



NATIONAL COMMISSION ON MILITARY, NATIONAL, AND  
PUBLIC SERVICE

Selective Service Stand-Alone Memo for Voting

The following bullet points summarize a proposal to modify the Selective Service System. The Selective Service Work Group discussed and endorsed active, pre-mobilization registration; however, a proposal to shift to passive, post-mobilization registration was introduced in full Commission deliberations. These are mutually exclusive options.

**Maintain pre-mobilization registration.** *Problem:* The nation requires a reliable mechanism through which to identify, verify, and contact individuals for military conscription during a national mobilization. *Goal:* Ensure national readiness through a database of registered persons that is responsive to the need for personnel during a national mobilization, with the most representative sample practicable across those eligible to be selected for induction.

- The Commission *reaffirms* the SSS's pre-mobilization registration posture and recommends that Congress and the President maintain the Selective Service pre-mobilization registration requirement.

-OR-

**Suspend pre-mobilization registration and implement passive, post-mobilization registration.** *Problem:* The existing pre-mobilization registration requirement inefficiently and controversially generates an unnecessary database to identify, verify, and contact individuals for military conscription during a national mobilization. *Goal:* Ensure national readiness through existing databases.

- The Commission recommends that Congress amend the MSSA to *suspend* active, pre-mobilization registration in favor of passive, post-mobilization registration.

### Risk Analysis

Stakeholders calling for suspending pre-mobilization registration include most **conscientious objectors, war resisters, and Dr. Bernard Rostker**—albeit for differing reasons.<sup>1</sup> Others, including the **Department of Defense, the All-Volunteer Force Forum, Dr. Kori Schake, and Dr. Nora Bensahel**, support continued active, pre-mobilization registration.<sup>2</sup> Some stakeholders in the **national security community** may question how the nation will maintain a credible ability to mobilize additional personnel, if required to do so, and express concern that post-mobilization registration could introduce **risk** to the nation.

### Which option should the Commission recommend?

---

<sup>1</sup> Bernie Rostker argues the Selective Service System fails to provide a viable low-cost insurance policy because of DoD culture and structure, it probably fails to provide a deterrence against U.S. enemies, and secondary registration systems do not connect individuals with their obligation. See Bernard Rostker, *What to Do with the Selective Service System? Historical Lessons and Future Posture* (Santa Monica, CA: RAND Corporation, 2018).

<sup>2</sup> James Stewart, Assistant Secretary of Defense for Manpower and Reserve Affairs, Testimony before the National Commission on Military, National, and Public Service, April 2019; All-Volunteer Force Forum, Statement for the National Commission on Military, National, and Public Service Hearings, April 30, 2019; and Dr. Kori Schake, Statement for the Record – National Commission on Military, National, and Public Service; see also David Barno and Nora Bensahel, “Why we still need the draft,” *War on the Rocks*, Washington, DC, 2016.

## SSS Registration Sequencing

- Registration options are presented below. Several gaps in information and risks to success are noted for each alternative.

### Background

#### *Options for registration sequencing*

Registration can be thought of in a broad context as involving two key aspects: (1) the nature of an individual's participation in the registration process, and (2) the timing of when registration occurs (sequence).

For *individual involvement* there are two primary categories: **active**, which requires the participation of the registrant, and **passive**. The MSSA states: "it shall be the duty of every male citizen... to present himself for and submit to registration."<sup>3</sup> This act involves some action on behalf of the individual. Alternatively, registration can occur via **passive** means, by which the registrant does not have a part in completing the registration process. This is primarily accomplished by relying upon external sources to provide identification and contact information for registrants.

*Sequencing* for registration can be thought of as **pre-mobilization**, which refers to registration that occurs before the authorization of a draft, or **post-mobilization** which refers to registration that occurs immediately after the authorization of a draft. Note that "mobilization" in this instance does not refer to an event or national security emergency but rather implies a response to the President and Congress authorizing activation of the draft.

#### *Current registration*

Under current processes, successful registration under the SSS consists of: (1) a completed registration card or other method of registration by a person required to register, and (2) the recording of the registration information furnished by the registrant in the records of the Selective Service System. Registration is incomplete until both actions have happened.<sup>4</sup> Approved methods of completing a Selective Service Registration Card include at a Post Office, via the SSS website, by telephone, through federal and state forms, through high school and college registrars, or through SSS reminder "mail back" cards.<sup>5</sup>

The shift to extensive usage of federal and state forms, which the Commission refers to collectively as "secondary registration systems," increased after registration compliance rates declined on average 1 percentage point a year from 1991 to 2000.<sup>6</sup> In August 2000, Delaware implemented the first state driver's license legislation (DLL), which automatically transmitted DMV registration for eligible state residents to the Selective Service System.<sup>7</sup> Currently, 41 states, territories, and the District of Columbia pass registrant information from secondary registration

---

<sup>3</sup> 50 USC 49, § 3802(a).

