

# Storming the Ivory Tower: The Military's Return to American Campuses

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“The process of obtaining high human capital for fighting units, like readiness for battle itself, cannot be instituted at the last minute.”

— General Max Thurman, October 1981<sup>1</sup>

A recent Supreme Court decision, *Rumsfeld v. Forum for Academic and Institutional Rights, Inc.* (FAIR), has once again opened university campuses to military recruiters. No longer can the nation's most selective schools accept federal Education or Health and Human Services Department dollars while restricting military recruitment on their grounds. As we go forward, it is important to understand the evolution of these universities' antipathies toward the military and to craft a reasoned recruiting response targeting students from schools that have previously shut their doors to the military.

After more than 50 years of cooperation between the US military and universities, antiwar protests culminated in the Reserve Officers' Training Corps' (ROTC) exile from many campuses in the late 1960s and early 1970s. Two decades later, not content with the mere absence of ROTC, some prominent institutions, such as Harvard and Yale, went so far as to erect barriers to military recruiting on campus, claiming that US Defense Department regulations were incompatible with the schools' own non-discrimination policies. In the mid-1990s, Congress attempted to bring the military back to these campuses through federal legislation, but several of the schools and their faculties petitioned the courts to overturn these laws.

The *Rumsfeld v. FAIR*<sup>2</sup> decision is a signal victory in the ongoing effort to return the military to the country's most selective universities. Granted, during the past four decades, many schools never severed their ties with the military. Recruiters have continued to play valuable roles in job fairs and career counseling, successfully ushering thousands of students into uniform. For example, today 272 campuses host Army ROTC programs; Army ROTC generates more officers than the US Military Academy, Officer Candidate School, and direct commissions combined. One might be tempted to say that the military has gotten along quite well despite the hurdles to recruiting and lack of ROTC programs on most Ivy League campuses; why try to fix what's not broken? This article does not intend to denigrate the quality of existing campus outreach efforts but rather to address the reintroduction of the military to schools that have been hostile to the military since the Vietnam War. There is a largely untapped pool of talented young men and women at universities such as Harvard, Yale, Stanford, and Columbia. Our armed services would be remiss if they did not take appropriate steps to bring the military to these individuals with an eye toward bringing these individuals into the military.

This article provides a brief exposition of *Rumsfeld v. FAIR* then examines the origins of one school's antipathy toward the military as a representative case amongst the country's premier academic institutions. The article finally turns to a discussion of strategies by which to reinstate the military on these campuses in the wake of *Rumsfeld v. FAIR*.

### ***Rumsfeld v. FAIR and the Solomon Amendment***

On 6 March 2006, the US Supreme Court ruled in *Rumsfeld v. FAIR* that universities accepting certain federal funds must allow military recruiters the same access that other prospective employers enjoy on campus. Prior to this decision, many of the country's top academic institutions had restricted military recruiting, claiming that the military's so-called "don't ask, don't tell" approach toward homosexuals violated the universities' own non-discrimination policies. In 1994, Congress responded in its annual defense appropriation bill by adopting what is now commonly known as the Solomon Amendment. The Amendment tied millions of dollars in federal funding to universities' willingness to allow military recruiters on campus.<sup>3</sup>

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For years, the Solomon Amendment languished in the law books. After 11 September 2001, however, the federal government expanded the scope of the Solomon Amendment and stepped up its enforcement, triggering a backlash in the halls of academia. Moreover, in 2002 Defense Department officials interpreted the Solomon Amendment to require the cancellation of federal funding to an entire university if even one of its sub-divisions restricted military recruiting. For example, the Yale School of Medicine, which relies heavily upon federal dollars, would have been crippled by Yale Law School's hostile position toward recruiters. In addition, instead of merely requiring universities to allow recruiters on campus, Congress instructed universities to accommodate recruiters "in a manner that is at least equal in quality and scope to the access to campuses and to students that is provided to any other employer."<sup>4</sup> At the time, career counselors at the country's most selective schools worked hand-in-hand with prospective private-sector employers but pointedly prohibited military recruiters from participating in the schools' formal interview systems.

Considering the Solomon Amendment a violation of their own First Amendment freedoms of speech and association, an anonymous consortium of 31 law schools and professors banded together to form the Forum for Academic and Institutional Rights, Inc. and challenged the Solomon Amendment's constitutionality. Several universities announced that they were temporarily suspending their non-discrimination policies until there was a legal resolution to the constitutionality dispute. In the meantime, these schools, under protest, permitted military recruiters to participate in their interview programs and job fairs.

