National Lawyers Guild Military Law Task Force

ON WATCH

Critical Perspectives on Military Law

Spring 2024 | Vol. XXXV No. 2

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GAZA CEASEFIRE NOW – AN *ON WATCH* EDITORIAL

As this issue of *On Watch* goes to press, the territory known as the Gaza Strip is under siege. The editors would like to take note of what is happening there and to urge that all fighting there immediately cease.

Over the last six months, the world has witnessed a horrendous amount of death, destruction and human suffering in Gaza. As of this date, more than 32,000 people have been killed. As part of its order of January 26, 2024, the International Court of Justice included a statement by the United Nations Under Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator: "Families are sleeping in the open as temperatures plummet. Areas where civilians were told to relocate for their safety have come under bombardment. Medical facilities are under relentless attack. The few hospitals that are partially functional are overwhelmed with trauma cases, critically short of all supplies, and inundated by desperate people seeking safety. …Infectious diseases are spreading in overcrowded shelters as sewers spill over. Some 180 Palestinian women are giving birth daily amidst this chaos. People are facing the highest level of food insecurity ever recorded. Famine is around the corner. … For children in particular, the past 12 weeks have been traumatic: No food. No water. No school. Nothing but the terrifying sounds of war, day in and day out. Gaza has simply become uninhabitable." Three months later, things have only gotten worse. In its most recent order, the ICJ quotes the March 15, 2024 report of the United Nations Children's Fund that found that 31 percent of children under 2 years old in the Northern Gaza Strip were suffering from "acute malnutrition," which was "a staggering escalation from 15.6 percent in January." U.N. Security Resolution 2728, adopted on March 25, 2024, notes: "Palestinians in Gaza are enduring horrifying levels of hunger and suffering. This is the highest number of people facing catastrophic hunger ever recorded by the Integrated Food Security Classification system anywhere, anytime."

In a letter dated February 11, 2024, addressed to the U.S. Secretary of State and other U.S. government officials, Veterans for Peace detailed the complicity of the U.S. government in what is happening in Gaza. The letter recites how U.S. arms sales to the State of Israel are in violation of The Conventional Arms Transfer Policy, The Foreign Assistance Act, The Arms Export Control Act, The U.S. War-Crimes Act, The Leahy Law and The Genocide Convention Implementation Act. The letter notes that: "As of October 2023, there were nearly 600 pending Foreign Military Sales to Israel, including F-35 Joint Strike Fighter aircraft and precision-guided munitions, with an overall value of $23.8 billion. At this very moment, Israel is reportedly negotiating with the U.S. to purchase a squadron of 25 F35i stealth fighter jets, a squadron of 25 F-15IA fighter jets – the Israeli variant of the advanced F-15EX – and a squadron of 12 Apache helicopters. The U.S. has provided over 10,000 tons of military equipment to Israel since October 7, 2023." Sources tell CNN that the Biden administration authorized the transfer of over 1,000 500-pound bombs and over 1,000 small-diameter bombs to Israel on April 1, 2024. The week before, the administration authorized the transfer of additional bombs, including nearly 2,000 2000-pound bombs known as the MK84. CNN has previously reported that MK84 bombs were linked to mass casualty events in Gaza, including Israeli strikes on refugee camps last year. CNN also reported that the U.S. is engaging in new arms sales to Israel, including an $18 billion dollar sale of F-15 fighter jets. All of this renders the Biden Administration's calls for humanitarian aid and for a temporary cease fire rather hollow. By providing all this weaponry, the U.S. is sustaining this conflict. If the Administration really believed in humanitarian aid, it would immediately stop the flow of arms which are killing, wounding and starving the people of Gaza.

Fortunately, protest and resistance to the atrocities occurring in Gaza has been widespread. Large demonstrations calling for an immediate and permanent ceasefire have occurred around the world. The International Court of Justice has issued two orders to Israel to prevent "all genocidal acts against Gazans." In the U.S., a lawsuit was filed in Federal Court in Oakland, California – *Defense for Children International – Palestine, et al. v. Joseph Biden et al.* The Court felt bound to grant a Motion to Dismiss, but concluded, "This Court implores Defendants to examine the results of their unflagging support of the military siege against the Palestinians in Gaza." Finally, the article by Chris Lombardi in this issue of *On Watch* recounts instances of resistance within the U.S. military, and particularly the actions of Aaron Bushnell. As Chris reports, an "autonomous network of active duty service members across nearly all U.S. Armed Forces branches have released an open letter condemning Israel's genocide in Gaza." The MLTF and its members and allies will continue to support resisters within the military as they engage in actions protesting and resisting U.S. policy and in support of an immediate and permanent ceasefire.

AARON BUSHNELL – REMEMBER HIS MESSAGE

By Chris Lombardi

Levi Pierpont's voice was steady on February 29, the day I called him to ask about his friend Aaron Bushnell. "He was the sweetest guy you'd ever meet."

The 23-year-old Air Force veteran was talking about one of his military peers — whose name was suddenly everywhere. Four days earlier, on Feb. 25, Bushnell had set himself on fire in front of the Israeli Embassy in Washington, D.C., to protest U.S. support of Israel's war on Gaza.

I'd reached out to Pierpont because he'd left the military last year as a conscientious objector, long before the Oct. 7 Hamas attack that burst the blister of Israel's long siege. As someone who has spent much of the last 20 years writing about such servicemembers, I wanted to know more about Pierpont's journey, and his response to his friend's far more visible and permanent act of conscience.

In the three weeks since that day, Bushnell's name has been spoken often at the near-daily Gaza protests across the country — especially those organized by veterans of the U.S. military. Last week, artist-activists got his words on the New York City subway, replacing ads with his final statement on social media: "Many of us like to ask ourselves, 'What would I do if I was alive during slavery? Or the Jim Crow South? Or apartheid? What would I do if my country was committing genocide?' The answer is, you're doing it. Right now."

Pierpont talked to me shortly before *The Guardian* published his op-ed: "Aaron Bushnell was my friend. May he never be forgotten." When I talked to him it was still very fresh; his voice trembled a little as he described his journey, one he wishes Bushnell had shared more fully.

They met in May 2020 at Goodfellow Air Force Base, at the beginning of basic military training. Bushnell arrived almost too late to start training; Pierpont said he "stood up for me" when Pierpont felt harassed.

Bushnell's bonhomie was a salve, Pierpont told me, amid basic training's stereotypically loud atmosphere. Both were moving beyond their restrictive Christian families — Pierpont's in evangelical Michigan, Bushnell the secretive Community of Jesus in Orleans, Massachusetts. And both were going on to work with intelligence with high-level security clearances.

"[W]henever people in basic training would talk about me or would talk about him, we would stick up for each other. And he always stuck up for me," Pierpont told *Democracy Now!* They spoke and texted often, even after basic training ended and they pursued different divisions of Air Force Tech School, Bushnell for cybersecurity and Pierpont for Operations Intelligence. Pierpont later started to ask the questions that would ultimately lead him to seek discharge as a conscientious objector, just as Bushnell was exulting on social media, "Man, the Air Force does some cool-ass shit."

Still, Bushnell's own doubts about the institution would grow after he was a firm member of the 571st Cyber Division, with access to real-time intel about what the Air Force was up to. The two of them didn't talk much at Tech School, but did once they were at their respective bases, Pierpont at Minot AFB in North Dakota and Bushnell staying in Texas at Lackland AFB.

By then, Pierpont had left Operations Intelligence behind. At Tech School, learning to develop "intelligence products" assembled with Microsoft PowerPoint, he was bemused by its focus on Russia and training products he called "Secret YouTube and secret Wikipedia." Less amusing was a video in which his whole class watched the death of an enemy combatant. Pierpont found himself feeling bad for the guy's family, even if he was one of the terrorists they were being trained to hate. When "a bunch of my classmates laughed at that video," Pierpont realized he wasn't one of them. He asked to change classifications, so he wouldn't be so directly involved in violent "operations."

At Minot, Pierpont was 2ROX1, a Maintenance Management Analyst — in charge of generating and monitoring data on the maintenance of Air Force planes and equipment. It wasn't a stress-free gig, though; all that data was in service of weapons of war, like Minot's 488,000-pound B-52 bombers. "It was very traumatic for me to think about those aircraft," Pierpont told me. After nearly a year, he contacted the Center for Conscience and War, and began working on his application for conscientious objection, or CO. He told his friend Aaron about it all "and he was really supportive," he said.

In June 2023, Bushnell said on Reddit that he agreed with Pierpont, noting that "Apparently it's very doable to become a 'conscientious objector' on religious grounds even after voluntarily enlisting. It's a bit of a process and it takes about a year, but there are organizations to help guide you through it and the success rate is very high."

But in his case, Bushnell said, "I'm sticking it out to the end of my contract, as I didn't realize what a huge mistake it was until I was more than halfway through, and I only have a year left at this point. However it is a regret I will carry the rest of my life."

Pierpont, who now identifies as more of a Buddhist than a Christian, said he had told Bushnell that CO wasn't only for religious resisters, but respected his commitment not to break his contract. Still, Bushnell told Pierpont that he "wanted to take a stand against all state-sanctioned violence."

The last time they saw one another was in January 2024 in Toledo, Ohio, after Bushnell moved to Akron for SkillBridge (a transition program for members about to separate). They talked about Pierpont's CO discharge, which had been approved in July 2023; they did *not* talk about what happened two months

later, the Oct. 7 Hamas attack. “We never talked about Gaza” he said. Pierpont felt it was due to his own “centrist” position on the conflict, since Bushnell was on Reddit describing Israel as a “settler-colonialist apartheid state.” Back then, said Pierpont, “the Gaza war felt complex to me ... but that was before 30,000 were dead.” And in the meantime, Bushnell was learning more about what he considered U.S. complicity in those deaths.

Afghanistan veteran Jeremy Lyle Rubin, pointed out in *The Nation* that “The U.S. Air Force has played a significant part in the killing spree in Gaza, assisting with intelligence and targeting.” He added that the U.S. is contributing to “what the political scientist Robert Pape has called ‘one of the most intense civilian punishment campaigns in history, [now sitting] comfortably in the top quartile of the most devastating bombing campaigns ever.’”

Given Pierpont’s Buddhism, I asked him if he knew about the high-profile Buddhist CO, Aidan Delgado. He had not; neither did he know about Norman Morrison, who set himself on fire nearly 60 years ago, to protest the U.S. war against Vietnam.

I don’t mention Morrison in my book “I Ain’t Marching Anymore,” a history that focuses on dissenting military personnel like Pierpont and Bushnell, drawn on those I spoke to daily in the 1990s as a staffer with the Central Committee for Conscientious Objectors. Many of the latter were like Pierpont, describing how military service had triggered a moral crisis that made it impossible to stay in the military.

The book does describe the all-hands movement against the Vietnam War, which included many Quakers like Morrison, whose fiery death, on Nov. 2, 1965, came as the U.S. war against Vietnam was metastasizing. At his Baltimore Quaker meeting, Morrison and his wife Anne watched, worried and prayed as more than 100,000 servicemembers were shipped to Vietnam and TV screens showed the massive bombing of North Vietnam by American fighter planes

Morrison’s revelation of “what I must do” was triggered, his wife wrote, by an account in *Paris-Match* of the incineration of families in the village of Can Tho. “I have seen the bodies of women and children blown to bits,” a French priest told the author, Yves Larteguy. “I have seen all my villages razed. By God, it's not possible!” Morrison circled that sentence in the clipping of the article he mailed to Anne from the Pentagon, just before he poured kerosene on himself and lit the match in full view of then-Defense Secretary Robert McNamara. Though it still took 10 years for that war to end, Morrison’s act helped catalyze the sustained anti-war movement that shaped *how* it ended.

As Colonel Ann Wright points out, the death of Morrison and others “mobilized the anti-war community,” with years of weekly vigils at the U.S. Capitol that ultimately persuaded members of Congress to stand up against the war, the first of whom was Rep. George Brown. “After the Quakers were arrested and jailed for reading the names of the war dead, Brown would continue to read the names, enjoying congressional immunity from arrest.”

Perhaps hoping to build similar momentum to end the war in Gaza, Veterans for Peace and About Face — the antimilitarist group formerly known as Iraq Veterans Against the War — swung into action after Bushnell’s death. They expressed regret that he never connected with either organization. In Portland, some About Face members burned their uniforms, and the group has seen a surge of new members since those protests.

In addition to these actions, a separate "autonomous network of active duty service members across nearly all U.S. Armed Forces branches have released an open letter condemning Israel's genocide in Gaza," journalist Talia Jane tweeted on March 4.

Activists have still had complex responses to Bushnell's "extreme protest," wondering whether self-immolation damages the movements they'd hoped to propel — in addition to the damage to their families. Anne Morrison writes that she and her three children suppressed their pain and rage for years. Advocates for servicemembers and veterans raised the alarm that valorizing Bushnell's death would do nothing to abate the already-high suicide rates in both populations.