<sup>4</sup> See 32 CFR § 1615, [https://www.sss.gov/portals/0/PDFs/32\\_CFR.pdf](https://www.sss.gov/portals/0/PDFs/32_CFR.pdf).

<sup>5</sup> *ibid*

<sup>6</sup> Starting from a high in 1991 at 97 percent, declining every year to 88 percent in Fiscal Year 1999. See: Selective Service System, "Fiscal Year 2000, Annual Report to the Congress of the United States," Washington DC, 2000, 9, <https://www.sss.gov/Portals/0/PDFs/SSSARH.PDF>.

<sup>7</sup> Selective Service System, "State Driver's License Legislation Status Matrix," Washington, DC, February 2018.

## DELIBERATIVE AND PRE-DECISIONAL FOR OFFICIAL USE ONLY

processes to the Selective Service System on at least a semi-annual basis.<sup>8</sup> Structurally, because of the disparity in the implementation of state secondary processes and the frequency and means by which they transmit information to the Selective Service System, many secondary processes do not transmit information within the 30-day “on-time” window.<sup>9</sup>

The SSS takes several steps to ensure the database remains current—although the procedures to do so are not applied continually across all eligible age ranges. The three primary methods of updating addresses are through state DMV information-sharing agreements, the National Change of Address System,<sup>10</sup> and through registrant-initiated updates.

### *Penalties*

Should individuals fail to register for the SSS, there are two types of penalties that may be imposed on individuals: criminal prosecution and ineligibility for various state and federal benefits.

Any person required to register with SSS who knowingly fails to register or otherwise evades or refuses registration, may be prosecuted and, if convicted, imprisoned for up to five years and fined up to \$250,000. The MSSA provides a five-year statute of limitations on prosecutions for failure to register. As a result, a man is no longer vulnerable to prosecution for failure to register once he turns 31 years old.

Second, any person who is required by law to register with SSS but fails to do so is ineligible for the following: assistance or benefits under the Higher Education Act of 1965, including grants, loans, or work assistance;<sup>11</sup> appointment to a position in an executive agency;<sup>12</sup> the granting of a security clearance; participation in a program established by the Workforce Innovation and Opportunity Act (WIOA);<sup>13</sup> and U.S. citizenship. SSS registration is also a precondition for employment or the granting of state education aid in 31 states and one territory.<sup>14</sup>

Except for an application for citizenship, there is no statute of limitations on withholding certain federal benefits from an individual who failed to register for SSS. Any time a man age 18 or older seeks certain federal benefits at any time in his life (for example, citizenship—if under age 31, federal employment, and education benefits), he must provide a statement of compliance to the appropriate federal agency demonstrating that he has registered with SSS. If not in compliance, the man must be given an opportunity for a hearing and adjudication by that federal agency to explain why he did not register. He cannot be denied a federal benefit if he shows “by a preponderance of

---

<sup>8</sup> 40 states, territories, and the District pass driver’s license information, while Alaska passes information in a similar manner through the Permanent Fund. See Selective Service System, “Annual Report to the Congress, 2018.”

<sup>9</sup> As of 2009, several states, including Alaska and New Jersey, use tape drives to pass information securely to the Selective Service System on a semi-annual basis. See: Laura Seago, “Automatic Registration in the United States: The Selective Service System Example,” Brennan Center for Justice, New York, 2009, 4-9.

<sup>10</sup> The National Change of Address System is run by a USPS-contracted vendor, which compares approximately 160 million records submitted by individuals through USPS when they move and retained for three years. The Selective Service compares this list with the list of registrants who have not updated their addresses within 18 months. See <https://www.sss.gov/Home/Address-Change> and MFR, “NCoS Visit to SSS Data Management Center,” June 2018.

<sup>11</sup> 50 U.S.C. § 3811(f).

<sup>12</sup> 5 U.S.C. § 3328.

<sup>13</sup> Pub. Law 113-128, Section 189(h).

<sup>14</sup> <https://www.sss.gov/Registration/State-Commonwealth-Legislation/Other-Legislations>.

**DELIBERATIVE AND PRE-DECISIONAL  
FOR OFFICIAL USE ONLY**

the evidence” that his failure to register was not a knowing and willful failure to register.<sup>15</sup> The SSS processes tens of thousands of requests for status information letters (SILs) each year. However, the SSS only determines whether an individual was or was not legally obligated to register. It is up to the individual federal agency to determine whether a noncompliant individual has met the burden of proof showing that their failure to register was not a knowing and willful failure to register.