The controversy came to a head in the case of *Rumsfeld v. FAIR*. In 2003, FAIR filed suit against the federal government, seeking to prevent enforcement of the Solomon Amendment. After contradictory decisions in lower courts, the US Supreme Court agreed to hear the arguments of FAIR and the Department of Defense. Reasoning that Congress could legitimately require universities to provide military recruiters with equal access, even without tying the issue to the receipt of federal funds, the Supreme Court ruled unanimously, 8-0, against FAIR.<sup>5</sup> Campus gates once again swung open to the military.

### ***A Case Study: Yale University***

One of the great ironies of the Solomon Amendment battle is that among the most bitter foes of the armed services' presence on campus were those institutions with the longest traditions of military service. Yale University is such a school.

At Yale today, there are about 5,200 undergraduates and 6,000 graduate students. The college remains one of the most selective undergraduate programs in the nation, offering admission to only 8.6 percent of the more than 21,000 applicants for the Class of 2010. A walk across the campus in New Haven, Con-

necticut reveals monumental war memorials of granite and white marble, celebrating the ultimate sacrifice of past graduates. Neat rows of carved names attest to passersby of the school's past commitment to military service: 227 graduates killed in World War I; 514 in World War II. Indeed, one of the iconic images of Yale is a statue of Army Captain Nathan Hale, Class of 1773, facing execution during the Revolutionary War and regretting that he had but one life to give for his country.

### ***University as Military Camp***

Yale's tradition of military service remained strong through the first half of the 20th century. Even before the United States entered World War I, Yale had established a military training program for its students. In 1915, when the university called for the formation of a field artillery unit as part of the Connecticut National Guard, more than 1,000 Yale students and graduates volunteered. Turning half of the prospective artillerymen away, the school sponsored four National Guard batteries.<sup>6</sup> A year later, a generous alumnus funded the building of the Yale Armory, which first functioned as a US Cavalry training center. Congress created ROTC in the National Defense Act of 1916, and Yale President Arthur Hadley folded the university's program into the larger national effort. Yale faculty members voted 38-0 to award academic credit for ROTC training.<sup>7</sup>

On 27 March 1917, ten days before the United States officially entered World War I, the Yale administration's senior officers announced that for any junior who enlisted in the military "due credit towards a degree will be given him for satisfactory work in the Army or Navy."<sup>8</sup> In total, more than 9,000 Yale students and graduates served in the military during the war. And, as already noted, 227 Yale students lost their lives in the conflict. The administration acknowledged the sacrifice of these men and celebrated the role of the university in supplying such individuals to the war effort.<sup>9</sup>

After World War I, ROTC maintained its position on Yale's campus and spread rapidly across the country. There were 135 campuses that featured ROTC units in 1919; the program counted 220 colleges and universities by 1940.<sup>10</sup> In the National Defense Act of 1920, Congress provided more uniforms, equipment, and instructors for ROTC, and cadets began to receive a subsistence allowance for haircuts and uniform maintenance, as well as a stipend during the six-week summer program between junior and senior years. During the inter-war period, ROTC involved four years of military science instruction, including a basic course of three hours per week during a student's first two years and an advanced course of five hours per week during his final two undergraduate years. Each school could determine the number of credit hours awarded for the military science courses. Some Yale professors, however, harbored reservations about the intellectual value of the courses that com-

prised the ROTC curriculum; furthermore, professors took issue with the quality of the instructors that the military assigned to the school.

The clouds of international conflict stifled faculty objections to ROTC's content and instructors. As Nazi Germany swept through Poland and France, Yale President Charles Seymour prepared the school for war, believing that "the justification of a university is to be found in the service which it gives to the nation."<sup>11</sup> After the Japanese bombed Pearl Harbor in 1941, hundreds of Yale students rushed to military recruiting stations and Seymour announced that the university would operate year round, granting undergraduate degrees in three years in an effort to provide graduates to the military as quickly as possible.<sup>12</sup> Enrollment soared and, as Yale professor Paul Kennedy has observed, Yale became a crowded "military camp" for the second time in its history.<sup>13</sup> By the conflict's completion, 18,678 Yale alumni had served in the military and 514 of these men had died in uniform.

With the conclusion of World War II, the armed services attempted to keep ROTC viable while the country's campuses demilitarized. A total of 129 schools claimed Army ROTC units in September 1945.<sup>14</sup> As the Cold War set in, professors and administrators at the country's most prestigious universities still trumpeted the importance of retaining a military presence on their campuses.<sup>15</sup> The Korean War brought with it a powerful incentive to join Yale and other schools' ROTC programs; by the terms of the Universal Military Training and Service Act of 1951, a student who enrolled in ROTC gained a deferment from the draft.<sup>16</sup>

