

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STUDENTS FOR FAIR ADMISSIONS,

Plaintiff,

v.

THE UNITED STATES MILITARY ACADEMY
AT WEST POINT; THE UNITED STATES
DEPARTMENT OF DEFENSE; LLOYD
AUSTIN, in his official capacity as Secretary of
Defense; CHRISTINE WORMUTH, in her
official capacity as Secretary of the Army;
LIEUTENANT GENERAL STEVEN GILLAND,
in his official capacity as Superintendent of the
United States Military Academy; and
LIEUTENANT COLONEL RANCE LEE, in his
official capacity as Director of Admissions for the
United States Military Academy at West Point,

Defendants.

23 Civ. 8262 (PMH)

DECLARATION OF JEANNETTE
HAYNIE

I, Jeannette Haynie, pursuant to the provisions of 28 U.S.C. § 1746, declare, under penalty of perjury, as follows:

1. I am aware of allegations made by the plaintiff in this lawsuit. I submit this declaration in support of the defendants' opposition to plaintiff's motion for a preliminary injunction. My statements in this declaration are based on personal knowledge or knowledge obtained in the course of my official duties.

Background

2. Since October 18, 2021, I have served as Senior Advisor to the Office of the Under Secretary of Personnel and Readiness (OUSDP&R) at the Department of Defense (DoD) on matters relating to diversity and inclusion and the Department's mission.

3. Prior to joining P&R, I served as a political scientist at the RAND Corporation studying various aspects of people and security; I also led a small nonprofit, the Athena Leadership Project, examining the impacts of diversity, particularly gender diversity, on national security. I also have served as an adjunct professor at The George Washington University, teaching Gender and Conflict, and at Tulane University, teaching Quantitative Assessment of Disaster Resilience.

4. Prior to joining RAND, I served as an Active Duty and Reserve Marine Corps Officer and AH-1W Cobra pilot, retiring in December 2020 after 22 years of combined time (Active Duty: 1998 – 2007, 2018 – 2019; Reserve Duty: 2008 – 2018, 2019 – 2020). I served through three operational deployments, including combat in Iraq in 2003. My uniformed time included flying UC-12Bs and service on the Joint Staff (J33), in the Marine Corps Commandant's Strategic Initiatives Group, and in the Marine Corps talent management office.

5. I graduated with a B.S. in Oceanography from the U.S. Naval Academy; an M.S. in Political Science from the University of New Orleans; and a Ph.D. in International Relations from The George Washington University

6. This declaration is focused on the applications of diversity and inclusion, including racial and ethnic diversity, in general and specific to DoD, including in the officer corps, and within its mission sets. As discussed in subsequent pages, research indicates that diversity and inclusion can bring positive benefits for any organization, including those engaged

in security and conflict missions. Research also indicates that the absence or lack of diversity and inclusion can also generally carry risks for any organization, including those engaged in security and conflict missions. Just as organizations writ large generally can benefit from diversity and inclusion, DoD can as well. Further, applications of diversity and inclusion are relevant to DoD mission sets; research and experience have shown that a more homogeneous and less inclusive DoD would be less equipped to accomplish its mission.

7. While diversity and inclusion are important broadly for the DoD, the military's officer corps is less diverse, including less racially and ethnically diverse, than the military as a whole. Further, diversity, including racial and ethnic diversity, diminishes as one climbs the ranks within the service branches, so the mission-centric benefits of diversity and inclusion may be less available at higher ranks and in the officer corps, and risks inherent in a less diverse and inclusive force may be more present in the officer corps and at higher ranks. Additionally, my personal experiences and research have taught me how officers set the tone and culture for their units and are responsible for key people- and mission-oriented decisions, so the diversity of the officer corps and the inclusive nature of the teams and units they belong to and lead is critical for overall mission success.

8. Finally, research supports that diversity and inclusion are interconnected and work together in nuanced ways. Diversity provides important benefits, and inclusion ensures that the benefits of diversity can accrue by managing diverse teams and fully leveraging the diversity of people to accomplish the mission. Below, I discuss the benefits of a diverse and inclusive organization, including the military; the ways in which diversity and inclusion yield mission-centric benefits for organizations, including the military; why diversity and inclusion matters for officers; historical DoD efforts to advance diversity and inclusion; and efforts today.

