

USAWC STRATEGY RESEARCH PROJECT

**DIVERSITY VERSUS AFFIRMATIVE ACTION  
FOR  
THE UNITED STATES NAVY**

by

Commander Catherine Masar  
United States Navy

Colonel Julie T. Manta  
Project Adviser

This SRP is submitted in partial fulfillment of the requirements of the Master of Strategic Studies Degree. The U.S. Army War College is accredited by the Commission on Higher Education of the Middle States Association of Colleges and Schools, 3624 Market Street, Philadelphia, PA 19104, (215) 662-5606. The Commission on Higher Education is an institutional accrediting agency recognized by the U.S. Secretary of Education and the Council for Higher Education Accreditation.

The views expressed in this student academic research paper are those of the author and do not reflect the official policy or position of the Department of the Army, Department of Defense, or the U.S. Government.

U.S. Army War College  
CARLISLE BARRACKS, PENNSYLVANIA 17013

## Report Documentation Page

*Form Approved  
OMB No. 0704-0188*

Public reporting burden for the collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to a penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.

1. REPORT DATE <b>15 MAR 2006</b>	2. REPORT TYPE	3. DATES COVERED			
4. TITLE AND SUBTITLE <b>Diversity Versus Affirmative Action for the United States Navy</b>		5a. CONTRACT NUMBER			
		5b. GRANT NUMBER			
		5c. PROGRAM ELEMENT NUMBER			
6. AUTHOR(S) <b>Catherine Masar</b>		5d. PROJECT NUMBER			
		5e. TASK NUMBER			
		5f. WORK UNIT NUMBER			
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) <b>U.S. Army War College, Carlisle Barracks, Carlisle, PA, 17013-5050</b>		8. PERFORMING ORGANIZATION REPORT NUMBER			
9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES)		10. SPONSOR/MONITOR'S ACRONYM(S)			
		11. SPONSOR/MONITOR'S REPORT NUMBER(S)			
12. DISTRIBUTION/AVAILABILITY STATEMENT <b>Approved for public release; distribution unlimited.</b>					
13. SUPPLEMENTARY NOTES					
14. ABSTRACT <b>See attached.</b>					
15. SUBJECT TERMS					
16. SECURITY CLASSIFICATION OF:			17. LIMITATION OF ABSTRACT	18. NUMBER OF PAGES <b>24</b>	19a. NAME OF RESPONSIBLE PERSON
a. REPORT <b>unclassified</b>	b. ABSTRACT <b>unclassified</b>	c. THIS PAGE <b>unclassified</b>			

## ABSTRACT

AUTHOR: Commander Catherine Masar  
TITLE: Diversity Versus Affirmative Action for the United States Navy  
FORMAT: Strategy Research Project  
DATE: 3 February 2006 WORD COUNT: 5,947 PAGES: 23  
KEY TERMS: Equal Opportunity, Women, and Minorities  
CLASSIFICATION: Unclassified

A cancellation of the Navy's Affirmative Action instruction combined with a trend toward the all-encompassing "diversity" term may lead to a watering down of efforts to recruit and retain minorities, particularly in the Navy's officer corps. This paper reviews the relevant history, legislation, and diversity and affirmative action policies from an "ends, ways, and means" perspective. The author uses the 2003 Supreme Court decision on the affirmative action practices of the University of Michigan as a green light to continue military affirmative action programs. The author challenges the Navy's new broadened definition of diversity suggesting it confuses those reading published instructions and guidance while sidestepping the clear need to aggressively recruit minorities. The author recommends immediate changes in the Navy's diversity and affirmative action policies in order to prevent a possible downturn in recruitment of women and minorities. Some experts believe this is because a military that does not reflect the population that it serves is a military that faces problems in recruitment, retention, and legitimacy- and ultimately impacts negatively on mission readiness.



## DIVERSITY VERSUS AFFIRMATIVE ACTION FOR THE UNITED STATES NAVY

The achievement of any strategy requires clear and concise language outlining goals and followed by measurable actions in pursuit of those goals. Absent coherent language and focused action, the strategic goal will likely never be achieved.<sup>1</sup> Recent changes in current Navy and Department of Defense policies on affirmative action may result in failure to achieve strategic goals regarding minority recruitment and diversity. Cancellation of the Navy's Affirmative Action instruction combined with a trend toward using the all-encompassing "diversity" term may lead to a watering down of efforts to recruit and retain minorities, particularly in the officer corps.

This paper reviews the relevant history, legislation, and diversity policies from an "ends, ways, and means" perspective as they relate to the Navy's affirmative action efforts. The author uses the 2003 Supreme Court decision on the affirmative action practices of the University of Michigan as a basis to continue military affirmative action programs<sup>2</sup>. The author challenges the Navy's new broadened definition of diversity suggesting it confuses those reading published instructions and guidance while sidestepping the clear need to aggressively recruit minorities. Complicit in these changes is the Department of Defense Military Equal Opportunity Office, which no longer requires the annual submission of Military Equal Opportunity Assessments (affirmative action plans) due to database issues and changes in reporting of demographic data.<sup>3</sup>

Admiral Mullen, the current Chief of Naval Operations, is proactively addressing the shortage of minorities and women in the officer ranks. But his commitment will not translate into results if there is not unity of effort in the diversity strategy of the Navy. In spite of the change in naval instructions away from a service supportive of affirmative action, Admiral Mullen appears to strongly promote the need for increasing women and minorities in the senior ranks. His guidance to senior leaders and public speeches clearly champion the cause of achieving demographic diversity in the Navy. Unfortunately this rhetoric is not yet echoed in written policy documents, such as a renewal of the affirmative action instruction.

As a result, the Navy needs to make changes to its current affirmative action policies in order to prevent a possible downturn in recruitment of women and minorities. Failure to attract women and minorities in sufficient numbers in any one year can not be made up in later years - the military grows its leaders unlike corporate America which can hire Chief Executive Officers from other companies.<sup>4</sup> Furthermore, a military that does not reflect the population that it serves

is a military that faces problems in recruitment, retention, and legitimacy, which ultimately negatively impacts its mission readiness.

