



NATIONAL COMMISSION ON MILITARY, NATIONAL, AND  
PUBLIC SERVICE

MEMORANDUM FOR THE RECORD

**Subject: Selective Service Working Group Discussion**

The following is a record of a meeting of the Selective Service Working Group, which took place on January 24, 2019 at the NCoS HQ. At the meeting, participants discussed potential courses of action (COAs) for the Selective Service System. The conversation was facilitated by the Honorable Debra Wada and Judson Crane, and included Ed Allard, Jeannette James, Tom Kilgannon, and Shawn Skelly, as well as Paul Lekas, Jeff McNichols, Sam Moss, Tara Razjouyan, Jill Rough, Amy Schafer, Erin Schneider, Andrew Swick, and Eleanor Vuono. This memorandum is protected by the deliberative process privilege and should be treated as For Official Use Only. This memorandum is not a verbatim transcript of the discussion.

**Attendees:**

- Commissioners: The Honorable Debra Wada, Ed Allard, Jeannette James, Tom Kilgannon, Shawn Skelly
- Commission Staff: Judson Crane, Paul Lekas, Jeff McNichols, Tara Razjouyan, Jill Rough, Amy Schafer, Erin Schneider, Andrew Swick, Eleanor Vuono, Sam Moss

**Key Takeaways:**

- Commissioners discussed policy alternatives which would compliment final courses of action for the Selective Service System.
- Commissioners signaled support for various alternatives while revising their language, including for establishing exercises for testing Department of Defense and Selective Service mobilization processes.
- Ms. James expressed firm support for keeping penalties for those who knowingly fail to register for the draft.

**Meeting Discussion**

***Introduction***

**Mr. Crane** began the discussion by summarizing previous working group conversations, which focused on developing courses of action. He explained that for this conversation, he planned to discuss policy alternatives which would exist outside the consideration of courses of action for the draft system. He framed the discussion by asking the Commissioners the following questions:

1. What else they would consider recommending;

2. What would be outside the scope of their work;
3. What additional information they would need; and
4. What additional ideas they have?

### ***Mobilization Exercises***

He outlined a hand-out document discussing potential policy alternatives. The first policy alternatives were related to developing additional knowledge about national mobilization needs within the Department of Defense (DoD) and the Selective Service System (SSS). As an example, he noted that it has not been clear whether the SSS would take over recruiting stations in the case of a draft. The two included policy alternatives would require the DoD to conduct a table-top exercise for mobilization and the SSS to regularly exercise their mobilization responsibilities.

**Mr. Allard** noted that he would like to see more information about the use of recruiting stations in a draft situation. He also observed that he would be strongly in favor of a table-top exercise on mobilization for the SSS and DoD. He wondered aloud as to how much specificity would be needed in these sorts of exercises. He noted that there would likely be bugs in the system found through an exercise.

**Mr. Crane** argued that any such exercise would likely go beyond the DoD. He stated that the first policy alternative would involve all mobilization stakeholders, whereas the second alternative would test the systems within the SSS.

**Mr. Allard** described these options as an in-house test versus an out-house test. **Mr. Crane** agreed with this analogy, but that the work group expressed interest in having tests executed “in public view.” **Mr. Allard** concurred that such an exercise should happen in public view.

**Ms. Skelly** noted that by conducting an exercise in public view, it would also connect to and increase public solemnity and awareness about the SSS.

**Ms. James** interjected that she would not see the value in having the DoD conduct a table-top exercise but that she would see the value in having the SSS conduct an exercise. She argued that the government would need to determine whether the system could work, and that the public would have to get over any worries that a draft exercise indicates an upcoming draft. She noted that the DoD should update their mass mobilization plans.

**Ms. Vuono** pointed out that updating mobilization plans would be included in a following policy alternative.

**Ms. Skelly** stated that following the Commission’s trip to the U.S. Army War College, she was convinced of the Army’s need to update their plans and conduct a table-top exercise. She observed that it could be done several different ways, including by a federally-funded research and development center (FFRDC).

**Ms. James** responded by saying that the sequencing of the policy alternatives would matter, however, in order to have the DoD’s mobilization plans updated before conducting a table top exercise. **Mr. Crane** also noted that the order could happen either way, as plans would likely need to be changed after an exercise.

**Ms. Wada** noted that such an exercise would be important to identify the need for the SSS and to highlight connectivity with other agencies to make it work. She argued that an FFRDC would not necessarily be required to lead the exercise, but that some outside agency should conduct it. She argued that the point of the exercise would be to bring in all relevant stakeholders.

**Ms. James** argued that it would not be necessary to include the wording “in public view,” as such an exercise would attract attention anyway.

**Ms. Skelly** observed that despite the time passed since Vietnam and the need for an exercise, having an SSS exercise would mark a cultural shift.

**Mr. Allard** agreed and noted that it would be important for such an exercise to be conducted with transparency, to prevent the SSS from conducting it behind closed doors.

[Commissioners agreed with using the term “transparency.”]