Nonetheless, Bushnell's name has been invoked frequently by the "Vote Uncommitted" movement, an electoral pressure campaign that made a noticeable impact on the primaries in Michigan, Minnesota, North Carolina, Georgia and Washington State.

Many of the vigils broadcast Bushnell's last words, livestreamed on Twitch before he lit the match: "I am an active duty member of the United States Air Force. And I will no longer be complicit to genocide. I am about to engage in an extreme act of protest. But compared to what people have been experiencing in Palestine at the hands of their colonizers — it's not extreme at all. This is what our ruling class has decided will be normal." Those words have been ubiquitous on the internet ever since.

So has the voice of Levi Pierpont, who is now volunteering the Center on Conscience and War and active with the divestment coalition at Michigan State University. "I want people to remember that his death is not in vain, that he died to spotlight this message," he said in his interview with "Democracy Now!," which has played at numerous vigils. "I don't want anybody else to die this way. If he had asked me about this, I would have begged him not to." But after seeing the way the media responded to Bushnell's immolation, he added, "it's hard not to feel like he was right, that this was exactly what was necessary to get people's attention about the genocide that's happening in Palestine. And so, I just - I want people to remember his message.

Editor's note: This article was previously published in *Waging Nonviolence*.

UPDATE ON *HAMILL* CLASS ACTION ADVOCACY FOR 'BAD PAPER' VETERANS

By Ana Maria Bondoc

In a recent issue of *On Watch*, we summarized ongoing advocacy that seeks to utilize class action as a strategy to effect systemic change. Change is essential for over half a million less-than-honorably discharged veterans, many of whom are cut off from the benefits and recognition they should have earned through service.[1] The hope was that the Court of Appeals for Veterans Claims (CAVC) decision in *Hamill v. McDonough* would pave the way for former servicemembers implicitly denied benefits because of how VA enforces 38 CFR § 3.12, its regulation on veteran status and character of discharge (COD). In December 2023, a split majority at the CAVC dismissed the petition and denied the request for class certification and class action.[2] Counsel have now filed their appeal to pursue this case at the next higher court.

Though the majority concluded that the petitioner's claims were moot from the beginning, it also noted with approval that VA recently revised certain notice policies in its Adjudication Procedures Manual, known as M21-1.[3] The majority was satisfied that the issues that stalled Mr. Hamill's application will not plague future applicants, because now, "…VA is trying to locate veterans and issue separate COD determinations."[4] These determinations will explicitly use the phrase "new and material evidence" when deciding an applicant's basic eligibility due to their COD. Experience shows that this change is not a silver bullet. Confusion still ensues whenever the VA tells a veteran that they are not a veteran, and suggests they go elsewhere for relief.

As a contrast to the majority's lofty and theoretical analysis, Judge Jaquith's dissent demonstrates keen understanding of the devils in the details, and the harm that implicit denials have been causing to former servicemembers with 'bad paper.' He hit the nail on the head when observing that VA is simply not acting on COD claims. This is because regional offices routinely fail to reopen claims for veteran

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[1] See generally, Legal Services Center of Harvard Law School et al., Turned Away: How VA Unlawfully Denies Health Care to Veterans with Bad Paper Discharges (Mar. 2020) *available at* http://www.legalservicescenter.org/turnedawaybyva

[2] Hamill v. McDonough, Dkt. No. 22-7344 (Vet. App. December 18, 2023) (unpublished) *available at* https://efiling.uscourts.cavc.gov/cmecf/servlet/TransportRoom?servlet=ShowDoc&dls_id=012010070872&caseId=139335&dktType=dktPublic

[3] The M21-1 is imperfect and is not always binding on VA. *See* Brief of *Amici Curiae* in Support of Petitioner in Gray v. Wilkie, 139 S. Ct. 2764 (2019), *available at* https://www.supremecourt.gov/DocketPDF/17/17-1679/77339/20181221133341881_Brief.pdf
We do not know which M21-1 change the majority applauded so, because their opinion does not specify. Upon review, the seemingly relevant sections of the M21-1 do reflect updates as of February 2, 2023. But there is no reference to *Hamill*, re-opening upon receipt of new and material evidence, or implicit denials. See Veterans Benefits Administration, Veterans Adjudication Procedures Manual M21-1 § X.iv.1.B., *available at* https://www.knowva.ebenefits.va.gov/system/templates/selfservice/va_ssnew/help/customer/locale/en-US/portal/554400000001018/content/554400000178524/M21-1-Part-X-Subpart-iv-Chapter-1-Section-B-Special-Topics-Involving-Character-of-Discharge

[4] Hamill v. McDonough, Dkt. No. 22-7344 at *9. Meanwhile, the dissent views this tactic as evidence that the "picking off" exception to mootness applies in this case. Id. at *17.

status in the same way that they (should) reopen previously denied disability compensation claims, upon receipt of new and material evidence.[5]

In dissenting, he agreed with the petitioner's contention that after the passage of the Appeals Modernization Act (AMA), VA has not complied with expanded notice requirements when it comes to veterans with bad paper. In other words, these forgotten servicemembers do not know what battle they are fighting- or indeed, whether and how they can continue to fight- because VA's notices do not explain it well enough, or at all. The dissent points out that this failure to provide due process is unconstitutional.[6]

Our hopes are for a more successful outcome in the U.S. Court of Appeals for the Federal Circuit. Said Professor Yelena Duterte, counsel for the proposed Hamill class and Director of the Veterans Legal Clinic at the University of Illinois at Chicago School of Law, "[T]he implicit denial doctrine has been an obstacle for many veterans, as they are not always aware of what the VA made a decision on. We hope this appeal will require the VA to provide clear decisions for veterans in the future, in alignment with the AMA."

Links to Further reading on VA COD

- Article from Texas A&M University School of Law, Family and Veterans Advocacy Clinic
- Guide from Swords to Plowshares
- Law Review Article from Prof. John Booker et al.

[5] Last month, VA made further changes to a separate section of the M21-1. The section discusses the restricted ways in which regional offices react to supplemental evidence for claims in general in general. The section lacks explicit reference to COD claims or 38 CFR § 3.12. *See* M21-1 § X.ii.2.B., available here.
Since these changes came in February 2024, months after the CAVC announced its decision in *Hamill* in December 2023, they cannot be the changes to which the majority referred. M21-1 § X.ii.2.B still provides no instruction on how to consider newly submitted post-service treatment records and lay statements. These are the types of evidence can be game-changers for veterans with bad paper. A ready example is a Vietnam veteran whose posttraumatic stress disorder (PTSD) could not be diagnosed during service. Upon receiving new proof of PTSD, the regional office would find no helpful instructions about whether to reopen his COD claim. They often re-send the prior determination or provide no response at all. The dissent deems this an explicit, rather than implicit, denial. Hamill v. McDonough, Dkt. No. 22-7344 at *15-16.
[6] Id. at *11-12.

INTERVIEW WITH LAVENDER GUNDERSON, SURVIVOR OF MILITARY RECRUITER SEXUAL ABUSE

Editors' Preface:

Lavender Gunderson, a survivor of military recruiter sexual abuse, is seeking discharge reclassification in order to access VA health care unjustly denied her. She is currently represented by MLTF attorney James Branum in a pending application to the Board for Correction of Naval Records, with support from Courage to Resist and other organizations.

James Branum reports that:

> We anticipate that Lavender Gunderson will be applying for relief through the Board for Correction of Naval Records in May, so we are asking her supporters to sign the online petition, the signatures of which will be shared as part of our filing with the BCNR. The petition and information about her case can be found at Petition launched to support survivor of military recruiter abuse - Military Law Task Force (nlgmltf.org).
>
> - We are also preparing to travel to Washington, DC in the coming months to lobby members of Congress to seek changes in current policies on military recruiting. These measures will include:
> - Enhanced protections for underage recruits, including a possible bar on recruiters making contact with underage recruits,
> - A full investigation of all past recruiter abuse allegations,
> - A bar on all meetings where a recruiter is meeting with a recruit without anyone else present,
> - A requirement that the DoD provide accurate and timely reports to Congress and the public on all reports of recruiter abuse,
> - New statutes that ensure that recruits who are victimized by recruiters will have access to victims' advocates, legal counsel, and VA care. This is important as current law denies VA care and services to people who were raped by their recruiters prior to enlistment.

Lavender is also reaching out to other survivors of recruiter abuse, in the hopes that others will tell their stories.

Lavender Gunderson gave the following interview to the National Network Opposing the Militarization of Youth (NNOMY), published in June 2023. It is reprinted with permission.

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June 30, 2023 / Lavender Gunderson / Bend, Oregon - I am sharing to the public my Navy "Me Too" story in hopes it will shed light of the corruption and imminent danger I faced during my military enlistment and service.

I was raped by my recruiter Trace Oliver Harris, his age 26. I was 17, still in high school at the time. I didn't even have my drivers license yet. My childhood died in his California king sized bed. The age of

consent in Oregon is 18, and I was a minor when I signed an enlistment contract with Harris's signature. Harris was aware I was a minor and aware of fraternization policies. My mother's signature is also on the document, adding her to the lists of credible witnesses.

The blackmail, mental and sexual abuse continued over the course of about 8 months while in Delayed entry program. I was in denial of the abuse and ended up with Stockholm syndrome. He blackmailed me with my medical history. Most recruiters, tell you to lie at MEPs so you can get into the military. Former Petty officer Harris encouraged me to lie at MEPs. Shortly after MEPs Harris groomed me and lured me into his apartment. Pressured me to drink alcohol, his drink of choice: Angry orchard.

It was the first time I had ever been in his apartment. The minute I walked into his room he forcibly kissed me and firmly grabbed my butt and breasts. I could feel fear bubbling up in my chest, I went into freeze and fawn survival mode. After drinking two ciders, the details get fuzzy. I can't remember how my pants came off. But I remember him talking about how he owns a gun. I remember my heart dropping to my stomach. At that moment I knew I was willing to do anything I could to survive.

I recall making small talk although I was quick to change the subject. I remember him getting on top of me and he entered inside of me even though he knew I was terrified. My body went into shock. I told him I finished two minutes in, hoping he would stop. I was unfortunately wrong, he accused me of lying and forcibly went faster. I allowed myself to fall deep within my body, I disassociated while staring at the ceiling until he finished.

Harris rolled over without a word and went to sleep. I slept on the edge of his bed with my back facing him as silent tears streamed down my face. A piece of me was lost that night, a piece I have been unable to get back. I didn't accept that he raped me until months later after sobbing to my friend Aubry while at the Summit high school parking lot in her car. I remember her words, she was able to finally get me to say, "I was raped", I hadn't heard myself say that out loud before. There is something about those three words, they hold a weight that sits on your chest and burns in your lungs. We skipped class so she could take care of me. Even then I was still deep into denial. I am still in contact with my friend today, and she is willing to testify as a witness on my behalf.

I reported Harris approximately eight months later. A fellow recruiter alongside Harris told me that Harris had been sexually harassing other recruits. He described Harris as weird and creepy. I trusted this recruiter when he confided in me about Harris's perverted actions. I believed him, and my heart stopped. I started sobbing and told him what Harris did to me. I didn't want this to happen to another recruit. I reported my assault while I was in the car on my way to MEPs to ship out to basic training. I was delayed about 1 year later after making this report.

Deschutes County police stepped in to handle the case because they had jurisdiction due to the fact, I was a minor at the time of the assault. If it weren't for bend police taking care of me, I wouldn't have seen any justice at all. (Thank you Bend, Oregon Police.) The military would've covered it up if they had full control over the case. NCIS worked with Bend police to investigate the crimes.

I eventually went to basic training after volunteering my privacy away and giving bend police my phone to download all the evidence. While working with NCIS they said I should reach out to Saving Grace before leaving for bootcamp, they explained it wouldn't affect me getting into the Navy because my MST report was restricted at the time. I went to saving grace three times before shipping out, I told one of their therapists my story and how becoming a sailor was still my childhood dream despite what Harris

did to me. She told me I deserved a purple heart. I can't remember her name, but I remember her powerful words. She did her best to mentally warn me for the hell I was about to endure.

The day before finally shipping out to basic, I went to headquarters in Portland where I talked to a Master Chief, he urged me to not tell anyone about the recruiter abuse during training or they would send me home. He then showed me a video of the moment of truth so I wouldn't be caught off guard during it. I complied out of fear, awaiting my flight out at MEPs.

I arrived at Recruit Training Command, Great Lakes Naval station, North Chicago, IL. I snuck in lavender essential oil to help with stress. I would smell it at night before falling asleep to help calm me down. I would secretly let other recruits smell it too if they were sad. It was comforting to them.

