

The Department of Justice brief omitted additional facts set forth only in the brief filed by the Center for Military Readiness and fellow *amici*. In particular, *some* women have proved themselves capable of meeting the high standards that combat demands and previous policies regarding women in combat billets have been repealed, but “the **physiological differences between man and women have *not* been repealed.**” (CMR brief at p. 16, emphasis added).

The CMR *amicus* brief cites several key points of information resulting from a thorough three-year study that the **Marine Corps** conducted from 2012 to 2015. During nine months of field exercises simulating combat requirements, professionally monitored by the **University of Pittsburgh**, the Marine Corps study objectively compared the performance of all-male and mixed-gender units.

A September 2015 [Summary](#) of voluminous research findings (included as Appendix A in the *amicus* brief) reported, among other things: “All-male squads, teams and crews demonstrated higher performance levels on **69%** of tasks evaluated (**93 of 134**) as compared to gender-integrated squads, teams, and crews.” (CMR brief at p. 17, emphasis added)

Justice Sonia Sotomayor, together with **Justices Brett Kavanaugh** and **Stephen Breyer**, wrote a separate statement referring to the few women who have succeeded in **Army Ranger** and other **Special Operations Forces** training programs. The CMR *amicus* brief, however, focused on the primary purpose of a Selective Service draft: to provide a large and ready pool of combat replacements during a time of catastrophic national emergency: “. . . drafting large numbers of women who cannot meet [combat] standards will **hinder** the process of providing timely combat replacements.” (CMR brief at p. 15, emphasis added)

CMR and *amici* also countered the Plaintiffs’ claim that repealing limitations on the assignment of women to combat billets changed the “fundamental premise” of *Rostker v. Goldberg* and warrants overruling it:

“Petitioners misperceive *Rostker*’s fundamental premise, ignore the role, authority, and responsibility of Congress in raising and supporting armies, fail to acknowledge the physiological differences between males and females that bear upon the question of whether men and women are **similarly situated** with regard to filling the combat replacement stream during a national mobilization, and seek to short-circuit the ongoing legislative process, which is considering whether to maintain the current selective service system, abandon it altogether, or create a different paradigm” (CMR brief at p. 4, emphasis added)

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

Ph.D., an expert in physical fitness and employment standards in the public safety sector. The Counsel of Record was **William A. Woodruff**, a retired Army Colonel and Law Professor who served in the Army Judge Advocate Corps.

As the Supreme Court recognized, questions about Selective Service are currently before Congress. The **National Commission on Military, National and Public Service** completed its work last year, and the **Senate Armed Services Committee** conducted a hearing on the Commission's **Final Report** on March 11.

The Center for Military Readiness filed a **Statement for the Record** of that hearing, opposing the National Commission's key recommendations regarding the purpose and eligibility requirements of Selective Service:

[Statement for the Record Submitted by Elaine Donnelly, Pres., Center for Military Readiness](#)

CMR also sent a detailed letter to **Sen. James Inhofe**, Ranking Member on the Senate Armed Services Committee, taking issue with several misleading comments made by members of the National Commission during the March 11 hearing.

[Letter to Ranking Member James Inhofe from Elaine Donnelly, Pres., CMR](#)

CMR President **Elaine Donnelly** has summarized the legal debate: **"The bottom line is that the Constitution assigns these policy decisions to Congress, not the courts. It is condescending and wrong to suggest that women would not volunteer to serve in a future national emergency, as they always have.**

"Now members of the Congress must fulfill their responsibility by reviewing all the empirical evidence supporting an effective Selective Service registration system that exists to defend the country, not to advance ideological goals that would weaken the military, not strengthen it."

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*The Center for Military Readiness is an independent, non-partisan, public policy organization that reports on and analyses military social issues. CMR President Elaine Donnelly, who founded CMR in 1993, can be reached at **734/464-9430**. More information is available on the organization's website, www.cmrlink.org.*