A. Diversity and Inclusion Benefits Organizations, Including the Military

9. People are the most important aspect of organizations, including the military, where people are the heart of mission advancement and accomplishment.¹ Military doctrine teaches that war and warfighting are fundamentally human endeavors. For example, the Marine Corps' capstone doctrine, *Warfighting*, explains how because "war is a human enterprise, and no amount of technology can reduce the human dimension, our philosophy of command must be based on human characteristics rather than on equipment or procedures."²

10. Because people are the heart and soul of the military, understanding who people are, what they have experienced, what they see, how they can contribute to mission accomplishment, and how the culture around them shapes their full participation is key to developing and leading a dynamic, agile organization. This is the core of why diversity and inclusion matters for DoD. This is supported by the academic literature on conflict and security. Research demonstrates that people from different backgrounds, groups, regions, and cultures experience security and conflict differently, particularly women and those from minority or underrepresented groups. The operational environment, drivers of tension and violence, access to resources, and level of stability and security can look very different depending on the perspective applied.³ To develop the fullest understanding of the operational environment, and to bring forth effective responses and strategies, it is important to include the diverse perspectives and inputs of

¹ See U.S. Dep't of Defense, *2022 National Defense Strategy of the United States of America*, Section VIII, <https://media.defense.gov/2022/Oct/27/2003103845/-1/-1/1/2022-NATIONAL-DEFENSE-STRATEGY-NPR-MDR.PDF> ("National Defense Strategy 2022").

² U.S. Marine Corps, *Marine Corps Doctrinal Publication 1: Warfighting* (June 20, 1997), <https://www.marines.mil/Portals/1/Publications/MCDP%201%20Warfighting.pdf>.

³ For established research on the question of different perspectives and inputs in security and conflict, see Laura Sjoberg, *Gender, War, & Conflict* (Polity, 1st ed. 2014); *The Gender and Security Agenda: Strategies for the 21st Century* (Chantal de Jonge Oudraat & Michael E. Brown eds., Taylor & Francis 2020); Valerie M. Hudson et al., *Sex & World Peace* (Columbia University Press 2012).

members of these groups at every level of leadership.⁴ Homogeneity and exclusionary practices can limit a workforce from accessing these benefits and may lead to less accuracy in information analysis, errors in decision-making, less innovation capacity, and may enable stagnation and risk aversion or worse.

11. For example, in an analysis of battlefield performance over two centuries of military warfare, security scholar and Dartmouth College professor Jason Lyall found, “Over the past 200 years, highly unequal armies have suffered higher casualty rates and more frequent outbreaks of mass desertion than their more inclusive counterparts... These intelligence failures have a common taproot: they neglect the nonmaterial drivers of military power. Most importantly, they overlook how social inequalities within armies shape battlefield performance... Military models must include the human elements of war or risk unwelcome surprises on the battlefield.”⁵ These findings inform DoD work on diversity and inclusion today. Further supporting Professor Lyall’s findings, RAND research identifies how more diverse organizations (including military and law enforcement) directly impact operational effectiveness because such organizations “are more effective at accomplishing their missions.”⁶

12. An important element of mission accomplishment is a unit’s ability to operate as a cohesive team. Historically, diversity initiatives have at times been viewed as creating risk by introducing individuals to teams where they do not “fit in” with the team culture, harming team cohesion; arguments to this end have been made in opposition to openly serving lesbian, gay,

⁴ In addition to the citations above, see Matiangai V. S. Sirleaf, *Race and National Security* (Oxford University Press 2023) (see all, but particularly Intro and Conclusion); Office of the Special Adviser on Gender Issues and Advancement of Women, United Nations, <https://www.un.org/womenwatch/osagi/wps/>.

⁵ Jason Lyall, *Divided Armies: Inequality and Battlefield Performance in Modern War* (Princeton University Press 2020).

⁶ Dwayne M. Butler & Sarah W. Denton, RAND Corp., *How Effective are Blinding Concepts and Practices to Promote Equity in the Department of the Air Force?* 4 (Dec. 2021), https://www.rand.org/content/dam/rand/pubs/perspectives/PEA900/PEA909-2/RAND_PEA909-2.pdf.

bisexual, and transgender troops and integrating women into combat roles.⁷ However, research on military and nonmilitary groups indicates that there is no causal relationship between military performance and *social* cohesion, defined as “the nature and quality of the emotional bonds of friendship, liking, caring, and closeness among group members.”⁸ Instead, studies indicate that *task* cohesion—defined as a shared commitment to professional goals and experiences—is a stronger predictor of team performance.⁹ While research findings regarding cohesion and diversity vary, and some findings indicate that teams with high social cohesion “have less conflict,” others indicate that “shared experiences” increase task cohesion, which better predicts performance. This indicates that the “sameness” of people is “less important than” the experiences that units share.¹⁰ Further research concluded that task cohesion of diverse groups can be increased through team-building programming that enables deeper awareness of others, greater self-awareness, and platforms for team collaboration.¹¹ Research by RAND suggests that “the degree to which excluded groups are perceived as competent and accepted within newly integrated teams is an important mediator for the relationship between diversity and unit cohesion.”¹²

