



NATIONAL COMMISSION ON MILITARY, NATIONAL, AND PUBLIC SERVICE

Minutes of February 2020 Commission Meeting

The National Commission on Military, National, and Public Service (the Commission) held a meeting on February 20, 2020, at its offices in Arlington, VA. The entire meeting concerned pre-decisional and deliberative matters and was closed to the public pursuant to Public Law 114-328, section 554(b)(3). The Commissioners agreed to make a separate version of these minutes available to the public.

Attendance

Commissioners present:

- Mr. Edward Allard
- Mr. Steve Barney
- The Honorable Dr. Janine Davidson
- The Honorable Avril Haines
- The Honorable Dr. Joseph Heck
- Ms. Jeanette James
- Mr. Alan Khazei
- Mr. Thomas Kilgannon
- Ms. Shawn Skelly
- The Honorable Debra Wada

Commissioners absent:

- The Honorable Mark Gearan

Staff present:

- Paul Lekas, General Counsel
- Peter Morgan, Director of Operations
- Jill Rough, Director of Research and Analysis
- Sandy Scott, Director of Government Affairs and Public Engagement
- Other Commission staff

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February 20, 2020

Business Meeting

Chairman Heck convened the Commission at 0800 ET. All Commissioners, except for Vice Chair Gearan, were present for the meeting.

Chairman Heck moved to close this and other business meetings to occur on February 20 because pre-decisional and organizational matters would be deliberated. A motion was made and seconded, and all Commissioners agreed.

Chairman Heck then moved to approve the minutes for the January 2020 meeting. The motion was seconded and the Commission voted unanimously to adopt the minutes subject to technical edits and clarifications.

Chairman Heck noted that the Commission will convene in March to present its final report and recommended, thereafter, that the Commission convene periodically via conference call. He also recommended that the Commission convene for one day, possibly in July, as a final meeting before the Commission disestablished.

Recent Engagements

Vice Chair Wada reported on her attendance at the Friends of National Service Awards, which Ms. Skelly joined, as well as the Corps Network 35th Annual National Conference and the Service Commissions Annual Leadership Convening. Mr. Kilgannon reported on a meeting with the Sisters of Notre Dame. Chairman Heck reported on meetings with Wounded Warriors, the Veterans of Foreign Wars, and the Iraq and Afghanistan Veterans of America. He described the Commission's presentations, which focused on veterans' preference, as well received. Ms. James reported on a meeting with the Reagan Institute regarding civic education and the possibility of convening an event with them in April as they open their new building in D.C.

Commissioners identified the American Legion, the Military Officers Association of America, Student Veterans of America, and Disabled American Veterans as additional organizations to connect with in the near term.

Mr. Scott provided further detail on recent events attended by Commissioners. He noted that Commissioners attended each of the four major national service conferences in the week of February 10. He noted significant presence of members of Congress at the Friends of National Service Awards and played for the Commission a clip of Senator Coons' speech in which he referenced the Commission's upcoming report.

Communications Update

Erin Schneider, Public Affairs Officer, provided an update on communications and press coverage. She noted that the hashtag #wwiii trended in the month of January and led to press coverage for the Commission. In addition, Chairman Heck published an op-ed in *The Hill*. She noted that Vice Chair Wada was interviewed on *Inside Edition*. In addition, the Commission has

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announced the report release date of March 25 and has announced the public stakeholder event for March 26.

Legislative Update

Paul Lekas, General Counsel, updated the Commission on its legislative proposals. He explained that staff had completed work on the proposed bill along with a section-by-section analysis, redlines against existing law, and a chart cross-referencing the legislative provisions to recommendations in the final report. He stated that the SASC Personnel Subcommittee has scheduled a hearing for March 31 and preparations for that hearing are underway. He noted that the Commission proposes to call Chairman Heck, Vice Chairs Gearan and Wada, and Ms. Skelly as witnesses for that hearing.

Mr. Lekas noted the aggressive schedule for the next fiscal year's National Defense Authorization Act (NDAA) and indicated that the fact that it is an election year, as well as the schedule and experience with last year's NDAA, mean there may be limitations on what can be included in the NDAA. Mr. Lekas explained that staff provided the Commission's legislative proposals to the SASC and HASC and also conducted detailed briefing with staff for both committees. In addition, the Commission's legislative proposals have been provided to staff for Senator Reed, who has expressed interest in introducing the package as a comprehensive bill.