When the Korean War ended, student interest in ROTC began to flag. Furthermore, university faculty members again began to express doubts about the inclusion of ROTC in a liberal education. In 1960 the Army attempted to silence academic critics of ROTC by unveiling the Modified General Military Science Program, which permitted students to use college courses in fields such as psychology, political science, and communications to fulfill certain ROTC curriculum requirements. Then, to boost officer production, Congress passed the ROTC Vitalization Act of 1964, which featured 5,500 scholarships, a raise in the monthly subsistence allowance from approximately \$27 to \$50, and an abbreviated, two-year curriculum option.<sup>17</sup> The expansion of the draft in 1964 added further incentive for students to enter the military on their own terms by earning commissions through ROTC; other students participated in ROTC with an eye toward avoiding military service entirely.<sup>18</sup>

### ***The Banishment of ROTC***

As the Vietnam War progressed, campus sentiment at many schools began to turn against the military. The Viet Cong's Tet Offensive in January 1968 touched off a succession of student and faculty rallies against United States in-

volvement in Vietnam. Antiwar sentiment at universities crystallized around opposition to the most visible sign of the military on campus: ROTC. Protests, violence, and vandalism erupted across the Ivy League. On 9 April 1969, Harvard students occupied their school's chief administration building, University Hall, in protest of the Vietnam War. Antiwar faculty members at Yale set their sights on the school's ROTC program, resurrecting the old arguments that "[s]ince 1917 ROTC . . . had been an academic anomaly, providing credit toward the Yale degree with courses of slight intellectual weight taught by officers with courtesy faculty rank but slight teaching experience."<sup>19</sup> These professors contended that ROTC instruction was a vocational intrusion, rather than a legitimate part of a liberal education, and thus was not fit for Yale's campus.

Two weeks after the student occupation of Harvard's University Hall, the Yale faculty asked Yale President Kingman Brewster to call an open meeting of the school community to discuss the military's presence on campus. Brewster obligingly held such a meeting at the Yale's Ingalls Hockey Rink on 1 May 1969. Nearly 4,000 people attended the meeting, including the majority of the university's trustees. The question of whether the university should sever all connections with ROTC resulted in a tie: 1286 to 1286.<sup>20</sup> The next day the faculty voted to end credit for ROTC courses and faculty status for officers and, as Yale had provided office and training space to ROTC without charge, to shift the full cost of the program to the government. On 3 May, the university's trustees endorsed the faculty's decision.<sup>21</sup> After a few months of desultory discussions between the university and the Army and Air Force, ROTC abandoned Yale's campus. Across the country, ROTC units weakened and vanished.<sup>22</sup> Harvard's Army ROTC unit left campus the following year, and that school's Air Force and Navy ROTC units commissioned their last officers in 1971.<sup>23</sup>

As the Vietnam War drew to a close, many universities simply refused to renew ROTC contracts with the Department of Defense; the DOD removed other units. ROTC was reeling: "ROTC enrollment plummeted by 75 percent (from 165,430 to 41,294) between school years 1967-68 and 1972-73."<sup>24</sup> In response, Congress struggled to make ROTC more attractive with financial incentives.<sup>25</sup> It took the military nearly a decade to retrench, however, and only did so by offering additional training options and more scholarships to prospective cadets.<sup>26</sup> Between 1978 and 1983, the number of Army ROTC units increased by 40 percent (from 297 to 416).<sup>27</sup>

Yet ROTC continued its exile from the country's most selective schools. Any Yale, Columbia, or Harvard students who wanted to participate in ROTC had to go off campus and affiliate with other schools' programs. Yale students had to travel to other Connecticut schools; Columbia students had to commute to Fordham University; and Harvard students had to go to the Massachusetts Institute of Technology. In leaving campus for ROTC instruc-

tion several days each week, students forfeited the ability to take many courses at their primary institutions. The handful of Yale students who did participate in ROTC could earn scholarship money but not college credits through the program.

In the 1990s, another wave of anti-military sentiment swept college campuses, this time coalescing around the military's policy toward homosexuals.<sup>28</sup> The Clinton Administration's "don't ask, don't tell" compromise in 1993 permitted gays and lesbians to serve in the military as long as they did not openly discuss their sexual orientations. The "don't ask, don't tell" policy did little to blunt the anti-military sentiment at the country's most selective universities, however. Campus protests continued and the schools themselves, citing their own non-discrimination policies, restricted recruiters' access to students. In response to these restrictions, Congress passed the Solomon Amendment in 1994, but, as noted previously, the legislation lacked teeth.