13. Promoting diversity and inclusion within the armed forces also is important for an organization that operates globally. Not only do diversity and inclusion support legitimacy of the

⁷ Congressional Research Service, *Diversity, Inclusion, and Equal Opportunity in the Armed Services: Background and Issues for Congress* (June 5, 2019), <https://crsreports.congress.gov/product/pdf/R/R44321/15> (“2019 CRS Report”); National Defense Research Institute, *Sexual Orientation and U.S. Military Personnel Policy*, RAND Corp. (2010), <https://www.rand.org/pubs/monographs/MG1056.html/>.

⁸ Robert J. MacCoun et al., *Does Social Cohesion Determine Motivation in Combat? An Old Question with an Old Answer*, 32 *Armed Forces & Society* 4, 646–654 (July 2006), <https://doi.org/10.1177/0095327x05279181>.

⁹ *Id.*; 2019 CRS Report.

¹⁰ 2019 CRS Report, p. 2-4.

¹¹ Daphne S. L. Wong, *Exploring the Impact of Team Building on Group Cohesion of a Multicultural Team* (Pepperdine Digital Commons 2015), <https://digitalcommons.pepperdine.edu/cgi/viewcontent.cgi?article=1606&context=etd>.

¹² Linda Slapakova et al., *Leveraging Diversity for Military Effectiveness: Diversity, Inclusion and Belonging in the UK and US Armed Forces*, RAND Corporation (2022), https://www.rand.org/pubs/research_reports/RRA1026-1.html.

military within the U.S., but they similarly have been linked to legitimacy and influence while enabling collaboration globally, all of which shapes the military's effectiveness.¹³ The DoD's Pacific, European, and Central combatant commands assessed themselves as either "generally inadequate" or "inadequate" in "knowledge of societal, cultural, tribal structure, economy, infrastructure, [and] evolving threats" in their areas of responsibilities.¹⁴ Diversity can support enhanced cooperation, trust, and understanding of the operational environment overseas.¹⁵ As one example of where diversity has proven benefits, a U.S. Army Captain, who was born in Haiti, deployed to Haiti in 2021 to assist in post-earthquake relief efforts. His language proficiency and cultural awareness facilitated coordination with Haitian partners.¹⁶

14. Broad diversity aids in peacekeeping and conflict resolution efforts as diverse actors, perspectives, and skillsets improve stability and resolution actions.¹⁷ One analysis of peacekeeping data from United Nations missions in Lebanon (UNIFIL II), Mali, and in the

¹³ *Id.* (citing additional sources).

¹⁴ William D. Wunderle, *Through the Lens of Cultural Awareness: A Primer for US Armed Forces Deploying to Arab and Middle Eastern Countries* (Combat Studies Institute Press 2006), <https://www.armyupress.army.mil/Portals/7/Primer-on-Urban-Operation/Documents/Through-the-lens.pdf>.

¹⁵ Slapakova et al., *Leveraging Diversity for Military Effectiveness*.

¹⁶ Capt. Annabel Monroe, U.S. Southern Command News, *Haitian-Born Black Hawk Pilot Supports JTF-Haiti Earthquake Relief Efforts* (Sept. 17, 2021), <https://www.southcom.mil/MEDIA/NEWS-ARTICLES/Article/2783312/7aitian-born-black-hawk-pilot-supports-jtf-haiti-earthquake-relief-efforts/> ("The airfield was incredibly busy, we had aircraft from the U.S. Coast Guard, Army, Navy, Marine Corps and Air Force, a lot going on here at the airfield. Alix being able to speak the language and being from here was really important in establishing good relationships and establishing an understanding with our Haitian partners who work at the airport," said U.S. Army Col. Steven Gventer, commander of JTF-Band deputy commanding officer of JTF-Haiti. "His work ensured the safety of our missions and enabled the most expeditious way for us to get aid from the airfield out to the people who needed it.").

