

**Testimony before the National Commission on Military, National, and Public Service
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**Selective Service Hearing: Answering the Call: How to Meet Potential National
Mobilization Needs**

Statement by Dr. Bernard Rostker

Mr. Chairman and members of the Commission I appreciate this opportunity to provide my summary comments concerning the two comprehensive memoranda *Expanding Selective Service Registration to All Americans* and *Readiness of Selective Service and Structure of a Future National Mobilization* prepared by your staff. These memoranda provide a cogent summary of the issues facing the nation and for which the commission was established. Basically, they cover four questions: (1) If the Military Selective Service Act (MSSA) is to be retained what should be the structure of the Selective Service System in terms of the requirement for continuous registration and the supporting infrastructure? (2) Should the act be modified to include the registration and if necessary the induction of women? (3) How can the needs for critical skills be met? and (4) Is there a need to maintain the current MSSA? Given the limited time available to me today to address these questions I would like to provide a summary response but I am prepared to answer any questions you may have.

- (1) If the Military Selective Service Act (MSSA) is to be retained what should be the structure of the Selective Service System in terms of the requirement for continuous registration and the supporting infrastructure?

As I have argued in my recent paper¹ the current system of registration does not provide a comprehensive and nor an accurate data base upon which to implement conscription. It systematically lacks large segments of the eligible male population and for those that are included, the currency of information contained is questionable. Numerically, let me suggest that the data base of those eligible for conscription should be at least 93 percent comprehensive and 98 percent accurate; levels that are far from achieved by the current system. An alternative registration system that can achieve these levels and does so in a timely fashion consistent with the Department of Defense's timeline for inductions is much preferred to the current system. Such a system was demonstrated in the summer of 1980 and achieved these levels of comprehensiveness and accuracy, and did so well within the DoD timeline.

In terms of the options being considered by the commission as presented in the staff memorandum only the "Suspending Registration" option would meet these standards and still provide the supporting infrastructure to enable conscription to go forward. While a great deal of attention has been given to what form registration should take, the registration itself is not the "long pole in the tent" for the resumption of conscription. Maintaining the Selective Service infrastructure is critical and should be the focus of any continuing system.

¹ Bernard Rostker, "What to Do with the Selective Service System? Historical Lessons and Future Posture," Santa Monica, The RAND Corporation, 2018, <http://www.rand.org/pubs/perspectives/PE197.html>.

(2) Should the act be modified to include the registration and if necessary the induction of women?

I must confess to having very conflicted views on this question. I am clear in my support for providing equal opportunity to men and women in their service in the armed forces. However, I am not so certain about compelling both men and women to serve, especially on a completely equal footing. Here my experience as Director of Selective Service during the Carter administration comes into play. While the administration clearly supported the registration of women, I was impressed at the time by the heart felt feelings of so many against that position. We clearly did not have the support of Congress or the majority of the Supreme Court. In fact, the Chief Justice went so far as to invent facts in his majority opinion in *Rostker v. Goldberg* to uphold a male only registration and if necessary a male only draft. The most recent district court ruling finding the unconstitutionality of a male only draft also is not an endorsement for registering or conscripting women, rather it is blueprint for what the government needs to do to sustain the male only registration and draft.

I cannot think of a more divisive issue than the conscription of women, an issue that clearly does not need to be addressed at this time given that a return to a draft is so unlikely. This is a “fight” we really don’t need to have. It is a “fight” that can and should be put off until a time when it really matters. A time, at some point in the future, when attitudes might be different, the threat facing the nation might be clearer and less uncertain and speculative, and when a compelling case can be made. If this means that at this time the MSSA needs to be repealed, so be it. More on this later.

(3) How can the need for critical skills be met?

As noted in the staff memorandum, the key to obtaining critical skills either on standby or as needed should rest on having the appropriate incentives to facilitate the needed number of volunteers. In the past, a skills draft like the so-called “Doctors Draft” was possible because it was linked to the on-going draft. However, today the “incentive” of avoiding being drafted no longer exists. Other incentives, both pecuniary and non-pecuniary will need to be found. I endorse the commissions actions on this account.

(4) Is there a need to maintain the current MSSA?

The need to maintain the current MSSA is predicated on the following statement:

Although the DoD has no current plans to rely on conscription the nation has historically relied upon the SSS to provide personnel to fight and win the nation’s wars and asserts the United States must retain the ability to respond to unanticipated crises.²

² As stated in *Expanding Selective Service Registration to All Americans*, National Commission on Military, National, and Public Service, p. 4

This statement is a misreading of our national history and the history of the military draft.³ In fact, a pre-mobilization draft only existed after World War II and impacted the conflicts in Korea and Vietnam. In Vietnam it proved so divisive that it was replaced by an all-volunteer force we have today. A more correct reading of history shows that we have engaged in active military conflict numerous times since 1973 without the “help” of the Selective Service System, including the longest military conflict in our history. There are many reasons why we have been able to do so which negates the need for conscription. Most significant is the change in military technology which makes the need for a mass of untrained manpower, the very thing the draft provides, unnecessary and actually a burden. Today the Army does not need and cannot absorb the mass of untrained and unskilled men, and potentially women, the draft would provide. If history tells us anything, it is that when we have needed to build a mass Army, as we did for World War I and World War II, there was sufficient time to develop a new Selective Service System from scratch; in the former case from the handbook written after the Civil War, and in the latter case from the work of a planning cell at the Department of War. Such a planning cell could again meet any future needs for the re-establishment of military draft.

So, my bottom line is there is no need to continue to register people for a draft that will not come; no need to fight the battle over registering women, and no military need to retain the MSSA.

Thank you Mr. Chairman. I am ready to answer any questions your or the other members of the commission or staff might have.

³ See: Bernard Rostker, *America Goes to War: Managing the Force During Times of Stress and Uncertainty*, (Santa Monica, CA The RAND Corporation, 2007) and Bernard Rostker, *I Want YOU: The Evolution of the All-Volunteer Force*, Santa Monica, CA The RAND Corporation, 2006).