This research leads to the following six recommendations which focus on strengthening the “ways” employed to achieve success of the Navy’s Diversity Strategy. These recommendations are not risk free, and may even invite legal challenges. But the risk of not aggressively seeking representation from all sectors of our society could impact on the services’ ability to win the nation’s wars.<sup>5</sup> That is a risk we cannot afford.

First, minority recruitment goals need to be explicitly stated in guidance from naval leaders instead of being subsumed within diversity efforts. Second, the term diversity, as presently defined by the Navy, should not be used in the context of minority recruitment efforts. Third, an affirmative action plan, with periodic review, should be reinstated immediately. Regardless of whether or not the Office of the Secretary of Defense requires it, the Navy’s senior leaders should require tracking and reporting of the affirmative action metrics stated in DOD Directive 1350.2. Fourth, revise the Navy’s Diversity Strategy for the 21<sup>st</sup> Century, to more accurately reflect Admiral Mullen’s focus on demographic diversity. Fifth, management of diversity within the Navy should continue in order to capitalize on the gains made in this area, and it should fall under the Growth and Development Pillar supporting strategic diversity. Finally, the Diversity Directorate should consider creating a Minority Affairs sub-directorate to ensure that focus on increasing minority representation is not lost.

#### Current Guidance on Affirmative Action

The 2004 National Military Strategy lists force generation and management as one of the functions of the Joint Force.<sup>6</sup> In support of force sustainment via force management, the Department of Defense and the individual services developed instructions and directives detailing equal opportunity and affirmative action for military members. Specifically, Department of Defense Directive 1350.2, Department of Defense Military Equal Opportunity (MEO) Program, guides military affirmative action policies. This directive requires “the Military Services...establish MEO and affirmative action programs that identify and resolve EO problems through formulating, maintaining, and reviewing affirmative action plans (AAPs) with established objectives and milestones.”<sup>7</sup> The directive defines affirmative action as “the methods used to achieve the objectives of the MEO program. [This includes] processes, activities, and systems designed to prevent, identify, and eliminate unlawful discriminatory treatment as it affects the recruitment, training, assignment, utilization, promotion, and retention of military personnel.”<sup>8</sup> DOD Instruction 1350.3 further states the AAP is a management tool intended to assist in

overcoming the effects of discriminatory treatment as it affects equal opportunity, upward mobility, and the quality of life for military personnel.<sup>9</sup>

Equal Opportunity (EO) within the Department of the Navy, SECNAVINST 5350.16, is in accordance with DODDIR 1350.2 and further assigns responsibility to the Chief of Naval Operations for policy implementation and annual assessment of the Navy's affirmative action plan.<sup>10</sup> It is at this level where support for affirmative action appears to wane. On November 4<sup>th</sup>, 2003, Vice Admiral Gerry Hoewing, the Deputy Chief of Naval Operations for Manpower and Personnel at the time, signed a memo cancelling OPNAV Instruction 5354.3D, Navy Affirmative Action Plan. The memo stated, "The information in this instruction has served its purpose. Any current or relevant information is still contained in references (b) through (d)." References (b) through (d) are OPNAVINST 5354.1E, DODINST 1350.3, and DODD 1350.2.<sup>11</sup> As specified in OPNAVINST 5354.1E, dated 22 January 2001, the Special Assistant for Minority Affairs to the Chief of Naval Personnel is tasked with coordinating the Navy Affirmative Action Plan (NAAP) per the now cancelled OPNAVINST 5354.3D. This means that there is currently no Navy Affirmative Action Plan - a violation of both DODDIR 1350.2 and SECNAVINST 5350.16.

Furthermore, the Chief of Naval Operations (CNO) Guidance for 2006 regarding diversity is significantly different from the 2005 version. In his 2005 guidance, Admiral Vern Clark listed five areas to expand the Navy's diversity framework. As an example, the 2005 guidance directed the Chief of Naval Personnel to increase the number of minority applications for commissioning programs by twenty-five percent.<sup>12</sup> Admiral Mike Mullen, the current CNO, directs no tasking regarding diversity in his Guidance for 2006. The guidance does state that the desired effect of the Navy's manpower and personnel transformation will be that the Navy represents and harvests the strength of the nation's diversity.<sup>13</sup> What is unknown is whether this change is an inadvertent act of omission or a conscious decision of commission.

#### Diversity and Affirmative Action Policy Analysis

What are the objectives, or "ends", the United States Navy hopes to achieve through the above changes in policies and guidance? The Navy's Diversity Strategy for the 21<sup>st</sup> Century states the "Navy will continually invest in the strength of America's diversity so that every Sailor and civilian can prosper and contribute to mission readiness."<sup>14</sup> The "ways" the Navy will achieve the above strategy include four major implementation areas: recruiting, growth and development, organizational alignment, and communication. Figure 1 from the Strategy paper depicts the four pillars (also known as strategic enablers) to support strategic diversity.

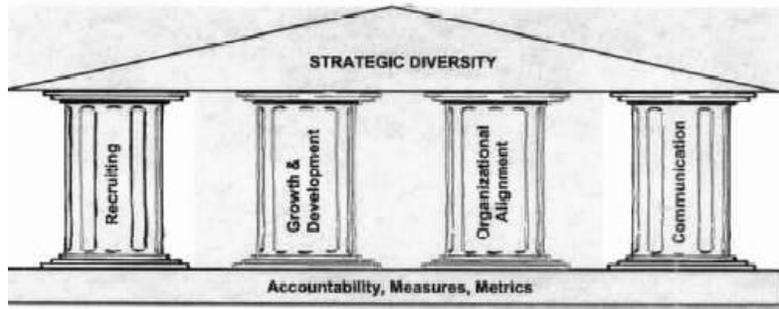


FIGURE 1. STRATEGIC DIVERSITY

It is interesting to note the base of the diagram lists “Accountability, Measures, and Metrics” to support the four pillars. When the Chief of Naval Personnel cancelled the requirement for an affirmative action plan, the metrics and measurements to determine progress vanished. In the CNO Guidance from 2005, the Chief of Naval Personnel is responsible for devising, evaluating and implementing a centralized system to track and report diversity metrics.<sup>15</sup> The current CNO guidance for 2006 makes no mention of it. According to Mr. Jimmy Love, Acting Director in DOD for Military Equal Opportunity, annual reporting of affirmative action data from the services to DOD has been on hold since 2003. This is in part due to DODINST 1350.3 being under revision and partly because of the changes to the race and ethnic definitions. This decision was made because DOD recognized that the Service personnel data systems are not configured to report under the new definitions. Any demographic data collected now will be questionable until the new manpower systems are updated or the services conduct a 100% survey of all military members asking each to self identify by the new racial and ethnic categories.<sup>16</sup>

