WOMEN IN THE ARMED FORCES

ISSUE BRIEF NUMBER IB79045

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DATE ORIGINATED 04/16/79
DATE UPDATED 08/31/82

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0909
ISSUE DEFINITION

Draft registration is one aspect of the question of the role of women in the military which has confronted Congress in several interrelated forms. The Supreme Court has upheld the right of Congress to determine whether women should be registered for the draft, and Congress has voted to register only males. Another aspect is whether to continue to expand the number of women in the services. Difficulties in obtaining enough qualified males for the All-Volunteer Force led to increasing recruitment of women during the 1970s, but under the Reagan Administration recruitment goals for women are being leveled off while pay and benefits for the armed forces are improving. The third aspect is whether women should be excluded from combat positions by law. The Department of Defense in 1979 recommended repeal of the law prohibiting the use of women on aircraft and naval vessels assigned combat missions, but this request has not been renewed by the Reagan Administration.

The two basic issues involve national security and the role of women in American society. Would national security at some point be jeopardized by an increasing number of women in the armed forces, or would it be enhanced by enlarging the pool of qualified people available? Should women have equal rights, opportunities, and responsibilities in national defense? Or do role and physical differences between the sexes and the protection of future generations require special efforts to limit the role of women in the armed forces?

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BACKGROUND AND POLICY ANALYSIS

Two major factors led to the expansion of the role of women in the armed forces. First, after the end of the draft and the beginning of the All-Volunteer Force in December 1973, the military services had difficulty in recruiting and retaining enough qualified males, thereby turning attention to recruiting women. Second, the movement for equal rights for women led to demands for equal opportunity in all fields, including national defense.

Women were recruited in increasing numbers and assigned to a wider variety of occupations as one method of meeting shortfalls in enlistments by qualified men. The number of women in the armed forces steadily increased from less than 2% at the end of FY72 to 8.9% in September 1981. (The percentage varied among services: Army, 9.4% (73,653 women); Navy, 7.4% (39,903 women); Marines, 4% (7,617 women); and Air Force, 11.1% (63,478). At the end of September 1981, of a total strength of 2,082,560 people in the active forces, 184,651 were women. The objective of the Carter Administration was to increase the number of women on active duty to 254,300 (12.5%) by 1985. [See tables at the end of this section.]

At the beginning of 1981, however, military leaders asked the incoming Reagan Administration to hold down the number of women enlistees until their impact on force readiness could be determined. In February, the Women in the Army Study Group said its report, originally scheduled for completion in December 1981, would not be released until summer. The group said the Army was trying to develop an exact physical requirement for each occupational specialty so that the same standard could be used for men and women, except specialties which are closed to women because of combat restrictions, such as combat arms. On Aug. 26, 1982, Assistant Secretary of Defense Lawrence Korb announced a new policy relating to women in the Army. The number of enlisted women would increase by about 5,000 to a total of 70,000 in the next five years, and the officers from 16,000 to 18,000. These are lower increases than planned by the previous Administration. Twenty-three additional job categories were to be closed to women, and new strength tests were to be added that would, in effect, close additional jobs.

Parallel with the increase in the numbers of women in the military services was a gradual removal of restrictions against them. During World War II, women served in the various services under temporary arrangements and inconsistent policies. The Armed Forces Integration Act of 1948 (62 Stat. 356-75) gave women a permanent place in the military services by authorizing women in the regular Army, Navy, Air Force and Marine Corps. However, it limited the number of enlisted women to 2% of enlisted strength, the number of female officers (excluding nurses) to 10% of enlisted female strength, and the rank a female officer could achieve to Lieutenant Colonel (or Commander in the Navy).

During the 1960s and 1970s, the movement for equal opportunity for women gave new momentum to efforts to eliminate discriminatory treatment of women
in the armed forces. Changes were brought about by policy directives from the services, court decisions, and legislation. In 1967, P.L. 90-130 repealed the limitation of 2% for female enlisted strength. In 1969, by administrative action, the Reserve Officers Training Corps (ROTC) was opened to women for the Air Force, and for the Army and Navy in 1972. In 1973 the Supreme Court ruled in *Frontiero v. Richardson* (411 U.S. 677) that spouses of female members of the armed forces were to be considered dependents in the same way as spouses of male members of the armed forces. In 1973 the age requirement for enlistment of women without parental consent was made the same as for men (P.L. 93-920). In 1976 the age requirement for enlistment of women without parental consent was made the same as for men (P.L. 93-920). In 1976 women were admitted to the three major service academies: Military, Naval, and Air Force (P.L. 94-106); women had already been admitted to the U.S. Coast Guard and Merchant Marine Academies by administrative action.

In 1978 two major steps were taken. Congress passed legislation (P.L. 95-485) abolishing the Women's Army Corps as a separate unit and modifying section 6015 of Title 10 of the U.S. Code which had precluded women from serving on Navy ships. Under the modification, women could be permitted to serve permanent duty on vessels not expected to be assigned combat missions, and up to 6 months temporary duty on other Navy ships. An act passed in 1980 (P.L. 96-513) equalized the treatment of male and female commissioned officers. However, women were still prohibited from being assigned to ships or aircraft engaged in combat missions and, under section 8459, to Air Force planes in combat missions.