Jeff McNichols, Government Affairs Director, provided further detail on the Commission's work with congressional committees and staff. He said that the House Committee on Oversight & Reform has been pursuing public service legislation and has expressed interest in holding a hearing on the Commission's recommendations. The HASC will likely either hold a hearing during the week of March 30 or much later in the NDAA cycle, given congressional recess in April. He added that the Senate Homeland Security and Government Affairs Committee has also expressed interest in the Commission's work and may seek to hold a hearing. He noted that the Commission staff has had less success with the education and labor committees in both houses, as they seem to be focused on a reauthorization of the Higher Education Act and other issues.

Mr. McNichols next updated the Commission on discussions with the bipartisan For Country Caucus. He explained that the Caucus has expressed interest in introducing the Commission's legislative proposals as a comprehensive bill without subtractions or additions. Senator Reed is likely to do the same in the Senate. Mr. McNichols said the Caucus will soon grow to 20 or 21 members, all military veterans. Commission discussions have been focused on the "Core 4" of Reps. Houlahan, Bacon, Waltz, and Panetta. Commission staff will brief staff for the Core 4 in the next two weeks and on March 12, Chairman Heck will brief the full Caucus. While the Core 4 have received the text of the Commission's legislative proposals, the full Caucus will not see the legislative text until the week of March 23.

Chairman Heck supplemented this discussion based on his separate interactions with Caucus members and an associated 501(c)(4) organization called With Honor. He responded to questions about the risk of sharing legislative language beyond the Senate and House Armed Service Committees (SASC and HASC), noting that the risk has been considered carefully and addressed. He explained that HASC staff had raised a concern that the For Country Caucus

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members would propose the consolidated bill as an amendment to the NDAA and that the Caucus has agreed not to do that. Chairman Heck further noted that neither SASC nor HASC intends to introduce the consolidated bill in its entirety.

Mr. McNichols turned to discussions with individual members in the Senate. Mr. Khazei inquired about efforts to identify a Republican counterpart to Senator Reed. He recommended speaking with Senators Dan Sullivan, Bill Cassidy, Tim Scott, Tammy Duckworth, and Michael Bennet. Mr. McNichols indicated that staff had engaged with the offices of these members to arrange meetings. Mr. Scott recommended contacting Senator Blunt as well. Mr. Khazei further recommended engaging with Senate leadership, including Leader McConnell.

Turning to the House, Ms. James recommended engaging with Speaker Pelosi's office. Mr. Allard has made efforts to engage with Speaker Pelosi. Ms. Haines recommended engaging with Rep. Jim Langevin who has expressed interest in cyber. Mr. Khazei recommended that Reps. Raskin, Sarbanes, and DeLauro be added to the list.

Mr. McNichols then provided an overview of government outreach efforts around the Commission's final report. He explained that on March 23-24, Commissioners and staff will hold in-person briefings with Acting Under Secretary of Defense for Personnel & Readiness Matthew Donovan; Peter Warren of the Office of Management and Budget and James Sherk of the White House Domestic Policy Council in a joint meeting; and leadership of the Corporation for National and Community Service, the Peace Corps, and the Selective Service System, in separate meetings. Mr. Lekas noted that staff intends to brief senior DoD staff on military and civilian personnel recommendations during the week of March 16. A meeting with the interagency policy group would occur on March 24. Ms. Haines recommended convening a separate meeting with interagency lawyers and Mr. Lekas agreed to explore that possibility. Mr. Khazei recommended speaking with John Bridgeland prior to the meeting with the White House Domestic Policy Council.

Mr. Khazei recommended further efforts to connect with the White House through Ivanka Trump and Jared Kushner. He suggested connecting the Commission's work to the President's guiding principles (issued in April 2017).

From March 23-26, Commissioners and staff will brief several members of Congress. Noting that the schedule remains in flux, Mr. McNichols explained that meetings are arranged or will be sought with House and Senate leadership; leadership of the main committees of jurisdiction (SASC, HSGAC, HELP, SVAC, HASC, HCOR, HEL, and HVAC); and additional influencers. Additional meetings will be arranged for later dates. Commissioners offered suggestions on congressional groups and individual members to include in outreach.