**Mr. Allard** and **Ms. James** then briefly debated which order the alternatives should be arranged in.

**Ms. James** then again observed that new plans should be developed before a table-top exercise.

**Mr. Kilgannon** observed that some sort of public awareness campaign should accompany an SSS exercise to communicate to the public that there is no impending crisis.

[**Mr. Crane** updated the policy alternative to include wording as suggested. There followed brief crosstalk about how these policy alternatives would change given decisions about the structure of the draft system.]

**Ms. Skelly** observed that for these policy alternatives, a conversation would need to be maintained within the government and with the public. She then clarified that while there does not need to be constant communication with the public, there needs to be publicly available information about mobilization possibilities.

**Ms. Wada** noted that while the results of the table-top exercise would likely not become public, there should be some sort of public messaging campaign for what the public would do in a crisis.

**Ms. Vuono** pointed out that one of the following policy alternatives would include public messaging.

**Ms. James** argued that the results of table-top exercises would not be disclosed and would be sensitive to national security. She observed that there could be a transparent public awareness campaign, and that this could be sufficient. **Mr. Kilgannon** agreed that this would meet requirements about solemnity.

**Mr. Allard** argued that there should be an annual exercise to test the capabilities of the SSS, which was followed with crosstalk about what would constitute an “exercise.”

**Ms. James** clarified that any exercises should include the “full scope” of the agency’s operations and activities.

### ***DoD Requirements***

**Mr. Crane** then moved onto the next policy alternative, which would require the DoD to update their personnel requirements and timeline, as per GAO guidance.

**Ms. James** argued that the Commission should emphasize that the DoD update these requirements and provide a rationale, though the recommendation should stand alone, but **Ms. Wada** asked if this would change anything as DoD has already been asked to update their requirements.

***DoD Planning Office for Mobilization***

**Mr. Crane** moved on to the next policy alternative and asked whether the Commission should recommend that the DoD identify a planning office for national mobilization.

**Ms. James** noted that Congress is often reluctant to set up new offices in the DoD and argued that the Commission should simply ask DoD to identify an executive agent for national mobilization within the existing structure.

[Crosstalk followed about which office would most likely take the lead on national mobilization.]

**Mr. Crane** then introduced the next policy alternatives, which focused on communicating mobilization plans and requirements with the American people.

**Mr. Allard** interjected to ask whether FEMA typically issues directives on what to do in cases of emergencies.

**Mr. Crane** explained that FEMA does emphasize actions related to disaster preparedness. He argued that given changes in the strategic environment, there may need to be information for the public related to national security emergencies.

***Communication with the Public***

Related to one of the policy alternatives, **Ms. Skelly** asked whether there actually needs to be more information provided in the National Defense Strategy. She wondered whether there could be better information for the actual public, and not just the national security community.

**Ms. Schafer** then highlighted one of the policy alternatives encourages senior DoD officials to talk to non-traditional audiences.

**Ms. James** observed that in the Cold War, there was a civil-defense establishment to communicate this information to the American public.

**Ms. Wada** asked what information would need to be communicated, and whether there was a need for such messaging. She argued that messaging about national security emergencies could be included with messaging about natural disasters, given the lack of a specific threat.

**Ms. Schafer** noted that, as Ms. James highlighted, there may be a need to establish readiness (phase zero) activities within the public.

**Mr. Kilgannon** stated that such a campaign may be outside the purview of the Commission, which is more to establish procedures for mobilization in the case of war. **Mr. Allard** agreed that public transparency surrounding SSS exercises would be sufficient messaging and that public messaging related to war preparedness would be over-wrought.

**Mr. Crane** then further framed the discussion by asking what sort of messaging would be needed to accompany a call for volunteers.

**Ms. James** argued that the president would need to outline the threat and need for volunteers in such a case, but that this would be different from constant war preparedness. She added that she would support one of the policy alternatives that encouraged the inclusion of SSS content in civics education.

**Mr. Kilgannon** clarified that there may need to be communication with public institutions which would be utilized in the case of a draft, and that these could be identified during a table-top exercise.

[There followed some crosstalk about potential legal concerns in such an event.]

**Ms. Rough** asked for clarification on which agency would identify the relevant state and local facilities for mobilization, and **Mr. Crane** noted on the document that the SSS would have this responsibility.

**Mr. Allard** asked whether SSS had already identified such facilities, and **Mr. Crane** answered that the SSS had done some of this work, but that much of it was outdated. **Mr. Allard** further observed that this work would need to be updated.

**Ms. Wada** observed that the discussion was getting too detailed, and that SSS and DoD would share responsibilities during mobilization. She suggested the Commission should just recommend that there be a functional system which is tested regularly.

[There followed some crosstalk on which tasks were handled by DoD and by SSS.]

### ***Registration Processes and Penalties***

**Mr. Crane** then moved on to policy alternatives related to registration processes. He discussed how conscientious objectors oppose requirements to register for the SSS, and favor eliminating penalties for not registering.

**Ms. Vuono** noted legal requirements to register for the SSS and associated penalties. **Mr. Allard** clarified that lawyers within the SSS have the power to waive penalties for individuals in the case of mitigating circumstances.