¹⁷ For examples, see Doris Buss & Jerusa Ali, *Rwanda: Women's Political Participation in Post-Conflict State-Building*, in *The Oxford Handbook of Gender and Conflict* (Oxford University Press 2017); Christine Bell & Catherine O'Rourke, *Peace Agreements or Pieces of Paper? The Impact of UNSC Resolution 1325 on Peace Processes and Their Agreements*, 59 *The International and Comparative Law Quarterly* 4, 941-980 (October 2010); Samira Y. Salifu, *United Nations Peacekeeping, People for Peace: Embracing Cultural Diversity for Peaceful Societies with Lieutenant Commander German Daniel Iguaran* (Aug. 15, 2023), <https://peacekeeping.un.org/en/people-peace-embracing-cultural-diversity-peaceful-societies-with-lieutenant-commander-german-daniel>; Priscilla A. Tacujan, *Small Wars Journal*, *Ethnic Conflicts and the Muslim Question in Philippine Politics: Why Current Efforts at Conflict-Resolution Fail* (Sept. 25, 2013), <https://smallwarsjournal.com/jrnl/art/ethnic-conflicts-and-the-muslim-question-in-philippine-politics>; Elana A. Baylis, *Beyond Rights: Legal Process and Ethnic Conflicts*, 25 *Michigan Journal of International Law* 3 (2004), <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1263&context=mjil>.

Central African Republic, found that diversity in nationality increases UN peacekeeping effectiveness. The increased number of different nationalities, at the ground and leadership levels and across personnel, was directly related to “protecting civilians and reducing battlefield violence.”¹⁸

15. A diverse and inclusive military, including the officer corps, also builds trust between the military and the population it serves, provides legitimacy with our international allies, and promotes international engagement. According to RAND, “representation through diversity may enhance external legitimacy of the armed forces—both nationally and internationally—as well as amplify their ability to project influence and foster collaboration with partners and allies.”¹⁹ Further, research indicates that language, cultural awareness, and culturally sensitive interactions between the military and local stakeholders are “key to avoiding potential risks of tensions and mistrust, which can lead to conflict escalation.”²⁰

16. Broadly, studies performed on more diverse versus less diverse teams found that diverse groups make fewer mistakes and improve group thinking. And diversity and inclusion, if properly managed by leaders who are educated in the management and leadership of diverse teams to fully reap the benefits, can lead to greater cognitive heterogeneity and discussion in teams, driving innovation and critical thinking, which in turn has the potential to increase

¹⁸ Vincenzo Bove et al., *Improving Peacekeeping Effectiveness by Increasing Diversity of Mission Composition* (International Forum for the Challenges of Peace Operations 2020), <https://www.challengesforum.org/wp-content/uploads/2020/10/Background-Paper-Challenges-Forum-Webinar-on-Diversity-in-Peacekeeping.pdf>.

¹⁹ *Creating Operational Advantage Through Military Diversity*, RAND Corp., <https://www.rand.org/randeurope/research/projects/creating-operational-advantage-through-military-diversity.html>.

²⁰ Slapakova et al., *Leveraging Diversity for Military Effectiveness*; F. Bosman, *Uniformed Diversity: A Multifaceted Approach Towards the Diversity Climate in the Netherlands Defence Organization* (Tilburg University/Netherlands Defence Academy 2008), <https://pure.uvt.nl/ws/portalfiles/portal/1052629/3160969.pdf>.

informed decision-making, effectiveness, and mission accomplishment.²¹ This is particularly important at the leadership level, where debate is critical to informed decision-making.

B. Lessons Learned and Importance of the Officer Corps

17. DoD’s mission is to provide the military forces needed to deter war and ensure our nation’s security. With international threats continually evolving and ever growing, the DoD must leverage its strategic advantages, including the United States’ “combination of diversity, free minds, and free enterprise.”²² Diversity, including racial and ethnic diversity, and inclusion advance the DoD’s ability to accomplish this mission. Organizational research has found that the inclusion of diverse individuals expands the resources (*e.g.*, skills, knowledge, perspective, etc.) available to enhance outcomes of a team and organization.²³ Lessons learned from decades of conflict and operations experiences for DoD bear this out.

18. Using operations in Iraq as an example, a Combat Studies Institute (CSI) Special Study noted that a “lack of cultural awareness among American forces has led to an increase in animosity among many Iraqis and contributed to a negative image of the U.S. military.”²⁴ Cultural offenses, such as pushing the heads of detainees to the ground, when Islamic practice restricts this position to time of prayer, create negative portrayals of the U.S. to communities. Studies examining uniformed diversity indicate that language, cultural awareness, and culturally sensitive interactions between the military and local stakeholders are “key to avoiding potential

²¹ For an example of discussion in teams, see Crystal I.C. Farh et al, *Token Female Voice Enactment in Traditionally Male-Dominated Teams: Facilitating Conditions and Consequences for Performance*, Academy of Management Journal (2019), <https://repository.rice.edu/items/aff0e7f6-351c-4edd-a645-94ce41d06dc0>; see also Slapakova et al., *Leveraging Diversity for Military Effectiveness*.