### *The Doors Open*

It took the tragedy of the terrorist attacks on 11 September 2001 to galvanize the federal government into making good on the threats implicit in the Solomon Amendment. Furthermore, campus opinion shifted dramatically in the immediate aftermath of the attacks on American soil, as professors and students alike reevaluated their schools' attitude toward national service. Yale's daily newspaper called for the outright reinstatement of ROTC at Yale.<sup>29</sup> A new Harvard president, Lawrence Summers, earned national attention for praising students' military service.<sup>30</sup> Alumni from the country's most selective schools formed the group "Advocates for ROTC" to press for the program's reinstatement at their alma maters.<sup>31</sup>

In 2002, the Department of Defense stepped up its enforcement of the Solomon Amendment, notifying premier academic institutions that the federal government would withhold funds if the universities persisted in restricting military recruiting. At the time, Yale received about \$350 million in federal funds annually. In the face of the Solomon Amendment's impending enforcement, universities like Harvard and Yale tentatively opened their doors to the military, fearful of losing significant sources of funding. For example, Yale Law School finally allowed the military access to its Career Development Office. Military recruiters could participate in career fairs and on-campus interviews, though they faced protests from campus gay and lesbian groups still upset with the "don't ask, don't tell" policy.

Disgruntled faculty members also fought back.<sup>32</sup> Citing, among other things, Harvard President Summers' favorable comments about ROTC, Harvard's faculty members passed a "no confidence" vote on Summers' presidency;

he resigned soon after. Likewise, in a Columbia University Senate vote, President Lee Bollinger voted with the majority to oppose the restoration of ROTC on campus. In contrast, Yale President Richard Levin straddled the issue: “I believe that would be a concern of many individuals in our community if ROTC were to be restored, but there may be numbers of our students who would very much like to participate in ROTC. . . . It’s a difficult question of values.”<sup>33</sup> *Rumsfeld v. Forum for Academic and Institutional Rights* filed suit against the Department of Defense in 2003, and 44 Yale Law professors filed an *amicus curiae* (friend of the court) brief in support of FAIR’s position. In addition, law professor Robert Burt led a group of 45 Yale Law faculty members in separate litigation against the military in federal district court in Connecticut.

As their professors mobilized against the Solomon Amendment, students across the Ivy League demonstrated mixed reactions to the idea of ROTC’s return. For example, in a 2003 referendum, Columbia University undergraduates voted 973–530 in favor of ROTC’s return. Vocal gay and lesbian rights protestors, however, challenged the military recruiters at every turn. With their professors’ increased focus on the Solomon Amendment, some student groups took a step back from advocating the return of ROTC.<sup>34</sup>

### ***The Situation Today***

Of the more than 11,000 students who now attend Yale, only five—two Army cadets and three Air Force cadets—participated in ROTC programs last year.<sup>35</sup> Yale’s Air Force cadets commute about 70 miles to the University of Connecticut in Storrs every Thursday, whereas Yale’s Army cadets commute about 23 miles to Sacred Heart University in Fairfield, Connecticut three times each week. Despite faculty members’ protests against university support for ROTC, Yale supplies transportation to help cadets attend their weekly classes at other Connecticut campuses. Those students who do seek out ROTC continue to pay significant academic consequences. Like their counterparts at Harvard and Columbia, Yale students still receive no academic credit for ROTC courses. Scheduling conflicts incurred by the need to commute to distant campuses exact their own costs, preventing students from participating fully in certain classes, sports, and other extracurricular activities.<sup>36</sup>

Despite the protests and law suits, the military’s presence at Yale has slowly been growing. These days, military recruiting posters are splashed across campus bulletin boards, and recruiters preside over stations at career fairs. Undergraduates founded the Yale Student Military Organization in 2002, and in January 2005, the Yale College Republicans initiated a “Bring Back ROTC” drive.<sup>37</sup> Later in 2005, a Yale junior founded the Semper Fi Society, whose members—among other things—man a table in the middle of

campus and encourage other students to enroll in the Marine Corps' summer Platoon Leaders Class.<sup>38</sup> In light of these and similar efforts, last year the *New York Times* observed that the campus climate at highly selective universities has become increasingly favorable toward the military.<sup>39</sup>

Prior to the US Supreme Court's *Rumsfeld v. FAIR* decision, a district court injunction was issued against the Solomon Amendment's application to Yale Law School. Despite the higher court's contradictory ruling, the law school is still invoking the injunction, which is currently under review by the US Court of Appeals for the Second Circuit. While the appeal is pending, the school continues to deny military recruiters full access to its formal interview program. Recruiters are; however, welcome to meet with students on school grounds.<sup>40</sup>

### ***Going Forward***

The combination of campuses' changing attitudes to the military and Supreme Court-mandated access for recruiters presents a historic opportunity for the armed services. The military is now poised to avail itself of a group of talented young men and women from which it has largely been cut off for the past three decades. There are three approaches that the military could use to take full advantage of the current state of the American educational establishment.