The “means” listed in the Navy Diversity Strategy include senior leadership, human capital, and communications. The number one goal listed under the recruiting pillar is to “improve recruiting efforts for all accession sources by steadily increasing the diversity of applications, so that in the years ahead the Navy accesses a more highly qualified officer, enlisted, and civilian workforce equipped to deal with the leadership challenges of the future.”<sup>17</sup> This same strategy defines diversity as “all the different characteristics and attributes of individual Sailors and civilians that enhance the mission readiness of the Navy.”<sup>18</sup> If the word “diversity” were replaced with the word “minority” the goal might appear similar to prior years’ affirmative action plans. Since “diversity” as defined by the Navy now has a much broader meaning, what kinds of diverse applications does the Chief of Naval Operations actually want to

increase? A brief review of the history of relevant affirmative action cases may provide an appropriate context within which to analyze the Navy strategy.

#### History of Affirmative Action

The U.S. Supreme Court ruled on the University of Michigan affirmative action admission policies on June 23<sup>rd</sup>, 2003. The court's decision affirmed the narrowly tailored use of race in admissions decisions to further a compelling interest in educational benefits to achieve a diverse student body.<sup>19</sup> Prior to *Grutter v. Bollinger* (the University of Michigan case), the Supreme Court's 1978 decision in *Regents of the University of California v. Bakke* prohibited a state medical school from setting aside a specific number of slots in the entering class for minorities. This 1978 ruling invalidated a strict quota system of affirmative action. The Court did, however, approve the use of race as a "plus factor" in admissions:

Under a plus factor system, the fact that a college applicant is African-American may count in his favor in the same way that the college may count as a positive factor another candidate's having been raised on a ranch in Montana, the fact that a third candidate plays the bassoon, or the fact that a fourth candidate has alumni relatives – even though no seats in the entering class are specifically set aside for African-Americans, ranchers, bassoonists, or 'legacies'.<sup>20</sup>

As a result of the *Bakke* case, the United States Naval Academy admissions boards (like many other universities across the country<sup>21</sup>) continued efforts to increase minority representation within the student body.<sup>22</sup> Concerned that *Bakke* might be overturned with the outcome of the *Grutter* case, several retired military officers filed a "friend of the court" brief prior to the Supreme Court's resolution of the *Grutter* case. The signatories in support of affirmative action included retired Admiral William Crowe, General Hugh Shelton, General John Shalikashvili, General Norman Schwarzkopf, and General Anthony Zinni. These former Chiefs of Staff affirmed the military's need to maintain a racially mixed officer corps for unit cohesiveness and effectiveness. After the Supreme Court's ruling on *Grutter*, the Naval Academy stated it was "carefully looking" at the recent ruling "to ensure that our program complies with the decisions made by the Supreme Court."<sup>23</sup>

Clementine Fujimura, associate professor in the Department of Language Studies at the U.S. Naval Academy, states, "When it comes to academics, the value placed on diversity is less evident [at the Naval Academy] than at civilian colleges."<sup>24</sup> She cites examples of various liberal arts colleges that regularly include some discussion of the role of diversity on campus and its importance and benefit to all. Professor Fujimura noted one college that had a goal of "increasing diversity among the student body to create a college environment that values differences among students..."<sup>25</sup> This lack of dialogue on diversity at the premier institute for

producing naval officers may contribute to a decline in valuing and recruiting minority members that comprise that “diverse” portion of the Navy.

### Diversity Confusion

Despite the Supreme Court’s support of race as a factor in admissions decisions, it appears the Navy lessened its support of affirmative action, possibly out of fear of litigation. The Chief of Naval Personnel cancelled the Navy Affirmative Action Plan instruction in November 2003 and less than a year later, the Navy’s Minority Affairs office was renamed the Diversity Directorate.<sup>26</sup> According to CDR Syd Abernathy, head of the Diversity Directorate in August 2004, “the name change doesn’t mean the Navy is looking to diversify in terms of race, ethnicity, and sex only...the service also wants creative and innovative sailors, those who will think out of the box.”<sup>27</sup>

Using Michael Dorf’s logic in explaining admission plus factors, does the Navy want more African-Americans? Ranchers from Montana? Bassoonists? Or is it more sons and daughters of Naval Academy graduates? As the strategy and definition are presently written, naval recruiters could interpret the diversity policy to mean they should work to increase applicants in any or all of these categories. With the new definition of diversity, the goal is broad to the point of absurdity. In the words of Margaret Mead, “Always remember that you are absolutely unique. Just like everyone else.”<sup>28</sup> Since we each have diverse characteristics, each applicant may claim he or she brings something unique to the Service, as they may well do. There is nothing wrong with this in isolation, but the fact remains that minority officers represent approximately 12 percent of the Navy’s officer corps. The officer corps leads a Navy enlisted force composed of over 28 percent minorities.<sup>29</sup> The website for the Navy’s Diversity Directorate states, “The diversity of our enlisted force is much more diverse than America in general and our officer corps is on par with the college graduate diversity levels in the U.S. However, we still have much progress to make on a diverse representation at the senior levels of our military and civilian corps.”<sup>30</sup>

The above acknowledgement makes the assumption that “diversity” means the same as “minority representation”. This conflicts with the previously stated Navy all-encompassing definition of diversity. The disjointed and inconsistent use of terms to address this important topic is distracting and risks mission failure for the Navy’s diversity or minority recruitment efforts. It is interesting to note that although written policy and guidance available online seem to blur the definition of diversity, the next section will show that within the Navy there is clear and strong support for increasing women and minorities in the senior ranks.