I didn't know then that I would later change my name to Lavender. Deep in my subconscious I think I already knew I had a purple heart.

During week one, we were given vaccines. We were briefly informed that some people could have seizures. A few minutes after being given vaccines, the male recruit next to me had seized. The shot I hated the most was the "peanut butter shot". A group of 10-15 other female recruits lined up and were ordered to lean over a table and expose half of our glute to receive the shot. Some of the Hospital Corpsman were males, I didn't want to bend over the table and expose myself to male for him to stab a long thick needle into my glute with no warning or consent. I would have preferred a female HM to administer this vaccine, of course this was never given as an option. The military did not tell us what was in the vaccines, just that they would prevent us from getting sick and that we might have adverse reactions. We were lab rats. Consent doesn't matter when you are government property.

I was ill from all the vaccines I was given. I was about to pass out when a Recruit Division Commander (RDC) told me I would be put in handcuffs for disobeying a direct order during a workout. I remember hearing sirens of ambulances every day. I witnessed a fellow recruit collapse right in front of me, she was walking from the head (the bathroom) as I was standing in line waiting to talk to a priest. I asked her if she was okay, she looked ill and wasn't walking properly. She then collapsed on the floor, as if she was having a seizure. Her eyes rolled in the back of her head. I helped her get to the floor safely. I began screaming "TRAINING TIME OUT!" Two female RDC's heard me screaming for help. They ignored me and continued walking the other way, disregarding someone's life. The other recruits in line started screaming with me, making it apparent there was something wrong. Another RDC heard us screaming from the other room down the hall. He was with a separate division and started sprinting to us. He called and waited for paramedics to arrive and told us to turn and face the wall to give some privacy. The priest arrives as the paramedics are leaving with the recruit in a gurney. The priest tells everyone in line to join the room to pray for the recruit.

I would grit my teeth often, to show no emotion while standing at attention with a thousand-yard fluoride stare. The water was cloudy and tasted like chemicals. Gritting my teeth was the only way to be an emotionless robot. At night I would grit my teeth in my sleep due to stress. My TMJ disorder became so out of hand I was unable to open my mouth to eat. I found myself at the dentist, at first the dentist didn't believe that I couldn't eat. I explained that I was a survivor of SA abuse at the hands of my recruiter. He then believed my pain and ordered x-rays and explained that if it worsened, I would need jaw surgery. I told him I wanted to pass basic. He gave me a numbing shot in my jaw to alleviate pain so I could eat. The military should have removed my wisdom teeth and didn't. I got my wisdom teeth removed after discharging from the Navy due to them being impacted on my nerve causing TMJ disorder.

I was a couple days away from graduating, I completed firefighting training, I made it through the tear gas chamber. I kept repeating training because I couldn't pass my run. When I first arrived at basic, I was a slow runner. Throughout the four months of basic training, I ran faster. I ended up injured, with severe shin splints and stress fracture on my right heel. I was told to keep running, or I wouldn't graduate. Leaving me without access to a lawyer, SAPR so I kept pushing.

A female RDC, knew my story and assured me she would run beside me in support. I ran ahead of her as she advised me to do. Until I got to the finish line, I was seconds away from passing. I couldn't imagine graduation, all that ran through my head was my military lawyer telling me she couldn't help me. I couldn't stay motivated with the abuse I endured, the sexual abuse from the recruiter was traumatizing. However, the Navy's retaliation after reporting recruiter abuse was a more sadistic type of hell. Leading to an ongoing, daily battle with diagnosed complex PTSD. When I slowed down and started walking towards the finish line, I could hear the RDC shouting and cussing at me to run. My heart wasn't in it anymore, so I walked to the finish line. I knew then that I was the flaw in a broken system. I couldn't fix the policies that abused me while being in the military, I had to fight the system leaving my dream behind. The RDC wouldn't look me in the eyes, I could feel her disappointment radiating off her. I felt ashamed, I knew I could have passed the run, even with my injuries. I was seconds away from beating it and graduating. Every time I would get close, alarms would go off in my head, acting as a warning against the abuse and gas lighting from the military. There was only a handful of RDC's that cared about my situation, but like me they couldn't stand up to the system. Some RDC's believed I only joined the military for a disability check. One male RDC hated me. He knew of my report and didn't believe me. He made me work harder and treated me differently because of it.

I remember needing to call my SAPR advocate to receive updates on the civil lawsuit at hand. I needed to go down to an office to make a phone call. I didn't know how to address the Petty officer in the correct military lingo. He made me exit the office two times, while cussing me out. Stating "read the fucking sign, it tells you how to say it". On the third try of reentering the room I began to cry. He then asked me in a firm tone, "why are you crying recruit?". I began to sob, "I need to call my SAPR advocate" from there I began having a panic attack. From the shocked look on his face, he apologized, then allowed me to make a private call to SAPR. Most calls to SAPR consisted of me breaking down and getting updates on court proceedings. There should be a hand signal for RDC's to be trained on, to let them know a recruit needs to talk to SAPR. No recruit should have to endure being screamed at while trying to ask for help. There should be trained therapists and legal counsel readily available, on hand at every basic training for recruiter abuse survivors like myself. I found myself seeking asylum from priests, as I had no one to turn to. One priest asked me "Do you regret what happened or feel ashamed because you could've prevented it." He was victim blaming me, I then returned to training, being forced to comply with all orders or face jail time, leaving me emotionless robot and numb to the world.

I couldn't walk anymore and needed crutches. My military lawyer explained to me in the middle of training over the phone that I didn't qualify for sexual assault counseling, A SAPR advocate, or a military lawyer once discharging the Navy. Leaving me on my own with absolutely no support to navigate the injustice. However, the Navy gave Trace Oliver Harris legal aid and support.
I had a mental breakdown and cut myself at night in training. I wanted to die but I couldn't find anything sharp enough to cut deeper. I ended up in a VA mental hospital where I was abused and stripped of my rights as a human being. I was being heavily drugged with Trazadone throughout the day. The meds made me disassociate all day at stare into space for hours. My reality was blurred. The day I asked my female licensed psychiatrist to switch meds because they made me feel loopy. She then threatened me,

stating “I will get a court order to allow electric shock therapy if you do not follow my treatment plan.” Then the psychiatrist told me I needed to testify in the next room over facetime, at a grand jury hearing against the recruiter. I went into the next room and my lawyer told me the hearing was to determine if there was enough evidence to go to trial. My psychiatrist walks by with two other females, and I scream at her that she is a fucking bitch.

Door closes and my lawyer hands me the phone and before I answer she told me I needed to remain calm and that she couldn’t stay in the room during my testimony. I answer the questions from the jury and told them I was on heavy medication and that it would be hard to remember certain events. I was smart enough to know to not say a word to the jury that I was in danger of electric shock therapy. I knew it was a tactic from the Navy because my psychiatrist was working directly with Captain Thor. I tried to sound as sane as possible even though I was testifying while inside a mental hospital.

After the call with the Jury, I asked to call my mom, I went into a separate room for privacy and pretended to call her after dialing 911, I told the operator as much as I could before nurses were screaming at me to get off the phone. I blocked the door with my body so they couldn’t get in so I could report to the operator that the Navy threatened me with electric shock therapy, my recruiter raped me, and the Navy was trying to silence me.

I then ran away with the phone waiting for police to arrive as I am running away from doctors with syringes, they were telling me to give them the phone or I would be restrained, drugged, and forcibly put asleep. Two officers arrive and I made the report. They told me they would file it. But they couldn’t help me because I am still on active duty and government property. After speaking to the police, the doctors gave me a choice, shot or pill. I chose the pill and knocked out.

The jury found enough evidence and it went to trial, when the Navy and Captain Thor found out the news, they agreed to send me on an immediate flight home from the hospital if I agreed to sign discharge papers stating I had borderline personality disorder and that was why I was medically separating. My psychiatrist told me “I can’t diagnose you with PTSD because the Navy doesn’t want to get sued. Your fastest way home is a diagnosis of borderline personality disorder. You already had a waiver for depression going into the Navy so you can’t separate from the Navy with that discharge.” I signed it because my mental health was deteriorating from the two months I had spent in the hospital. During that time, I would scream at staff “What are my rights!” And asked repeatedly for a different psychiatrist. The hospital refused.

Later I was informed that if I had told the Jury about the electric shock therapy, it would’ve ended the trial because I wouldn’t have been “sound of mind” or mentally stable enough to withstand trial. The Navy tried to cover up the fuckery of a mess they created. And failed.

One month after discharge I tried killing myself with hypothermia in the Deschutes River.

Police found me with my family’s help by tracking my phone’s location. When the search and rescue team found me my body temperature was at 90 degrees. I went to another mental hospital and my family put me in Wilderness therapy. I was in wilderness therapy for a month and a half and failed it because I got pissed at the program and walked 20 miles in a random direction to go home. I started working with a therapist in bend for a year, then transferred to the program I am in now. I have been in therapy for about 5 years and counting. I turn 23 in August this year. Thank you Deschutes County YAT team for helping me battle my mental health issues and giving me hope.

To this day I still struggle with TMJ disorder, headaches, migraines, anxiety, depression, CPTSD, severe insomnia, flashbacks, nightmares, disassociation, paranoia, hypervigilance, nicotine addiction, and a history of multiple suicide attempts.

I also survive paycheck to paycheck and use Food stamps to keep a roof over my head.

I am an MST survivor, and I am the first woman in naval history as a recruiter abuse victim to have gone to basic training with an unrestricted report, The whole chain of command knew about my abuse, I would have weekly meetings with Captain Thor, he knew about my whole case and did yet did nothing to help change policies for recruits.

I have been seeking ways to ensure that the US military will never let this happen to another recruit, So I reached out to IG (Inspector General) office, which was suggested by Navy Recruiting command. In my initial conversations on their “hotline” I was told that they could do little to help me but that if I wanted to still make a report that I should sign an NDA (nondisclosure agreement) with them. This didn’t seem right, so I asked my civilian attorney to contact the investigator and find out why they were asking me to sign an NDA. My attorney was told by IG that completing the NDA was “optional” this turn of events did not give me any hope that IG or the US military would be willing to do anything to stop recruiter abuse or to even help me. The Navy continues to play games while recruits are suffering in silence.

I feel very isolated, I was unable to research recruiter abuse lawyers as they don’t exist. That makes me a whistleblower.

TRANSGENDER INCLUSIVITY IN THE MILITARY AND THE VA

By Shiloh Emelein and Siri Margerin

Transgender people have existed since time immemorial, and hence have existed in the US military since its inception in 1775. Transgender people will continue to exist in the military and otherwise, no matter the attempts to legislate them out.

The first *known* transgender US military member was Albert Cashier, a Union soldier who enlisted to fight in the American Civil War. Though the military policies at the time made it illegal for people “assigned female at birth" (AFAB) to enlist, it is estimated that at least 400 AFAB folks enlisted as men to join the fight. In nearly all of these cases, their identities were not known unless they were injured in battle and exposed by medical personnel. Unfortunately, in several of these cases, the exposed soldier was punished by withholding of pay or imprisonment.[1] Though it is unclear if these AFAB soldiers were transgender, or merely ‘passing’ as men in order to fight; what is clear is the US military’s punitive response to the notion of AFAB soldiers and/or transgender soldiers.

[1] Blanton, DeAnne (Spring 1993). "Women Soldiers of the Civil War". National Archives and Records Administration.

This punitive response to transgender soldiers carried throughout the US Military's history over time and was adopted into official policy in 1960 with Executive Order 10450. It is important to remember the contextual timing of the policy which was on the heels of many other anti-queer government policies during the "Lavender Scare" of the 1950s. It is also important to note the military's reasoning for this official ban: *transgender people are medically unqualified to serve because their mental state is unfit.*[2] This justification for exclusion and discrimination has continued to permeate military culture (and arguably society as a whole) to this day, even as official policy on trans inclusion flip-flops with each Presidential administration.

Though the Diagnostic and Statistical Manual of Mental Disorders (DSM) removed homosexuality and transgenderism from the list of psychosocial conditions in 1973, in direct contradiction to the US Military's reasoning for exclusion, the official ban was not overturned until June 30, 2016 by President Obama. [3] However, the Obama administration's plan of implementation was drawn out over the remaining six months of his time in office, was left to each military branch's discretion, and barely had a tangible impact before Trump was sworn in as the next President.