## **Findings**

### *The overall health of the registration system*

- The ability of SSS to execute a draft effectively based on its existing database and procedures has not been tested in recent decades. SSS Director Don Benton indicated that the SSS does not regularly update information for all registrants, though the system retained the ability to update all addresses “within three days.” SSS Data Management Center (DMC) employees indicated that a recent test of registration accuracy showed that 96 percent of letters sent to registrants went unreturned—although it remains unclear which cohort was contacted for this test.<sup>16</sup> Former Director of SSS Dr. Bernard Rostker indicates deep skepticism that the database is accurate at scale and across the entire range of eligible ages.<sup>17</sup>
- Currently, registration compliance rates lag until age 20. For calendar year 2017, the SSS reported the registration compliance rate was 91 percent for the entire 18- to 25-year-old cohort. However, the 18- to 20-year-old cohort compliance rate ranges from 71 to 89 percent compliance, which is below the SSS’s self-imposed 90 percent compliance-rate target.<sup>18</sup>

### *Perceptions on the value of solemnity*

- Stakeholders diverge over the need for the SSS to include an educational component concerning the potential duty or obligation to perform military or alternate service if called or to ensure active participation in the registration process. SSS Director Don Benton maintains that the system is agnostic as to how individuals register.<sup>19</sup> However, DoD supports the SSS pre-mobilization registration, in part because it supposedly reminds young individuals, “if only for the briefest moment, the possibility of military service.”<sup>20</sup> Dr. Nora Bensahel argued for

---

<sup>15</sup> The process generally works as follows: Under SSS regulations regarding advisory opinions, a man can request a “status information letter” (SIL). The request should be in writing to the Director of Selective Service and provide the basis for his opinion that the registration requirement is inapplicable to him. A federal, state, or local government also can request an advisory opinion about an individual’s liability for registration under the MSSA. See 32 C.F.R. Part 1698.

<sup>16</sup> MFR, NCoS visit to SSS data management center, June 2018.

<sup>17</sup> Bernard Rostker, Testimony before the National Commission on Military, National, and Public Service, April 24, 2019.

<sup>18</sup> Selective Service System, Annual Report to Congress, 2017, <https://www.sss.gov/Portals/0/PDFs/Annual%20Report%202017.pdf>.

<sup>19</sup> As noted in the April hearings, the Selective Service System is agnostic as to the source through which young men are registering. See Donald Benton, Testimony before the National Commission on Military, National, and Public Service, April 2019.

<sup>20</sup> Department of Defense, “Report on the Purpose and Utility of a Registration System for Military Selective Service,” 11.

## DELIBERATIVE AND PRE-DECISIONAL FOR OFFICIAL USE ONLY

maintaining the SSS on the basis of preserving “the only remaining thread that connects all (male) U.S. citizens to their military.”<sup>21</sup>

### *Potential databases to facilitate passive post-mobilization registration*

- There are several large databases with information on individuals, but not all have active requirements for individual identification, verification, and compliance; some are missing subpopulations of currently draft-eligible individuals; and others are commercial or state databases.
- The integration of one or more state/federal databases for a post-mobilization registration system would be an inherently difficult integration challenge—particularly as the database compilation would be using existing databases and not fielding a new data collection effort.<sup>22</sup> As Social Security Administration database experts asserted in an interview with staff, integrating data requires a high degree of synchronization, regression testing, and performance tuning.<sup>23</sup>
- The Social Security Administration and the Internal Revenue Service (IRS) maintain the most prominent federal databases to use as a source of information for passive, post-mobilization registration. While databases maintained by both agencies are fairly robust in their *identification* of individuals, their ability to contact and track individuals is not currently a priority.<sup>24</sup>
  - IRS tax collection includes an accepted punishment and enforcement mechanism that is widely understood as necessary to ensure essential government functioning and provide a mechanism for the issuance of broad public services. Shifting administration of draft processes enables elimination of current punishment schedule tied to sustaining a draft mechanism without sacrificing compliance on a future draft registrant database.
  - Because IRS operations are responsive and adaptive, an IRS database may be less systematically biased than current secondary sources.
  - IRS databases may be well postured to include updates for those who have changed addresses, as they include information from new employers.

### *Expected cost savings by moving to post-mobilization registration*

- Cost savings for post-mobilization registration come primarily from a reduction in personnel. GAO estimated in a 1997 review of the SSS that suspending registration would increase the

---

<sup>21</sup> Barno and Bensahel, “Why we still need the draft.”

<sup>22</sup> Social Security Administration staff explained there is an inherent tradeoff in combining datasets instead of relying on one large dataset, including synthesizing protocols for data integration, aligning datasets with high accuracy, and the emergent need to “clean” the data of errors and artifacts.

<sup>23</sup> NCoS Staff interview with Social Security Administration Staff, telephonic, April 5, 2019.