Mr. Kilgannon asked about efforts to engage the National Governors Association. Mr. McNichols explained that meetings with organizations representing State and local officials would likely occur after the March 23 rollout week but that such organizations are on staff's radar.

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Operations Update

At 1000 ET, following a break, Peter Morgan, Director of Operations, presented on operations matters related to the Commission wind-down process.

He explained that as of February 3, the Commission no longer has access to a dedicated Government Purchase Card (GPC) because Yolanda Hands, Deputy Director of Operations, moved to a part-time schedule and the Commission does not have staff to maintain a GPC. As a result, the Commission is now relying on its connections with other agencies for GPC-type transactions. In addition, as of February 14, the Commission cannot support new contracts or acquisitions for events because of the time required to complete those processes.

Mr. Morgan said that the Commission will shut down the travel system as of May 4, at which time the Commission will need to work with other agencies—similar to the Commission’s early days—to arrange travel. This will require more time and patience. As of June 1, the Commission staff is likely to be down to ten members – 6 GPE, 2 OPS, 2 OGC. Travel after June will be limited to significant events, and staff will begin formal shutdown activities on August 1.

As the Commission shutdowns in September, the Commission records will be transferred to the National Archives and Records Administration (NARA). The Commission will also dispose of its equipment, either by transferring equipment to another commission or to the General Services Administration (GSA). Audits will occur and any unused funds will be returned to the Treasury. As staff and Commissioners offboard, they will receive documentation (an SF-50) reflecting their government service. Mr. Morgan explained that he is exploring options for the Commission website to remain in service for an additional year and that staff will also inform all federal agencies of the impending shutdown.

Chairman Heck informed the Commission that Mr. Morgan is preparing a toolkit to help guide future commissions and that will be shared with others as well as Commissioners. Ms. Skelly and Ms. Haines suggested the Commission consider endorsing the product in a more formal manner. Mr. Lekas said that he and Mr. Morgan prepared white paper that has gone to SASC staff to assist in their efforts to establish future commissions. Vice Chair Wada noted HASC interest in the same effort.

Chairman Heck emphasized the importance of Commissioners providing timely responses to requests from Mr. Morgan and his staff, including reporting time, planning trips, and submitting receipts.

Mr. Khazei inquired about the status of the Commission’s budget. Mr. Morgan reported that the Commission remains within budget, principally because of staff departures, but noted that the Commission has limited tools to make use of available funds. Chairman Heck noted his request for additional funding and was pleased that the Commission looks to complete its work under budget without a need for the additional funds.

Chairman Heck recommended that the Commission keep staff on payroll until they are able to secure future employment, and all Commissioners agreed.

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Commissioners then discussed what notification to include on the website to direct inquires after the Commission disestablishes. Mr. Lekas agreed to consider different options, noting the challenge of connecting an official government website to non-official email accounts.

Legal Update

At approximately 1030 ET, Ms. Rikleen provided a legal update and ethics training.

Ms. Rikleen began with an update on the Commission's responses to Freedom of Information Act (FOIA) requests. She explained that while the Commission received few new requests during 2019, it did receive a significant request in early 2020 and is in the process of responding. The new request seeks records relating to meetings of two or more Commissioners, responses to requests for comments, and public statements by Commissioners. Ms. Rikleen explained that staff expects an uptick in FOIA requests as the report is released and the public has questions about how the Commission reached its conclusions. As a result, staff is engaged in proactive review and release of various materials, such as research primers, that can be posted to the Commission website. Staff expects that the uptick will have an impact on operations as staff continue to offboard while requests come in. Ms. Rikleen also noted that she expects the proactive measures will have little impact on persistent FOIA requestors and said it is possible that requestors will seek more expansive categories of records, such as communications with outside organizations, and may challenge privilege designations. She noted that burden is not a recognized basis to refuse to release material and that litigation risk depends on the requestor's resources to pursue claims in court rather than through negotiation.

Ms. Rikleen next discussed legal concerns that may arise at future Commission events and provided guidance to avoid such concerns. She referenced previous training materials distributed to the Commission, including an April 2019 handout on the Anti-lobbying Act and the Hatch Act and a December 2017 handout on gifts.

