



NATIONAL COMMISSION ON MILITARY, NATIONAL, AND  
PUBLIC SERVICE

Selective Service Stand-Alone Memo for Voting

**This memo presents a foundational finding. This proposal has been discussed and endorsed by the Selective Service Working Group. This proposal is designed for consideration in its entirety and is subject to a single vote.**

**Keep a military draft contingency.** *Problem:* It remains plausible that the current all-volunteer force could experience a personnel shortage in the future. *Goal:* To maintain a mechanism that can hedge against personnel shortages.

*The scope of this recommendation is limited to the requirement for a military draft contingency. This vote is not specific to the eventual structure of the Selective Service System, but rather focused on whether a potential call for military conscription during times of need should remain part of U.S. national security policy. A military draft contingency generally includes a means for identifying and contacting individuals (pre- or post-mobilization, active or passive registration), selecting individuals for evaluation (lottery), evaluating those selected for induction (call & deliver), and providing a mechanism for a deferral, exemption, or alternative service for eligible individuals. It is important to note that this proposal does not indicate support a return to standing conscription at this time.*

- The Commission reaffirms the continued need for a draft contingency mechanism.

### Risk Analysis

Although most stakeholders, including the **Department of Defense**, support a continued draft contingency mechanism to ensure adequate armed strength, some stakeholders diverge on the purpose of a draft, question its utility or political viability, or call for the reinstatement of standing conscription. Many members of the **conscientious objector (CO)** and **war resister** communities argue there is no need to maintain a draft contingency mechanism;<sup>1</sup> however, some CO communities favor preserving a draft contingency mechanism with formal methods to protect conscientious objectors.<sup>2</sup> At least one stakeholder group, the **All-Volunteer Force Forum** calls for a return to standing conscription, noting their disagreement with the Commission's assumptions that the all-volunteer force (AVF) will remain fiscally sustainable and sufficiently resourced.<sup>3</sup> Finally, **Dr. Bernie Rostker** argued that constitutional authorities were sufficient to reaffirm this mechanism and, if any formal system were maintained, the true debate is how best to implement it.<sup>4</sup>

### Should this proposal be adopted?

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<sup>1</sup> Diane Randall, Friends Committee on National Legislation, "Testimony before the National Commission on Military, National, and Public Service," April 24, 2019, Washington, D.C.; Edward Hasbrouck, "Testimony before the National Commission on Military, National, and Public Service," April 24, 2019, Washington, D.C.

<sup>2</sup> Staff conversation with Tim Miller, Conservative Anabaptist Service Program representative, February 28, 2019.

<sup>3</sup> The All-Volunteer Force Forum, "Statement to the National Commission on Military, National, and Public Service on the Selective Service Hearings," April 30, 2019, Submitted by MG Dennis Laich, USA (ret.)

<sup>4</sup> Dr. Bernard Rostker, PhD, "Testimony before the National Commission on Military, National, and Public Service," April 24, 2019, Washington D.C.

## Keep a Military Draft Contingency

- Research demonstrates that plausible reasons to quickly increase military end strength may develop, to include military manpower shortfalls from excessive demand, dwindling supply, or strategic surprise.
- A draft contingency mechanism is warranted as a means of mitigating these risks.

### Background

National mobilization refers to the mobilization of the nation's resources, industry, and personnel beyond the resources of the All-Volunteer Force in response to a national security emergency. Critical components of national mobilization include a full military mobilization, which is the "expansion of the active Armed Forces of the United States resulting from action by Congress and the President to mobilize, for the duration of the emergency plus six months, all Reserve Component units and individuals in the existing approved force structure, as well as all retired military personnel, and the resources needed for their support to meet the requirements of a war or other national emergency involving an external threat to the national security," and with congressional authorization, the activation of the Selective Service System.<sup>5</sup> This increased state of readiness may be achieved through the draft. Ensuring successful national mobilization in the event of a national security emergency requires a high degree of planning and maintenance as well as transparency and fidelity in the process by which the nation would mobilize.

In a national mobilization scenario necessitating a draft, Congress and the President would be required to enact a law authorizing a draft and, if necessary, pass legislation authorizing an expansion of military personnel end strength and appropriating funds to accomplish this.<sup>6</sup> Following this authorization, "the Under Secretary of Defense for Personnel and Readiness, with input from the military services, [would] provide the Director of the Selective Service System with the number of personnel needed to be drafted."<sup>7</sup> DoD must also coordinate with other federal departments and their leadership, including the Director of the Federal Emergency Management Agency, who serves as the executive agent for the overall supervision and coordination of emergency planning and national resources, including during a national emergency necessitating military mobilization.<sup>8</sup> Successful national mobilization not only entails efficient coordination of responsibilities between the key authorities outlined above but requires succinct timelines, capacity for integrating increases to military end strength, and adequate popular support (or "moral mobilization").