<sup>24</sup> SSS staff provided insights into the use of both systems, as they learned through federal database community of interest meetings. Although the SSA collects a lot of information on individuals, it does not need to verify addresses for individuals until they are eligible to collect disbursements. The IRS increasingly uses direct deposit transactions and, in such cases, has addresses on record but does not need to verify the filer’s address, which may mean only the individuals’ banks have accurate address information. Meeting with Selective Service System, Washington, DC, May 9, 2019.

**DELIBERATIVE AND PRE-DECISIONAL  
FOR OFFICIAL USE ONLY**

mobilization timeline of the SSS by an estimated 24 days and add at least another \$17 million to startup costs.<sup>25</sup> The change to post-mobilization registration would save an estimated \$5.7 million/year fiscal cost.<sup>26</sup>

- o The cost savings come primarily from an estimated 33 percent reduction in SSS staff; however, the adjusted personnel strength estimate (123 civilian, 13 active military, 504 reserve personnel) is larger than the current Selective Service System on-hand personnel, and it is unclear if the figure from GAO remains valid today.<sup>27</sup>
- Regardless of mobilization registration sequencing, the components of the SSS that would likely need to be maintained for a future draft activation includes technology infrastructure, local boards, and key personnel.
- Without an active and visible process of registration, and overall readiness timelines of over 215 days before the delivery of the first personnel to MEPS, elected officials may elect to reduce Selective Service readiness and spending further.

*Penalties*

- The pre-mobilization registration posture for the SSS has costs to individuals who fail to complete the registration requirement. Suspending pre-mobilization registration would ease the requirement for penalties and denied benefits for failing to register. Individuals who choose not to contest or appeal a denial of state or federal employment, or state or federal student loan benefits, for failure to register with SSS are not centrally tracked or reported. The only metric available for measuring the impact of denied benefits comes from individuals who request a status information letter (SIL).
  - o SILs are sent to those who request a letter from SSS detailing their registration status and whether they were required to register at all. In total, 193,461 letters were posted between 2015 and 2018, with 10,804 classified as favorable—the recipient was not required to register for Selective Service or had registered correctly.<sup>28</sup> Analysis of the data reveals a small increase in the number of letters generated for people residing in states without automatic data sharing through state DMVs, even controlling for age, year, and state population.

---

<sup>25</sup> Estimates come from a 1997 GAO-reported cost projection, which assumes active post-mobilization registration, registering two year groups at a time versus ages 18-45, and there have been considerable shifts in USPS infrastructure and U.S. population growth.

<sup>26</sup> Notwithstanding the cost of maintaining the rest of the Selective Service System—the \$5.7 million is the annual estimated cost savings for suspending registration. See Government Accountability Office, “Selective Service: Costs and Implications of Two Alternatives to the Present System,” Washington, DC, 1997.

<sup>27</sup> GAO, “Selective Service: Cost and Implications of Two Alternatives to the Present System,” Washington, DC, 1997.

<sup>28</sup> Derived from NCoS staff analysis of SSS DMC data. See email from SSS Data Management Center, “Re: Status of Information Letters (SIL) Data,” March 19, 2019.

**DELIBERATIVE AND PRE-DECISIONAL  
FOR OFFICIAL USE ONLY**

- A shift to relying upon the IRS or Social Security databases for potential draft mobilization may substantively change user interaction with those databases, potentially imposing far higher denied benefits (Social Security) or penalties (failure to file with the IRS).

### **Recommendations 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 Selective Service System's pre-mobilization registration posture and recommends that Congress and the President maintain the Selective Service pre-mobilization registration requirement.*

- OR -

- *The Commission recommends that Congress amend the MSSA to suspend active, pre-mobilization registration in favor of passive, post-mobilization registration.*
  1. Amend the MSSA to remove the requirement for active registration.
  2. Require the SSS to adjust memoranda of understanding (MoUs) established with state and federal data-sharing sources used to ensure compliance for a post-mobilization passive registration.
  3. Require the SSS to establish MoUs with IRS and Social Security Administration to prepare procedures to transfer data to populate the SSS RCV database in the event of a draft.
  4. Repeal federal laws penalizing failure to register and grant amnesty for those who violated federal laws for failure to register.
  5. Encourage states to grant amnesty consistent with steps taken by the federal government.
  6. Ensure the SSS Data Management Center maintains registrant data once individuals who were required to register age-out of the status-quo registration requirement or as long as state or federal laws that penalize nonregistration remain in place.<sup>29</sup> Additionally, direct the SSS Data Management Center to continue to provide SILs until all state laws that penalize nonregistration are repealed.<sup>30</sup>
  7. Ensure the SSS continues to recruit and maintain the local board structure and local board members continue to perform annual training for their SSS responsibilities.

---

<sup>29</sup> Status quo 18-26, or as amended.

<sup>30</sup> SILs are provided to individuals who are adjudicating a failure to register with the SSS.