Moreover, the percentage of women in the higher officer and enlisted ranks continued to be lower than the percentage of women in service. [See tables at the end of this section.] The disparity was much greater if medical officers, which includes nurses, were excluded. The following figures are for Dec. 31, 1980:

<table>
<thead>
<tr>
<th>Grade</th>
<th>Total female officers in grade, all services</th>
<th>% of total officers in grade, all services</th>
</tr>
</thead>
<tbody>
<tr>
<td>07-10</td>
<td>7</td>
<td>1.2</td>
</tr>
<tr>
<td>06</td>
<td>243</td>
<td>1.7</td>
</tr>
<tr>
<td>05</td>
<td>861</td>
<td>2.6</td>
</tr>
<tr>
<td>04</td>
<td>2,244</td>
<td>4.5</td>
</tr>
<tr>
<td>03</td>
<td>7,841</td>
<td>9.3</td>
</tr>
<tr>
<td>02</td>
<td>4,661</td>
<td>12.8</td>
</tr>
<tr>
<td>01</td>
<td>6,027</td>
<td>14.6</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>21,884</strong></td>
<td><strong>8.4</strong></td>
</tr>
</tbody>
</table>

(Source: Department of Defense)

**How much should the All-Volunteer Force expand recruitment of women?**

Even greater difficulty in recruiting enough qualified men for the All-Volunteer Force is expected during the 1980s when, because of declining birthrates in the 1960s, the number of males reaching the generally accepted prime military recruiting age of 18 will decline each year. [For additional information, see CRS Issue Brief 77032, Military Manpower Policy and the
All-Voluntary Force.]

To meet this problem, the Department of Defense in the 1970s increased the recruitment of women and opened more occupational specialties to them. In the beginning of 1981 it appeared that plans to increase the number of women recruits might be changed. William D. Clark, Acting Assistant Secretary of the Army for Manpower and Reserve Affairs, said that the Army was trying to "hold the line" on the number of women, pending completion of a study of the impact of women on the Army's preparedness to fight.

At issue are the qualifications needed for modern armed forces, whether women meet these qualifications, and the effect more women in the services would have on the ability of the armed forces to carry out their missions and on society in general.

One qualification is education, which some believe is becoming more important with the growing complexity of modern weapons systems. The services have placed a high premium on high school completion because it is accepted as the best single measure of potential to adapt to military life. Research has established a consistent inverse relationship between the level of education and the incidence of disciplinary problems. In recent years a much larger percentage of female recruits have been high school graduates than men.

In the past, the services have been able to establish higher standards for women recruits than for men because of the small recruitment levels for women. A principal argument in favor of increasing the numbers of women in the volunteer forces has been that it would be better to raise the number of women recruits who are better educated than to recruit less qualified men. As the number of women recruits is increased, however, the services will not be able to be as selective and the differences in education level between male and female recruits may be expected to narrow. After achieving only a 72.4% success rate in its female recruitment objective during the period October 1978-March 1979, the Army lowered its entrance standards for women. From Oct. 1, 1979, until March 1981, the enlistment eligibility criteria of the Army was the same for women as for men. Both were able to enter with a score of 16% on the entrance test if they have a high school diploma or with a score of 31% without a diploma. In March 1981, when it decided to hold the female enlisted strength at 65,000, the army stopped recruiting female non-high-school graduates.

Aptitude tests have been the second measure of qualification used by the Defense Department, and this is closely related to the issue of the kind of jobs to which women should be assigned. In aptitude tests given by the Army, men as a group have consistently scored higher than women as a group in three areas: electronics, general mechanics, and motor mechanics. Men and women have scored roughly the same in the general technical and clerical composites, with women scoring slightly higher in the clerical. Some contend that these differences might be expected as a result of differences in the educational and cultural backgrounds of men and women, and that the tests do not reliably predict the performance of properly trained women in fields such as electronics and mechanics. The question is how much effort should be made to train women for jobs in the traditionally non-female occupations.

The third test, announced in August 1982, measures physical strength. Starting in 1982, all Army recruits will demonstrate the amount of weight he or she can lift, and the ability to lift an object and hold it for 15 seconds. Jobs are to be categorized as light, medium, heavy, or very heavy
work, and persons assigned to jobs in the last two categories must be able to lift 100 pounds.

Most women have traditionally been assigned to the administrative and medical occupations in which their aptitudes are high. Some favor continuing this policy since many women prefer these jobs and there is considerable room for more women in these areas. While 33% of the women in 1978 were in administrative and clerical positions, they occupied only 13% of the total positions in that category. The 4% of the men in these categories held 87% of the positions. Moreover, studies by the Department of Defense have shown that enlisted women have much higher rates of retention in the service when they are assigned jobs in the traditionally female skills (administrative and clerical, and medical and dental) and lower retention rates in traditionally non-female occupations (mechanical and electrical equipment repair.)

The Defense Department has noted that concentrating on recruiting women into the traditional skills would have questionable implications for equal opportunity, so it has been making an effort to increase the number of women in non-traditional occupations. In the view of the Secretary of Defense, the expansion of women into non-traditional fields is progressing at a slow but satisfactory pace intended to minimize training and utilization problems.

A third area of qualifications at issue involves the entire range of physiological differences between men and women. One aspect is physical size and strength. On an average, men are larger and have more muscular strength. The question is whether women can perform some of the physical tasks which are required in some of the military occupations, such as lifting heavy objects and operating heavy machinery and especially whether they could fight in close combat, an issue which will be discussed separately.

Proponents of women in the armed forces favor development and establishment of criteria for strength and other requirements for each occupation and then testing each member of the armed services for meeting these criteria, assigning individuals on the basis of their capabilities. They believe that those women who meet the criteria should have the opportunity to enter those occupations.