### Admiral Mullen's Diversity Efforts

*Playbook 2006: Navy Strategic Communications Guide* was published shortly after Admiral Mullen became the 28th Chief of Naval Operations on July 22, 2005. The *Playbook* is a tool intended for senior naval leaders to communicate the Navy story. It appears evident that diversity is a high priority for Admiral Mullen's tenure:

Navy leadership is committed to improving diversity across the Navy, especially in leadership and technical positions. We need to drive opportunities for women, improving female enlisted accessions, development, promotion, and retention in technical skill sets and competencies. Minorities are underrepresented in our officer corps, and we need to develop a more diverse Navy leadership...The goal is to improve the representation of both minorities and women in the Navy.<sup>31</sup>

In a memo dated 25 July 2005, Admiral Mullen directed the Chief of Naval Personnel to "improv[e] diversity officer accessions, development, promotion, assignment, and retention."<sup>32</sup> This behind the scenes commitment to minority representation is further evident in public speeches and emails emphasizing this same message. In an email dated 12 September 2005 to Navy senior civilian executives and flag officers, Admiral Mullen gave his definition of diversity:

I know the Diversity Directorate Gerry Hoewing stood up a year or so ago has done magnificent work getting people to understand all the various sides to it [diversity]. Theirs is good work, and it must continue. But when I talk about diversity – at least right now – I'm talking about it in basically two layers. One is minority representation; the other is the representation of women in our Navy.<sup>33</sup>

This support for a return to the core of an affirmative action program is further shown by Admiral Mullen's comments in a recent address to the National Naval Officers Association:

I believe for our Navy we have to match up well with the demographics that the country has given us... we need more minority officers and women at the flag level, at the senior flag level. [W]e live in a hierarchical system. That's why it's so critical at the base of our system. That's why it's so critical at the NROTC, even at OCS [Officer Candidate School], at the service academies, and at the Naval Academy.<sup>34</sup>

Clearly Admiral Mullen is taking a stand in addressing the shortage of minorities and women in the officer ranks. But this commitment will not translate into results if there is not unity of effort in the diversity strategy of the Navy.

A review of the ends, ways, means balance in publicly available documents suggests: 1) a long-term and ill-defined end, 2) the four strategic diversity pillars are reasonable ways but lack the written support of CNO guidance in instructions, Chief of Naval Personnel written follow-through, and accountability by either the Secretary of the Navy or the Secretary of Defense, and 3) the means listed in the Diversity Strategy are few and overly broad (senior

leadership commitment, human capital, and communications). However, the listed means could be fleshed out to encompass the entire range of tools and personnel at the Navy's disposal to achieve diversity in support of mission readiness.

Army and Air Force Comparison

An interview with Lieutenant Colonel Terry Albritton, Chief of the Equal Opportunity Branch of the Army, revealed a similar movement away from explicit affirmative actions. Lieutenant Colonel Albritton confirmed that Army affirmative action data is only provided when asked for by the Office of the Secretary of Defense. He also stated that equal opportunity in the Army is under pressure to transform like the rest of the Army. The theme for the December 2005 Army Equal Opportunity Advisors (EOA) conference was "Transforming to Enhance Combat Readiness". Lieutenant Colonel Albritton said the proposed approach to transformation was a move to "Human Relations Readiness" as the expanded role of the Equal Opportunity Advisor in units. This role would include non-EO responsibilities such as suicide prevention training. Lieutenant Colonel Albritton was concerned this transformation would be a challenge considering the large number of complaints Equal Opportunity Advisors currently handle in the field. He echoed the concern that changes in the equal opportunity field were due to the University of Michigan case and fear of litigation on the part of the military.<sup>35</sup>

Major Anthony Sansano, who is the Air Force's Director of Personnel for Equal Opportunity, believes the Air Force program for equal opportunity is strong and feels there has been no backtracking in the area of affirmative action.<sup>36</sup> Table-1 shows the comparison between the services on minority and majority representation in the officer and enlisted accessions for fiscal year 2003. The Navy has the greatest difference between officer (14%) and enlisted (37%) minority accession percentages.

	Army	Navy	Air Force
<b>Officers</b>			
Majority	74%	81%	79%
Minority	18%	14%	10%
Unknown	8%	5%	11%
<b>Enlisted</b>			
Majority	77%	67%	74%
Minority	21%	37%	24%
Unknown	2%	4%	2%

TABLE 1- FISCAL YEAR 2003 ACTIVE COMPONENT ACCESSIONS<sup>37</sup>

Likewise, a recent article entitled "Army Losing Minority Recruits" from the *Miami Herald* should serve as a warning for the military services. The author reports the percentage of blacks among all those who signed up for active duty in the Army fell from 24 percent in 2000 to 14

percent in 2005. That is the lowest percentage since 1973 with the beginning of the all-volunteer force.<sup>38</sup> While this statistic may be attributable to several different factors<sup>39</sup> if it is not taken seriously by the services, the reduced minority representation in this year's group of cohorts will never be made up in future years. Unlike corporations that can bring in new personnel at various entry points, in general, military personnel (except for doctors and similar professionals) enter at the bottom of either the officer or enlisted ranks.<sup>40</sup> As this smaller group of African-Americans progress through the ranks, the lack of representation could hurt perceptions of opportunities by minorities junior to this year group.<sup>41</sup>

#### Arguments against Affirmative Action

Despite the Supreme Court's support, a discussion of the subject would not be complete without acknowledging the many arguments against affirmative action. An example comes from journalist Bob Zelnick who writes:

