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The Selective Service System and Draft Registration: Issues for Congress

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Summary

The Military Selective Service Act (MSSA), first enacted as the Selective Service Act of 1948, provides the statutory authority for the federal government to maintain a Selective Service System (SSS) as an independent federal agency responsible for delivering appropriately qualified civilian men for induction into the Armed Forces of the United States as authorized by Congress. The annual budget for the agency is just under $23 million. One of the SSS's main functions is to maintain a database of registrants in case of a draft. The agency stores approximately 78 million records in order to verify registration status and eligibility for certain benefits that require certification of registration for eligibility. The SSS has a staff of about 124 full-time employees, complemented by a corps of volunteers and military reservists.

The MSSA requires most males between the ages of 18 and 26 who are citizens or residents of the United States to register with Selective Service. Women in the United States have never been required to register for the draft. Men who fail to register may be subject to criminal penalties, loss of eligibility for certain federal or state employment opportunities and education benefits, and denial of security clearances. Documented or undocumented immigrants who fail to register may not be able to obtain United States citizenship. Registration compliance rates were 92% in calendar year 2016. While individuals may still register at U.S. post offices, the SSS attributes high compliance rates to a system of automatic electronic registration supported by state legislation and interagency cooperation.

The MSSA does not currently authorize the use of a draft for induction into the Armed Forces. When the draft has been implemented, it has met some public resistance. Such resistance to the draft drives much of the opposition toward maintaining the SSS and the registration requirement. Even some who are not opposed to the government's use of conscription in a time of national need are opposed to maintaining the current SSS agency infrastructure. They argue that a stand-alone agency is unnecessary and expensive and that there are a number of alternatives that could more effectively and efficiently enable the country to reestablish conscription, if necessary. Others counter that, at the cost of $23 million annually, maintaining the SSS is a relatively inexpensive insurance policy should the draft need to be quickly reinstated. They also argue that maintaining the SSS sends a signal to potential adversaries that the United States is willing to draw on its full national resources for armed conflict if necessary.

Some are concerned that the registration requirements are inequitable, arguing that it is unfair to men that women can voluntarily serve in all military occupations but are exempt from the registration requirement and the prospect of being drafted. In addition, some have raised concerns about the statutory penalties for failing to register and whether these penalties are more likely to be levied on vulnerable groups. Some contend that Congress should amend MSSA and associated statute to remove penalties for failing to register. Others argue that weakening or removing penalties would cause registration compliance rates to fall to unacceptably low levels. In response to these issues, Congress has established a National Commission on Military, National, and Public Service to provide research support and recommendations on the future of the SSS.

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Overview

Congress appropriates approximately $23 million annually to maintain the Selective Service agency. The United States has not used conscription to fill manpower requirements for over four decades; however, the Selective Service System and the requirement for young men to register for the draft remain today. Men who fail to register are subject to penalties in the form of lost benefits and criminal action. Some have questioned the need to maintain this agency and the registration requirements. Others have questioned whether the current requirements for registration are fair and equitable.

This report is intended to provide Congress with information about how the Military Selective Service Act (MSSA), the Selective Service System (SSS), and associated requirements for registration have evolved over time. It explains why the United States developed the SSS, what the system looks like today, how constituents are affected by the MSSA requirements, and what the options and considerations may be for the future of the Selective Service.

The first section of the report provides background and history on the Military Selective Service Act, the Selective Service System, and the implementation of the draft in the United States. The second section discusses statutory registration requirements, processes for registering, and penalties for failing to register. The third section discusses the current organization, roles, and resourcing of the Selective Service System. The final section discusses policy options and consideration for Congress for the future of the MSSA and the Selective Service System.

This report does not discuss the state of the all-volunteer force or whether it is adequate to meet our nation's current or future manpower needs. In addition, it will not provide an analysis of other options for military manpower resourcing such as universal military service or universal military training. It also does not discuss the history of the draft and draft planning for health service workers. Finally, this report does not evaluate whether the SSS, as currently structured, is adequately resourced and organized to perform its statutory mission. These questions and others will be reviewed by the National Commission on Military, National, and Public Service established by the National Defense Authorization Act (NDAA) for Fiscal Year 2017 (P.L. 114-328).