Within months of Trump assuming office, anti-trans legislatures, top military personnel, and Republican lawmakers alike began to dismantle the vaguely defined inclusion of openly transgender military members. For example, in June of 2017, Secretary of Defense Jim Mattis issued a memo for a minimum six month delay on the inclusion of transgender recruits in order to "evaluate more carefully the impact of such accessions on readiness and lethality."[4] In another example, Representative Vicky Hartzler (R-MO) provided an *official* estimate of $1.3B/year in health care costs for transgender military members, which was calculated in part to include an astronomical, baseless assumption of 4,650 trans soldiers petitioning for gender affirmation surgeries at a cost far above the usual medical costs. This estimation was based on the 2014 Williams Institute study which found that approximately 15,500 active duty and reserve personnel were transgender.[5] Though Hartzler's Lavender Scare-era tactics were not based in reality nor derived from actual costs from other country's militaries that did provide trans health care and gender affirming surgeries, her estimations were used as one of the arguments in favor of Trump's eventual 'trans ban' memo via Twitter in July of 2017.

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[2] Readler, Chad A.; Shumate, Brett A.; Griffiths, John R.; Coppolino, Anthony J. (October 4, 2017). "Defendants' Motion to Dismiss and Opposition to Plaintiffs' Application for a Preliminary Injunction, Civil Action No. 17-cv-1597 (CKK)" (PDF). National Center for Lesbian Rights. Archived (PDF) from the original on December 11, 2017.
[3] Chief of Naval Personnel Public Affairs, "Navy Announces Policy Guidance for Transgender Personnel". Archived from the original on April 8, 2018.
[4] Herb, Jeremy (June 30, 2017). "Pentagon delays decision on transgender recruits". CNN. Archived from the original on August 4, 2017.
[5] Gates, Gary J.; Herman, Jody L. (May 2014). Transgender Military Service in the United States (PDF) (Report). The Williams Institute. Archived (PDF) from the original on July 28, 2017.

In the time between Trump's decree via Twitter and the official ban of transgender military members in April 2019, the healthcare and overall well-being of trans people in the military was in a constant state of flux. As the various levels of the judiciary system took up cases regarding the ban, transgender soldiers were left to navigate both the ambiguity and outright discrimination within the healthcare system and military culture at large. From 2016-2019, the Trump administration's policies demanded that members and recruits adhere to their 'sex assigned at birth' or face separation/disqualification.[6] During this time, nearly all gender affirming care and surgeries for active duty personnel were halted, DEI (diversity, equity, inclusion) courses were erased from military guidelines, and all mentions of LGBTQ issues were deleted from the US State Department website. Needless to say, the impacts of a hostile administration's leadership reverberated within the culture of the military for its transgender personnel.

Finally, within days of assuming office, President Biden signed "Executive Order on Enabling All Qualified Americans to Serve Their Country in Uniform."[7] The new policy that lifted the ban on trans people joining and being in the military took effect on April 30, 2021, DoDI 1300.28, "In-Service Transition for Transgender Service Members," April 30, 2021; Incorporating Change 1 on December 20, 2022 (whs.mil).. This new policy also requires the military to provide support for gender transition that includes hormone treatment, psychotherapy, and gender affirming surgeries. The policy also requires that trans soldiers seeking gender affirming surgery must first be diagnosed with gender dysphoria, be in psychotherapy for said dysphoria, and perform in 'real-life experiences' of their gender (i.e.: wearing the uniform of their gender, using bathroom and showering facilities of their gender).[8]

The timeline and criteria to qualify for trans healthcare within the military is largely ambiguous and left up to the medical personnel to decide and then communicate to the soldier's chain of command, as certain treatments may leave a soldier on a medical hold for various lengths of time.

Transgender people, when compared to the general US population, are significantly over-represented within the US military and also amongst the population of Military Sexual Assault survivors. In a study published by the *Journal of Traumatic Stress,* 83.9% of trans members reported instances of sexual harassment and 30.4% reported being sexually assaulted while in the military.[9] Military Sexual Trauma is rampant throughout the ranks in the US military, and trans soldiers are at an exponentially higher risk.

Transgender people are also over-represented as veterans when compared to the general US population. A study done by the "National Center for Transgender Equality" found that 15% of trans people within the US are veterans, which is twice the rate of the general population[10]. The VA, unfortunately, has not caught up to fully attend to the healthcare needs of the trans patients they care for. Though it has been 'promised' since the Obama administration, fully comprehensive trans health has yet to be a part of the VA system. All gender affirming surgeries have yet to be provided, though the World Professional Association for Transgender Health (WPATH) has found them to be a "medical

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[6] "5 Things to Know About DOD's New Policy on Military Service by Transgender". U.S. Department of Defense. Archived from the original on April 12, 2020.

[7] Biden, Joe (January 25, 2021). "Executive Order on Enabling All Qualified Americans to Serve Their Country in Uniform". White House. Archived from the original on January 25, 2021.

[8] https://www.military.com/daily-news/2021/06/28/army-provide-gender-transition-care-surgeries-transgender-soldiers.html.

[9] https://onlinelibrary.wiley.com/doi/10.1002/jts.22506

[10] "2015 U.S. Transgender Survey: Military Service by Transgender People" (PDF). *National Center for Transgender Equality*.

necessary component" of trans healthcare. In that same National Center for Transgender Equality study, 53% of trans veterans stated that they were not always treated respectfully at the VA.

As presidential administrations have gone back and forth on the policies to accept or ban transgender military members, one thing has remained steadfast: military culture has never been an accepting or safe place for the trans community. The experience for a trans person within the military and within the VA is often a harrowing one with added, undue trauma compared to their cis-gender counterparts. And though trans people are allowed to openly join the ranks today, that may or may not be true for tomorrow.

AMENDING STATE LAWS LINKING SELECTIVE SERVICE REGISTRATION TO DRIVER'S LICENSES

By Edward Hasbrouck

Laws in many states automatically register draft-age male applicants for driver's licenses with the Selective Service System (SSS). Since the repeal in 2020 of the former Federal requirement to register for the draft to receive Federal aid for higher education, the SSS has relied almost entirely on these state driver's license laws to generate registrations and maintain the credibility of its claims to be prepared to deliver induction notices reliably on demand, should Congress activate a draft.[1]

One of the highest national priorities for the SSS is to get laws like this introduced and enacted in the states that don't currently link driver's licenses to SSS registration. SSS state directors, draft board members, and military reservists assigned to duty supporting the SSS are provided with a model state driver's license draft registration statute[2] and lobbying support from SSS national and regional staff.

The focus of SSS state lobbying for driver's license draft registration legislation is on the most populous states without such laws: California, Pennsylvania, New Jersey, Massachusetts, and Oregon.

In 2023, the SSS state director and their allies, mainly from pro-war military veterans' organizations, made an unsuccessful push for such a bill in Massachusetts.[3] But the highest priority of the SSS for state lobbying has always been California, where Selective Service driver's license bills have been introduced in at least six previous legislative sessions. As former SSS Director Bernard Rostker noted in his

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[1] See, "State laws on Selective Service registration and drivers' licenses", <https://hasbrouck.org/draft/advice/state.html>. A needed project for a volunteer or intern with the MLTF is to compile an index of all of these and other state and territorial laws conditioning eligibility for state programs (government jobs, etc.) on registration with the SSS.

[2] "Sample of Driver's License Registration Legislation", included in SSS *Legislator & Community Leader's Toolkit*, <https://www.sss.gov/wp-content/uploads/2020/03/Legislator-and-Community-Leader-Toolkit.pdf>.

[3] See report on SSS Massachusetts state director's testimony at state legislative hearing in the SSS quarterly national magazine for draft board members, "Massachusetts Driver's License Bill and Hearings Support at State House", *The Register*, Fall 2023, <https://www.sss.gov/wp-content/uploads/2023/12/The-Register-Fall-2023-1-003.pdf>

testimony in 2019 before the National Commission on Military, National, and Public Service, "California does not share driver's license [information with the Selective Service System] — so, hey, move to California and you're basically exempted from being drafted."[4]

In 2024, a renewed and revised proposal for a law to condition driver's licenses on Selective Service registration was introduced in the California Senate as SB-1081.[5]

The memo below was submitted by the MLTF to the California Senate Committee on Transportation in opposition to SB-1081.[6] While a few of the arguments in this memo are specific to the California Constitution, most will be equally applicable in other states.

We hope that this memo below will provide a resource for those opposing similar bills in other states.

Please alert the MLTF if you learn of legislative proposals like this in other states.

[4] "Selective Service Hearing: How to Meet Potential National Mobilization Needs, Transcript, April 24, 2019", <https://hasbrouck.org/draft/FOIA/NCMNPS-Transcript-24APR2019pm.pdf>.
[5] See bill text and status at <https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240SB1081>.
[6] For additional statements of opposition to SB-1081, see Edward Hasbrouck, "Selective Service bill set for hearing in Sacramento April 9th", blog post, March 9, 2024, <https://hasbrouck.org/blog/archives/002718.html>.

MLTF STATEMENT OPPOSING CALIFORNIA SB 1081

The Military Law Task Force of the National Lawyers Guild opposes California Senate Bill 1081, which would automatically register draft-age and some younger male[1] applicants for California driver's licenses with the U.S. Selective Service System for a possible military draft.[2]

The Military Law Task Force (MLTF) is a standing national committee, headquartered in California, of the National Lawyers Guild (NLG). Like the NLG as a whole, the MLTF includes attorneys, legal workers, law students, jailhouse and barracks lawyers, and GI rights advocates.

As we said in our testimony to a public hearing of the National Commission on Military, National, and Public Service in 2019, "No person should be denied their right to… a driver's license... because they refused to comply with the demands of the Selective Service."[3]

By resolution adopted at our national convention in 2019, the NLG "declares its opposition to… draft registration… as a form of involuntary servitude, to the poverty draft resulting from the denial of job opportunities in the civilian economy, resulting in the channeling of poor and minority youth into the military, [and] to the law… that automatically registers men over 18 with Selective Service when they apply for driver's licenses or identification cards….

"As a matter of principle, our organization expresses its intention to work alongside other human rights organizations in providing legal support for those people who may face penalties for failing to register for the draft."

Our philosophy is that, "As fundamentally antiwar and anti-imperialist organizations, the National Lawyers Guild and its Military Law Task Force oppose the military draft in all its forms. We oppose the current mandatory registration with the Selective Service System for a possible future draft and any attempt to expand draft registration or reinstate a draft. We also oppose the 'poverty draft' where high schools are encouraged to direct low income and minority students to the military as a vehicle for education and jobs…

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[1]The Selective Service System (SSS) has announced that it interprets the Military Selective Service Act and the Presidential proclamation ordering certain "males" to register with the Selective Service System (Proclamation 4771 of July 2, 1980) as applying to males as assigned at birth, without regard for current gender. "Selective Service bases the registration requirement on gender assigned at birth and not on gender identity or on gender reassignment. Individuals who are born male and changed their gender to female are still required to register. Individuals who are born female and changed their gender to male are not required to register…. Presidential Proclamation 4771 refers to 'males' who were 'born' on or after January 1, 1960. Thus, Selective Service interprets the MSSA as applying to gender at birth." SSS, "Frequently Asked Questions:… I'm a transgender/non-binary person. Am I required to register?", at <https://www.sss.gov/faq/#who-needs-to-register>. So far as we know, no court has reviewed, much less upheld, this interpretation of the MSSA or Proclamation 4771.

[2]"An act to amend Sections 12800 and 13000 of, and to add Section 12801.3 to, the Vehicle Code, relating to vehicles", introduced by Senator Archuleta, February 12, 2024, <https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240SB1081>.

[3]"Statement by the Military Law Task Force of the National Lawyers Guild to the National Commission on Military, National, and Public Service", June 20, 2019, Hyde Park, NY, <https://nlgmltf.org/military-law/2019/mltf-files-statement-opposing-draft-with-the-ncmnps/>.

"The NLG and the MLTF oppose the current draft registration requirement and the current criminal and civil penalties for non-registration. We oppose reinstatement of any form of military draft, and we support the Selective Service Repeal Act.

"We believe that compulsory military service is unconstitutional, and that a draft is most likely to be used to fight illegal and immoral wars, as with the last draft in the U.S. during the war in Indochina. Even when a draft is not active, draft registration and contingency planning and preparations for a draft encourage a mistaken belief that the draft is always available as a 'fallback' option. This emboldens war planners and enables military adventurism."[4]

REGISTRATION WITH THE SELECTIVE SERVICE SYSTEM FOR A POSSIBLE MILITARY DRAFT

The Selective Service System (SSS) exists for one and only one purpose: to plan, prepare, and maintain readiness to carry out a military draft whenever Congress might decide to activate it.[5] Aside from its use as a source of leads for military recruiters, the list of registrants and their addresses maintained by the SSS is intended to be used solely to send out induction notices to registrants selected by lottery in the event of activation of a military draft.