First, the military could concentrate upon cultivating the study of specific disciplines that dovetail with national security concerns. As the US defense community's interest in certain areas of the world intensifies, the country can look to institutions of higher learning to provide potential service members with expertise in relevant fields. In fact, the military can even stimulate the supply of these specialists. It is not unusual for the military to recognize and reward the study of particular academic disciplines as a means of bringing experts in these areas into uniform. The military already has several programs that target individuals with useful academic skill sets. In order to attract soldiers with medical backgrounds, the Army provides the Health Professions Scholarship Program. Likewise, by offering direct commissions to attorneys, the Army swells the numbers of its law officers. The list of useful academic disciplines is not just limited to medicine and the law.

Geopolitical realities suggest other areas of expertise that would be useful to today's military. Given our current and possible future activities in the Middle East, for example, relevant regional language and culture experts would be a welcome addition to the force. The existence of more service members who speak Arabic would both foster more goodwill to Coalition Forces in Iraq as well as give troops a tactical advantage on the ground. The Army already supplies cultural awareness classes to soldiers before they deploy; while basic Arabic commands and greetings often prove useful in Iraq, there is still a heavy reliance upon interpreters for more complex communications with local

nationals. The Army has taken steps to increase soldiers' fluency and now offers free Rosetta Stone lessons in Arabic and other languages. Furthermore, the military has a history of providing financial incentives for soldiers who maintain proficiency in critical languages.<sup>41</sup> The current military's high operations tempo, however, makes its service members' learning environments less than ideal. It would be far more effective to produce language and regional experts in university classrooms, without recourse to the Defense Language Institute or other military programs.

By fostering the study of key languages and cultures at American universities, the military can improve the quality of its recruits. In many cases, potential service members would be able to avail themselves of preexisting language resources at their respective universities. Depending on the need, the military could even go so far as to increase the universities' capacity for instruction by sponsoring relevant professorships at certain schools. Given the Army's sponsorship of NASCAR drivers, the funding of university chairs in Middle Eastern Studies is not too farfetched. The federal government promoted domestic science education during the Cold War in response to perceived Soviet advances. Likewise, the military can strive to increase the number of college students who are proficient in much-needed skills and, through well-targeted recruiting, facilitate these students' transition into uniform.

Second, as the military is helping to mold the student body's programs of study, the defense community can focus on increasing the points of intersection between itself and students. Many young people at schools such as Harvard and Yale have had little if any exposure to the possibility of military service. Without knowing individuals in their peer group who have enlisted or are contemplating enlisting, these students face significant barriers to understanding the military lifestyle. Recruiters can continue to identify and work with student groups, such as the Yale Student Military Organization and the Semper Fi Society, whose members might be especially inclined to represent the military's interests on campus and, eventually, enlist. Moreover, the armed services can position representatives at every career fair and in every round of on-campus interviews. The military should not leave the possibility of enlisting to students' imaginations.

Given the relative scarcity of recent veterans from universities such as Yale and Harvard, it is necessary to provide role models to whom students can relate. The military could continue to work with like-minded student organizations to bring charismatic service members to speak on campus. Granted, students at the country's most selective universities often have lucrative job prospects in the private sector, and the privations of military life initially may be daunting. In order to demonstrate that military service and financial well-being are not mutually exclusive, recruiters could introduce students to veterans who,

after honorably fulfilling their military commitments, have succeeded in business, medicine, law, or politics. Alumni groups, such as “Advocates for ROTC,” are already poised to provide such representatives.

Third, the military should reassess the availability and existence of ROTC programs at the schools in question. An on-campus ROTC program is an important symbol of legitimacy for the military, as well as a portal to its ranks. In reestablishing ROTC programs at highly selective schools, the military should take a long-term view: the possibility of low initial participation rates would be offset by the quality of the cadets and the creation of a foothold on these campuses.<sup>42</sup> Furthermore, as has been the case at Harvard, interested alumni may be more than willing to fund ROTC programs out of their own pockets. Today, as in years past, keeping the military a competitive career choice requires flexibility.<sup>43</sup>

In waging a campaign to restore the awarding of academic credit for ROTC classes, the military should be prepared to face the same attacks that proved fatal to the program in the late 1960s. Even today, Yale and Harvard professors with reputations for the most advanced scholarship could claim that standard ROTC courses, taught by military officers, do not deserve the same credit as courses taught by the school’s more traditional instructors. To answer this criticism, the military could certify existing faculty members to teach certain ROTC courses; less preferably, and with a nod to the Military Science Core Curriculum of 1970, the military could recognize more existing classes as applicable toward ROTC.<sup>44</sup> In pursuing the first option, the armed services could reach out to educators who might be willing to add sufficient scholarship components to standard ROTC courses so as to qualify them for credit at otherwise exacting academic institutions.<sup>45</sup>