**Ms. James** noted that she has a very conservative viewpoint on the penalties, and that there should be no statute of limitations on people who knowingly do not register. She explained that someone who registers is agreeing to be drafted under whatever circumstance that arises, and that draftee could lose their life—thus, there should be penalties for those who knowingly fail to register.

[Following some crosstalk, **Ms. James** asked whether there are separate penalties for not registering and for not reporting in the case of induction.]

**Mr. Crane** and **Ms. Vuono** confirmed that there are separate criminal penalties for both actions.

**Ms. James** again argued that people who choose to not register are putting themselves above law-abiding Americans.

**Mr. Vuono** pointed out that officials in the SSS find that many people are penalized for not understanding what the SSS is and what their requirements are.

**Ms. James** clarified that people should not be punished for unknowingly avoiding registration, but for choosing not to register.

**Mr. Vuono** argued that if the point is to increase compliance, there may be an interest in increasing the ability to comply.

**Ms. Wada** suggested that the existing system was appropriate, in that it distinguished between those who were unaware of the system and those who chose to not register.

**Ms. James** then compared those who do not register to people driving without a license, who then lose the ability to get a license.

[Crosstalk followed about related issues.]

**Ms. Skelly** then argued that there may be problems associated with documented and undocumented immigrants (non-citizens) registering for the SSS.

**Mr. Crane** noted that one of the policy alternatives would limit registration to U.S. citizens and long-term permanent residents. **Ms. Vuono** highlighted that because the complexity of the current registration system related to visa status, it can be unclear as to who needs to register.

**Ms. James** responded by arguing that removing the requirement for registration among undocumented immigrants may incentivize more illegal immigration.

**Ms. Vuono** clarified that because of existing laws, drafting illegal immigrants would trigger a series of complex actions that the SSS would want to avoid.

[Crosstalk followed on whether there was any path for undocumented immigrants to become legal residents or citizens if drafted.]

**Mr. Crane** observed that the Commissioners seemed to want to avoid any discussion about citizenship.

[Commissioners agreed that the topic would not be worth bringing to the focus of the full commission.]

**Mr. James** noted that the Commission could possibly recommend looking at simplifying registration requirements, without getting into the details of registration requirements and immigration status.

**Mr. Crane** asked whether the Commission should roll back secondary registration processes.

**Ms. James** argued that instead of rolling back secondary processes, another step may be added to increase the solemnity of the process. **Ms. Skelly** noted that adding steps to the process would add complexity and may inhibit registration compliance.

**Mr. Kilgannon** suggested that the policy alternative be adjusted to state that secondary registration processes be “supplemented,” and **Mr. Crane** adjusted the policy alternative as such.

**Ms. Vuono** wondered whether such a suggestion could be integrated with plans being developed in the Ends, Ways, and Means Working Group.

**Ms. James** clarified that details for a plan would need to come from the SSSWG, and the group then moved on to the next policy alternative.

[On the policy alternative related to penalties for not registering, the Commissioners agreed that the law should distinguish between people who fail to register knowingly and people who fail to register unknowingly.]

**Mr. Crane** then noted that Dr. Bernie Rostker has suggested requiring face-to-face registration for the SSS, but that such a proposal may be rendered moot by earlier decisions in the discussion.

**Mr. Kilgannon** offered that the policy alternative could empower face-to-face registration rather than require it. **Mr. Allard** added that elected officials could be involved in conducting these sorts of registration events.

### ***Conscientious Objector Status***

**Mr. Crane** then moved on to policy alternatives related to conscientious objectors.

**Mr. Allard** noted his opposition to policy alternatives providing for the designation of conscientious objector status on SSS registration materials.

**Mr. Crane** asked whether it would also be problematic for a registrant to be able to note on registration materials that they intended to register as a conscientious objector.

**Ms. Skelly** and **Ms. James** argued that including this option would create an expectation for separate treatment for conscientious objectors, though **Ms. Wada** did not find any problem with including this option.

**Ms. Skelly** asked about the viewpoint of the Center for Conscience and War (CCW) on including the option for registering as a conscientious objector.

**Ms. Rough** clarified that while CCW would prefer to eliminate the registration requirement entirely, they would see it as a symbolic win to be able to register as a conscientious objector.

**Ms. Wada** agreed with the previous assessment. She then asked whether the Religious Freedom Restoration Act would apply to the draft, and **Ms. Vuono** argued that it would not apply to the draft.

[Some crosstalk followed as to whether the Religious Freedom Restoration Act would apply to the SSS.]

**Ms. James** asked whether it would make sense to include the option to note that the registrant would intend to apply as a conscientious objector in the case of a draft.

**Ms. Schafer** argued that SSS officials may have concerns over such an indication adding to the legal argument of those challenging the system.

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**Mr. Kilgannon** asked whether such a policy would provide the opportunity for other groups to challenge the draft.

**Mr. Crane** noted that conscientious objector status is the only permanent exemption for the SSS.

**Mr. Allard** offered that the Commission staff speak to the SSS about exemptions and deferrals.

**Ms. Wada** and **Mr. Crane** then agreed that the next working group discussion would cover SSS courses of action, and they would return to policy alternatives over the phone.

[**Ms. Wada** then ended the discussion.]