Another aspect of the physiological differences involves pregnancy and childbirth. Some fear that because of these uniquely female conditions, and the related traditional responsibility of mothers for child-care, women will lose more time away from duty, be less able to deploy rapidly, and have shorter service careers.

The Department of Defense study, Use of Women in the Military, found that women on active duty were retained at about the same overall rates as men, although they had higher loss rates than men in occupations which were not traditionally for women. It listed as unanswered questions the impact of women with small children on deployability and the comparative lost time of men and women. Pregnancy was agreed to be the major cause for lost time for women in the services, with approximately 8% of the women becoming pregnant each year. Nevertheless it was not clear whether the overall rate of lost time for women was significantly more than lost time for men. A Defense Department study of sample group over a 6-month period showed that in all three services, men had a higher rate of absenteeism from unauthorized absences (AWOL) and alcohol abuse, and in the Navy men had a higher overall rate of lost time than women.
The Defense Advisory Committee on Women in the Services (DACOWITS) recommended at its April 1979 meeting that the Department of Defense establish standardized criteria for data collection by all services regarding loss of duty for men and women. It noted the wide variance in criteria used by different services in previous studies. It also recommended a study of reasons for attrition and migration by members of each sex from fields normally traditional for that sex.

Some look beyond individual qualifications to group performance and contend that even if they meet all necessary qualifications and can perform the necessary tasks, women will decrease the efficiency and effectiveness of the armed forces. In their view, having women in large numbers might drive men away from the armed forces, or at least impair the morale and efficiency of men who have taken pride in the masculinity of their profession. They contend that the United States already has a greater percentage of women in its armed forces than almost all other countries and fear that other countries will perceive the United States as militarily weak if it increases the number of women greatly, especially if women are put in combat positions.

Those who favor increasing the number of women point to results of tests (called MAXWAC) conducted by the Army in 1976 to determine the effect of female participation in company size units. Field exercises were conducted with units containing as many as 35% women. According to the Department of Defense, the tests "showed no degradation in unit performance as a result of female content." Others question the validity of the test or its interpretation and contend more experience is necessary before women can be extensively utilized in combat units without jeopardizing national security.

Should Congress remove the legal restrictions against women in combat?

Since the main mission of the armed forces is to deter war by being prepared to wage one if it occurs, there is a limit to the extent to which the armed forces can increase the number and expand the assignments of women as long as there are restrictions on assigning women to combat posts. In addition to barring women from the combat posts themselves, the restrictions prevent the utilization of women in many non-combat posts which are held for rotation purposes. At the present time there are legislative prohibitions restricting the assignment of women to vessels and aircraft assigned combat missions for the Navy (10 U.S.C. 6015) and aircraft assigned combat missions in the Air Force (10 U.S.C. 8549). While there is no such legislative prohibition for the Army, Army policy imposes similar restrictions on ground combat assignments.

The combat exclusion was one of the factors cited by the Supreme Court in upholding the right of Congress to exclude women from registration for the draft. The Court said,

"The fact that Congress and the Executive have decided that women should not serve in combat fully justified Congress in not authorizing their registration, since the purpose of registration is to develop a pool of potential combat troops." (Rostker v. Goldberg, slip opinion 80-251.)

On the basis of the combat restriction, the services bar women from many occupational specialties and assignments. In the Navy, out of 99 ratings,
eleven are closed to enlisted women, including fire control technician, gunnersmate, sonar technician, and electronics warfare system technician.

Five of the 230 Air Force specialties are closed: defense gunner (B-52), para rescue recovery, radio operator/maintenance driver, which is located with Army frontline units where Army policy excludes Army women, tactical air command and combat control, and security specialist, who guards planes loaded with nuclear weapons.

Army policy prohibits women in 61 out of a total of 350 occupational specialties and in any infantry, armor, cannon field artillery, combat engineer, and low altitude air defense artillery unit of battalion/squadron or smaller size regardless of the occupational specialty. The Carter Administration had opened all except 38 specialties to women, but on Aug. 26, 1982, Assistant Secretary of Defense Lawrence Korb announced that 23 additional job categories were being closed to women. The additional jobs barred includes heavy equipment operators and carpentry and masonry specialists.

Prior to 1978 many more occupational specialties were closed to women. In 1977 in P.L. 95-79 Congress required the Secretary of Defense to submit a definition of the term "combat" together with recommendations on expanding job classifications to which women might be assigned and any changes in law necessary. In his reply on Feb. 14, 1978, Deputy Secretary of Defense Charles Duncan defined combat to mean "engaging an enemy or being engaged by an enemy in armed conflict"; a person to be "in combat" when in a geographic area designated as a combat/hostile fire zone by the Secretary of Defense or other specific circumstances," and a combat mission as "a mission of a unit, ship, aircraft or task organization which has as one of its primary objectives to seek out, reconnoiter, or engage an enemy." Subsequently, the virtually absolute ban against women on Navy ships was modified and many new jobs in all services were opened to women.

In 1981, the Navy had 23% of the enlisted women in non-traditional jobs, and 145 women officers on 29 ships and 1,500 enlisted women on 17 ships.

Deputy Secretary of Defense Duncan said the best long-term solution to open still more assignments to women was to repeal both 10 U.S.C. 6015 and 8549. He proposed allowing the Secretaries of the Military Departments to set policy for, monitor, and review the assignment of women within their respective departments, with the Secretary of Defense reviewing the programs to insure compatibility among the services. On May 14, 1979, the Department of Defense transmitted to Congress a draft of proposed legislation (subsequently introduced as H.R. 4256) to repeal the statutory restriction on the assignment of women.