Background

The United States has used federal conscription at various times since the Civil War era, primarily in times of war, but also during peacetime in the aftermath of World War II. When first adopted in 1863, national conscription was a marked departure from the traditional military policy of the United States, which from the founding era had relied on a small standing force that could be augmented by state militias in times of conflict. Conscription into the Armed Forces of the United States was used just prior to, during, and immediately after World War II (WWII). Reinstated on June 24, 1948, it remained in force until June 30, 1973.

Following the adoption of the all-volunteer force (AVF) in 1973, authority to induct new draftees under the Military Selective Service Act ceased.[1] Nevertheless, a standby draft mechanism still exists to furnish manpower above and beyond that provided by the active and reserve components of the Armed Forces in the case of a major military contingency. If the federal government were to reinstate the draft, draftees would likely be required to fill all authorized positions to include

[1] P.L. 92-129.

casualty replacements, billets in understrength units, and new military units activated to expand the wartime force.

1863 Enrollment Act and Civil War Conscription

During the Civil War, due to high demand for military manpower, weaknesses in the system for calling up state militia units, and an insufficient number of volunteers for active federal service, President Abraham Lincoln signed the 1863 Enrollment Act.[2] This marked the first instance of the federal government calling individuals into compulsory federal service through conscription.[3] All male citizens between the ages of 20 and 45 who were capable of bearing arms were liable to be drafted. The law allowed exemptions for dependency and employment in official positions. The Enrollment Act also established a national Provost Marshal Bureau, led by a provost marshal general and was responsible for enforcing the draft.[4] Under the act, the President had authority to establish enrollment districts and to appoint a provost marshal to each district to serve under the direction of the Secretary of War in a separate bureau under the War Department. The provost marshal general was responsible for establishing a district board for processing enrollments and was given authority under the law to make rules and regulations for the operation of the boards and to arrest draft dodgers and deserters. Government agents went door-to-door to enroll individuals, followed by a lottery in each congressional district based on district quotas.[5]

Some observers criticized the Enrollment Act as favoring the wealthiest citizens because it allowed for either the purchase of a substitute who would serve in the draftee's place or payment by the draftee of a fee up to $300.[6] In addition, volunteers were offered bounties by both the federal government and some local communities. Under this system, fraud and desertions were common.[7] Enforcement of the draft also incited rioting and violence in many cities across the United States, most famously in New York City. On July 13, 1863, the intended date of the second draft drawing in New York City, an angry mob attacked the assistant Ninth District provost marshal's office, smashing the lottery selection wheel and setting the building on fire.[8] Several days of rioting and violence ensued until federal troops were called in to restore order. The draft call was suspended in New York City during the rioting and was not resumed until August 19, 1863.

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[2] 12 Stat. 731. This act is also known as the Civil War Military Draft Act or the National Conscription Law.

[3] The federal government had called state militias into compulsory service. Conscription differs from militia activations in that the federal government calls individuals directly into federal service without going through the states.

[4] The provost marshal general was an Army appointment first used in the American Revolutionary War, and thereafter, mainly during periods of war. The provost marshal general serves in a law enforcement-type role for the U.S. Army.

[5] Quotas were based on the number of eligible men, not the total population, and also took into account the number of men already serving in the district. All registered men had their names entered into their local district lottery and were required to report in the order that their names were drawn.

[6] "That any person drafted and notified to appear as aforesaid, may [...] furnish an acceptable substitute to take his place in the draft, or he may pay [...] such sum, not exceeding three hundred dollars, as the Secretary may determine for the procuration of such substitute," 37th Cong. Sess.3, 12 Stat. 731, March 3, 1863.

[7] Some men would volunteer and collect a bounty in one locality, then desert their unit and reenlist in a new district to collect another bounty.

[8] Rioting was largely led by the white working class, who could not afford exemptions under the law. Racial tensions also contributed, as most black workers were not considered citizens and thus not eligible for the draft. White laborers were also concerned about job competition from freed slaves following the January 1863 Emancipation Proclamation. Bernstein, Iver, *The New York City Draft Riots; Significance for American Society and Politics in the Age of the Civil War* (NY: Oxford University Press, 1990), p. 9-10.

The total number of men that served in the Union forces during the course of the war was 2,690,401. The number drafted was 255,373. Of the total draftees, 86,724 avoided military service by the payment of commutation, and 117,986 furnished substitutes.[9] Volunteerism during this war was likely driven in part by the bounty system.