The system of SSS registration is part of ongoing preparations for a draft which also include local draft boards appointed and trained by the SSS for each county in California and throughout the U.S., a state Selective Service appeal board for each state, and military reservists detailed to assist the SSS with registration and with carrying out a draft on demand.[6]

The state of California shouldn't be enacting measures to induce California residents to register with the SSS for a possible military draft unless the California legislature believes (1) that the U.S. can Constitutionally, and should as a policy choice, be carrying out ongoing planning and preparations for military conscription at the present time when there is no declared war, and (2) that this is a lawful and appropriate matter for state legislation and use of state funds, and can be carried out in a manner that respects the presumption of innocence and the right to due process of law.

We believe that none of these conditions is met. The current draft registration program is subject to multiple potential legal challenges – challenges which we would support and assist individuals in pursuing – pursuant to both the U.S.[7] and the California[8] constitutions, undesirable as a policy choice,

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[4]"Anti-Draft Program Work: Our philosophy", <https://nlgmltf.org/mltfs-anti-draft-program-work/>.

[5]"The Agency is required to manage a conscription program to deliver personnel to DoD [Department of Defense] if authorized by Congress and the President. To accomplish this, SSS will execute a national draft lottery; contact registrants selected through the lottery; and arrange for their transportation to a Military Entrance Processing Station for testing and evaluation before induction into military service." *Selective Service System Strategic Plan, Fiscal Years 2024-2026*, November 15, 2023, <https://www.sss.gov/wp-content/uploads/2023/11/SSS-Strategic-Plan-2024-2026-FINAL.pdf>.

[6]See lists of Selective Service board members, Selective Service registrars, and Selective Service Reserve Force officers released by the SSS in response to Freedom Of Information Act requests at <https://hasbrouck.org/draft/advice/draft-board.html>.

[7]As discussed below, by declining to prosecute any draft registration resisters the Federal government has for decades evaded any judicial review of the Constitutionality of the registration requirement.

[8]See the discussion below of the applicability of the registration requirement to men but not women and the restrictions on use of California motor vehicle funds for unrelated purposes.

and opposed by most Californians.[9] Supporting preparations for military conscription is neither a permissible nor a desirable use of California state motor vehicle funds.[10] SB 1081 would deprive individuals of their right to due process and their right against self-incrimination.

Draft registration is not needed.[11] Proponents of Selective Service registration have been unable to present any credible scenario for a war that the U.S. should be actively preparing to fight, but for which there would be so few volunteers that a draft would be necessary.[12]

A draft enables the government to mobilize for war without needing to consider whether people believe the war is justified. It's emblematic of the poor judgment the U.S. government has demonstrated in choosing in which foreign wars to intervene, and on which side(s), that the Selective Service registration requirement still in effect today, and which SB 1081 is intended to bolster, was promulgated in order to "demonstrate" U.S. readiness to send U.S. troops to fight in support of those forces the U.S. was then backing in Afghanistan, who were then known in the U.S. as the "mujahideen" but who would come to call themselves the Taliban and Al Qaeda.[13]

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[9]The most recent national poll on this issue found that despite concern about military recruiting shortfalls, only 27% of U.S. voters believe that the U.S. should have a military draft, while more than twice as many, 55%, believe that the U.S. should not have a military draft. Rasmussen Reports, "Military Recruiting Woes Worry Voters, But Most Still Oppose Draft", November 1, 2023, <https://www.rasmussenreports.com/public_content/politics/biden_administration/military_recruiting_woes_worry_voters_but_most_still_oppose_draft>. We suspect that opposition to the draft and draft registration is even greater in California, which has long been a center of both antiwar and civil libertarian opposition to the draft and draft registration.

[10]As discussed below, SB 1081 could not be effective without ongoing state funding.

[11]"When asked about the political feasibility of a large-scale mobilization, one SASC [Senate Armed Services Committee] staff member responded that SSS is kept around largely for political reasons, but no one realistically thinks it will be used…. He remarked that the draft is currently designed to replace large numbers of infantry overseas; however, such numbers are not likely to be needed in the future and the current lead time for training and skills development for various occupations needed to fight modern wars makes the SSS model less practical." Internal notes by staff of the NCMNPS on a meeting with SASC staff, October 1, 2018, released by the National Archives and Records Administration in response to a Freedom Of Information Act request after the expiration of the NCMNPS, <https://hasbrouck.org/draft/FOIA/RAW-INT-NotesFromSASCMeeting-1001-v2.docx>.

[12]The unrealistic scenarios invoked to justify draft registration are exemplified by the hypothetical question posed by the Chair of the National Commission on Military, National, and Public Service (NCMNPS), Brig. Genl. Joseph Heck, to witnesses at one of its hearings on Selective Service in 2019: "Yesterday, we heard from individuals that talked about the changing threats that we face; that the homeland is no longer a sanctuary; that future warfare will probably require different skillsets than folks picking up a rifle and going off to battle. So, I want to pose a hypothetical scenario and ask your response. So,… we're in a Red Dawn scenario where we are being attacked through both Canada and Mexico. There is no Selective Service System. The All-Volunteer Force is insufficient. There's been a Presidential/Congressional call for volunteers; for people to step up. However, the response has not been enough to meet the threat, the actual threat to our homeland; not an overseas operation. How would you propose to meet the demand?" NCMNPS, "Selective Service Hearing: How to Meet Potential National Mobilization Needs", Transcript, April 24, 2019, available at <https://hasbrouck.org/draft/FOIA/NCMNPS-Transcript-24APR2019pm.pdf>.

[13]"Soviet troops are attempting to subjugate the fiercely independent and deeply religious people of Afghanistan…. The implications of the Soviet invasion of Afghanistan could pose the most serious threat to the peace since the Second World War…. The region which is now threatened by Soviet troops in Afghanistan is of great strategic importance: It contains more than two-thirds of the world's exportable oil…. I have determined that the Selective

COMPLIANCE AND NONCOMPLIANCE WITH SELECTIVE SERVICE REGISTRATION

Selective Service registration has failed. Compliance with Selective Service registration is low, and the high level of noncompliance would make the current registration database unusable for any draft that would withstand the inevitable legal challenges to its fairness.

The SSS grossly overstates the level of "compliance" by counting as "in compliance" anyone who registers with the SSS, at any address, at any time before their 26th birthday. This includes people who register years after their peak eligibility for a draft, if it were activated, and people who have long since moved without notice to the SSS. But the Military Selective Service Act (MSSA) and Presidential Proclamation 4771 require all male citizens and most male residents of the U.S. to register within 30 days of their 18th birthday and to report to the SSS within 10 days of each change of address until their 26th birthday. Few young men do so.

Dr. Bernard Rostker, Californian and Director of the SSS from 1979 to 1981, testified in 2019 before the National Commission on Military, National, and Public Service (NCMNPS) that, "The current system of registration is ineffective and frankly less than useless. It does not provide a comprehensive nor an accurate database upon which to implement conscription…. It systematically lacks large segments of the eligible male population. And for those that are included, the currency of information contained is questionable…. So, my bottom line is there is no need to continue to register people for a draft... and no military need to retain the MSSA."[14]

In another interview in 2017, Dr. Rostker noted the likelihood of successful legal challenges to any induction orders based on the current registration database: "The list that they have I doubt could pass the legal definition of a complete and objective list, because it is structurally flawed and Selective Service knows it. It's a list that I'm sure the courts would throw out immediately because it's not accurate."[15]

In his comments introducing a 2021 hearing with members of the NCMNPS, Rep. Adam Smith, Chair of the House Armed Service Committee, noted that, "Under the law you are required to basically let the government know where you are between the ages of 18 and 26, which I can assure you virtually nobody does. Virtually nobody? Absolutely nobody might be a better way to put it. I moved quite a bit between the ages of 18 and 26, and… I am absolutely certain that nobody told the government where I was living."[16]

Service System must now be revitalized. I will send legislation and budget proposals to the Congress next month so that we can begin registration and then meet future mobilization needs rapidly if they arise." President Jimmy Carter, State of the Union Address, January 23, 1980, <https://www.jimmycarterlibrary.gov/the-carters/selected-speeches/jimmy-carter-state-of-the-union-address-1980>.

[14]NCMNPS, "Selective Service Hearing: Should Registration be Expanded to All Americans?", Transcript, April 25, 2019, available at <https://hasbrouck.org/draft/FOIA/NCMNPS-Transcript-25APR2019am.pdf>.

[15]Dr. Bernard Rostker, in a podcast interview with Lillian Cunningham of the *Washington Pos*t, December 4, 2017, <https://www.washingtonpost.com/news/on-leadership/wp/2017/12/04/episode-12-of-the-constitutional-podcast-the-common-defense/>.

[16]H.A.S.C. No. 117-34, "Recommendations of the National Commission on Military, National, and Public Service", Committee on Armed Services, House of Representatives, 117th Congress, 1st Session, Hearing held May 19, 2021, available at <https://hasbrouck.org/draft/HASC-19MAY2021.pdf>.

The SSS has pointed to its collection of e-mail addresses and phone numbers as mitigating the problems that would be caused by out-of-date postal addresses. But because, as discussed further below, criminal prosecution requires proof of "knowledge and willfulness", induction orders must be delivered by *provable* means, such as certified mail with a signed return receipt, or hand delivery by Federal agents if a registrant doesn't sign for a certified letter. E-mail and phone calls, which don't generate proof of delivery, are useless for this purpose.

There has been no audit of the SSS registration database since 1982.[17] But an internal SSS summary of "Significant Issues" identified in a 2018 induction exercise, prepared by the SSS Deputy Associate Director for Operations and released in response to a Freedom Of Information Act (FOIA) request, predicted that, "Almost 50% of inductees WILL NOT receive Reporting Orders…. Results will be massive Undeliverable/Returned to Sender."[18]

In this context, SB 1081 should be understood and evaluated as an attempt – an improper and inevitably futile attempt, we believe – to get the state of California, and specifically the Department of Motor Vehicles, to try to salvage this failed Federal program.

FEDERAL CRIMINAL SANCTIONS FOR NONREGISTRATION WITH THE SELECTIVE SERVICE SYSTEM

To understand the reasons why the SSS is promoting state laws like SB 1081, it's necessary to understand why the Federal government isn't bringing Federal criminal prosecutions to enforce the Federal criminal law requiring registration with the SSS.

Although the SSS falsely states on its website, without qualification, that, "Failure to register is a felony,"[19] in fact only "knowing and willful" failure to register is actually a crime.[20]

Most nonregistrants didn't know they were required to register with the SSS, or assumed they were registered automatically. In either case, they did not have the requisite "specific intent",[21] and thus have

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[17]"Failure Of Registrants To Report Address Changes Would Diminish Fairness Of Induction Processing", report by the U.S. General Accounting Office to the Director of the Selective Service System, GAO/FPCD-82-45, September 24, 1982, <https://www.gao.gov/assets/fpcd-82-45.pdf>.

[18]Selective Service System, "Call and Deliver Phase 2 Induction Exercise: Confirmation Brief", April 20, 2018, available at <https://hasbrouck.org/draft/SSS-induction-exercise-2018.pdf>.

[19]Selective Service System, "Men 26 and Older", <https://www.sss.gov/register/men-26-and-older/>.

[20]Military Selective Service Act, 50 U.S.C. 3811.

[21]"The government presented no evidence that defendant ever received actual notice of his obligation to register for the military draft but merely presented evidence describing general dissemination of information about military registration requirements…. He appeals, contending that the evidence adduced by the Government did not prove that he knowingly failed to register. We agree and reverse the conviction. The evidence as introduced by the Government at the trial disclosed that Klotz did not register with the Selective Service System for more than two years following his eighteenth birthday…. In addition to these facts, the Government introduced testimony describing the general dissemination of information about registration requirements…. Klotz did not testify, and the Government introduced no evidence that Klotz had ever received actual notice of his obligation to register for the military draft…It is a well-settled principle that in prosecuting suits… for knowingly failing or neglecting to perform a duty under the Selective Service Act the Government must prove a culpably criminal intent. The determination of defendant's intent here rested on a presumption, and not on proof of the essential fact of knowledge necessary to sustain the conviction. Accordingly,… we must set aside the conviction." *U.S. v. Mark David Albert Klotz*, 500 F.2d 580 (8th Cir. 1974).

committed no crime.[22] For this reason, threats of criminal sanctions are hollow, in most cases, and have proven of little use in inducing potential draftees to register.

In the early 1980s, when the initial rate of noncompliance with renewed Selective Service registration far exceeded the government's expectations, the government prosecuted 20 nonregistrants selected from those whose public statements and/or letters to the government could be used in court to prove that their refusal to register was "knowing and willful".

Most of those 20 nonregistrants selected for indictment who didn't register after being indicted were convicted, although one of those convictions was overturned on appeal because the trial judge hadn't instructed the jury adequately as to the requirement for the government to prove "knowledge and willfulness" as an element of the offense.[23]

But the Federal government was unable or unwilling to prosecute most nonregistrants, not just because their numbers far exceeded the prosecutorial resources of the Department of Justice but because, as discussed above, most nonregistrants haven't actually violated the law. The government has, with respect to almost all nonregistrants, no evidence of specific intent, and has been reluctant to give nonregistrants an opportunity to present challenges to the Constitutionality of draft registration or a draft for the current undeclared U.S. wars.

