for recruits with criminal records, a smart 23-year-old woman with drive and focus looks awfully good.”<sup>82</sup> Forced by policy to ignore half of the population in recruiting combat soldiers, it may be true that the Army has been meeting its recruiting numbers in recent years, but it is not at all clear that it has been meeting them with the best-qualified people. Expanding the recruiting pool for combat arms to include women has the potential to increase readiness by increasing the number of fully qualified candidates that recruiters can target, allowing them to rely less on candidates who require waivers to enter the service.

## More Flexible and Efficient Operations

Reversing the GCEP would not only give the military more flexibility in bringing the best people into the service, it would also give more flexibility in assignments, which could increase the efficiency of operations. As discussed in the introduction, it would not be possible to fight the current wars without women.<sup>83</sup> Part of the reasoning behind this statement is that women make up such a significant percentage of the combat support occupations that are necessary to conduct operations.<sup>84</sup> The other reason for this statement is that the specific wars the nation is fighting – in Muslim nations – require the participation of women due to cultural sensitivities.<sup>85</sup> Only female soldiers can search Muslim women, a necessary part of activities such as terrorist searches or household raids that are primary missions of units from which women are excluded. A 2007 RAND study points out that Army Field Manual 3.20-96, *Heavy Brigade Combat Team (HBCT) Reconnaissance Squadron*, directs HBCTs to “use female searchers,” but that the GCEP prevents females from being assigned to HBCTs.<sup>86</sup> This contradiction is resolved by “attaching” but not “assigning” women to combat units to perform these roles. The Lioness program, in which women accompanied infantry soldiers on raids in Iraq, was made famous by a 2008 documentary that first brought widespread attention to this practice.<sup>87</sup> The women who are pulled into combat units for the Lioness program and others like it must come from somewhere – they come from other units in country that count on those women for their own manning and readiness.<sup>88</sup> A soldier in a support unit described the scope of the problem to RAND researchers:

There is a female search team requirement. The [unit name] tells us, “You need to resource all female search teams.” That depleted our unit a lot. All those female search teams. Plus the women that were needed at the entry points of the FOB [forward operating base]. Plus the women needed in the dining facility to search, and also those needed at the third-country national interviews. There’s only a finite number of women in a unit. They [mission commanders] didn’t consider the MOS that they would hinder.<sup>89</sup>

This situation exists because the GCEP prevents women from being assigned to combat units that legitimately need them to conduct their mission in a Muslim nation. If the GCEP were rescinded, the Army could plan more efficiently to have women assigned where they are needed, stemming the flow of unplanned losses from other units in the war zone and thereby increasing readiness.

### Increased Morale

Another potential benefit of revoking the GCEP may be found in the area of morale. Multiple studies have found that the presence of female service members can actually increase unit morale, even in combat situations. In their 1997 study of recently integrated combat ships and aircraft squadrons, RAND researchers found a belief among men that their units developed a “more positive, professional work atmosphere” after the integration of women.<sup>90</sup> Among other reasons cited, many men believed that the women in their unit were serving as counselors of sorts, talking to fellow service members about their problems and providing a less destructive outlet than drinking or fighting to deal with life’s stresses.<sup>91</sup> The Defense Department Advisory Committee on Women in the Services (DACOWITS) discovered similar sentiments when they conducted a 2009 study of more than 300 service members who were serving or had recently served in Iraq or Afghanistan. The service members interviewed by DACOWITS echoed the idea that “women often serve as a confidant to their male peers” and added the observation that women add to morale in a deployed environment by organizing events that foster camaraderie and raise spirits.<sup>92</sup> The numerous intangible ways that women contribute to unit morale in a deployed combat environment represent another potential benefit of revoking the GCEP.

### *Readiness Ramifications Conclusion*

Rescinding the GCEP will undoubtedly have effects on readiness. Opponents of women in combat argue that women do not have the physical strength to perform in combat, and that their presence will decrease unit cohesion, in turn decreasing readiness.<sup>93</sup> While many women do not have the physical strength to perform in combat, studies and real world experience in Iraq and Afghanistan demonstrate that some women are able to perform successfully the physical feats required.<sup>94</sup> The services could mitigate the potential negative effect of opening ground combat arms specialties to women by addressing the disparity in strength among women. By employing objective, task-based physical fitness standards for combat arms specialties that reflect the way the military actually fights, the GCEP could be rescinded without decreasing the overall physical readiness of ground combat units.

Effects on unit cohesion can also be mitigated through positive action. Years of research have demonstrated that “task cohesion” is the single most important factor in predicting group performance, and that low “social cohesion” – the type of bonding that people typically worry about when considering the effects of integration – has no statistical effect.<sup>95</sup> Luckily, much is known about how to build task cohesion, and the critical factors do not hinge upon gender, but leadership.<sup>96</sup> The successful integration of combat ships and aircraft squadrons following the repeal of the combat exclusion laws demonstrates that the military is capable of successfully leveraging positive leadership to mitigate the risk to cohesion and readiness posed by rescinding the GCEP.

Allowing women to serve in combat arms specialties and ground combat units also has a variety of potential positive effects on readiness. It increases the size of the talent pool from which qualified people may be recruited for combat arms, which is critical for a nation fighting

two wars in an austere budget environment. Allowing women to be assigned to ground combat units could also lead to more flexible and efficient operations, particularly for missions that require women due to Muslim cultural sensitivities. Finally, studies show that women have the potential to increase the morale of units to which they are assigned, an intangible but recognized benefit to readiness. Overall, the potential readiness benefits to be gained by rescinding the GCEP outweigh the potential negative effects, most of which can be mitigated.

## **Conclusion**

In its March 2011 final report to Congress and the President, the Military Leadership Diversity Commission recommended the elimination of the ground combat exclusion policy and the assignment of women to both ground combat units and combat career fields. This paper sought to identify the legal and readiness ramifications of the MLDC's recommendation and assess its potential implementation in terms of the best interests of the U.S. military.

The GCEP's elimination will likely cause a court challenge to the MSSA that could result in the selective service registration of women, causing them to bear the same consequences as men for failure to register. However, due to the Supreme Court's consistent deferral to Congress in making rules governing the military, eliminating the GCEP would not necessarily lead to court rulings forcing women into ground combat involuntarily. The legal ramifications of permitting women in combat therefore do not successfully argue against elimination of the GCEP.

Eliminating the GCEP will have effects on readiness, both positive and negative. Opponents of women in combat argue that the inclusion of women will decrease readiness by decreasing physical standards and unit cohesion. Employing objective, task-based physical standards for those personnel entering combat arms specialties can mitigate the risk posed by the inability of many women to perform physically demanding combat tasks. The successful

integration of women into combat squadrons and ships in the early 1990s proved that positive leadership can mitigate the risk to unit cohesion posed by the inclusion of women. That experience also taught the U.S. military that the presence of women could actually improve readiness by increasing the morale of units to which they are assigned. Allowing women to be assigned to combat units could also lead to more flexible and efficient operations, particularly for missions that require their specific skills. Overall, the potential readiness benefits to be gained by rescinding the GCEP outweigh the potential negative effects, most of which can be mitigated.

Although the Military Leadership Diversity Commission's recommendation to eliminate the ground combat exclusion policy has legal and readiness ramifications, it is in the best interest of the U.S. military to implement it. The legal ramifications do not successfully argue against eliminating the GCEP, and the readiness benefits to be gained by welcoming women into the ranks of combat units far outweigh a set of risks that the military has proven it can counter with good leadership and sound policies.

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