In any case, the vocational-content arguments that carried the day in 1969 bear less weight now. The academic landscape has undergone a sea change. Increasingly, undergraduates can take courses for credit at professional schools within the university. For example, students can now participate in Yale’s Teacher’s Certification program for academic credit. Furthermore, a student can earn undergraduate credit for completing up to four courses in Yale University’s M.B.A. program. It would be difficult to argue that troop-leading procedures are less intellectually challenging than double-entry bookkeeping. The idea that ROTC classes are too vocational has become attenuated as the liberal arts education has itself become liberalized. Indeed, as Yale President Arthur Twining Hadley had anticipated in the early 1900s, “the content of a liberal education [is] now so uncertain that the [inclusion of military instruction] would make no difference.”<sup>46</sup>

The question of awarding academic credit will still largely fall within the province of university faculty members, some of whom are secure in their tenure and continue to exhibit great antipathy toward the military.<sup>47</sup> Although the

accreditation of ROTC courses would go a long way toward dispelling the current disadvantages of participation in the program, ROTC could, in the alternative, exist on selective university campuses as an extracurricular organization. Cadets, like those few at Yale today, already commit much of their time to traveling off campus to participate in ROTC. Academic credit or no, an on-campus program's proximity to students would constitute a significant attraction. In the short-term, the military could treat extracurricular ROTC as a halfway house for the eventual reestablishment of full accreditation. Princeton University, whose faculty also voted to end the awarding of academic credit for ROTC in 1969, still boasts an on-campus, albeit extracurricular, ROTC program.

Without ROTC on campus, students who are considering becoming military officers may look to attending Officer Candidate School after graduation. With private universities often costing more than \$30,000 a year, however, college graduates can easily leave school with six-figure debt. While enlisting offers the possibility of student loan repayment, Officer Candidates do not qualify for this benefit, discouraging some otherwise qualified individuals from pursuing military careers in general and the officer track in specific. In the absence of ROTC programs on campus, increased eligibility for student loan repayment would attract prospective officers from the country's most selective schools.

### ***Conclusion***

In recent years, the military has been able to expand its presence at the country's most selective universities. Moreover, student attitudes toward the military have vastly improved since the Vietnam era. The Supreme Court's *Rumsfeld v. FAIR* decision has removed remaining restrictions on recruiting and has opened the door to the possibility of reinstating ROTC on American campuses. In consideration of these changed circumstances, the military should press to take full advantage of the high human capital available at these institutions.

### **NOTES**

1. USAREC Manual No. 3-0, April 2005, 1-1.

2. 547 U.S. \_\_\_, 126 S. Ct. 1297 (2006).

3. The federal funding sources now covered by the Solomon Amendment are as follows: Departments of Defense, Homeland Security, Transportation, Labor, Health and Human Services, and Education, and the Central Intelligence Agency and the National Nuclear Security Administration of the Department of Energy. 10 U. S. C. A. §983(d)(1) (Supp. 2005). The Amendment was named for its original sponsor, Representative Gerald Solomon.

4. 10 U. S. C. A. 983(b) (Supp. 2005).

5. Justice Samuel A. Alito, Jr. did not participate in the deliberations because he was not a Supreme Court Justice at the time of the parties' oral arguments.

6. Brooks Mather Kelley, *Yale: A History* (New Haven, Conn.: Yale Univ. Press, 1974), p. 348; George Henry Nettleton, *Yale in the World War: Part One* (New Haven, Conn.: Yale Univ. Press, 1925), p. 365.

7. Kelley, p. 350. A total of 24 abstentions, however, suggested the outline of the opposition that would develop in later years.