The Defense Department made the following points:

(1) Since 1948 when the restrictions were enacted, military personnel policies, the role of women in society, and the nature of warfare have changed dramatically.

(2) Large numbers of women, properly trained and selected, have the physical and mental ability to serve in the entire range of military classifications.

(3) Prohibiting Navy women in seagoing ratings from their
fair share of sea duty results in excessive sea duty for men, and inconsistent policies between the Navy and the Coast Guard assignment of women to ships.

(4) 10 U.S.C. 8549 permitted female commissioned Air Force officers who were judge advocates, chaplains, or in medical fields to serve aboard aircraft engaged in combat missions while other female officers and enlisted women could not.

(5) The legislation had no appreciable budget implications. Ship modifications estimated to cost approximately $10,3000,000 over a 5-year period would be required.

Repeal of these provisions would not necessarily result in assignments of women to all combat units because it would be up to each service Secretary to set policy and assign personnel according to needs and abilities. Hearings held by a subcommittee of the House Armed Services Committee Nov. 12-16, 1979, indicated that the intention was not to put women into combat but to open up new jobs to them. In proposing that women be registered for the draft, on Feb. 8, 1980, President Carter said he had no intention of changing the policy that women are not assigned to units where engagement in close combat would be part of their duties. Proponents of repeal believe it would remove a bar to many assignments which women could handle. Opponents feel that the statutory restrictions are the last protection against the services sending women into actual combat.

Those who emphasize equal rights and responsibilities say women in the armed forces cannot advance to the top without experience in combat units. Some go even beyond this, and say that women cannot be equal in society as long as they are barred from full participation in all levels of the national security system. In their view, modern weapons have equalized the potentiality for women in combat since wars are less likely to be fought on a hand-to-hand basis, and have made it impossible to protect women from the destructiveness of combat. In any event, they claim, properly trained women would be able to fight successfully and exempting them from combat is not fair to men.

Those opposed to women in combat contend that the protection of women is a mark of civilization and a method of safeguarding the human race. They point out that countries such as Israel and the Soviet Union, in which women have fought in emergencies, do not now place women in combat positions. This view holds that the national security would be jeopardized because women are not as strong or aggressive as men and their presence would impair the individual and group effectiveness of men. They disagree with the assumption that modern technology has significantly reduced the direct physical nature of combat, especially ground combat. They see permitting women in combat as an extreme deviation from tradition which would detract from the dignity and femininity of women and disturb family cohesion to such an extent that it might make society fall apart.

Should women be included if the draft is reinstated?

On Feb. 8, 1980, President Carter proposed to resume registration for the draft under a plan that would include women as well as men. However, Congress rejected the inclusion of women. The registration measure, as passed, called for the registration of men only. (P.L. 96-282, approved June
The American Civil Liberties Union filed suit on June 26 charging the Act to be unconstitutional gender discrimination. On July 18, a Federal court ruled that it was unconstitutional to require the registration of males only, but on July 19 Associate Justice Brennan of the Supreme Court stayed this ruling and ordered the registration of men to proceed. Registration of men began on July 21.

On June 25, 1981, the Supreme Court reversed the lower court decision and ruled that Congress acted within its constitutional authority to raise and regulate armies and navies when it authorized the registration of men and not women. (Rostker v. Goldberg, 453 U.S. 57 (1981).) Court held that its greater deference to Congress in the area of national defense and military affairs was particularly appropriate because Congress had specifically considered the constitutionality of the Military Selective Service Act. In its view, Congress was entitled to focus on the question of military need rather than equity, and the exclusion of women from combat justified excluding them from the draft.

Under President Carter's Feb. 8, 1980, proposal, all men born in 1960 or 1961 were to register in 1980 and new legislation would seek authority to require women born in the same years to register. Such authority already existed for registration of men. In future years, persons would register as they reached their 18th birthday. The President's report was in response to a requirement to submit a plan for reform of the Selective Service System, including a report on whether women should be included, under the Department of Defense Authorization Act, 1980 (P.L. 96-107), signed Nov. 9, 1979. [See also Issue Brief 79049, Manpower for Mobilization: The Draft, Registration, and Selective Service.] The report said that the pool of eligible men was sufficient to meet projected wartime requirements and that it was doubtful that a female draft could be justified on the argument that wartime personnel requirements could not be met without them. However, it said that for reasons of equity women should be asked to serve in the armed forces during a national emergency or war to the extent that they could make a contribution. The report said that it would not necessarily mean that significant numbers of women would be drafted.

The President said his decision to register women was a recognition of the reality that both women and men were working members of society, and that women were performing well in the armed forces and "have improved the level of skills in every branch of the military service." He said: "There is no distinction possible, on the basis of ability or performance, that would allow me to exclude women from an obligation to register." He added that women are not assigned to units where engagement in close combat would be part of their duties, and that he had no intention of changing that policy.

Both Houses adopted a resolution providing funds for the registration of men, but rejected amendments aimed at including women. During 1979, the Senate Armed Services Committee had issued a report stating that the committee felt it was not in the best interest of the national defense to register women for the Military Selective Service Act. The most important reason for not including women in the registration system, in the committee's view, was the policy precluding the use of women in combat, a policy which the committee reaffirmed. It was in infantry and armor skills that manpower was short, the committee stated. Other reasons cited were the need for military flexibility, the additional processing and training problems, and the risk of experimenting with performance of sexually mixed units in war.