[A]ffirmative action discriminates on the basis of race, gender, or ethnicity against whites, males, and other unfavored groups. And yet today this official discrimination is one of the most pervasive and powerful of government policies, denying Americans jobs, career and educational opportunities, even handicapping their ability to bid on government contracts unless they fit into one of the preferred racial or ethnic categories.<sup>42</sup>

This view may be widespread resulting in the fear of open acknowledgement of affirmative action programs. A 1996 task force on affirmative action reports that "the current strategies have led to the perception that affirmative action favors some population groups at the expense of others – that in some sense it uses one form of discrimination to combat another. This appearance of inconsistency, even if unwarranted, weighs heavily on the body politic."<sup>43</sup>

African-American author, Carol A. Swain, present a counter argument to the often-stated benefits achieved by a diverse company or student body. She states, "In my own experience...the hoped-for benefits of diversity are rarely achieved...students segregate themselves once...on campus, creating limited opportunities for the interracial contact that is supposed to destroy stereotypes." The author later acknowledges the exception to this self-segregation is among college sports teams, noting the teamwork involved in sports and the meritocratic nature of the recruitment process.<sup>44</sup> Self-segregation may also occur in the military, but teamwork on the battlefield should probably be as cohesive, if not more, than teamwork on the playing field since lives are at stake.

There is another argument against the affirmative action process of tracking demographic metrics. Those in favor of affirmative action view metrics as a way to track

progress in achieving minority representation in organizations. The opposing view could construe numbers tracking as quotas that must be achieved regardless of qualifications.<sup>45</sup>

The preceding arguments against affirmative action reflect only a handful of the many differing opinions. Some would say that affirmative action's time has come and gone. Others say that affirmative action stigmatizes those individuals it actually is trying to help by calling into question their qualifications. In addition, there are improper and illegal programs wrongly called affirmative action.<sup>46</sup> It is these misguided or unlawful programs that cause true affirmative action programs the most harm. In light of the above arguments, it is not surprising the Navy retreated to a more modest policy position and moved from affirmative action to diversity management.

#### Risks to Current Diversity and Affirmative Action Policies

The sum effect of the recent policy changes could jeopardize minority recruiting and representation in the Navy. The watering down of efforts to improve the representation of minorities should be monitored with extreme caution. What Justice Harry A. Blackmun wrote in his separate opinion in the *Bakke* case remains true today: "In order to get beyond racism, we must first take account of race. There is no other way."<sup>47</sup>

It is common knowledge the demographics of America are changing. According to the Navy's Diversity Strategy, for Americans under the age of 40, there are fewer than 1.5 Caucasians for every person of color. By 2010, the Hispanic labor force is projected to be larger than the African-American labor force.<sup>48</sup> Women continue to make up almost half the current labor force. In order to compete in this changing environment, the military must adapt to remain the employer of choice for these growing minority populations. Failure in this endeavor will negatively impact mission readiness. This mission failure could manifest itself in recruiting shortfalls. Although unlikely, a return to the 1970's race riots on aircraft carriers is an extreme example of the military not paying attention to race issues. Events like this obviously detract from winning the wars of the nation. Just as medical and spiritual issues must be addressed, so should the human relations issues of the military member.

It is also critical the military be comprised of the people that it is sworn to protect. According to Marybeth Peterson Ulrich, U.S. Army War College professor:

To fulfill its primary obligation to its clients, the military must be granted by society the legitimacy to carry out its solemn function. Legitimacy is enhanced when the military institution is perceived to be "of society" in terms of being comprised of a representative cross-section of the population. The alternative outcome is to increasingly become a distinct group representing only limited

characteristics and attitudes of the society at large... [Then the military] may be seen as self-serving, rather than a nation-serving institution.<sup>49</sup>

A volunteer military divergent from its own populace in a democratic society will face continued problems of recruitment, retention, and legitimacy.<sup>50</sup> In the civilian workforce, there are similar discussions. "Having a diverse workforce, from top to bottom, is an absolute need. Studies over the years show diverse teams come to solutions faster and are better able to meet the needs of consumers."<sup>51</sup> Those companies that are unable to retain black and Hispanic employees will certainly not be able to connect with their black and Latino customers.<sup>52</sup>

In the University of Michigan affirmative action case, the law school presented its concept to the Supreme Court by referencing the substantial, important, and laudable educational benefits that diversity is designed to produce, including cross-racial understanding and the breaking down of racial stereotypes. The Supreme Court upheld the law school's claim, which was further bolstered by numerous expert studies and reports showing that such diversity promotes learning outcomes and better prepares students for an increasingly diverse workforce, and for society. Yet, despite over two decades of affirmative action, women and African-Americans still lag significantly behind white men when it comes to jobs and promotions. White males constitute approximately 42 percent of the labor market, but hold almost 100 percent of senior management positions.<sup>53</sup> To back away from affirmative action in light of these statistics, would be to reduce any gains made to date in minority representation in management. Many large businesses, such as TimeWarner and Eastman Kodak, have made it clear that the skills needed in today's increasingly global marketplace can only be developed through exposure to widely diverse people, cultures, ideas, and viewpoints.<sup>54</sup>

The Supreme Court ruling noted that high-ranking retired officers and civilian military leaders assert that a highly qualified, racially diverse officer corps is essential to national security. Significantly and easily transferable to the military, the Court's finding that, because universities, and in particular, law schools, represent the training ground for a large number of the nation's leaders, the path to leadership must be visibly open to talented and qualified individuals of every race and ethnicity. Thus, the Court upheld that the University of Michigan's Law School has a compelling interest in attaining a diverse student body.<sup>55</sup>

It is interesting to note Admiral Mullen's Guidance for 2006 discusses the element of risk, emphasizing that every Navy leader should be willing to take prudent risks in the conduct of their actions. There is risk of litigation in stating publicly the need for more minority officers. But there may be a greater risk in not stating this need. The risk of litigation should be outweighed by the risk of mission failure based on force management issues. In his speech on diversity to

the National Naval Officers Association (NNOA), Admiral Mullen stated, "I believe we must improve. I believe we need to take more risk in this area than we have in the past. I believe from my heart that getting it right strengthens us, strengthens the fabric of who we are - period."<sup>66</sup> With this guidance, the following recommendations are provided.