8. Nettleton, "Memorandum on the Attitude of the University in the Present Crisis," 27 March 1917, p. 368.
9. Gaddis Smith, "Yale and the Vietnam War," draft paper, University Seminar on the History of Columbia University, 19 October 1999, <http://beatl.barnard.columbia.edu/cuhistory/yale.htm>. Yale President Arthur Twining Hadley commented in 1919 that "the men of Yale who had died in the Great War were the fortunate ones, for they had fulfilled the ultimate purpose of the University in service to the nation."
10. Arthur T. Coumbe and Lee S. Harford, *U.S. Army Cadet Command: The 10 Year History* (Fort Monroe, Va.: Government Printing Office, 1996), p. 14.
11. Kelley, p. 396.
12. *Ibid.*, p. 397.
13. Jeremy Kutner, "Panel Urges Ties Between Yale, Military," *Yale Daily News*, 10 April 2003, <http://www.yaledailynews.com/Article.aspx?ArticleID=22506>.
14. Coumbe and Harford, p. 20.
15. Michael Neiberg, *Making Citizen-Soldiers: ROTC and the Ideology of American Military Service* (Cambridge, Mass.: Harvard Univ. Press, 2005), p. 36. Former Harvard President Nathan Pusey recalled that in the 1950s, ROTC units "were sought often by many institutions, and where awarded, were welcomed by administrators and students alike." *Ibid.*, p. 44. And as late as 1960, Harvard College Dean John Monro wrote that "[t]he powerful reason why the ROTC should stay in the colleges is that our national defense requires it. . . . [N]o responsible college administrator of my acquaintance argues that we should deprive the armed services of their most-favored recruiting position on our campuses."
16. Likewise, university officials petitioned for more ROTC units, fearful that non-participating students would be conscripted and student bodies would dwindle.
17. Coumbe and Harford, p. 26. Under the new curriculum option, students who had not participated in ROTC during their first two years of college could catch up to their peers by attending a six-week basic camp during the summer before their junior year.
18. Neiberg, p. 118. In a February 1969 report to alumni, Yale President Kingman Brewster remarked that these student draft exemptions had resulted in "sourness" toward both the military and universities.
19. Gaddis Smith, "Time and Change – Yale 1952 – The 50th Reunion," quoted in Joseph Callo, "ROTC and Yale: Which is the Four-Letter Word?" *The Yale Free Press*, December 2005, <http://www.yalerotc.org/YFPCallo.html>.
20. Jennifer Wang, "Student Activism Resurfaces at Yale," *Yale Daily News*, 26 April 2000, <http://www.yaledailynews.com/article.asp?AID=12259>.
21. Coumbe and Harford, p. 34. A month after Yale's trustees ended the awarding of academic credit for ROTC, Secretary of Defense Melvin R. Laird appointed George C. S. Benson, former president of the Claremont Colleges, to chair a committee whose purpose was to review ROTC and suggest ways in which to redesign the program. Even before the publication of the Benson Committee report, the Army introduced the Military Science Core Curriculum, also known as Option C. Option C integrated military instruction into regular academic departments and relegated the more vocational areas of training—those arguably unworthy of academic credit—to summer sessions. This compromise came too late, however, to satisfy ROTC's critics at Yale.
22. Neiberg, p. 116. ROTC enrollments fell from 218,466 in October 1968 to 161,507 a year later.
23. "Yesterday's News," *Harvard Magazine*, July-August 2006. By 1973 the *Harvard Crimson* had analyzed the military's presence throughout the Ivy League and concluded that "the ROTC program is . . . dead and buried at Harvard, Yale, Brown, Columbia and Dartmouth." The newspaper also commented that "ROTC is so far gone at Yale that even the administrators no longer remember clearly when it began, when it ended or who was in charge of it." "A Survey of ROTC's Status in the Ivies," *Harvard Crimson*, 28 September 1973, <http://www.thecrimson.com/article.aspx?ref=118807>. The Harvard faculty even forbid students from participating in ROTC, a ban which the school only lifted in 1976.
24. Coumbe and Harford, p. 36.
25. In 1971, Congress raised cadet subsistence allowance from \$50 to \$100 per month in and increased scholarship authorizations from 5,500 to 6,500.
26. Training options included Air Assault and Northern Warfare Courses (1979), Flight Orientation/Training (1982), and the Russian Language Course (1983). In 1980 Congress increased the number of available ROTC scholarships to 12,000.
27. Coumbe and Harford, p. 41.
28. "Military's Ban on Gays Protested Nationwide," *The Chronicle of Higher Education*, 17 April 1991, <http://chronicle.com/che-data/articles.dir/articles-37.dir/issue-31.dir/31a00202.htm>. In 1991, more than 100 schools nationwide held protests against the military's ban on homosexual service members.
29. "University Should Reinstate ROTC," *Yale Daily News*, 3 December 2001, <http://www.yaledailynews.com/Article.aspx?ArticleID=17416>. Its editorial concluded: "a new generation of Yalies should tirelessly push the University to reinstitute the program and provide the opportunity for men and women to serve their country and obtain a world-class education in the process."

30. William M. Rasmussen, "Summers Expresses Pride in ROTC," *Harvard Crimson*, 9 October 2001, <http://www.thecrimson.com/article.aspx?ref=121544>. In October 2001, Summers commented: "We need to be careful about adopting any policy on campus of non-support for those involved in defending the country. . . . Every Harvard student should be proud that we have in our midst students who make the commitment to ROTC."

31. Yale and Harvard each have established chapters of the organization. Harvard alumni activists gathered hundreds of signatures, including that of former Defense Secretary Caspar Weinberger, in an attempt to bring ROTC back to campus. Yale alumni followed suit, gaining the support of such alumni as New York Governor George Pataki. At its 65th reunion, Yale's Class of 1937 even called for the restoration of ROTC to the campus.