In a minority view, Senator Cohen called for the legal views of the
Defense Department on whether the constitutionality of the draft might be undermined by a failure to include women and to clarify various issues before a final determination. These issues included:

1. Would one or two pools of eligibles be established if both men and women were registered?

2. Would women have to be drafted in equal number if

3. Could women be drafted for those positions for which they are presently eligible and not for the combat related job specialities from which they are excluded?

4. Could women be excluded from voluntarily registering?

In the past, women have not been drafted and this has been upheld by the courts when it was challenged as discriminatory against men. For example, in 1969 in United States v. Dorris (319 F. Supp. 1306), the court held that classifications such as age and sex were not arbitrary or unreasonable but were justified by the interest of providing for the common defense with maximum efficiency and minimum cost. It also held that the qualifications were for the Congress to decide.

At a hearing on Jan. 29, 1979, Secretary of Defense Harold Brown recommended that any new legislation requiring registration for the draft be applied to women as well as men. However, as to whether they should be drafted he said he would have one answer if there were a large additional requirement for non-combat people and another if the need was for combat fillers.

The views of the Joint Chiefs expressed during 1979 varied somewhat from service to service. On Mar. 13, 1979, General Bernard Rogers, Chief of Staff of the Army, testified that he believed women should be registered in order to have an inventory of available personnel. However, the question of drafting depended upon the skills needed. In his view, the exclusion of women from certain combat skills should remain. General Lew Allen, Chief of Staff of the Air Force, said the drafting of women would not have any unfavorable effect on the Air Force. Admiral Thomas Hayward, Chief of Staff of the Navy, said that from a military point of view there was no need of drafting women into the Navy, but that he thought it was a political decision. General Louis Wilson, Commandant of the Marine Corps, said he would be willing to have women drafted up to the 5% goal of the Marines.

Others, however, have argued against both registering and drafting of women. They contend that registering women would double the number of people requiring registration each year from roughly 2 million males reaching the age of 18 to 4 million males and females, thus increasing the cost. Moreover, some hold, if women were registered they might have to be drafted in equal numbers. In their view this complicates conscription by adding problems such as dealing with pregnancies.

In one view, a draft would solve the manpower problem and there would be no need to rely on women. In fact, some say, one of the problems with the All-Volunteer Force has been increasing the number of women and giving women jobs they cannot handle. If a draft ended up increasing the number of women, in that view, the problem might be worsened rather than solved.

The basic arguments for and against drafting women are much the same as
those relating to women in the All-Volunteer Force and women in combat. However, there are additional factors. First, drafting women would go beyond women who choose a career in the armed forces and impose military service on other women. Some who do not object to women serving on a volunteer basis might object if military duty were forced on women who preferred homemaking or some other more traditional occupation. Others would say that if men are liable to involuntary service, women should also be subjected to such service.

A second factor involves what kind of service the drafting of women would involve. Some proposals for a draft which would include women would not necessarily involve women in the armed services at all but rather make them liable for some type of national service, possibly in a civilian job. Some who might not object to drafting women for civilian service or non-combat posts in the military service might object to drafting women if they were subject to combat duty. Again, others believe that women should have no more choice in the matter than men.

Finally, a few contend that strong feelings on the subject have been used to reduce the likelihood of a draft, on one hand, or the ratification of the Equal Rights Amendment, on the other. Women as well as men are divided on the subject.

What would be the effect of the Equal Rights Amendment?

One question which has frequently been raised is what would be the effect of the proposed Equal Rights Amendment (ERA) to the Constitution upon women with respect to their role in the military services. The amendment would provide that "equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex." First passed by the Congress in 1972, the amendment fell short of being ratified by the required three-fourths of the States (38) by the deadline which was extended until June 30, 1982. Legislation for an equal rights amendment was reintroduced (H.J.Res. 529) by Representative Biaggi on June 24, 1982.

The effect of the amendment on women's role in the military services has been one of the most controversial issues throughout the history of the Amendment. When the Senate considered the measure in 1970, it adopted an amendment to exempt women from compulsory military service. In 1971 the House passed the Equal Rights Amendment after rejecting a committee amendment to exempt women from the draft. Before its final passage of ERA in 1972, the Senate rejected two amendments by Senator Sam Ervin to exempt women from combat (defeated by a vote of 71-18) and from the draft (defeated 73-18).

In reporting ERA favorably, the Senate Judiciary Committee said it seemed clear that the Equal Rights Amendment would require that women be allowed to volunteer for military service on the same basis as men, provided they qualified under neutral standards. Similarly, the committee reported, it seemed likely that the ERA would require men and women to be treated equally with respect to the draft, so that if there were a draft, both men and women who met the requirements would be subject to conscription. Once in the service, each person would be assigned according to his or her qualifications and the service's needs.

However, the committee said, women who were not qualified or who were exempt because of their responsibilities, such as those with dependents, would not have to serve and the passage of ERA did not mean that mothers
would be conscripted from their children. Congress would retain the power to define the exemptions from compulsory service which then would be applied to both men and women. The Senate Judiciary Committee took the position that the principle of equality did not mean that the sexes must be regarded as identical, and that it did not prohibit states from requiring a reasonable separation of persons under some circumstances, such as in military barracks.

The Equal Rights Amendment would affect a large number of federal laws relating to the armed services. The April 1977 report of the United States Commission on Civil Rights listed more than 140 provisions in Title 10 of the U.S. Code dealing with the armed forces which contain sex-based references. Some of these were relatively minor, but others provided for different treatment of women in such matters as promotion. Since 1977 members of a task force have been working with members of the armed forces to secure agreement on recommended changes in these provisions.