Nonregistrants got the message. They correctly understood that a program of selective prosecution exclusively targeting those whose public statements or letters to the government could be used against them as evidence of "knowledge and willfulness" posed no threat to those who kept silent about their intentions or their knowledge of the registration requirement.[24]

As a result, show trials of those nonregistrants the government considered the "most vocal" proved ineffective, indeed counterproductive, as a deterrent to nonregistration.

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[22]"One who fails to register must 'knowingly' do so before he is guilty of an offense." *U.S. v. Gary John Eklund*, 733 F.2d 1287 (8th Cir. 1984).

[23]"Kerley argues that these instructions allowed the jury to convict him for failing to register even if he didn't know he had a duty to register…. We have no doubt that the statute should be interpreted to require that the defendant had knowledge of the duty to register. See, e.g., *United States v. Klotz*, 500 F.2d 580 (8th Cir. 1974) (per curiam); *United States v. Rabb*, 394 F.2d 230 (3d Cir. 1968); *United States v. Boucher*, 509 F.2d 991 (8th Cir. 1975); cf. *Wayte v. United States*, 470 U.S. 598, 612-13 and n. 13, 105 S. Ct. 1524, 1533 and n. 13, 84 L. Ed. 2d 547 (1985); U*nited States v. Borkenhagen*, 468 F.2d 43, 50 (7th Cir. 1972). It surely was not Congress's intention to impose criminal liability on eighteen-year-olds who do not register because they don't know they have to…. [W]e believe that the instructions in the present case failed to place the issue of guilty knowledge adequately before the jury…. [T]he jury may not have realized that a mistaken belief that there is no duty to register is also a defense…. Kerley is entitled to a new trial…. [T]he district judge… erred in failing to make clear in his instructions to the jury that to be found guilty of the crime of refusing registration in the armed forces… Kerley had to have known that he had a duty to register, that is, had to have acted willfully; it was not enough to tell the jury that it had to find that Kerley had known he had not registered." *U.S. v. Gillam Kerley,* 838 F.2d 932 (7th Cir. 1988), Supplemental Opinion of March 23, 1988, amended April 5, 1988.

[24]"Apparently the moral of the government's policy is: if you want to evade the draft registration law, do nothing, say nothing, and you will not be prosecuted. Only those with the courage and candor to write the government refusing to register will be punished." *U.S. v. Eklund*, 733 F.2d 1287, 8th Circuit, 1984, en banc, Lay, Chief Judge, dissenting.

The last indictment for knowing and willful refusal to register with the SSS was in 1986. In 1988, having concluded that prosecutions were ineffective as a deterrent and a waste of resources, the Department of Justice (DOJ) informed the SSS that it would no longer investigate or prosecute suspected nonregistrants, even if they publicized their actions.[25]

Since 1988, in order to add artistic verisimilitude to its otherwise empty threats, the SSS has referred millions of names identified from other government lists and commercial data brokers as possible nonregistrants to the Department of Justice for "investigation and possible prosecution"[26], without regard for whether their nonregistration was knowing or willful, i.e. in the absence of any evidence of one of the elements of the crime of which they were "suspected".

In Federal Fiscal Year 2021, the most recent year for which figures have been released, the SSS referred 238,679 "suspected violators" of the registration law to the DOJ.[27] None of these referrals or any other nonregistration cases were investigated or prosecuted by the DOJ.

The DOJ has no budget or plan for resumption of enforcement of the registration requirement, and the NCMNPS did not include any enforcement plan or budget in its report.[28]

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[25]"In the late '80s the Justice Department discontinued prosecutions. Dick Flahavan, a spokesman for the Selective Service who was with the agency at the time, recalls the Justice Department 'decided that... there are limited resources and the FBI's time would be better spent chasing white collar crime than some Mennonite kid through Pennsylvania. We said, 'Fine, we understand,' and that's why it ended in '88,' he says. 'The [Selective Service] agency did agree to what the Justice Department proposed, a suspension of prosecutions [during peace time]. Since they did the prosecutions we didn't have much leverage anyway."… Flahavan says the Selective Service had hoped for a much stronger approach from federal prosecutors, but was rebuffed…. 'What we would have preferred was every year in all 95 judicial districts there be a prosecution to keep the heat on and the publicity going,' he says. "But they couldn't sustain that.' If someone registered just before trial, the prosecution would be dropped, Flahavan notes, making the pursuit of resisters 'really a losing proposition for the feds' and often 'a big waste of time.'… 'I think they were happy to walk away from it and we understand why,' Flahavan says. 'It was very labor intensive and very little came of it, although the government won.'" Steven Nelson, "Gender-Neutral Draft Registration Would Create Millions of Female Felons", *U.S. News & World Report*, May 3, 2016, <https://www.usnews.com/news/articles/2016-05-03/gender-neutral-draft-registration-would-create-millions-of-female-felons>.

[26]"Threatening letters from the Selective Service System", *On Watch: Critical Perspectives on Military Law,* National Lawyers Guild, Military Law Task Force, vol. 33, no. 4, Fall 2022, p. 7, <https://nlgmltf.org/wp-content/uploads/2023/11/MLTF-On-Watch-2022-33.4.pdf>.

[27]Micheal A. Migliara, Chief FOIA Officer, Selective Service System, response to FOIA request 22-45, August 17, 2022, <https://hasbrouck.org/draft/FOIA/SSS-FOIA-response-17AUG2022.pdf>.

[28]"Mr. KHANNA: Does the NCMNPS proposal include any plan or budget for enforcing an expanded Selective Service registration requirement? Dr. HECK: The Commission did not include any plan or budget for enforcing an expanded Selective Service registration requirement in its report. Mr. KHANNA. Did the NCMNPS consult the Department of Justice … concerning whether, how, and/or at what cost the DOJ is prepared to enforce an expanded registration requirement, or whether such an enforcement plan would be more effective than the registration enforcement program the DOJ abandoned in 1988? Dr. HECK. The Commission requested such information from the DOJ, however no information was provided." Response of Maj. Genl. Joseph Heck, Chair of the NCMNPS, to written questions from Rep. Ro Khanna. H.A.S.C. No. 117-34, "Recommendations of the National Commission on Military, National, and Public Service", hearing before the Committee on Armed Services, House of Representatives, 117th Congress, 1st Session, May 19, 2021, at 96, <https://www.congress.gov/117/chrg/CHRG-117hhrg47820/CHRG-117hhrg47820.pdf>.

COLLATERAL CIVIL SANCTIONS FOR NONREGISTRATION WITH THE SELECTIVE SERVICE SYSTEM

Faced with the decision by the DOJ to abandon enforcement of the criminal penalties for knowing and willful nonregistration, the SSS has turned to a variety of collateral civil sanctions for nonregistration. SB 1081, which would automatically register male applicants for California driver's licenses or state IDs with the SSS (even if they believe – correctly, we would argue -- that the registration requirement is unconstitutional) is the latest proposal for such sanctions.

While courts have upheld a variety of collateral sanctions including disqualification from government programs for those *convicted* of crimes, we question the Constitutionality of imposing such "collateral" sanctions for actions that would constitute a crime, when the individual subjected to those sanctions has not been charged or convicted of that crime.[29]

California legislators need to ask why they should use state law and state funds to try to induce compliance with a Federal law that the Federal government has not enforced for decades.

It would be especially inappropriate for California to enact new sanctions for nonregistration with the SSS now, when not only is Congress considering legislation to end draft registration entirely and abolish the SSS[30], but both Congress and the California legislature have recently repealed some of the other collateral sanctions for nonregistration with the SSS.

For many years, applicants for Federal aid for higher education were required by Federal law to certify that they had registered with the SSS or were not required to do so. But Congress eliminated that requirement in 2020 as part of the FAFSA Simplification Act.[31] All questions about registration with the SSS have been removed from the Free Application for Federal Student Aid (FAFSA) form, starting with the current 2023-2024 school year, and the data-sharing agreement between the SSS and the U.S. Department of Education has been terminated.

According to the SSS annual report for 2022 (the most recent SSS annual report to have been released), "Since this method of registration historically accounted for up to 20 percent of all annual registrations, SSS expects the national registration rate to further decrease."[32]

Cal Grants for higher education were similarly contingent on registration with the SSS. But California repealed that requirement in 2021, following the change in Federal law. As part of SB 169, approved by vote of 75-1 in the Assembly and 38-0 in the Senate and signed into law by the Governor on September 23, 2021, "Any accompanying regulations or formal policy to verify Selective Service registration is waived for applicants eligible for Cal Grants."[33]

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[29]So far as we know, this issue has not yet reached the Supreme Court in the context of Federal or state laws conditioning eligibility for other government programs on consent to be registered with the SSS.

30See multiple proposals introduced in Congress including the Selective Service Repeal Act, H.R. 2509 and S. 1139, 117th Congress, <https://www.congress.gov/bill/117th-congress/house-bill/2509/>, and the currently pending Military Selective Service Repeal Act of 2023, H.R. 6100, 118th Congress, <https://www.congress.gov/bill/118th-congress/house-bill/6100>.

[31]Included as Title VII, Sec. 701 *et seq.* of the Consolidated Appropriations Act, 2021, P.L. 116-260, <https://www.congress.gov/bill/116th-congress/house-bill/133/>.

32Selective Service System, Annual Report to Congress for Calendar Year 2022, <https://www.sss.gov/wp-content/uploads/2023/09/Annual-Report-2022-Digital.pdf>

[33]<https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB169>. See also Special Alert GSA 2022-34 from the California Student Aid Commission, May 24, 2022: "Selective Service registration is no

Why should registration with the SSS be tied to driver's licenses, but not to student aid?

There are some other Federal collateral sanctions for nonregistration, but (1) like the Federal criminal statute, they apply only to those whose nonregistration was "knowing and willful", and (2) in almost all cases, they have no impact on individuals age 26 or older.

The SSS says on its website that, "non-registrants may be denied the following benefits for life" including Federal jobs and "Up to a 5-year delay of U.S. citizenship proceedings for immigrants".[34] But such denials generally only occur if a nonregistrant is unaware of their legal rights or has inadequate legal assistance.

Pursuant to Federal law, an individual age 26 or older (i.e. too old to be required or eligible to register with the SSS) can only be denied Federal employment on the basis of prior nonregistration if their nonregistration was "knowing and willful", in line with the criminal statute. An individual challenging the denial of Federal employment must show by a preponderance of the evidence that their nonregistration was not knowing and willful.[35]

In practice, most nonregistrants 26 or older either didn't know they were required to register until it was too late to register, or assumed that they had been registered automatically. In almost all of these cases, the government has no evidence of actual knowledge or willfulness.

In the absence of any evidence of knowledge or willfulness, *any* evidence at all of lack of knowledge or willfulness is sufficient to satisfy the "preponderance of the evidence" standard for eligibility of a nonregistrant for Federal employment. Typically, evidence of lack of knowledge and willfulness is provided in the form of a declaration by the individual that they didn't know they were required to register or thought that they had been registered automatically.[36]

According to a notice published in the *Federal Register* in February 2024 by the Office of Personnel Management (OPM), which handles appeals of denial or termination of Federal employment on the basis of nonregistration with the SSS, "For cases received by OPM to adjudicate, approximately one percent of these individuals are removed or denied employment per year on average over the past hree years."[37]

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longer a requirement for financial aid in California…. This change is in line with changes made by the [U.S. Department of Education] in 2021." <https://www.csac.ca.gov/sites/main/files/file-attachments/gsa_2022-34.pdf>.

[34]Selective Service System, "Men 26 and Older", <https://www.sss.gov/register/men-26-and-older/>.

[35]We question the legality of this reversal of the burden of proof, which so far as we know has not been ruled on by any court. The burden of proof of knowledge and willfulness, as an element of the basis for denial of employment, should lie with the agency denying employment. The Constitutionality of the law denying Federal employment to nonregistrants was challenged in *Elgin et al. v. U.S. Treasury et al.*, 567 U.S. 1 (2012), but the U.S. Supreme Court decided that case on jurisdictional and procedural grounds, without reaching the Constitutional questions, which remain unresolved.

[36]Proposed revisions to Federal regulations would change the procedures for making and for review of these determinations, but not the substantive criteria or the "preponderance of the evidence" standard, which are fixed by Federal statute. See, Office of Personnel Management (OPM), "Bar to Appointment of Persons Who Fail To Register Under Selective Service Law: Proposed Rule", Docket ID OPM-2023-0014, RIN 3206-AO37, 89 *Federal Register* 8352-8360, February 7, 2024, <https://www.govinfo.gov/content/pkg/FR-2024-02-07/pdf/2024-02402.pdf>.