Ms. Rikleen began with the Anti-lobbying Act. She explained that the Commission cannot use appropriated funds to support grassroots lobbying of any federal, state, or local legislature on pending legislation. The Commission cannot do anything in an official capacity—that includes the use of staff time, the creation of materials, actions or statements by staff or by commissioners—that could be construed as grassroots lobbying. The implications of these restrictions are that Commissioners may not: encourage people to contact their representatives about the Commission's recommendations; convene discussions to devise a strategy for realizing the Commission's legislative proposals; and share information about the views of members of Congress relating to the Commission's legislative proposals. She noted that the lobbying restrictions particularly acute because the Commission's legislative proposals are likely to be introduced as formal bills in both the House and the Senate.

Notwithstanding these limitations, Ms. Rikleen explained that Commissioners may: hold briefings, publish articles, and make speeches that talk about the Commission's findings, recommendations, and legislation; inform people and organizations about the Commission's activities; communicate directly with members of Congress and others in the legislative branch

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about the Commission's legislation as well as other recommendations and findings; and lobby Congress in their personal time on things unrelated to the Commission.

Next, Ms. Rikleen discussed the Hatch Act. She reminded Commissioners that they may not participate in partisan political activities during work hours, when invoking official authority, or when using government resources. She counseled Commissioners not to reference campaigns or political parties when at Commission events, including in interviews, and if pressed on a prohibited topic, to say that they cannot discuss it because of the Hatch Act. She also said that if a campaign, party, or political action committee asks for information about the Commission's report, Commissioners should point them to the website.

Ms. Rikleen then provided a refresher on gifts, noting that the legal team works closely with the GPE team to identify and address gift issues before the Commission accepts invitations to events. She explained the basic rule that the Commission may accept goods, services, or property from outside sources, but not money, although any such gift must be cleared with the Office of the General Counsel prior to acceptance. She said that the Commission can, generally, accept in-kind contributions from a 501(c)(4)—such as audio-video costs or facility rental cost—to support an event the Commission is arranging. She noted, however, that Commissioners may not accept gifts given because of their position with the Commission unless the gifts fall within an exception.

Finally, Ms. Rikleen addressed the deliberative privilege. She explained that even after the Commission releases its report, the decision-making process of the Commission and the materials that went into that process remain protected by the deliberative privilege. For example, the voting materials for last July would be protected and would not be released through a FOIA request. She advised Commissioners to be mindful of not disclosing the specifics of how decisions were made, such as the timing for voting or production of the report, noting that Chairman Heck has indicated that it is permissible for individual Commissioners, in their discretion, to convey their position on different issues that the Commission considered, so long as they do not discuss how other Commissioners have voted. Ms. Rikleen said that this exception did not apply to staff.

The Commission then recessed for lunch.

Communications Training

Following the lunch break, at 1230 ET, the Commission reconvened for communications training.

Mr. Scott provided an overview of the communications training. He explained that the objective of the training would be to assist Commissioners in serving as ambassadors for the Commission's recommendations.

Cristina Flores, Public Affairs Officer, directed Commissioners to background material in their binders. She emphasized that in media or other settings, Commissioners should emphasize their key messages, be brief, be precise, know their audience, remember their body language, and

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know when to stop. She then discussed different media formats and how those formats may have an impact on the message.

Ms. Schneider identified the following techniques for Commissioners to use in controlling conversations:

- *Bridging and pivoting* – Address the question quickly, pivot to a key message. Phrases to remember “that an interesting idea, However, what is important to remember is . . .” or “Thanks for bringing up that point, but the reason I am here today is . . .”
- *Flagging* – Highlight what is most important. Tell your audience what you need to know. “If there is one thought I can leave you with today . . .”
- *Repetition* – Acceptable to repeat a message but use different facts. If they are asking the same questions, then they don’t understand your answer so use a different story.
- “*Anything else you would like to add?*” – This is an option to get message out and address things didn’t get to. Also give a call to action: visit website and join us in making our vision a reality.