Legal changes in the status of women in the armed forces could be brought about whether or not the Equal Rights Amendment takes effect. Some of the legislative inconsistencies in the management of male and female officers by different services which were considered discriminatory were addressed by the Defense Officer Personnel Management Act (DOPMA) (P.L. 96-513), approved Dec. 12, 1980. The report of the Senate Armed Services Committee (S.Rept. 96-375) stated that one of the major results of the legislation would be the equalization of the treatment of men and women officers with respect to the laws governing appointment, promotion, separation, and retirement. The committee report said the bill would repeal longstanding provisions of title 10 that specify different "but no longer justified" treatment of men and women officers. The act did not revise the provisions precluding the assignment of women to duty on vessels or in aircraft engaged in combat. The committee held this was a fundamental and important question which should be considered separately.

Changes might also be brought about if the courts strike down laws which discriminate against women solely on the basis of sex. In Owens v. Brown (455 F.Supp. 291 DDC, 1978), Judge John J. Sirica ruled that the Navy could not rely solely on 10 U.S.C. 6015 (which has subsequently been revised) as the basis for excluding women from shipboard assignments. He said that because section 6015 operated to bar an entire sex from a wide range of career opportunities, the sweep of the statute was too broad and violated the equality principle embodied in the Fifth Amendment.

Citing the decision in Craig v. Boren (429 U.S. 199), a case in which an Oklahoma statute forbidding the sale of 3.2 beer to minors was held to be unconstitutional as the law defined women as minors under age 18 and men as minors until the age of 21, Judge Sirica said a single standard seems to have emerged that classifications by gender must be substantially related to the achievement of important objectives. While he found that the basic purpose of the section 6015 prohibition of women on ships, namely to increase the combat effectiveness of Navy ships, was unquestionably a government objective of the highest order, he found no evidence by the defendants that military preparedness was indeed the objective; instead it was related more to traditional ways of thinking about women.

In that case as in others, courts have upheld the authority of the Congress or the Secretaries of the military departments to assign women on the basis of military need and effectiveness. Judge Sirica concluded in Owens v. Brown:
However, nothing in this decision is meant to shape the contours of Navy policy concerning the utilization of female personnel... Those are essentially military decisions that are entrusted to executive authorities and the Court expresses no view whatever on what their outcome should be.

Traditionally courts have considered decisions in this area to be the realm of the military departments and Congress, as illustrated in the following excerpt from *Gilligan v. Morgan* (413 U.S. l, 10-11 (1972)):

> The complex, subtle, and professional decisions as to the composition, training, equipping, and control of a military force are essentially professional military judgments, subject always to civilian control of the Legislative and Executive Branches. The ultimate responsibility for these decisions is appropriately vested in branches of the government which are periodically subject to electoral accountability. It is this power of oversight and control of military force by elected representatives and officials which underlies our entire constitutional system.

This trend was reinforced in the decision of the Supreme Court in the case on draft registration, *Rostker v. Goldberg*. The Court said:

> The case arises in the context of Congress' authority over national defense and military affairs, and perhaps in no other area has the Court accorded Congress greater deference.

Thus the courts appear to be leaving the basic decisions on how to employ women in the armed forces to Congress and the military departments.

**Options**

The proposed options for policy relating to women in the armed services range from keeping the status quo, with military service and combat primarily a male domain, to eliminating all differences in treatment of men and women except where required for physiological or individual differences in capability. For the current All-Volunteer Force, in which people choose the military service for a career, the practical question is how far and how fast to go in recruiting women and incorporating them into traditionally male occupations, and particularly whether to allow them into combat posts. If there is a draft, the question is how differently should women be treated from men.

One option, reflected in the Carter Administration policy, was to expand the number of women in service, to assign them outside of traditionally female occupations at a pace measured to allow them to receive the necessary training and preparation and seek the lifting of the combat restrictions currently existing in legislation.

Another option, suggested by Martin Binkin and Shirly Bach in their Brookings Institution study on Women and the Military, is for separate legislation calling for the Department of Defense to set up an experimental
program for each military service to integrate selected combat units which now exclude women. The primary purpose of the experiment, which would take years to complete, would be to find out how many women would volunteer for the positions and what would be the effect on combat effectiveness, but it would also provide needed data on such questions as the relationship of pregnancy to combat readiness.

Other options might be based on the concept that because of the physiological differences between men and women it is possible for them to have equal opportunity and responsibility without necessarily having identical occupations. One course within this option would be to expand the number of women in the armed services, increase their promotion opportunities, and remove any remaining restrictions without taking any extraordinary means to train them in non-traditional skills unless they sought such placement. This would continue and even purposely increase the concentration of women in traditional occupations. It would free more men for combat posts although some men might object on the grounds that it reduced the number of non-combat posts for men.

Still another option might be based on the concept that the separate but equal principle, although ruled unconstitutional for racial segregation, is valid for certain situations involving both sexes. One course under this option would be to experiment with all-female combat units. The purpose of this would be to provide combat opportunity for women while meeting some of the primary objections which have been made to women in combat. These include the lack of privacy for both sexes in mixed units and concern that prolonged contact between soldiers of different sexes in remote or isolated areas could lead to sexual affairs and reduce the effectiveness of both men and women in combat.

In summary, a wide number of alternatives are possible between the two extremes of sharply limiting the role of women in the military forces and recognizing no relevant differences between the sexes for military service.

LEGISLATION

P.L. 97-86 (S. 815)


H.R. 976 (McDonald)

Limits eligibility for appointment to military academies to males. Introduced Jan. 20, 1981; referred to Committees on Armed Services and on Merchant Marine and Fisheries.

