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March 11, 2021

As you consider legislation related to Selective Service registration, we appeal to you as the leadership of the House Armed Services Committee and its Military Personnel Subcommittee to give this issue the full consideration it warrants, by holding a **full and fair hearing** on this issue that considers **both** policy options before Congress – either ending Selective Service registration or expanding it to women – and that hears from witnesses in support of each of those options.

As you know, litigation challenging the Constitutionality of the requirement for men, but not women, to register with the Selective Service System (SSS) is pending in the Supreme Court,<sup>1</sup> and is forcing Congress to choose either to end draft registration or to expand it to women as well as men.

The choice is **not** between continuing male-only draft registration (which is likely to be found unconstitutional) and expanding registration to women. The real choice is whether to expand registration to women or to end it entirely. Bills for each of those options (H.R. 5492<sup>2</sup> and H.R. 6415<sup>3</sup>) were introduced in the last session of Congress, and are likely to be reintroduced or included in drafts and/or proposals for amendments to the FY 2022 National Defense Authorization Act.

The Selective Service System exists to maintain the apparatus of a military draft: a system expressly designed to coerce people who otherwise would not join the military to do so.

As we and many other peace-loving Americans see it, this is a choice about militarism, not a choice about gender equality. Expanding draft registration to women would bring about a semblance of equality in war (although women in the military would likely still be subject to disproportionate sexual harassment and abuse). Ending draft registration would bring about real equality in peace and freedom.

During an HASC markup session on the FY 2021 NDAA on July 1, 2020, Rep. Speier said that, “You have my commitment that we will have a hearing on this issue within the next year.”

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1. *National Coalition for Men v. Selective Service System*, No. 20-928, <https://www.supremecourt.gov/docket/docketfiles/html/public/20-928.html>
  2. <https://www.congress.gov/bill/116th-congress/house-bill/5492>
  3. <https://www.congress.gov/bill/116th-congress/house-bill/6415>

We look forward to that hearing, and to the opportunity to provide testimony as to why Congress should choose to end Selective Service registration rather than try to expand it to women.

You will, no doubt, hear from former members of the National Commission on Military, National, and Public Service (NCMNPS). But the closed-door deliberations and invitation-only consultations of the NCMNPS are no substitute for Congressional hearings and public debate, even if the NCMNPS had considered all of the factors bearing on your decision – which it didn't.<sup>4</sup>

More than ninety percent of the people who submitted comments to the NCMNPS supported ending Selective Service registration entirely.<sup>5</sup> But the NCMNPS never took that public sentiment seriously, and met with advocates for ending registration only months after it had decided in closed session to rule out the option we recommended (as we only learned a year later, when some records withheld by the NCMNPS were released by the National Archives after the NCMNPS was disbanded).<sup>6</sup>

Those same NCMNPS records<sup>7</sup> show that Senate Armed Services Committee staff told the NCMNPS that, “SSS is kept around largely for political reasons, but no one realistically thinks it will be used.”<sup>8</sup> And the NCMNPS struggled, both in its internal deliberations and in its public hearings, to come up with any realistic scenario in which a draft would be “needed.”

The lengths of fantasy to which the NCMNPS had to go to imagine a “need” for a draft are exemplified by the hypothetical question posed by Brig. Gen. Joe Heck (U.S. Army Reserve), Chair of the NCMNPS, to one of us who testified against SSS registration at an NCMNPS hearing: “We’re in a Red Dawn scenario where we are being attacked through both Canada and Mexico. There is no Selective Service System.... There’s been a Presidential/Congressional call for volunteers.... However, the response has not been enough to meet the threat... How would you propose to meet the demand?”<sup>9</sup>

Nevertheless, the NCMNPS deferred to Congress in endorsing continuation of Selective Service registration despite the lack of any realistic threat model that would justify a draft. That deference to Congress by the NCMNPS puts the onus squarely on Congress itself to hold a full hearing and full debate on what sort of war(s) you want to prepare to fight that might call for military conscription.

We have diverse reasons why we – like the vast majority of those who submitted comments to the NCMNPS – oppose draft registration for men or women and ask you to end it. Those arguments, which the NCMNPS never took seriously, deserve a serious hearing by Congress.

Our objections to the continuation or attempted expansion of Selective Service registration are practical as well as ideological. Regardless of whether anyone “wants” a draft, evidence ignored by the

4. See our joint statement in response to the report of the NCMNPS, March 2020, <https://hasbrouck.org/draft/Antidraft-News-Advisory-MAR2020.pdf>
5. <https://hasbrouck.org/draft/NCMNPS/foia.html#comments>. Most of these comments were neither counted nor disclosed by the NCMNPS. See <https://hasbrouck.org/draft/NCMNPS/foia.html#selected>
6. <https://hasbrouck.org/draft/NCMNPS/meetings.html>
7. See links at <https://hasbrouck.org/draft/NCMNPS/foia-nara.html>
8. Internal NCMNPS staff notes from meeting with Senate Armed Service Committee staff, October 1, 2018, <https://hasbrouck.org/draft/FOIA/RAW-INT-NotesFromSASCMeeting-1001-v2.docx>
9. <https://www.c-span.org/video/?c4804254%2Fexistential-threats>

NCMNPS suggests that a draft may not be feasible or enforceable in the face of current and likely future noncompliance. Like it or not, realism demands that you recognize the constraints placed on government action by popular (un)willingness to comply with government demands.