Selective Service Act of 1917 and World War I Conscription

After the Civil War, the federal government did not use conscription again until World War I (WWI). By then a new concept for a draft system termed "Selective Service" had been developed that would apportion requirements for manpower to the states and through the states to individual counties.[10] By 1915, Europe was in all-out war; however, the United States only had a small volunteer Army of approximately 100,000 men. On April 2, 1917, President Woodrow Wilson asked Congress for a declaration of war, and on May 18, 1917, he signed an act commonly known as the Selective Service Act of 1917 into law.[11] This new law allowed the President to draft the National Guard into federal service and made all male citizens between the ages of 21 and 31 liable for the draft.[12] On July 15, 1917, Congress enacted a provision that all conscripted persons would be released from compulsory service within four months of a presidential proclamation of peace.[13] In 1918, Congress extended the eligible draft age to include all males between the ages of 18 and 45. World War I was the first instance of conscription of United States citizens for overseas service.

A key aspect of the Selective Service Act of 1917 was that it allowed the federal government to *select* individuals from a pool of registrants for federal service. Unlike the Civil War, a shortage of volunteers was not the primary concern in enacting this legislation. The selective aspects of the WWI draft law were driven by concerns that indiscriminate volunteerism could adversely affect the domestic economy and industrial base. In support of the selective service law, Senator William M. Calder of New York said, "under a volunteer system, there is no way of preventing men from leaving industries and crippling resources that are just as important as the army itself."[14]

In contrast to the Civil War draft, the Selective Service Act of 1917 did not allow for the furnishing of substitutes or bounties for enlistment. It also provided for decentralized administration through local and district draft boards that were responsible for registering and classifying men, and calling registrants into service.[15] The law specified that the President would appoint boards consisting of civilian members "not connected with the Military Establishment." Over 4,600 such boards were established to hear and decide on claims for exemptions.[16] The

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[9] Crowder, E.H., *Second Report of the Provost Marshal General to the Secretary of War On the Operations of the Selective Service System to December 20, 1918*, Government Printing Office, Washington, DC, 1919, p. 376.

[10] Rostker, Bernard D., *I Want You! The Evolution of the All-Volunteer Force*, RAND Corporation, Santa Monica, CA, 2006.

[11] P.L. 65-12, 40 Stat.76. Also known as the Selective Draft Act.

[12] The act exempted federal and state officials and ministers and theological students. Members of religious sects forbidding participation in war were to be held for noncombatant service only.

[13] P.L. 65-23, June 15, 1917.

[14] Rafuse, John L., "United States' Experience with Volunteer and Conscript Forces," in Studies Prepared for the President's Commission on an All-Volunteer Armed Force, vol.2. District of Columbia: U.S. Government Printing Office, 1970, p. III-1-23.

[15] Classifications included "eligible and liable for military service", temporary deferments and exemptions, and full exemptions based on individual circumstances.

[16] Patch, B.W., "Conscription in the United States," in *Editorial Research Reports 1940, vol. II*, Washington D.C., CQ

provost marshal general, at the time Major General Enoch Crowder, oversaw the operation of these boards.

The first draft lottery was held on July 20, 1917.[17] Out of the 24.2 million that registered for the draft in WWI, 2.8 million were eventually inducted. While the law did not prohibit volunteers, the implementation of the selective service system alongside a volunteer system became too complex and the Army discontinued accepting volunteer enlistees by December 15, 1917.[18] By 1919, at the end of the war, the provost marshal general was relieved from his duties, all registration activities were terminated, and all local and district boards were closed. In 1936, the Secretaries of War and the Navy created the Joint Army-Navy Selective Service Committee (JANSSC) to manage emergency mobilization planning.[19] The committee was headed by Army Major Lewis B. Hershey.

Between WWI and WWII, the Armed Forces shrank in numbers due to both treaty commitments and public attitudes toward a large standing force. In the interwar period, two opposing movements emerged. Some were in support of legislative provisions that would empower the President to conscript men for military service upon a declaration of war, and some called for a universal draft, universal military training, or broader authorities to conscript civilian labor in times of both war and peace.[20] Others proposed provisions that would require a national referendum on any future use of conscription, or would forbid conscripts from serving outside the territorial borders of the United States.