H.R. 2365 (Evans)

Women's Draft Exemption Act. Provides that Federal courts shall not have jurisdiction to consider any question involving the validity of any Act of
Congress providing for registration or induction of males only into the Armed Forces. Introduced Mar. 9, 1981; referred to Committee on the Judiciary.

H.R. 3117 (Schroeder)/S. 888 (Durenberger)

Women's Economic Equity Act. Title III: Armed Forces, removes gender distinctions in rules for distribution of property of deceased members; eliminates sexual distinctions with regard to promotion procedures and procedures to remove reserve officers from active duty status in Navy and Marines; requires Secretary of Defense to make annual report to Congress regarding status of women in the armed forces. Introduced Apr. 7, 1981; referred to House Committee on Armed Services and Senate Committee on Finance, respectively.

HEARINGS


REPORTS AND CONGRESSIONAL DOCUMENTS


CHRONOLOGY OF EVENTS

08/26/82 -- Assistant Secretary of Defense Lawrence Korb announced a new policy relating to women in the Army, specifying some increases in the number of women enlistees and officers, closing 23 additional job categories to women, and initiating "stress tests" for additional categories.

06/23/82 -- West German Defense Minister Hans Apel released a report recommending that the West German armed forces allow women to serve as non-combatant soldiers to make up for a shortage of manpower.

05/29/82 -- A spokesman for the Naval Information Office said a shortage of civilian jobs and military pay increases should help the Navy reach its goal of 45,000 enlisted women by 1985, but that a report by the Naval Military Personnel Office found that fewer women were being promoted and that the Navy was having difficulty getting women into "nontraditional" jobs.

03/14/82 -- Air Force Secretary Verne Orr announced the lifting of restrictions against women being assigned to airborne warning and control system (AWACS) aircraft.

03/01/82 -- Lawrence J. Korb, Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics, said he was committed to the adoption of gender-free physical tests and realistic application of combat limitations on the utilization of women.

02/21/82 -- Men and women scored "about the same" when the Armed Forces Qualification Test was given to 11,914 civilian men and women, according to the Department of Defense.

02/15/82 -- The Army Times reported that Defense Secretary Caspar W. Weinberger had ordered the services to break down any "institutional barriers" that prevent the fullest use of military women and to support actively the Administration's policy "to increase the role of women in the military."
06/25/81 -- The Supreme Court, in a 6-3 decision on Rostker v. Goldberg, ruled that Congress acted within its constitutional authority when it authorized the registration of men and not women, and that, since women are excluded from combat service by law or military policy, men and women are not similarly situated for purposes of a draft.

03/09/81 -- William D. Clark, Acting Assistant Secretary of the Army for Manpower and Reserve Affairs, told a Senate Armed Services subcommittee that the Army is trying to "hold the line" on the number of women in the Army and is undertaking an extensive study to measure the impact of women on the Army's preparedness to fight.

01/19/81 -- The Army Times reported that military leaders have asked the Reagan Administration for permission to hold down the number of women enlistees until their impact on force readiness can be determined.

09/07/80 -- The Justice Department presented a jurisdictional statement to the Supreme Court appealing the July 18 ruling by a lower court that the registration of women was unconstitutional.

07/19/80 -- Supreme Court Associate Justice William Brennan stayed the ruling of the lower court of July 18 and ordered the registration of men to proceed.

07/18/80 -- A three-judge Federal court ruled in Rostker v. Goldberg that the act requiring registration of men only was unconstitutional.

06/27/80 -- The President signed H.J.Res. 521 (P.L 96-282) appropriating additional funds for 1980 to support the reinstitution of draft registration for men.

06/26/80 -- The American Civil Liberties Union filed a gender discrimination suit against the Selective Service provision requiring registration of men only.

06/08/80 -- The Senate rejected an amendment by Senator Kassenbaum to preclude funding of a registration system that does not include females.

05/28/80 -- Among the first women graduates from the U.S. service academies were 61 from the Military Academy at West Point, 55 from the Naval Academy at Annapolis, and 97 from the Air Force Academy at Colorado Springs.

05/21/80 -- Fourteen women were graduated from the Coast Guard Academy.

05/14/80 -- The first mass parachute drop for females was
accomplished by 152 women recruits of the 82nd Airborne Division at Fort Bragg, North Carolina.

04/22/80 -- The House adopted H.J.Res. 521 making additional funds available for the registration of male personnel, but rejected an amendment by Rep. Duncan which would have added a sufficient amount to register women also.

04/02/80 -- Service in the Women's Army Auxiliary Corps (WAAC) during World War II was determined to be active military service for purposes of veteran's benefits.

03/06/80 -- The Subcommittee on Military Personnel of the House Armed Services Committee voted to table H.R. 5559, the bill requested by the Administration to permit the registration of women, thus in effect killing the measure in the House.

02/08/80 -- President Carter proposed that women as well as men born during 1960 and 1961 be required to register for the draft during 1980, and that thereafter all persons be required to register as they reach their 18th birthday.

01/23/80 -- In his State of the Union Message, President Carter announced a proposal to resume registration for the draft. Later he indicated that a decision would be made on the inclusion of women by Feb. 9.

01/04/80 -- After a request from Representative Clarence Long, General Edward C. Meyer, Army chief of staff, ordered the Army Inspector General's office to send investigators to Fort Meade to investigate alleged incidents of sexual harassment at the base reported in the Baltimore Sun.