#### Alternatives and Recommendations

The use of the term diversity interchangeably with minority, particularly in the area of recruiting is a confusing issue. In researching this paper, Commander John Hefti, the current Diversity Director for the United States Navy, provided invaluable assistance and perspective in addressing this challenge. He commented:

After many arduous hours of working with all levels of the JAG (Judge Advocate General) corps and senior leadership on the limits of our diversity efforts - current federal law and recent supreme court rulings will not allow DOD, and hence Navy, to have an active affirmative action program for anyone...We are focused on changing our culture to one that values our diversity, and providing the growth and development opportunities for everyone, so that everyone is on a level playing field, which ideally will result in ever increasing diversity at all levels.<sup>67</sup>

Legal counsel advises senior military leaders about litigation avoidance, but the safest course of avoidance is not always the wisest. If the Navy is serious about improving minority representation in the officer corps, policies and guidance should state so, plainly and clearly. The first recommendation is that minority recruitment goals need to be explicitly stated in guidance from naval leaders instead of being subsumed within diversity efforts. As for the definition of diversity, "When a term's meaning is inflated to mean everything, the point comes where it no longer means anything"<sup>68</sup> and it could not be more appropriate in this case. The second recommendation is that "diversity" should not be used interchangeably with "minority" in recruiting strategies. Some may think this is just needless worry over definitions and the use of what may be perceived as a more politically correct term (diversity as opposed to minorities or affirmative action).

One must remember though, this diversity movement is accompanied by a cancellation of the Navy's Affirmative Action Plan and the accountability that it entailed. There is a saying, "That which is not inspected, is neglected."<sup>69</sup> Therefore, the third recommendation is to immediately reinstate an affirmative action plan, with periodic review. Regardless of whether or not the Office of the Secretary of Defense requires it, the Navy's senior leaders should require tracking and reporting of the metrics stated in DOD Directive 1350.2.

Common sense dictates the fourth recommendation. The Navy should revise the Navy's Diversity Strategy for the 21<sup>st</sup> Century currently located on the Navy Diversity website. A

revised diversity strategy should reflect Admiral Mullen's new focus on demographic diversity. The language used in the strategy must be consistent with the *Playbook 2006* guidance. The goals listed in the strategy must be clearly transferable down to the Naval Academy's admission board, the Naval Reserve Officer Training Corps scholarship board, and the recruiter on the street level. The Navy cannot afford for its sailors on the front line of the war for talent to doubt or misunderstand the commitment of Admiral Mullen's resolve in this area. This recommendation is consistent with the commitment of large corporations to demographic diversity. The Microsoft website also defines diversity beyond just race and gender stating "we define diversity broadly to extend beyond race, national origin, gender, age, disability, sexual orientation, or gender identity or expression—it is truly about all the ways in which we differ".<sup>60</sup> Yet, the Microsoft web page on diversity recruiting clearly reflects a focused approach to attract women, Hispanic, and African-American college graduates.<sup>61</sup>

Because there is value and merit in embracing and managing diversity using the broad definition used in the current Diversity Strategy for the 21<sup>st</sup> Century, efforts in this area should be located under the Growth and Development Pillar. Since each member of the military is in some way diverse, it is a worthy goal to support their growth and development through the organization. But to use the current term diversity under the Recruitment Pillar is to risk missing the goal of increasing actual minority representation. The fifth recommendation is that management of diversity within the Navy should continue in order to capitalize on the gains made in this area. Diversity management should remain under the Growth and Development Pillar supporting the Diversity Strategy.

The final recommendation addresses the recently re-named Diversity Directorate. A return to the Minority Affairs Office (vice the Diversity Directorate) may not be required, but the Chief of Naval Personnel should consider adding a sub-directorate dedicated to minority affairs so focus is not lost on recruitment efforts of minorities.

It is important to remember that diversity in race and gender would not have occurred in the military without laws requiring equal opportunity to serve. After the enactment of equal opportunity legislation, the U.S. government's affirmative action programs followed to both correct for the effects of past discrimination and to serve a compelling government interest as was outlined by the retired officers in the *Grutter* case. Demographic (race, ethnicity, gender) diversity must first be recognized as an organizational imperative with corresponding affirmative action plans and recruitment efforts to achieve critical mass.<sup>62</sup> Once in the military, diversity management that includes demographic, as well as all other individual characteristics, will harvest the strength of that diversity where every individual will prosper and contribute to

mission success. When looking at the leaders of an organization, the impact on potential recruits of seeing successful individuals who look like them should not be underestimated. Recruitment goals should be explicit as to the demographic diversity the Navy needs in order to compete in the market. Diversity too broadly defined will not result in increases in minority officers. As Margaret Mead said, we are all diverse, so diversity of individual characteristics in the force will occur regardless of recruitment efforts. Demographic diversity will not occur without focused efforts. The Navy must take these steps boldly, recognizing the limits of the Supreme Court decision, and operating just within their scope. To be fearful of approaching, while not crossing the line, is to abdicate the leadership role the military has always assumed in its history, albeit imperfect, of affording opportunity to women and minorities. Given the representation of women and minorities in the military, our affirmative actions should be at least as proactive as those in the corporate sector.

This course of action is not free of risk. Written guidance advocating minority recruitment efforts could result in lawsuits claiming discrimination. Despite the support for race "plus factors" in the *Grutter* case, challenges to the Supreme Court ruling are inevitable. The military and its leaders must have the same conviction the retired officers' brief displayed. Justice O'Connor used the military example as part of her majority opinion to support the University of Michigan affirmative actions. The military must return its support for affirmative action yet also embrace the diversity that is already present in the force.