The SSS counts as “in compliance” any man who has registered, even if he registered years after he was supposed to do so, and moved soon afterward without telling the SSS.

There’s been no GAO or other outside audit of the accuracy of the SSS registration database since 1982, at which time many of the addresses on file were already obsolete.<sup>10</sup>

The SSS needs current addressees to deliver induction notices, and men are supposed to notify the SSS every time they move until age 26. But this requirement is unenforced and almost universally ignored. Dr. Bernard Rostker, who managed the start-up of the registration program in 1980 as Director of the SSS, told the NCMNPS that the current database is so incomplete and inaccurate as to be “less than useless” for an actual draft, and that registration should be ended rather than expanded to women.<sup>11</sup>

Enforcement of the criminal penalties for nonregistration was abandoned in 1988 after show trials of a handful of nonregistrants proved counterproductive.<sup>12</sup> In preparation for one of its hearings, NCMNPS staff contacted the Department of Justice but were unable to find any current guidance on Selective Service enforcement.<sup>13</sup> Records released by the National Archives after the NCMNPS was disbanded show that the NCMNPS conducted no research on current or projected compliance, noncompliance, or enforcement. There’s no enforcement plan or budget in the NCMNPS report – leaving it to Congress to come up with a credible enforcement plan and budget before you vote on any proposal to extend to women the criminal penalties for willful failure to register with the SSS.

Most men only register with the SSS if that is required to get a driver’s license or state ID (it isn’t in California or several other states) or Federal student aid (a requirement that Congress recently voted to eliminate effective with the next revision of the FAFSA student aid application form).<sup>14</sup>

During closed-door NCMNPS deliberations, former SSS Deputy Director for Operations Edward Allard III repeatedly reminded his fellow NCMNPS members that the SSS depends on state laws requiring draft registration for drivers licenses. Most of those laws, Mr. Allard noted, apply only to men. So getting women to register would require not merely a change to Federal law but changes to

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10. “Failure Of Registrants To Report Address Changes Would Diminish Fairness Of Induction Processing,” General Accounting Office report FPCD-82-45, September 24, 1982. <http://archive.gao.gov/f0102/119502.pdf>. (“We estimate that about 20% to 40% of addresses in Selective Service files will be outdated for registrants who turn 20 in any given year.... At the end of 8 years, when registrants reach their last year of draft eligibility, the extent of outdated address could reach almost 75%. As a result of outdated addresses, many registrants would not receive induction notices.”)
  11. Transcript of hearing, April 24, 2019, <https://hasbrouck.org/draft/FOIA/NCMNPS-Transcript-24APR2019pm.pdf>
  12. See interviews with current and former SSS officials in “Gender-Neutral Draft Registration Would Create Millions of Female Felons,” by Steven Nelson, US News & World Report, May 3, 2016, <https://www.usnews.com/news/articles/2016-05-03/gender-neutral-draft-registration-would-create-millions-of-female-felons>
  13. Internal minutes of March 2019 NCMNPS meeting, [https://hasbrouck.org/draft/FOIA/NCOS\\_Minutes\\_2019\\_MARCH\\_FINAL.pdf](https://hasbrouck.org/draft/FOIA/NCOS_Minutes_2019_MARCH_FINAL.pdf)
  14. Consolidated Appropriations Act, 2021, Title VII, FAFSA Simplification, <https://www.congress.gov/bill/116th-congress/house-bill/133/>

each of these dozens of state laws. State legislators, Mr. Allard warned, may be less willing to use their motor vehicle codes to force women to register for the draft than they were to use them against men.<sup>15</sup>

Forcing people into the military is a serious matter that deserves full Congressional debate. We look forward to your hearing on Selective Service registration and to the opportunity to work with you and your staff to ensure that your hearing considers both of the major policy options for Congress, and hears from witnesses for both these options and on the issues that weren't considered by the NCMNPS.

Sincerely,

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15. Internal minutes of April 2019 NCMNPS meeting,  
[https://hasbrouck.org/draft/FOIA/NCoS\\_Minutes\\_2019\\_APRIL\\_FINAL.pdf](https://hasbrouck.org/draft/FOIA/NCoS_Minutes_2019_APRIL_FINAL.pdf)

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