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<sup>5</sup> The Joint Chiefs of Staff, *Joint Publication 4-05: Joint Mobilization Planning*, Department of Defense, February 21, 2014, [http://www.jcs.mil/Portals/36/Documents/Doctrine/pubs/jp4\\_05.pdf](http://www.jcs.mil/Portals/36/Documents/Doctrine/pubs/jp4_05.pdf).

<sup>6</sup> Bernard Rostker, "What to Do With the Selective Service System," RAND Corporation, April 2018, <https://www.rand.org/pubs/perspectives/PE197.html>; see also, 50 U.S.C. § 3815(c).

<sup>7</sup> Department of Defense, *AR 601-270 Military Entrance Processing Station*, September 13, 2011, 18; see also, 50 U.S.C. § 3803(a).

<sup>8</sup> Interview with Ken Gilliam, November 5, 2018; see also, Executive Order 13603, March 16, 2012, <https://obamawhitehouse.archives.gov/the-press-office/2012/03/16/executive-order-national-defense-resources-preparedness>; 50 U.S.C. § 3803(g) (requiring the National Security Council to advise the Director of Selective Service regarding scientific and critical skills needed in both the Armed Forces and the civilian economy); and Executive Order 12656, May 10, 2006, <https://www.hsdl.org/?view&did=1567>.

## Findings

### *Necessity in the Face of an Existential Threat*

- The 2017 DoD report to Congress on the purpose and utility of a registration system for military selective service asserts that each administration since 1980 has preserved the SSS and its programs “with the realization that *it is the only* proven, time-tested mechanism by which to expand the AVF” and specifically references a “crisis of existential proportions.”<sup>9</sup>
- The National Defense Strategy Commission called out “unanticipated force demands” as a risk factor threatening the ability of the United States to fulfill the goals of the NDS, such as defeating one major-power rival while maintaining deterrence in other regions.<sup>10</sup> According to Elsa Kania, the possibility of a crisis of existential proportions, particularly when projecting relations with China beyond 2030, is a non-zero proposition with unacceptable consequences.<sup>11</sup>
- In her April testimony to the Commission, Loren Schulman argued that, although the bar for activation of a draft should be high, the need is still there as there may be national emergencies which the AVF is not equipped to address.<sup>12</sup>

### *Bridging a Potential Capacity Gap*

- While the 2017 DoD report advocates maintaining SSS to bridge a potential gap between the AVF and force requirements, it also downplays the need for reliance on the draft, noting “[e]ven in the face of sustained conflicts in Iraq and Afghanistan, DoD has maintained its ability to recruit and retain a professional volunteer force without resorting to a draft.”<sup>13</sup> Commission staff analysis indicates the DoD report understates the need for mitigating against the possibility of a capacity gap. Specifically:
  - The DoD report does not acknowledge the strain placed on those serving in the AVF or the measures implemented by DoD when struggling to meet end strength requirements. To meet the manpower requirements of the conflicts in Iraq and Afghanistan, DoD chose to implement several mitigating measures, including: stop-loss, extended deployments, operationalizing National Guard and Reserve components, and increased use of waivers for new accessions.<sup>14</sup> Each of these actions indicate the force was struggling to maintain the necessary end strength under the volunteer construct, with

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<sup>9</sup> Emphasis from original author. Office of the Under Secretary of Defense for Personnel and Readiness, *Report on the Purpose and Utility of a Registration System for Military Selective Service*, July 2017, 10.

<sup>10</sup> The National Defense Strategy Commission, *Providing for the Common Defense: The Assessment and Recommendations of the National Defense Strategy Commission* (Washington DC: USIP, 2018), <https://www.usip.org/publications/2018/11/providing-common-defense>.

<sup>11</sup> Elsa Kania, Testimony during the April 24 Hearing on the Selective Service to the National Commission on Military, National, and Public Service.

<sup>12</sup> Loren Schulman, Testimony during the April 24 Hearing on the Selective Service to the National Commission on Military, National, and Public Service.

<sup>13</sup> DoD, *Report on the Purpose and Utility of a Registration System for Military Service*, 2.

<sup>14</sup> Lawrence J Korb and David R Segal, "Manning and Financing the Twenty-First-Century-All-Volunteer Force," *Daedalus Journal of the American Academy of Arts & Sciences* (2011).