32. "A Nation at War: Campuses; With Current War, Professors Protest, As Students Debate," *New York Times*, 5 April 2003, <http://select.nytimes.com/gst/abstract.html?res=F60A13FF3E5C0C768CDDAD0894DB-404482>. As *New York Times* correspondent Kate Zernike noticed, the military's involvement in Afghanistan and Iraq was "disclosing role reversals, between professors shaped by Vietnam protests and a more conservative student body traumatized by the attacks of September 11, 2001."

33. Jessica Marsden, "Return of ROTC Is Debated," *Yale Daily News*, 21 January 2005, <http://www.yaledailynews.com/Article.aspx?ArticleID=27897>. Other Yale faculty members, such as law professor Peter Schuck, publicly asked themselves: "Should universities like Yale, where I teach, place extra obstacles to military recruitment on campus? In shielding students from military recruiters, universities disserve both their students and the military whose policies they hope to liberalize." "Fighting on the Wrong Front," *New York Times*, 9 December 2005, <http://www.nytimes.com/2005/12/09/opinion/09schuck.html?ex=1291784400&en=7e4bed1c235280c9&ei=5090&partner=rssuserland&emc=rss>.

34. "Bring In ROTC as Soon as 'Don't Ask' Is Out," *Yale Daily News*, 28 January 2005, <http://www.yaledailynews.com/Article.aspx?ArticleID=28076>. The *Yale Daily News*, which only three years prior had come out as a staunch supporter of the reinstatement of ROTC on campus, now editorialized that ROTC should return when the military abandoned its "don't ask, don't tell" policy.

35. Interview with Yale ROTC Advisor, Commander Jerry Hall, US Navy Retired, 25 July 2006. Undergraduate participation has remained relatively constant for the past three years: 2004-2005, two Army cadets, three Air Force cadets; 2003-2004, three Army cadets, three Air Force cadets. By contrast, Princeton's on-campus Army ROTC program generated eight commissions in 2006 alone.

36. Caroline Massad, "In Small ROTC Corps, Focus and Discipline," *Yale Daily News*, 3 March 2003, <http://www.yaledailynews.com/Article.aspx?ArticleID=22082>. ROTC conflicts with Tuesday-Thursday and Monday-Wednesday-Friday lecture schedules, the two most common at Yale.

37. Maureen Miller, "The Next Battle: ROTC at Yale," *The Yale Herald*, 21 January 2005, <http://www.yaleherald.com/article.php?Article=3919>.

38. Jessica Becker, "Marines Bring Message to Campus," *Yale Daily News*, 23 February 2006, <http://www.yaledailynews.com/Article.aspx?ArticleID=31986>. The student aspect of the Semper Fi Society's founding quieted administration misgivings about hosting the military on campus. "The table in the Cross Campus is not set up by the military – it's set up by an organization," Yale Dean of Student Affairs Betty Trachtenberg said. "Every organization has the right to set up their wares, so to speak, on Cross Campus."

39. Nicholas Confessore, "Offering ROTC a Truce: Uniforms Losing Stigma on Elite Campuses," *New York Times*, 1 May 2005.

40. Harold Koh, "A Message From Dean Harold Hongju Koh: Fair Forum at Yale Law School," 3 October 2006, <http://www.law.yale.edu/news/3568.htm>.

41. A soldier can now earn up to \$1,000 per month for maintaining proficiency in such languages as Arabic, Chinese, Farsi, Korean, and Pashtu.

42. Marsden, <http://www.yaledailynews.com/article.asp?AID=27897>. As Lieutenant Colonel Brian Baker, the commander of the Army ROTC battalion at the Massachusetts Institute of Technology, commented, "There is a renewed focus on bringing in a higher-caliber officer. . . . So it's conceivable that if you go to the schools with the best and brightest in the country, you might do that."

43. Coumbe and Harford, p. 13. Even in 1915, the General Staff acknowledged that imposing a "uniform program of military instruction on the nation's highly diversified system of higher education. . . . would be difficult in the extreme."

44. Summer and weekend training could provide the necessary military indoctrination outside of the classroom.

45. To this end, the military could begin by making overtures to professors, such as Yale law professor Peter Schuck and history professor Donald Kagan, who have already gone on the record about the positive benefits of the reintroduction of ROTC to campus.

46. Kelley, p. 348. "President's Report, 1915," pp. 13-16.

47. "Alumni Seek ROTC's Return," *Yale Alumni Magazine*, April 2002, [http://www.yalealumnimagazine.com/issues/02\\_04/1\\_v.html#2](http://www.yalealumnimagazine.com/issues/02_04/1_v.html#2). Current Yale President Richard Levin has declined to take a stand on the issue of credit for ROTC courses, deferring to the Yale faculty.