Commissioners then participated in communications exercises for approximately 30 minutes. Afterwards, they reconvened to debrief. Ms. James sought views on how to convey personal opinions when representing the Commission. Chairman Heck recommended bridging and pivoting by saying, for example, “I am not here to talk about my views, but about the Commission’s recommendations and report. I acknowledge that the question of women registering with Selective Service was a passionate debate, but we came out where we came out.” Mr. Kilgannon remarked that the answer could depend on the audience, and it may be appropriate to say, “I did not agree on that, but I agreed on the rest.” Dr. Davidson felt that Mr. Kilgannon’s approach could help to establish credibility and avoid a suggestion of concealing information from a particular audience. Ms. Haines endorsed these approaches and said that while she would not reveal how others voted, she did not oppose Commissioners expressing their personal views in certain circumstances. Concluding this discussion, Chairman Heck noted that every recommendation endorsed by the Commission had a supermajority of at least eight Commissioners voting in favor of it, that the Commission had a robust process and substantive deliberations about its recommendation, and that the Commission considered many proposals that it did not ultimately adopt.

Commissioners then discussed background material and fact sheets for staff to prepare to ensure their preparations for media interviews and other engagements.

Ms. Schneider then introduced a discussion of storytelling, of how Commissioners can connect policy recommendations and key messages to individual narratives. She supported Commissioners using their own stories and opened discussion on service stories that Commissioners heard during their travels and meetings. Chairman Heck recommended that each Commissioner identify one story to learn really well for use in engagements.

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Rollout Update

At approximately 1525 ET, Mr. Scott led a further discussion about plans for the March 23-27 rollout week. He noted that staff is hoping to schedule at least 60 meetings on the Hill and will sequence those for Commissioner and staff participating. Commissioners would receive material in advance of the rollout week to assist in their preparations for meetings and events.

Mr. Scott then walked through the overall schedule. March 23-24 will include briefings to key agencies and members of Congress. March 25 will include the Commission's press event and delivery of reports to Congress. March 26 will include the stakeholder event and smaller briefing sessions, and Friday will be used for a debrief and, for some Commissioners, attendance at a press event for introduction of the comprehensive bill.

Ms. Schneider and Ms. Flores discussed communications plans for the rollout week. They explained that Senators Reed and Inhofe would attend the March 25 press conference and efforts would begin soon to invite press to the event. They are working to secure exclusive coverage with one television network and one print media source. They are also developing a social media package and will convene calls with individual Commissioners to discuss their respective roles. They noted that Commissioners should be available for media interviews during rollout week and they would coordinate other efforts—including further interviews, publication of op-eds, meetings with editorial boards, and a fulsome digital campaign—continuing beyond that week. Mr. Scott discussed interest in securing opinion pieces from prominent columnists and editorials from prominent publications.

Morgan Levey, External Relations Manager, discussed in further detail the March 26 stakeholder event. She noted that the event will be open to the public and held at the Department of the Interior. The Commission is looking to have at least 200 people in the live audience and many more over livestream. It is scheduled for the day after the release to allow people time to review the report. The event will include three panels, one on civics, one on advancing service, one on the Selective Service System. It will begin with remarks from Chairman Heck. Vice Chair Gearan will introduce each panel, and three Commissioners will participate in each panel.

Ms. Levey then discussed follow-on, small-group briefings with key stakeholders scheduled for March 25-26, with additional briefings to be scheduled in subsequent weeks. She explained that the briefings on March 25-26 will include groups with interest in national service, expanding Selective Service registration to all Americans, opportunity youth, and civic education. Future briefings will focus on public service and issues of interest to military and veterans service organizations.

Future Events

Ms. Levey then addressed events being planned for April through June. She said the Commission will hold a virtual townhall meeting in April and an event with the McCain Institute at Arizona State University in May. Ms. Levey and Mr. Scott addressed additional events, noting that staff is looking at different think tanks and is also working to secure speaking roles for

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Commissioners at various stakeholder conferences. They asked Commissioners to provide information about events that would be appropriate for Commission representation.

Mr. Scott noted that the Commission is scheduled to testify before the SASC Personnel Subcommittee on March 31 and that additional committees and subcommittees are exploring possible hearings. There is also expected to be engagement with State and local groups and further meetings with members of Congress and their staff.

Ms. Levey reminded the Commission that May 1 will be the cut-off for arranging any Commission travel.

At approximately 1630 ET, the Commission adjourned its February meeting.

Prepared by Paul Lekas, General Counsel

Adopted by the Commission on March 23, 2020.