²² National Defense Strategy 2022, p. 23.

²³ Cody Schuette, *Improving the Civil-Military Relationship*, 14 Journal of Strategic Security 4 (2021), pp. 1-20, https://www.jstor.org/stable/pdf/48633485.pdf?refreqid=excelsior%3A1291371d7de8f606902825033d88088b&ab_segments=&origin=&acceptTC=1.https://www.jstor.org/stable/pdf/48633485.pdf?refreqid=excelsior%3A1291371d7de8f606902825033d88088b&ab_segments=&origin=&acceptTC=1.

²⁴ Wunderle, 2006.

risks of tensions and mistrust, which can lead to conflict escalation.” When homogenous teams lack these traits, mission consequences can be profound. AThe foundational lesson is that the more that military members are exposed to a wide range of demographic, cognitive, experiential, and cultural perspectives and backgrounds, the more they become attuned to the necessity of considering human-based elements across all operating environments.

19. Diversity and inclusion, including racial and ethnic diversity, also are important within the officer corps, which suffers from lower levels of representation across multiple categories of demographic diversity. Officers are responsible for leading, problem-solving, managing talent, planning, guiding, mentoring, and accomplishing a given mission while leading a team of people from a range of backgrounds and with a range of experiences and perspectives, all while setting a tone and culture of respect.²⁵ If a majority of leaders are of similar backgrounds, talents, and perspectives, the accuracy and effectiveness of critical decisions are potentially limited. Keeping this in mind, “Our efforts will ultimately fail if we allow problems in our own ranks to undermine our cohesion, performance, and ability to advance our mission.”²⁶ Diversity, including racial and ethnic diversity, and inclusion, are therefore mission critical across the total force, including in the officer corps: diversity and inclusion impact mission and

²⁵ Timothy J. Demy, *Forward, in Ethics and the Twenty-First-Century Military Professional* (U.S. Naval War College Digital Commons 2018), <https://digital-commons.usnwc.edu/cgi/viewcontent.cgi?article=1001&context=van-beuren-les>; James v. Marrone et al., *Organizational and Cultural Causes of Army First-Term Attrition*, RAND Corp. (2021), https://www.rand.org/content/dam/rand/pubs/research_reports/RRA600/RRA666-1/RAND_RRA666-1.pdf (discussing research on leader importance of setting organizational culture); U.S. Army, <https://www.goarmy.com/careers-and-jobs/find-your-path/army-officers.html>; Richard M. Swain and Albert C. Pierce, *The Officer in the Profession of Arms*, in *The Armed Forces Officer* (National Defense University Press 2017), <https://ndupress.ndu.edu/Publications/Books/Armed-Forces-Officer/Article/1153510/chapter-3-the-officer-in-the-profession-of-arms/>; U.S. Marine Corps Manual, <https://www.usmcu.edu/Portals/218/LLI/MLD/Fidelity/MARINE%20CORPS%20MANUAL%20%201100%20Military%20Leadership.pdf?ver=2018-09-26-095733-303> (setting forth doctrine on leadership and leading Marines); U.S. Marine Corps Warfighting Publication 6-10, *Leading Marines*, <https://www.marines.mil/Portals/1/Publications/MCWP%206-10.pdf>.

²⁶ National Defense Strategy 2022.

combat readiness, recruitment and retention within the Armed Services, and the U.S. military's legitimacy in the United States and abroad.²⁷ A more diverse and inclusive military and officer corps would better support the effectiveness of the Armed Forces, accomplishment of the DoD mission, and increase national security.

20. In contrast to the research discussed above, there is no known established research showing that a more homogeneous or exclusive DoD or officer corps is better positioned to accomplish its mission. To the contrary, groupthink, found in homogeneous teams and organizations, creates situations where problems, actions, and decisions are not critically evaluated and challenged against other options.²⁸ Diverse personnel create stronger teams and units, and those teams and units generate a more effective and mission successful enterprise.²⁹

C. DoD Diversity and Inclusion Efforts Over Time

21. Despite increased awareness and advocacy by the DoD on diversity and inclusion, minorities continue to be underrepresented within the officer corps and among the military's senior leadership. DoD repeatedly has studied the issue of diversity and inclusion in the Armed Forces, starting with desegregation, and consistently reached the conclusion that a diverse and inclusive military is both critical to mission success and a national security imperative. I have become familiar with these efforts during my time at DoD based on my job duties.

22. In 1948, President Truman issued Executive Order 9981, which among other things established the Fahy Committee (1949-1950) to examine the rules, procedures, and practices of the Armed Forces to determine the impacts of integration and desegregation. The

²⁷ *Creating Operational Advantage through Military Diversity*, RAND Corp.