[37]89 *Federal Register* 8356-8357, February 7, 2024.

In other words, 99 times out of 100, nonregistrants are able to get or keep Federal jobs if they know to submit a declaration of lack of knowledge and/or willfulness and appeal any initial adverse decision to OPM. To the extent that there is any "lifetime" barrier to Federal employment by nonregistrants over age 26, the barrier is the lack of adequate legal advice. This is a reason for Federal agencies to do a better job of informing applicants for employment of their legal rights, not a reason for California to enact a measure such as SB 1081.

As for delay in naturalization as U.S. citizens, U.S. Citizenship and Immigration Services (USCIS) treats "knowing and willful" nonregistration during the previous five years as evidence of a lack of "attachment to the Constitution" which provides a basis for denial of naturalization.[38] Because men under age 26 are eligible to register, but not those 26 and older, and USCIS only assesses "attachment to the Constitution" during the previous five years, only those ages 26-30 are potentially subject to a delay in naturalization on this basis.

But even for those of ages 26 through 30, "USCIS will allow the applicant an opportunity to show that he did not knowingly or willfully fail to register." As with Federal employment, in almost all such cases the sole evidence with respect to knowledge and willfulness, and thus the preponderance of the evidence, is provided by the applicant's own sworn declaration that they did not know that they were required to register.[39]

If USCIS is failing to inform applicants for naturalization of their rights, or misapplying the preponderance of the evidence standard with respect to knowledge and willfulness of nonregistration with the SSS, that is a basis for reform of USCIS practices and better legal services for applicants for naturalization, not for new California legislation such as SB 1081.

If the Federal government believes that certain nonregistrants have acted "knowingly and willfully" in violation of Federal law, the proper action is to (1) charge them with a Federal crime, (2) give them their day in court and the opportunity to contest both the factual allegations against them and the Constitutionality of the registration requirement, on its face and as applied; and (3) present evidence sufficient to prove to a jury, beyond a reasonable doubt, each of the elements of that crime including that their failure to register was "knowing and willful".

Selective Service registration has failed to generate a database that is fit for its purpose of prompt and provable delivery of induction notices, whenever a draft might be activated, to all men of draft age. The U.S. Department of Justice has declined to enforce the criminal penalties for knowing and willful nonregistration, and would find it difficult or impossible to do so even if it tried. Congress has declined to appropriate any funding for enforcement of the registration requirement, or for state programs to induce draft-age men to register such as proposed by SB 1081. On the contrary, Congress has recently repealed one of the most significant collateral Federal civil sanctions for nonregistration – ineligibility for Federal student aid – and is actively considering proposals to end the registration program and abolish the SSS.

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[38] *USCIS Policy Manual*, Chapter 7 – Attachment to the Constitution, <https://www.uscis.gov/policy-manual/volume-12-part-d-chapter-7>.

[39] As with federal employment, we question the legality of putting this burden of proof on an applicant for naturalization who has not been convicted of knowing and willful failure to register. So far as we know, no court has ruled on this USCIS policy.

Rather than accepting this reality, the SSS has turned to California and other states in a last ditch, legally dubious effort to salvage its failed mission and justify its continued existence.

It is both misguided and legally improper to ask California and other states to impose collateral state sanctions on nonregistrants for presumptively having violated a Federal criminal law, when (1) they have not, in fact, committed any crime (because, in most cases, they didn't know they were supposed to register and thus lack the requisite specific intent of "knowledge and willfulness"); (2) they have not been charged with, much less convicted of, any crime; and (3) they have had, and would have, no opportunity to challenge the registration requirement.

Nonregistrants who have not been convicted of Federal crimes should not be subject to California state action on the presumption that their actions have violated Federal law.

We are currently seeing, in some other states, efforts by state authorities to invoke "states' rights" to carry out state actions to enforce, as those states see fit, Federal law as those states see it, such as measures by Texas to enforce its interpretation of Federal immigration law. This is not a model for state action, or a rationale for it, that should be adopted by the California.

ADDITIONAL ISSUES WITH SB 10181 AND CALIFORNIA LAW

SB 1081 would require activities that would entail costs for the California Department of Motor Vehicles (DMV). SB 1081 would provide that, "Implementation of this section shall be contingent upon the department's receipt of federal funds to pay $_____ of the initial startup costs to implement this section." But Congress has never appropriated any funds for such use by California or any other state. And the ongoing data exchanges between the DMV and the SSS which would be required by SB 1081 would have ongoing costs, not just one-time start-up costs.

This would almost certainly result in violations of Article 19, Section 3, of the California Constitution, which prohibits diversion of motor vehicle revenues for unrelated purposes. Selective Service registration is not a use of funds permitted by Cal. Const., Art. 19, Sec. 3.

SB 1081 should not be enacted without a secure source of ongoing Federal funding to the state of California for Selective Service registration, which does not exist. If Congress doesn't think this Federal program is worth its cost, why should the state of California fund it?

SB 1081 would purport to offer applicants for driver's licenses or state ID cards the opportunity to opt out of being registered with the SSS, without penalty, on signed written request and after being informed on the same form that they are required by law to register.

But this "opt-out" option is both a sham and a trap.

SB 1081 would provide that, "Refusal to grant authority [to register the applicant for a driver's license or ID with the SSS] as provided in this section is not a basis for the department, or any other related government agency, to discriminate against the applicant."

SB 1081 would further provide that, "(1) The department shall not compile, develop, or maintain a list of applicants who declined to grant the department authority to transmit their information to the United States Selective Service System unless it is necessary for the administration and operation of the department. (2) The department shall not distribute or make available to a person, governmental entity,

or nongovernmental entity a list of applicants who declined to grant the department authority to transmit their information to the United States Selective Service System."

But the DMV would necessarily have records of those individuals to whom driver's licenses or IDs were issued, and those whose information had been transmitted to the SSS. Those who appear on the first list, but not the second, would be those who opted out of being registered with the SSS. Whether or not such a list were maintained on an ongoing basis, generating it on demand would be a trivial data matching task for anyone with access to the two lists.

Evidence of having signed a DMV form giving notice of the requirement to register with the SSS would, of course, be evidence of knowledge of the requirement to register with the SSS. This is one of the elements of the crime of knowing and willful failure to register. As such, these DMV records would, in most cases, be the only evidence of that element of a crime that would otherwise be hardest to prove in a prosecution for knowing and willful failure to register.

This DMV evidence would thus be critical, otherwise unavailable, incriminating evidence against driver's license or state ID applicants who opt out of being registered with the SSS. It would also be readily available to Federal prosecutors by subpoena. The provision of SB 1081 that this information not be distributed or made available would have no forcer or effect as against a Federal subpoena for evidence of a Federal crime.

Were the Federal government to resume prosecution of nonregistrants, perhaps because a draft was being activated, Federal prosecutors would almost certainly subpoena these records from the DMV, and the DMV would be required to provide them, as a source of individuals to investigate for knowing and willful nonregistration and as a source of evidence against them.

By pretending that this information would not be used against driver's license applicants and would not be handed over to other government agencies, when in fact this information could be obtained on demand by Federal prosecutors and used as evidence of knowledge and willfulness, SB 1018 amounts to an attempt to trick applicants into signing self-incriminating confessions of an element of a Federal crime, without benefit of counsel or Miranda warnings.

This is not an appropriate role for the state of California or the DMV.

"Opt-out" from being registered with the SSS, as a condition of obtaining a California driver's license or state ID to which the applicant is otherwise entitled, would require signing what would amount to a confession of a Federal crime with which the applicant for a license or ID has not been charged. If the applicant were questioned about this criminal allegation, they would have the right to remain silent, and any criminal defense attorney would advise them to remain silent. SB 1081 would improperly condition issuance of a driver's license or state ID on the waiver of other fundamental rights to remain silent and to the presumption of innocence.

In addition, whether the current gendered Federal requirement for men but not women to register with the Selective Service System for a possible military draft is consistent with the U.S. Constitution – a question which remains unresolved in the wake of the U.S. Supreme Court's denial of *certiorari* in 2021

in *National Coalition For Men v. Selective Service System*[40] – is not dispositive of whether the proposed requirement in SB 1081 for men but not women to consent to registration with the SSS in order to apply for a California driver's license or state ID is consistent with the California Constitution. No California court has had the opportunity to address this question yet, but litigation on this issue would seem all but inevitable if SB 1081 is enacted.

We urge the legislature to reject SB 1081. Leave the enforcement or nonenforcement of Federal criminal laws to Federal law enforcement authorities and Federal courts.

[40]In that case, the U.S. District Court for the Southern District of Texas found (*NCFM v. SSS*, 355 F. Supp. 3d 568, February 22, 2019) that the current male-only registration requirement is unconstitutional. The U.S. Court of Appeals for the 5th Circuit reversed (*NCFM v. SSS*, 969 F.3d 546, August 13, 2020) without reaching the Constitutional issues, solely on the grounds that only the U.S. Supreme Court could overturn the Supreme Court precedent in *Rostker v. Goldberg*, 453 U.S. 57 (1981). The Supreme Court denied *certiorari* (593 US ____, June 7, 2021). We believe that the District Court ruling on the merits was correct, and that if and when the issue is reviewed on the merits by the Supreme Court, the current program will be found unconstitutional. The uncertain Constitutionality or validity of the current registration requirement is a further reason for California not to take on a role in trying to induce compliance with this gender-discriminatory law.

WEST POINT SUED REGARDING ADMISSIONS POLICY

By Jeff Lake

On June 24, 2023, the U.S Supreme Court issued its opinions in *SFFA v. Harvard* and *SFFA v. UNC* 600 U.S. 181 (2023). In the combined opinion, the Court held that the admissions policies of these universities were unconstitutional to the extent that an applicant's race was a factor considered for admission. However, the Court was careful to include a footnote specifically exempting the service academies from the holding in the opinions. The Court stated in footnote 4 that: "The United States as *amicus curiae* contends that race-based admissions further compelling interests at our Nation's military academies. No military academy is a party to these cases, however, and none of the courts below addressed the propriety of race-based admissions systems in that context. This opinion also does not address the issues, in light of the potentially distinct interests that military academies may present."

Less than two months later, the group that filed the cases against Harvard and UNC, "Students" for Fair Admissions, filed a Complaint against West Point on September 19, 2023. The Complaint recites West Point's affirmative action policies and attempts to rebut the justification for them. At one point the Complaint states:

"West Point argues that statistical parity between the racial demographics of officers and enlisted is necessary to preserve unit cohesion and ward off racial strife within units. In support of that assertion, it highlights anecdotal incidents of racial tension among enlisted servicemembers during the Vietnam War, most of which occurred in a brief period from 1969-1972. That talking point, raised for the first time by the Becton brief in *Grutter* and repeated in virtually every government defense of racial preferences since, cherry-picks a few unfortunate incidents and extrapolates them to the American military in general. At best, it's a textbook example of conflating correlation with causation. In fact, "racial animosity had been negligible within the U.S. armed forces" prior to 1967 and it has been virtually nonexistent since Vietnam." (*SFFA v. West Point*, Complaint 9/19/23, pp. 12-13.)

The Complaint requested a preliminary injunction "prohibiting the Academy from considering or knowing applicants' race when making admissions decisions." This request was denied on January 3, 2024. Judge Philip M. Halpern of the Southern District of New York ruled as follows:

> "A full factual record is vital to answering this critical question whether the use of race in the admissions process at West Point furthers compelling governmental interests and whether the government's use of race is narrowly tailored to achieve that interest. The court cannot enjoin West Point's use of race in admissions without a full understanding, informed by a complete factual predicate, as to what exactly are the compelling interests asserted, to whom those compelling interests belong, and how in this specific case they are or are not narrowly tailored to achieve those interests. Accordingly, Plaintiff has not met its burden, on the present record, to show a clear, or otherwise preponderant, likelihood of success on the merits." (*SFFA v. West Point* Case 7-23-cv-08262-PMH, Opinion and Order filed 1/3/24 pp. 22-23.)

On February 2, 2024, the U.S. Supreme Court denied SFFA's "emergency" request for an injunction.

SFFA has a similar lawsuit pending against the U.S. Naval Academy filed October 5, 2023. (Maryland District Court Case No. 1-23-cv-02699.) Judge Richard D. Bennett denied a preliminary injunction on December 15, 2023. On December 20, 2023, Judge Bennett issued a written decision which concluded:

"It is appropriate to note that both the Plaintiff and the Defendants need the opportunity to develop the appropriate record in this case. At this stage, SFFA bears the burden to prove that it is likely to succeed on the merits. In light of the language employed in *Harvard* and judicial deference to the military, at this stage the court is unpersuaded that the evidence proffered by Plaintiff overwhelms the evidence advanced by Defendants. Quite simply, the issue of a compelling government interest requires development of a factual record." (Memorandum Opinion, 12/20/23, p. 27.)