#### Conclusion

In the words of Admiral Mullen, "We derive great strength from our diversity. To the degree we are not diverse, we are weak."<sup>63</sup> Recent changes in Navy policy may lead to a negative effect on minority representation, particularly in the officer corps. Minority recruitment goals need to be explicitly stated by leaders instead of being subsumed within diversity efforts. Reinstating affirmative action plan requirements will return accountability of the service affirmative action goals. Management of diversity within the Navy should continue in order to capitalize on the gains made in this area. "Leveraging of diversity'... means turning diversity into an advantage by using it to enhance performance."<sup>64</sup> Enhanced performance results in mission readiness.

## Endnotes

<sup>1</sup> J. Boone Bartholomees, Jr., *A Survey of Strategic Thoughts*, U.S. Army War College Guide to National Security Policy and Strategy, 84. Bartholomees states, "Rational states...will always attempt to address their interests by relating ends, with ways and means."

<sup>2</sup> Affirmative action in its broadest sense involves the monitoring of several categories, such as promotions, assignments, separations, complaints, discipline, service school selection, and recruitment. The focus of this paper is on increasing minorities and women in the Navy's officer corps, primarily via admission to the United States Naval Academy. Keeping the focus limited to this area allows a more equitable comparison with *Grutter vs. Bollinger*.

<sup>3</sup> Mr. James Love, Acting Director, Military Equal Opportunity/DEOMI Liaison in the Office of the Under Secretary of Defense for Equal Opportunity, interview by author, 11 October 2005.

<sup>4</sup> LCDR Tom Roulston, Director of Naval Officer Accessions, phone interview with the author, 23 January 2006.

<sup>5</sup> Naval Media Center interview with VADM Gerry Hoewing, available from <http://www.news.navy.mil/management/videodb/player/video.aspx?ID=4781>; Internet; accessed 23 January 2006.

<sup>6</sup> *National Military Strategy of the United States*. Chairman of the Joint Chiefs of Staff, Washington, DC, 2004, 15-16.

<sup>7</sup> Department of Defense Directive, *Department of Defense Military Equal Opportunity (MEO) Program*, DODDIR 1350.2, August 18, 1995. Certified Current as of November 21, 2003.

<sup>8</sup> Ibid.

<sup>9</sup> Department of Defense Instruction, *Affirmative Action and Assessment Process*, DODI 1350.3, February 29, 1988.

<sup>10</sup> Secretary of the Navy Instruction, *Equal Opportunity (EO) Within the Department of the Navy*, SECNAVINST 5350.16, June 28, 1999.

<sup>11</sup> VADM Gerry Hoewing, "Cancellation of OPNAV Instruction 5354.3D, Navy Affirmative Action Plan".

<sup>12</sup> ADM Vern Clark, CNO Guidance for 2005; available from <http://www.npc.navy.mil/NR/rdonlyres/137FEFB2-B10F-4DA8-B329-56F2C46730BC/0/CNOG2005final.pdf>; Internet; accessed 28 November 2005.

<sup>13</sup> ADM Mike Mullen, CNO Guidance for 2006; available from <http://www.navy.mil/features/2006CNOG.pdf>; Internet; accessed 28 November 2005.

<sup>14</sup> "Navy's Diversity Strategy for the 21<sup>st</sup> Century"; available from <http://www.npc.navy.mil/commandsupport/diversity/>; Internet; accessed 12 October 2005.

<sup>15</sup> Clark.

<sup>16</sup> Love. In an email to the author dated 30 January 2006, Mr. Love stated, "we obtain demographic or representational data (e.g., race, ethnicity, and sex) from the Military Services and the Defense Manpower Data Center on a semi-annual basis to prepare and present "status of the force" briefings to the Under Secretary of Defense for Personnel and Readiness (and the Service Assistant Secretaries for Manpower and Reserve Affairs) on accessions, occupational distributions, promotions, grade/rank distributions, and other career progression areas for senior-level discussion. Additionally, the Defense Human Resources Board (DHRB) which includes Service Assistant Secretaries for Manpower and Reserve Affairs and Service Military Personnel Chiefs meets monthly to work issues directly impacting the representation of women and minorities in the military and civilian ranks and grades. These are the senior Departmental officials held accountable by the Secretary of Defense and the officials who hold other leaders accountable for progress in the EO/EEO arena."

<sup>17</sup> "Navy's Diversity Strategy for the 21<sup>st</sup> Century"; available from <http://www.npc.navy.mil/commandsupport/diversity/>; Internet; accessed 12 October 2005.

<sup>18</sup> Ibid.

<sup>19</sup> Barbara Grutter, *Petitioner v. Lee Bollinger et al*; available from <http://web.lexis-nexis.com/universe/printdoc>. Internet; accessed 12 October 2005.

<sup>20</sup> Michael C. Dorf, "Gore's Affirmative Action Versus Bush's Affirmative Access: Why Color-Blindness Still Won't Work," 1 November 2000; available from [http://writ.news.findlaw.com/scripts/prINTER\\_friendly.pl?page+=dorf/20001101.html](http://writ.news.findlaw.com/scripts/prINTER_friendly.pl?page+=dorf/20001101.html); Internet; accessed 23 September 2005.

<sup>21</sup> Dorf.

<sup>22</sup> Adam Clymer, "Service Academies Defend Use of Race in Their Admissions Policies," *The New York Times*, January 28, 2003, A17.

<sup>23</sup> Deborah Funk, "Affirmative Action Rulings May Not Affect Academies," *Navy Times*, 7 July 2003.

<sup>24</sup> Clementine Fujimura, "Integrating Diversity", in *Anthropology and the United States Military*, ed. Pamela R. Freese and Margaret C. Harrell (New York: Palgrave Macmillan), 142-143.

<sup>25</sup> Ibid.

<sup>26</sup> Sandra Jontz, "Navy's Partnerships with Colleges Put Emphasis on Diversity," 5 August 2004; available from [http://www.military.com/NewContent/0,13190,SS\\_080504\\_Diversity,00.html](http://www.military.com/NewContent/0,13190,SS_080504_Diversity,00.html); Internet; accessed 12 October 2005.

<sup>27</sup> Jontz.