²⁸ Lu Hong & Scott E. Page, *Groups of Diverse Problem Solvers Can Outperform Groups of High-Ability Problem Solvers*, 101 Proceedings of the National Academy of Sciences 46, pp. 16385-16389 (Nov. 8, 2004), <https://www.pnas.org/doi/10.1073/pnas.0403723101>; U.S. Marine Corps Warfighting Publication 5-10, *Marine Corps Planning Process*, <https://www.usmcu.edu/Portals/218/CDET/content/other/MCWP%205-10.pdf>.

²⁹ Col Suzanne M. Streeter, *The Air Force and Diversity: The Awkward Embrace*, Air & Space Power Journal (May-June 2014), https://www.airuniversity.af.edu/Portals/10/ASPJ/journals/Volume-28_Issue-3/F-Streeter.pdf.

Committee found that desegregation and inclusivity enhanced military readiness and effectiveness, and the financial costs of these endeavors were minimal in the face of the benefits. The needs of the Korean War (1950-1953) catalyzed racial integration of the Armed Forces, which were fully desegregated in 1954. Nevertheless, inequities remained, such as racial disparities in military leadership and high-risk assignments and military deaths particularly for Black/African American and Indigenous Service members during the Korean and Vietnam Wars.³⁰

23. Identifying the need to expand opportunities for racial/ethnic minority members in the Armed Forces, President Kennedy commissioned the Committee on Equal Opportunity in the Armed Forces (the Gesell Committee), to examine the continued racial disparities. The Gesell Committee concluded that the Armed Forces needed to improve recruitment, assignment, and promotion practices to achieve equal treatment of racial/ethnic minority Service members.

24. Inequities still persisted.³¹ During the 1960s and 1970s, racial tensions continued, punctuated by higher profile events at installations and aboard the USS *Kitty Hawk*. In 1971, DoD established the Defense Race Relations Institute, later rebranded to the Defense Equal Opportunity Management Institute, to provide education and training programs in human relations, equal opportunity, civilian equal employment opportunity, and diversity, supporting a diversity and inclusion lens in the Department.³²

25. Demographic underrepresentation continued, however, particularly in the higher pay grades. As a result, in 2009, Congress established the Military Leadership Diversity

³⁰ *Dep't of Defense Board on Diversity and Inclusion Report: Recommendations to Improve Racial and Ethnic Diversity and Inclusion in the U.S. Military*, pp. 1-2 (2020), <https://media.defense.gov/2020/Dec/18/2002554852/-1/-1/0/DOD-DIVERSITY-AND-INCLUSION-FINAL-BOARD-REPORT.PDF> (“2020 DoD Board on Diversity and Inclusion Report”).

³¹ *Id.*

³² *Id.*

Commission (MLDC) to support DoD in expanding beyond diversity and towards inclusion with an emphasis on diverse leadership and the personnel lifecycle, which helped build the current understanding of diversity and inclusion in the Armed Forces. Over the next two years, the MLDC researched the issues as charged and released its report in 2011.³³ The MLDC report underscored the importance of “[d]evelop[ing] future leaders who represent the face of America and are able to effectively lead a diverse workforce.”³⁴

26. Significantly, the MLDC report found that a racially and ethnically diverse officer corps would “engender trust” and “inspire and facilitate greater confidence” between the enlisted corps and its leaders.³⁵ As noted in regard to the Vietnam Era, “lack of diversity in military leadership led to problems that threatened the integrity and performance of the Nation’s military.”³⁶ “African American troops, who rarely saw members of their own race in command positions, lost confidence in the military as an institution.”³⁷ This lack of trust and confidence between the enlisted and officer ranks is a detriment to unit cohesion and military readiness, as borne out by Professor Lyall’s research and the DoD’s own experiences, both past and current.³⁸

27. Continuing the work of previous decades, in 2020, the Secretary of Defense concluded that actions were still needed to specifically improve racial and ethnic diversity and

³³ *Id.* at 2.

³⁴ Military Leadership Diversity Commission, *From Representation to Inclusion: Diversity Leadership for the 21st-Century Military*, p. 8 (2011), https://www.dhra.mil/Portals/52/Documents/DMOC/DACODAI/MLDC_final-report_sm.pdf.

³⁵ *Id.* at 44.

³⁶ *Id.* at xvi, 6.

³⁷ 2019 CRS Report.