11/13/79 -- The Subcommittee on Military Personnel of the House Armed Services Committee began four days of hearings on women in the military.

10/17/79 -- Conference committee reported S. 428, Department of Defense Authorization, 1980. Section 811 called for President to submit a report in three months on selective service reform, including the question of registering and inducting women.

06/19/79 -- The Senate Armed Services Committee reported S. 109, a bill requiring the President to commence registration of male persons by Jan. 2, 1980. The committee recommended that women not be included in the requirement for registration. It reaffirmed the policy precluding the use of women in combat.

05/21/79 -- The Assistant Secretary of the Army announced that, effective Oct. 1, 1979, the enlistment eligibility criteria for women would be the same as that currently in effect for men.
05/14/79 -- The Department of Defense transmitted to Congress a draft of proposed legislation to repeal the statutory restrictions on the assignment of women in the Navy and Air Force. The bill was referred to the Committee on Armed Services.

04/23/79 -- The Washington Post reported that Army civilian manpower chief Robert L. Nelson stated that women have not been joining the Army in the desired numbers and were shunning many of the new jobs opened to them. In addition, he said, 42% of enlisted women were now failing to complete tours, compared to 37% in FY75, whereas the dropout rate for men with high school diplomas had fallen from 37% to 30% in that period.

02/23/79 -- 57 women sailed on the U.S.S. Vulcan, the first ship in the Navy to go to sea with women as a regularly integrated part of the crew.

01/29/79 -- Secretary of Defense Harold Brown recommended at a hearing that any new legislation requiring registration for the draft be applied to women as well as men.

10/20/78 -- The Department of Defense Authorization Act, 1979, was enacted as P.L. 95-485, amending 10 U.S.C. 6015 to permit Navy women to be assigned to temporary duty on all ships and permanent duty on ships not engaged in combat missions. The law also requires military colleges to provide that qualified undergraduate women be eligible for military training. The Women's Army Corps was abolished, thus integrating women into the regular Army.

07/22/78 -- In Owens v. Brown, Judge John J. Sirica ruled that the Navy could not rely on section 6015 as the sole basis for excluding women from shipboard assignments.

02/14/78 -- The Department of Defense, in response to reporting requirement in P.L. 95-79, defined combat as "engaging an enemy or being engaged by an enemy in armed conflict" and suggested the repeal of 10 U.S.C. 6015 and 8549 to permit the Secretaries of the military departments to set policy for the assignment of women.

07/30/77 -- P.L. 95-79 was enacted, requiring the Defense Department to submit to Congress within 6 months a definition of the term "combat" and recommendations on expanding job classifications to which women might be assigned, with recommendations on changes in law necessary to carry out the recommendations.

10/07/75 -- P.L. 94-106 was enacted, providing that beginning in 1976 females will be eligible for appointment to
the service academies. Academic and other standards for appointment, admission, training, graduation, and commissioning are to be the same as for males, "except for those minimum essential adjustments in such standards required because of physiological differences between male and female individuals."

ADDITIONAL REFERENCE SOURCES


Clark, Albert P. Women at the service academies and combat leadership. Strategic review, v. 5, fall 1977: 64-78.


Hacker, Barton C. Women and military institutions in early modern Europe: a reconnaissance. Signs, v. 6,


# APPENDIX

## ACTIVE DUTY ENLISTED WOMEN END STRENGTHS

<table>
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<tr>
<th>Fiscal Year</th>
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<th>Navy</th>
<th>USMC</th>
<th>USAF</th>
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## ACTIVE DUTY OFFICER WOMEN END STRENGTHS

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(Projected)

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*Last pre-Vietnam War fiscal year
**Peak of Vietnam War, during draft period
***Beginning of All Volunteer Force

1/ Includes 219 Naval Officer candidates not included elsewhere.


FEMALE PARTICIPATION IN THE SELECTED RESERVE BY COMPONENT
(1972 - August 1981)

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TOTAL

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### APPENDIX

**DISTRIBUTION OF ACTIVE DUTY WOMEN**

**BY RANK AND PERCENTAGE OF TOTAL PERSONNEL IN EACH RANK**

**DECEMBER 1980**

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<tr>
<th>Total Rank</th>
<th>Total Personnel</th>
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<th>Navy</th>
<th>Marines</th>
<th>Air Force</th>
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<td>OFFICERS</td>
<td>(No.) (%)</td>
<td>(No.) (%)</td>
<td>(No.) (%)</td>
<td>(No.) (%)</td>
<td>(No.) (%)</td>
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<tr>
<td>U-8</td>
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<td>81 2.2</td>
<td>6 1.1</td>
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<td>6,027 14.6</td>
<td>2,029 15.2</td>
<td>1,060 11.1</td>
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<td>2,821 17.7</td>
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<td>7,528 8.9</td>
<td>5,027 8.3</td>
<td>453 2.7</td>
<td>8,876 9.0</td>
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### WARRANT

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<tr>
<th>Total Rank</th>
<th>Total Personnel</th>
<th>Army</th>
<th>Navy</th>
<th>Marines</th>
<th>Air Force</th>
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<tbody>
<tr>
<td>W-4</td>
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### OFFICERS

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<th>Total Personnel</th>
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<th>Navy</th>
<th>Marines</th>
<th>Air Force</th>
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</thead>
<tbody>
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<td>7,647 7.8</td>
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### ENLISTED

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<th>Navy</th>
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<tbody>
<tr>
<td>E-9</td>
<td>46 0.4</td>
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<tr>
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### GRAND

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<tbody>
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