

**Testimony before the National Commission on Military, National, and Public Service  
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**Selective Service Hearing: Should Registration be Expanded to  
All Americans? – Arguments for expansion**

**“Expanding Selective Service Registration to All Americans”**

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Chairman Heck, Vice Chairs Gearan and Wada, members of the Commission:

Thank you for the opportunity to provide my thoughts with respect to the Selective Service System (SSS) and any potential future draft. Specifically, I have been asked to address *who* should share the obligation to defend the nation. In sum, I believe we all share an obligation to defend the United States, and, therefore, we all should register for the SSA.

By way of introduction, I am Lieutenant General Retired Flora D. Darpino. I served on active duty in the United States Army for over 30 years as a judge advocate. Throughout my career, I served in positions of increasing responsibility advising both policy and decision makers at all levels within the armed forces and Department of the Army. I served as a Staff Judge Advocate at the two star, three star and four star command level, including twice in a combat zone. I concluded my career in 2017 after serving a four year appointment as the 39<sup>th</sup> The Judge Advocate General of the Army.

Our requirement to defend our nation is a core principle upon which our country was established. It is so central to our founding it is included in the preamble of Constitution – “We the People of the United States, in Order to . . . provide for the common defence . . . do ordain and establish the Constitution for the United States of America.” The current Military Selective Service Act requires eligible men to register in order to create a pool of individuals for induction in the armed forces so that we are, in fact, able to provide for the common defense. And, while women were previously lawfully excluded from registration, the constitutionality of the exclusion was based upon the restrictions on women in combat. Once the decision was made that women can serve in any occupation and unit for which they meet the standard, the constitutional basis for excluding women from registration fails. And, at least one court has already ruled that male only registration does not meet Constitutional muster.

Operating from the premise the draft will only be necessary if we are growing our armed forces due to major combat operations, some have argued that the exclusion is still lawful because women have different physical capabilities than men and, therefore, a much lower rate of women will meet the requirements for combat positions. The argument posits that the time and energy needed to weed out the women who do not have the physical capability to engage in combat will be counterproductive to the purpose of expeditiously raising an armed force in a national crisis. This argument ignores history and defies reality. It also has been used and failed when individuals objected to opening combat arms positions and units to women.

Women have served in combat since the inception of our nation. But even limiting the discussion to recent history, women have participated in raids and patrolled streets in combat zones since shortly after the terrorist attacks in 2001. In 2016, when the decision was made to open all military positions to women, only about 10 percent of military positions remained closed. Women had fully proven they were capable of performing 90% of the positions in the military. The remaining closed positions included infantry, armor, reconnaissance, and some special operations units. And an ever growing number of women have already begun to honorably serve in those positions. So excluding women from the SSA would be ignoring the fact that women have been and already are performing in combat roles.

Additionally, combat units are not just filled with combat troops. An infantry unit has troops performing duties in signals, intelligence, logistics, medical and so on. So, even if for argument sake we accept only some women can perform as infantry troops, women would still be able to perform in many roles in an infantry unit that are extraordinarily important to success of a unit in battle.

Moreover, troops, regardless of gender, have always been sorted by their capabilities. It was not by chance that my father, a small man at 5'4" and 121 pounds, was placed in the Signal Corps during WWII, and not the Infantry. Experienced Soldiers and leaders know that combat troops internally sort their personnel. For example, the heavy work on a tank is done by the loader who lifts the tank shell. Every tank crew relies on the "strong guy" that loads and admit to themselves that they may not be capable of loading for long periods of time. Every soldier may carry their pack and weapon but they admit they may not be able to carry the radio or the large automatic machine gun. Every team assesses the strengths and weaknesses of their teammates and then maximizes the talent. The identification and maximization of individual talent is what has always made our military unstoppable.

Also, it is important to remember that should our nation need to begin a draft, we would be facing a national crisis that outstripped our ability to fill our ranks with volunteers. Considering physical limitations, medical issues, and intelligence, it is estimated that only 25% of the eligible persons meet the requirements to enter the armed forces. And, even recognizing we may relax standards during a national crisis, we would still struggle as a nation to meet the required number for the armed forces if we exclude women who make up approximately 51% of our population. The exclusion of women is particularly nonsensical when women are currently serving in the military in combat units and in combat roles.

I have also noticed in examining this issue there is an argument against women registering with the SSA that has a social component. The argument, in essence, rests upon the belief women have a role in society that favors them as a care giver and requires protection for them from the evils of war. Setting aside the paternalist nature of these arguments, it is important to note that recent Labor Department statistics do not support the premise. Among married-couple families in the United States, only 19 percent have a husband as the only employed parent. Moreover, when married-couple reservists are given the option for only one to deploy, it is not uncommon for the couple to choose the parent for mobilization with the lower earning potential, regardless of gender, to minimize the disruption to the family budget. And, in examining the notion that

women need special protection from the enemy, I am flummoxed by the thought that we should care less about torture, starvation, death marches and sexual assaults that our men may endure in warfare than we do about the fact our women may also endure the same violations. Outrage about violations of the law of armed conflict and the Geneva Conventions cannot be colored by gender.