The Selective Training and Service Act and World War II

In 1940, Europe was already at war, and despite the neutrality of the United States at the time, some in Congress argued that the United States could not continue with a peacetime force while other nations were mobilizing on a massive scale.[21] In June of 1940, President Franklin D. Roosevelt announced that he would recommend a program of universal compulsory government service for American youth (men and women).[22] A few days later a conscription bill, modeled on the Selective Service Act of 1917, was sponsored by Senator Edward Burke and Representative James Wadsworth in their respective chambers. The bill garnered support by senior Army leaders, who expressed concerns about the ability to recruit a sufficient number of volunteers necessary to fight a major war.[23] Some in Congress opposed to the bill argued the following:

Press, 1940.

[17] Draft numbers were placed in capsules and drawn from a large fishbowl to establish the order for reporting for induction. Those whose draft number was called first were the first to be required to report for induction.

[18] The Navy followed and Marine Corps stopped accepting volunteer enlistments after August 8, 1918. Patch, B.W., "Conscription in the United States," in *Editorial Research Reports 1940, vol. II* (CQ Press, 1940).

[19] Rostker, Bernard D., *I Want You! The Evolution of the All-Volunteer Force*, RAND Corporation, Santa Monica, CA, 2006.

[20] Patch, B.W., "Conscription in the United States," in *Editorial Research Reports 1940, vol. II*, Washington D.C., CQ Press, 1940.

[21] Rafuse, John L., "United States' Experience with Volunteer and Conscript Forces," in Studies Prepared for the President's Commission on an All-Volunteer Armed Force, vol.2. District of Columbia: U.S. Government Printing Office, 1970.

[22] Patch, B. W., "Revision of the Draft System," in *Editorial Research Reports 1941, vol. I*, Washington D.C., CQ Press, 1941.

[23] In testimony, General Marshall, Army Chief of Staff, stated that he was in favor of a selective-training bill, and in media interviews stated his concerns that expansion of the Army beyond 375,000 could not be achieved through voluntary enlistment alone. Patch, B.W., "Conscription in the United States," *Editorial Research Reports 1940, vol. II*,

> Regimentation of American life as provided for by the Burke-Wadsworth bill in peacetime is abhorrent to the ideals of patriotic Americans and is utterly repugnant to American democracy and American traditions ... no proof or evidence was offered to indicate that the personnel needs of the Army and Navy cannot be obtained on a voluntary basis.[24]

The conscription bill became the Selective Training and Service Act, and was signed into law on September 16, 1940, by Franklin D. Roosevelt.[25] The act was the first instance of peacetime conscription in the United States and required men between aged 21 through 35 to register with local draft boards. The law required a 12-month training period for those inducted, at which time the inductees would be transferred to a reserve component of the Armed Forces for 10 years. Criminal penalties for failing to comply with registration or other duties under this act included "imprisonment of not more than five years or a fine of not more than $10,000, or by both such fine and imprisonment."[26]

The act also gave the President the authority to establish a Selective Service System, and to appoint a Director of the Selective Service with oversight of local civilian boards. Because the image of civilian leadership was deemed important during a time of peace, in 1940 the President initially appointed Dr. Clarence Dykstra as Director of the Selective Service while also retaining his position as president of the University of Wisconsin.[27] Due to poor health Dykstra never took up his position as Director of Selective Service. In July of 1941, the JANSSC that had been established in the interwar period became the new Selective Service headquarters and Colonel Lewis B. Hershey was appointed as the Director, a position he held until 1970, retiring with the rank of Lieutenant General.[28]

In terms of the implementation of the Selective Service System, there was an emphasis on establishing an equitable lottery system administered by decentralized local draft boards as was deemed a successful approach during WWI:

> The Selective Training and Service Act of 1940 is based on the principle that the obligation and privileges of military training and service should be shared generally in accordance with a fair and just system of compulsory military training and service.... The public expected that the lottery under the new law would be conducted as the lottery of 1917-1918 was conducted, and those charged with the administration of the Selective Service felt likewise.[29]

The 6,442 district boards assigned a number from 1 to 7,836 to each registrant in their district. On October 29, 1940, the first draft lottery was held in a similar manner to the WWI draft lottery and draft inductions into the Army began on November 18, 1940.[30] The lottery system was used for three groups of registrants, then abandoned in 1942 and not used again for the draft until 1969

(Washington D.C., CQ Press, 1940.

[24] Patch, B.W., "Conscription in the United States," *Editorial Research Reports 1940, Vol. II*, Washington D.C., CQ Press, 1940.