<sup>28</sup> Margaret Mead Quotes. Available from [http://www.brainyquote.com/quotes/authors/m/margaret\\_mead.html](http://www.brainyquote.com/quotes/authors/m/margaret_mead.html); Internet; accessed 15 October 2005.

<sup>29</sup> Navy-wide Demographic Data for Third Quarter FY05, 10 August 2005. Available from <http://www.npc.navy.mil/CommandSupport/Diversity/EqualOpportunity/NavyDemographics.htm>; Internet; accessed 15 October 2005.

<sup>30</sup> Navy Diversity Directorate; available from <http://www.npc.navy.mil/CommandSupport/Diversity/>; Internet; accessed 15 October 2005.

<sup>31</sup> *Playbook 2006: Navy Strategic Communications Guide*, Navy Office of Information, 13.

<sup>32</sup> Chief of Naval Operations, Admiral Mike Mullen, "Human Capital," memorandum to Deputy Chief of Naval Operations (Manpower, Personnel, Training and Education), Washington, D.C. dated 25 July 2005.

<sup>33</sup> Admiral Mike Mullen, email to Navy Senior Executives and Flag Officers, dated 12 September, 2005.

<sup>34</sup> Admiral Mike Mullen, address to the National Naval Officers Association, 12 August 2005.

<sup>35</sup> Lieutenant Colonel Terry Albritton, Chief of the Equal Opportunity Branch of the U.S. Army, telephone interview by author, 15 November 2005.

<sup>36</sup> Major Anthony Sansano, Director of Personnel for Equal Opportunity in the Air Force, telephone interview by author, 15 November 2005.

<sup>37</sup> Available from <http://www.dod.mil/prhome/poprep2003/appendixb/>; Internet; accessed 11 January 2006.

<sup>38</sup> Drew Brown, "Army Losing Minority Recruits," *Miami Herald*, 21 December 2005.

<sup>39</sup> Brown. The author cites these reasons for the drop in African-American recruits: better economic and education opportunities, higher rate of incarceration among young black males, an erroneous belief that minorities suffer a disproportionate share of casualties, and blacks have been much less supportive of wars in Iraq and Afghanistan than other groups.

<sup>40</sup> Roulston.

<sup>41</sup> "Critical Mass", <http://insidehighered.com/news/2005/05/10/umbc>; Internet; accessed 23 January 2006.

<sup>42</sup> Bob Zelnick, *Backfire: A Reporter's Look at Affirmative Action*. Washington, D.C.; Regnery Publishing, 1996, 4.

<sup>43</sup> "Affirmative Action: A Course for the Future," *Looking Ahead*, August 1, 1996 (excerpt from a report commissioned by the National Planning Association), quoted in Carol M. Swain, *The New White Nationalism in America*, (Cambridge University Press, 2002), 136.

<sup>44</sup> Swain, 172.

<sup>45</sup> LCDR Thomas Leary, Judge Advocates General Corps, phone interview with author, 23 January 2006.

<sup>46</sup> Ralph R. Reiland, *Affirmative Action or Equal Opportunity?*; <http://www.cato.org/pubs/regulation/reg18n3-x.html>; Internet; accessed 23 January 2006.

<sup>47</sup> Dorf.

<sup>48</sup> "Navy's Diversity Strategy for the 21<sup>st</sup> Century"; available from <http://www.npc.navy.mil/commandsupport/diversity/>; Internet; accessed 12 October 2005.

<sup>49</sup> Marybeth Peterson Ulrich, "Infusing Normative Civil-Military Relations Principles in the Officer Corps", in *The Army Profession and Its Political-Cultural Expertise*, ed. Lloyd J. Matthews (McGraw Hill, 2005), pg 667.

<sup>50</sup> Mady Wechsler Segal and Chris Bourg, "Professional Leadership and Diversity in the Army", in *The Army Profession and Its Political-Cultural Expertise*, ed. Lloyd J. Matthews (McGraw Hill, 2005), 705.

<sup>51</sup> Carol Kleiman, "Diversity Spreading but Continues to Lack Altitude", *Chicago Tribune*, 22 December 2005.

<sup>52</sup> DiversityInc, July/August 2005, 22.

<sup>53</sup> Swain, 158.

<sup>54</sup> DiversityInc, July/August 2005. Advertisements for Eastman Kodak "The more diverse the points of view, the broader the vision" and for TimeWarner "It takes a colorful palette to create brilliant results."

<sup>55</sup> *Grutter vs. Bollinger*, <http://www.supremecourtus.gov/opinions/02pdf/02-241.pdf>; Internet; accessed 16 December 2005.

<sup>56</sup> Admiral Mike Mullen, address to the National Naval Officers Association, 12 August 2005.

<sup>57</sup> Commander John Hefti, email message to author, 14 December 2005.

<sup>58</sup> Martin Van Creveld. *The Transformation of War*. New York. The Free Press, 1991. Chapter 5, "What War is Fought For," 152.

<sup>59</sup> Steven M. Jones, "Improving Accountability for Effective Command Climate: A Strategic Imperative", U. S. Army War College Research Paper, September 2003, 20.

<sup>60</sup> Diversity at Microsoft, available from <http://www.microsoft.com/citizenship/diversity/>; Internet, accessed 2 January 2006.

<sup>61</sup> Ibid.

<sup>62</sup> Peter Kirsanow, "Still Unconstitutional: Supreme discrimination"; <http://www.nationalreview.com/comment/kirsanow200309300914.asp>; Internet; accessed 23 January 2006. Kirsanow writes "By Michigan's hierarchy all agreed that critical mass was the point at which there were enough minorities that they'd be comfortable participating in class without feeling as if they were spokesmen for their respective races."

<sup>63</sup> Admiral Mike Mullen, *All Hands Call*, 27 Sept. 2005, NAS Oceana, Virginia Beach Va. from <http://www.navy.mil/navydata/leadership/quotes.asp?q=11> ; Internet; accessed 28 November 2005.

<sup>64</sup> Segal and Bourg, 705.