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some critics going so far as to call the stop-loss policies a “back door draft.”<sup>15</sup> The lack of a draft to sustain these wars may also be seen as more reflective of political feasibility and will than the success of the volunteer force construct, given the high operational tempo and struggle to maintain recruiting numbers and quality, as indicated by a spike in waivers.<sup>16</sup>

- Moreover, the scale and nature of these recent conflicts do not match the character of those conflicts frequently discussed in total mobilization scenarios that would require implementing a draft or those identified in defense strategy documents. These conflicts are often characterized as “limited wars” or “wars of choice” rather than simultaneous conflicts with peer or near-peer competitors or existential conflicts in which the homeland is imperiled.
  - Finally, the past ability of the AVF to sufficiently meet force requirements—particularly against middle-weight opponents—does not logically support assertions that it will be able to do so in the future.
- Dr. Nora Bensahel acknowledged the very real stresses that recent wars placed on those in uniform during the conflicts in Iraq and Afghanistan but argued there was not a military necessity for conscription during these wars. She was not sure the extent to which conscription would have alleviated the stresses placed on the AVF—notably during the 2005-09 timeframe.<sup>17</sup> Dr. Bensahel argues the AVF rose to the challenge, and the force has remained very well disciplined and effective; however, she also reiterated the comparatively smaller end strength of forces in Iraq and Afghanistan versus the millions who served in World War II or even Vietnam.

*Readiness and Implementation*

- The value the SSS provides as an “insurance policy” will rest on it being able to deliver personnel that can be integrated into a broader DoD mobilization. The DoD report indicates

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<sup>15</sup> The idea of stop-loss as a “back door draft” is not without controversy, particularly for those service members for whom their commitment included an additional reserve or ready reserve commitment. Though some viewed this policy as a breach of faith, others argued that such an additional commitment, included in many contracts, was always a risk. For more information see, Tim Donahue, “The Constitutionality of Stop-Loss and Why It Is Better for the Country Than the Draft,” *New Eng. L. Rev.* 44 (2009); Ann Scott Tyson, “Army Using Policy to Deny Reserve Officer Resignations,” *Washington Post*, May 11, 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/05/10/AR2006051002061.html>.

<sup>16</sup> “Number of Waivers Given to U.S. Army Recruits,” Serial, accessed November 6, 2018, <https://serialpodcast.org/maps/number-of-waivers-given-to-us-army-recruits>; Phillip Carter et al., *AVF 4.0: The Future of the All-Volunteer Force* (Washington DC: Center for New American Security, 2018), <https://www.cnas.org/publications/reports/avf-4-0-the-future-of-the-all-volunteer-force>.

<sup>17</sup> Testimony of Dr. Nora Bensahel, March 16, 2018, [https://inspire2serve.sharepoint.com/:w:/r/sites/Research/\\_layouts/15/Doc.aspx?sourcedoc=%7Bf176617a-2274-43ec-8dad-ff8167af3c1d%7D&action=default&cid=b6672282-9143-4314-8fe8-ad158407dc7a](https://inspire2serve.sharepoint.com/:w:/r/sites/Research/_layouts/15/Doc.aspx?sourcedoc=%7Bf176617a-2274-43ec-8dad-ff8167af3c1d%7D&action=default&cid=b6672282-9143-4314-8fe8-ad158407dc7a).

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stronger confidence of the ability of the SSS to meet this requirement than the evidence suggests.

- There is some evidence that the SSS lacks the capability to provide individuals to DoD, and DoD is underprepared to integrate large numbers of non-prior service personnel.
  - During the April SSS hearings, Dr. Bernie Rostker expressed skepticism over the utility and accuracy of the database, citing issues with keeping addresses up to date.<sup>18</sup> The registration entries are tested at the point of registration, according to the Selective Service Director Don Benton, but are not re-tested for accuracy throughout individuals' window of eligibility for selection.<sup>19</sup>
  - While the SSS and compulsory military service have proven more capable of addressing rapid changes in end strength as compared to DoD's voluntary recruiting efforts, it remains uncertain whether the SSS would prove equally successful today or in the future without any changes, particularly in funding, to the existing SSS.
  - In addition, DoD may need to review institutional investments and capability to expand the requisite training, infrastructure, logistics, or material supplies to successfully integrate draftees into the force.

*A Draft Contingency Can Take Many Forms*

- A draft contingency could theoretically vary in readiness from a fully staffed support organization with detailed and current registration information to a system in deep standby.

**Recommendation and Implementation**

For the purposes of deliberation, the italicized text below serves as the foundation of potential recommendations and should be the focus of decision-making. Detailed descriptions of how to implement recommended changes are offered to illustrate a means of achieving the desired outcomes.

- *The Commission reaffirms the continued need for a draft contingency mechanism.*
  - A. Include in the Final Report an affirmation that a draft contingency remains vital to U.S. national security.
  - B. Include in the Final Report an endorsement of the AVF and a finding against standing conscription.

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<sup>18</sup> Bernard Rostker, Testimony before the National Commission on Military, National, and Public Service, April 24, 2019.

<sup>19</sup> Director Benton indicated the Selective Service System has the capability to update addresses for all registrant entries on file "within three days" but, as a cost-saving measure, does not keep the database current. Don Benton, Testimony before the National Commission on Military, National, and Public Service, April 24, 2019.