³⁸ See Brief of Adm. Charles S. Abbot et al., as *Amici Curiae* in *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, Nos. 20-1199 & 21-707, pp. 4, 6, 7, 13 (2022), https://www.supremecourt.gov/DocketPDF/20/20-1199/232531/20220801183329801_20-1199%20and%2021-707_Brief%20of%20Amici%20Curiae%20Former%20Military%20Leaders.pdf (former military leaders explaining the “many decades of painful lessons” learned from failing to foster racial diversity); see also Inspector General Department of the Air Force, *Report of Inquiry (S8918P) Independent Racial Disparity Review* (December 2020), <https://permanent.fdlp.gov/gpo160284/IRDR.pdf> (finding, in 2020, that “two out of every five black enlisted, civilians, and officers do not trust their chain of command to address racism, bias, and unequal opportunities.”).

inclusion in the military. Thus, he directed a three-pronged approach for promoting diversity and inclusion: (1) recommendations for immediate actions, including in accessions, promotion boards, assignment and command opportunity and selection, and professional military education selection; (2) the establishment of a 15-member Diversity and Inclusion Board to perform a more comprehensive evaluation to improve racial diversity; and (3) the establishment of an independent Defense Advisory Committee on Diversity and Inclusion to provide long-term guidance.³⁹ The resulting recommendations recognized the need to, among other things, “understand the potential factors affecting racial and ethnic minority officer retention and promotion,” develop a “data-driven accessions and retention strategy for officers and enlisted personnel to achieve a talent pipeline reflecting the diversity of” the population, and address “barriers to developing racially and ethnically diverse pools of candidates” for nominative assignments “which lead to positions in senior leadership.”⁴⁰

28. Accordingly, DoD has repeatedly identified diversity and inclusion as important for organization function and mission accomplishment. These concepts are most recently reflected in the 2022 National Defense Strategy (NDS), which notes that, “in these times, business as usual at the Department is not acceptable” amidst the pacing challenges the nation faces, and “to meet this moment, we will tap into our core strengths” including “our dynamic, diverse, and innovative society.” The NDS recognizes that the U.S.’s “combination of diversity, free minds, and free enterprise drives extraordinary innovation and adaptability.” It further specifies the U.S. “will cultivate our talents, recruiting and training a workforce with the skills, abilities, and diversity we need to creatively solve national security challenges in a complex

³⁹ Secretary of Defense Memorandum (June 19, 2020), <https://media.defense.gov/2020/Jun/22/2002319394/-1/-1/1/ACTIONS-FOR-IMPROVING-DIVERSITY-AND-INCLUSION-IN-THE-DOD.PDF>.

⁴⁰ *Id.*

global environment” and that the “strategy will not be successful if we fail to resource its major initiatives or fail to make the hard choices to align available resources with the Strategy’s level of ambition; if we do not effectively incorporate new technologies and identify, recruit, and leverage new talent; and if we are unsuccessful in reducing the barriers that limit collaboration with Allies and partners.”⁴¹

D. DoD Diversity and Inclusion Today

29. A diverse and inclusive military, including in the officer corps, supports the DoD’s recruitment and retention efforts. Recruiting and retaining top talent is essential to sustaining a force that is adaptable, responsive, and effective. There are external constraints, however, on DoD’s efforts. Reports evaluating available recruitment data show how certain qualification standards limit the pool of potential recruits, as only 23% of youth (17-24 years old) are eligible for service without a waiver and 44% of youth are disqualified for multiple reasons such as “obesity, drugs, physical and mental health problems, misconduct, and aptitude.”⁴² Also, research conducted by the Department’s Joint Advertising, Market Research, and Studies (JAMRS) program shows that youth propensity to serve in the military has been on a steady decline, standing at about nine percent, the lowest point since 2007. In recent Army surveys conducted with the target population, the top three reasons cited for rejecting military service were fear of death, worries over post-traumatic stress disorder, and leaving friends and family. The most common response beyond those top three reasons was the concern that the youth

⁴¹ National Defense Strategy 2022.

⁴² U.S. Army Recruiting Command, *Facts and Figures*, https://recruiting.army.mil/pao/facts_figures/; Diana Gehlhaus, *Youth Information Networks and Propensity to Serve in the Military* (RAND Corp. 2021), https://www.rand.org/content/dam/rand/pubs/rgs_dissertations/RGSDA1600/RGSDA1662-1/RAND_RGSDA1662-1.pdf.

would be putting their life on hold. Very few survey respondents indicated that they were deterred from service due to “wokeness” in the military.⁴³

30. Black and Hispanic youth report higher propensity than their White and Asian counterparts, moreover, and male propensity has declined as female propensity has remained relatively stable.⁴⁴ These datapoints demonstrate that recruiting and retaining top talent from those underrepresented communities who report higher propensity to serve can pay greater dividends to the military. This is even more important in light of the national population’s decreasing propensity overall and the military’s ongoing recruiting challenges. Further, research suggests that representation matters for recruiting and helps ensure that institutions are seen as legitimate and respected, so it is all the more important for the DoD to ensure a diverse military and officer corps.⁴⁵ My personal experience in the Marine Corps, particularly in the aviation community as an officer, has reinforced for me the idea that representation matters.