The MLTF will continue to follow these cases as litigation proceeds. As always, be sure to maintain your membership in order to receive more information in future issues of *On Watch*.

A READINESS OF OUR OWN

By Chris Lombardi

Before both of the 20th century's World Wars, civilian pro-militarist "Readiness" campaigns worked to prepare the U.S. to be ready to fight. In 1917, that meant warships in New York City harbors, in 1942 movie stars selling war bonds. In 2024, it might be time for a similar effort on the anti-militarist side; the threat of "large" wars, perhaps with China or Russia or Iran, looms larger than it has in a number of years.

Of course, we at MLTF know the U.S is already in a state of perpetual war, that US troops are involved directly in a number of "small" wars abroad and maintain a threatening international presence with over 750 bases around the world. And many *On Watch* readers remember the fall of 2002, when many of us were organizing in the face of the George W. Bush administration's determination to take this country to war.

This feels like one of those moments, for some of us.

Amid the ceaseless and terrifying news from Gaza, the U.S. military's pivot to great-power competition is in full swing. Headlines from just this week: In the North Atlantic, the Navy is upgrading its Icelandic bases as it is engaged in a submarine race with Russia: in the Pacific, the newish 3rd Marine Corps Littoral Regiment trains on remote islands for battles against Chinese troops. "The new Marine forces are envisioned to play a critical role in enabling larger joint operations aimed at countering Chinese aggression in the region towards countries like Taiwan, Japan, and the Philippines." Meanwhile, the Middle East frypan continues to spark fears, with Lebanese border issues prompting politicians to urge "a hard line on Iran."

Will all of this lead to policy decisions that set the match for all-out war? For those we serve--the1.4 million Americans currently in uniform, their families and communities--these are not abstract questions; neither is the threat of a potential draft, with millions more already registered with Selective Service.

Last fall, as Mideast tensions rose, MLTF began to develop a Contingency Plan For War, to help us be prepared to serve *all* those constituencies.

Early Educational Preparation includes our current work, raising awareness about perpetual war, and background research for white papers about likely future wars, including international law and law of land warfare issues. The latter includes Freedom of Information Act requests and litigation support.

Getting the Guild to Challenge militarism and imperialism. This is already underway, with recent International Committee webinars on Gaza and anti-imperialism; our work here will include Guild Notes; further work with the IC, including background papers on likely countries/regions and US interests there; and with allies inside and outside the Guild, emphasizing how a war footing further threatens communities already under siege.

Collaboration with groups outside the Guild**,** including the G.I. Rights Network, veterans groups, gender justice and BIPOC bar associations. This collaboration can include joint newsletters/alert systems, expanding the number of trained GIRN counselors, and intersectional organizing strategies.

Early preparation for beginning of war would include a foundational MLTF statement opposing war and militarism, to use as a springboard for a statement to release at onset of hostilities; expansion of the Task Force's membership and legal capacity; and setup of rapid-response teams, attorney-centered teams to respond to conscientious objection and other resistance cases (e.g. hunger strikes, anti-retaliation efforts).

As the war proceeds, the needs expand. We need to develop new self-help and political materials for servicemembers, keep updating our training materials, and work with IC on an international law critique of the war. We also need to strengthen the Task Force's media work--from connections to traditional media to TikTok—so that critique gets to the communities we serve.

Throughout, the Contingency Plan calls on us to be intersectional in our approach, following the lead of communities of color and providing our support and expertise when needed. The Plan also contains far more detail than this summary, including the topics covered by the proposed and updated materials (e.g. CO, Article 138, civil litigation ...) and the number of potential collaborative orgs.

To join in strengthening our response, MLTF now has a Readiness Committee, where we work to make all these preparations real. For more information, or to join the Readiness Committee, please contact Libby Frank at libby.frank49@gmail.com.

THE BRASS WEIGHS IN: EX-RANKING OFFICERS MAKE THEIR VOICES HEARD AT THE US SUPREME COURT ON PRESIDENTIAL IMMUNITY

By Aaron David Frishberg, Esq.

As this issue of *On Watch* goes to press, the U.S. Supreme Court is considering Donald Trump's argument that he should be given immunity for all actions he took as President of the United States.

A number of parties have now filed amicus briefs in this case. The first to be heard from, on March 19, 2024, was a rather unimpressive cluster of three "former senior military officers and executive branch

officials," as Amici Curiae supporting Donald Trump. As the old saying goes, with friends like these, who needs enemies. The milquetoast position of the threesome, if anyone cares, was that not anything done by a president was privileged, despite Donald Trump and his counsel's claim that if the president of the United States ordered a Navy Seal time to assassinate his political opponent, if there wasn't first an impeachment, it couldn't be prosecuted. No, assured the trio. Not that. To quote Amici's argument, "The President's Broad Power as Commander in Chief Does Not Include the Authority to Order the Military to Commit Murder." That point made, and repeated in three other points, the trio retired from the fray, having assured the Supreme Court that there was no danger that the President of the United States could send out a Seal team to kill anyone the United States was not at war with. What the limits of presidential immunity were, short of giving an order to commit murder, which in any case, the military would not carry out, Amici felt no need to expound on. Nonetheless, they chose to describe themselves as supporting Petitioner Donald Trump. So much for getting the first word in.

A more impressive gathering of retired Four Star Admirals and Generals, and former Secretaries of the U.S. Army, Navy and Air Force, showed up on April 8, 2024, the last day to file amici by order of the Supremes Retired higher-ups of the Marine Corps, and the Coast Guard joined the respective retired Secretaries of three branches of the services. Surprisingly, for those of us who have come to not expect much from habitués and former habitués of the Pentagon, to use a sexist term inaccurate for a cohort that included one female former Secretary of the Air Force, they grew a pair.

In a brief that showed impressive scholarship, citing authorities from the Federalist Papers forward, and through Art. II, Sec. 2 of the U.S. Constitution, and running to 28 pages for the Table of Authorities, the former brass make out a case that allowing presidential immunity would undermine the chain of command by showing service members that they, but not their commander in chief, would be subject to the law of the land. That said, and said extremely well, the military honchos take note that the three members of the brass who preceded them in filing had rejected the theory of absolute presidential immunity. So there.

To drive the point home: "Given the practical difficulties of invoking the duty to disobey against orders from the Commander-in-Chief, the duty to disobey would be an unacceptably thin failsafe against a President who was intent on flouting and who was permitted to flout the law without the possibility of criminal prosecution." (Amicus Brief of Retired Four-Star Admirals et al., p.21). Still not completely convinced? I invite you to go to the Supreme Court's web page and look at the Brief in Court Documents for Dkt. No. 23-939.

It is rare that we find ourselves on the same side of an argument as members, or even retirees, from the upper echelons of the U.S. military. At the deadline for this article, it seems unlikely that the U.S. Supreme Court, which has shown an interest in delaying what it cannot altogether avoid, a pronouncement that Donald Trump and his lawyers are full of beans, will render a decision by the time this article goes to press. But at least we can say that for a rare change of pace, the United States military showed themselves to be on the side of the angels.

ANNOUNCEMENTS

MLTF MERCHANDISE!

The MLTF now has a merchandise webpage for all of your gift-shopping needs! Just go to www.zazzle.com/s/mltf and check out items with our new logo. Friends and family will surely appreciate such a thoughtful gift. You may even want to treat yourself to some of these fine products. Proceeds from sales help fund our work, so please check it out.

SELF-HELP GUIDES

Our colleagues at Swords to Plowshares in the Bay Area have produced a series of excellent Self-Help Guides for veterans on topics ranging from upgrading discharges to obtaining VA benefits to VA character of discharge determinations. They are extremely helpful for clients, and offer useful tips for attorneys and counselors as well. The Guides are on their website at Self Help Guides (swords-to-plowshares.org).

GUILD CONVENTION!

For the first time in several years, the Guild is planning an in-person national convention, to be held in Birmingham, Alabama, from October 30 to November 3. The agenda is in its early planning stages, which means it's not too late to suggest a workshop, major panel, or convention speaker.

The Guild held a convention in Birmingham 20 years ago, and out of the work done there grew our The United People of Color Caucus (TUPOCC) and on-going work against white supremacy. Most of the convention will also be virtual for Guild members and friends who cannot make it to Alabama. For more information about the convention, check out the NLG website, at www.nlg.org; for information about Military Law Task Force activities there, contact Kathleen Gilberd at kathleengilberd@aol.com.

LOOKING FOR A FEW GOOD VOLUNTEERS

The Military Law Task Force has working committees in several different programmatic areas—anti-racism; gender justice, selective service; "readiness" for future wars and, inevitably, fund-raising. Plans are in the works for a new committee on climate change and militarism. If you are interested in any of these areas and would like more information or to volunteer, please contact Kathleen Gilberd at kathleengilberd@aol.com

About the Contributors

Ana Maria Bondoc is the Senior Staff Attorney at The Veterans Consortium Discharge Upgrade Program, sponsored by DAV Charitable Service Trust. She trains and mentors *pro bono* attorneys representing veterans with less than honorable discharges. She is not a party or representative in the litigation discussed herein.

Shiloh Emelein (they/them) is a queer, trans, non-binary creature living with their fluffy cat on Ohlone Land (also known as the Bay Area, California). Their world view and moral compass were turned upside down while deployed with a Marine Helicopter Support Unit in Al Anbar Province, Iraq and then Kuwait City, Kuwait in 2006 and 2007. They joined About Face: Veterans Against War in 2018 with the hope to catalyze change and repair the harms caused by the Military-Industrial Complex. Shiloh believes that the reclamation and celebration of our bodies, our joy, and our pleasure is at the core of demilitarizing ourselves, our beliefs, and the oppressive structures we live and fight under. They are currently the Operations Director of About Face: Veterans Against the War, a national organization of anti-militarism veterans established in 2004.

Aaron David Frishberg practices law in New York City, including civil rights, Social Security disability, and military law for forty years. He is the vice-chair of the Military Law Task Force.

Edward Hasbrouck is a legal worker in San Francisco with the Identity Project (PapersPlease.org). He has been a member of the NLG and the MLTF since the early 1980s, when he was an organizer with the National Resistance Committee and co-editor of Resistance News. He publishes a Web site about the draft, draft registration, draft resistance, and the Selective Service System at Resisters.info.

Jeff Lake is Chair of the Military Law Task Force. He is in private practice in San Jose, California.

Chris Lomardi is a former staff member with the Central Committee for Conscientious Objectors. She has been writing about war and peace for more than twenty years. Her work has appeared in *The Nation*, *Guernica*, the *Philadelphia Inquirer*, *ABA Journal*, and at WHYY.org. The author of *I Ain't Marching Anymore: Dissenters, Deserters, and Objectors to America's Wars* (The New Press), she lives in Philadelphia.

Siri Margerin is a long-time anti-militarism activist and military counselor. She is on the Steering Committee of the Military Law Task Force, and is currently on the Board of Directors of About Face: Veterans Against the War, where she has been a long-time ally.

Editorial/Production: Kathleen Gilberd, Rena Guay, and Jeff Lake edited this issue.

About The Military Law Task Force of the National Lawyers Guild

ON WATCH is published quarterly by the Military Law Task Force of the National Lawyers Guild. Subscriptions are free with MLTF dues ($40), or $25 annually for non-members.

We welcome comments, criticism, assistance from Guild members, subscribers and others interested in military, draft or veterans law.

For membership info, see our website, or contact us using the info below.

Each issue is made available to the public on our website approximately one month after distribution to subscribers. A digital archive of back issues of this newsletter can be found on our website. See nlgmltf.org/onwatch/.

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The National Lawyers Guild's Military Law Task Force includes attorneys, legal workers, law students and "barracks lawyers" interested in draft, military and veterans issues. The Task Force publishes On Watch as well as a range of legal memoranda and other educational material; maintains a listserv for discussion among its members and a website for members, others in the legal community and the public; sponsors seminars and workshops on military law; and provides support for members on individual cases and projects.

The MLTF defends the rights of servicemembers in the United States and overseas. It supports dissent, anti-war efforts and resistance within the military, offering legal and political assistance to those who challenge oppressive military policies. Like its parent organization, the NLG, it is committed to the precept that human rights are more sacred than property interests.

To join, or for more information, contact us by email or phone, or visit our website or social media pages.

www.nlgmltf.org | **facebook.com/nlgmltf**

HOW TO DONATE: Your donations help with the ongoing work of the Military Law Task Force in providing information, support, legal assistance and resources to lawyers, legal workers, GIs and veterans.

SNAIL MAIL: Send a check or money order to MLTF, 730 N. First Street, San Jose, CA 95112

ONLINE: Visit **nlgmltf.org/support** to make a one-time or a recurring donation.

Thank you!