31. Given the significance of the military’s most valuable asset—our Service members—the DoD Office of People Analytics (“OPA”) recently evaluated the association between diversity and inclusion climates in the active-duty military and key military readiness and retention outcomes. That three-phase study used cluster analysis to identify distinct diversity climates (ranging from healthy to unhealthy), survey data to examine readiness and retention outcomes in the different diversity climate groups, Defense Manpower Data Center administrative records to identify retention patterns over a three-year period following

⁴³ Lolita C. Baldor, *Army Sees Safety, Not ‘Wokeness,’ as Top Recruiting Obstacle*, AP News (Feb. 12, 2023), <https://apnews.com/article/afghanistan-politics-military-and-defense-race-ethnicity-6548adcb0fee590f3427771d1e1eeea7>.

⁴⁴ Dep’t of Defense Office of People Analytics, *Fall 2022 Propensity Update* (Aug. 21, 2023), https://jamrs.defense.gov/Portals/20/Documents/YP54Fall2022PUBLICRELEASEPropensityUpdate_20230713_v1.pdf.

⁴⁵ Slapakova et al., *Leveraging Diversity for Military Effectiveness*; Shelley Zalis, *Inclusive Ads are Affecting Consumer Behavior, According to New Research* (Nov. 2019), <https://www.thinkwithgoogle.com/future-of-marketing/management-and-culture/diversity-and-inclusion/thought-leadership-marketing-diversity-inclusion/>.

participation in the survey, and force projection analyses to assess the long-term impacts of diversity on racial and ethnic force composition over time.⁴⁶

32. The OPA report found that over a quarter of Service members identified their working environments as negative across a range of diversity indicators and/or that they had witnessed racial and sexist slurs being used. In particular, the 12% who identified expressly unhealthy diversity climates were more likely to identify as underrepresented groups, such as racial or ethnic minorities.⁴⁷ The study found that unhealthy diversity climates were associated with negative readiness and retention outcomes, as well as the lowest estimated retention over a three-year period, losing close to 25% of the survey group by the end of the study period.⁴⁸ “[R]etention intention, satisfaction with the military way of life, member and unit preparedness, as well as member and unit morale were the highest among those who characterized their [diversity and inclusion] climate as healthy—and lowest among those who characterized their [diversity and inclusion] climate as unhealthy.”⁴⁹ Members of the unhealthy climate group were “more likely to endorse moderate to high levels of depression as well when compared to those in the Healthy Climate group,” underscoring the effect of diversity climates on retention and readiness.⁵⁰

⁴⁶ Dep’t of Defense Office of People Analytics, *An Exploration of the Return on Investment for Diversity & Inclusion in the Military Using Cluster Analysis to Identify Force-Wide Climates, Correlates, and Implications: Executive Report* (Oct. 2022), https://cg-872b0f53-3ed8-4ee5-8078-10a830db319c.s3-us-gov-west-1.amazonaws.com/opa.mil-production1/uploads/refinery/opa/asset/upload/2594/ROI_DI_Report_Final.pdf?X-Amz-Expires=600&X-Amz-Date=20231120T171408Z&X-Amz-Algorithm=AWS4-HMAC-SHA256&X-Amz-Credential=AKIAR7FXZINYEQ536HOW%2F20231120%2Fus-gov-west-1%2Fs3%2Faws4_request&X-Amz-SignedHeaders=host&X-Amz-Signature=11643600dfc5bc9c8de07b5e4f6dcbb79ab3eae7cff7a61379d457f28bd6fb4.

⁴⁷ *Id.*

⁴⁸ *Id.* at 17.


⁴⁹ *Id.* at iv.

⁵⁰ *Id.*

Conclusion

33. The Armed Forces have long judged that the Nation's military strength and readiness depend on Service members, including officers, who are highly qualified and diverse, including racially and ethnically diverse, and who have been educated in diverse environments that prepare them to lead increasingly diverse forces through inclusive teams. Research likewise indicates that diversity and inclusion directly impact key functions of military operations, including mission effectiveness, recruitment and retention, and the domestic and international legitimacy of our fighting forces. DoD has therefore made the judgment that diversity and inclusion in the military, including in the officer corps, is a key part of fulfilling its mission.

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