[25] P.L. 76-784, 54 Stat. 885. This was also known as the Burke-Wadsworth Act.

[26] P.L. 76-784, Section 11.

[27] Costa, John, *The History and Operation of the Selective Service System: 1917-1966*, Legislative Research Service, December 12, 1969.

[28] Rostker, Bernard D., *I Want You! The Evolution of the All-Volunteer Force*, RAND Corporation, Santa Monica, CA, 2006.

[29] First Report of the Director of Selective Service: 1940-1941. United States Selective Service System, Washington, D.C.

[30] Patch, B. W., "Revision of the Draft System," in *Editorial Research Reports 1941, vol. I* Washington D.C., CQ Press, 1941.

during the Vietnam conflict.[31] In the interim, draftees were inducted by local boards based on required quotas, classification, age (oldest first), and order of precedence as determined by contemporary policy.

Although some complaints arose over inequalities and inconsistencies in the draft administration, a Gallup poll conducted in 1941 found that 93% of those polled thought the draft had been handled fairly in their community.[32] Volunteers were allowed to serve; however, approximately 10 million of the 16 million servicemembers who served during WWII were draftees.[33]

Consideration of Universal Compulsory Service

Although the Selective Training and Service Act was set to expire in 1945, at the time of drafting, some felt that the emergency conscription program should evolve into a permanent system of universal military training. In testimony before the House Appropriations Committee on June 5, 1941, General Marshall stated

> I believe that Selective Service provides the only practical and economical method of maintaining the military force that we inevitably are going to be required to have in the future, and I think, with all my heart, that Selective Service is a necessity to the maintenance of a true democracy.[34]

These sentiments continued at the end of the WWII, and there was a push by some to maintain compulsory military training or another program of postwar conscription.[35] In 1945, the congressional Committee on Postwar Military Policy held a series of open hearings on compulsory military training.[36] Those in favor of maintaining some form of conscription argued that it would provide a deterrent to future "Hitlers and Hirohitos" as well as build the health and character of American youth.[37] Those opposed contended that conscription was antithetical to democratic ideals, was an inefficient mechanism for building force structure, and led to war, international distrust, and profiteering.[38]

Post-World War II, the Selective Service Act of 1948

Congress extended the Selective Training and Service Act in 1945 and 1946. In 1947, Congress repealed the act and all functions and responsibilities of the Selective Service System were

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[31] As manpower needs for the war grew, some men initially deferred were reclassified and amendments were made to change the age bracket for eligibility. This complicated the lottery system to a point where the House Armed Services Committee assessed it as "an involved and tiresome procedure which imposed an unnecessary operational burden on all echelons of the Selective Service," and thus created "considerable injustice and confusion." Costa, John, *The History and Operation of the Selective Service System: 1917-1966*, Legislative Research Service, December 12, 1969, p. 100083.

[32] Patch, B. W., "Revision of the Draft System," in *Editorial Research Reports 1941, vol. I* (CQ Press, 1941).

[33] Rafuse, John L., "United States' Experience with Volunteer and Conscript Forces," in Studies Prepared for the President's Commission on an All-Volunteer Armed Force, Vol.2. District of Columbia: U.S. Government Printing Office, 1970, p III-1-29.

[34] Patch, B. W., "Revision of the Draft System," *Editorial Research Reports 1941*, Vol. I (CQ Press, 1941).

[35] Proposals for compulsory military service garnered support from the Secretary of War, the Secretary of the Navy, the Selective Service Director, and many in Congress. Huddle, F. P., "Universal Military Service," *Editorial Research Reports 1944*, Vol. I (CQ Press, 1944).

[36] Brewer, F., "Peacetime Conscription," *Editorial Research Reports 1945*, Vol. II (CQ Press, 1945).

[37] Huddle, F. P., "Universal Military Service," *Editorial Research Reports 1944*, Vol. I (CQ Press, 1944).

[38] Huddle, F. P., "Universal Military Service," *Editorial Research Reports 1944*, Vol. I (CQ Press, 1944).

transferred to the Office of Selective Service Records.[39] This office, by law, had a limited mandate for knowledge preservation, and maintenance and storage of individual records. This restructuring essentially put the Selective Service System into a deep standby mode.

By 1948, the military had shrunk in size to less than 1.5 million from a peak of 12 million in 1945. Concerned about lagging recruiting efforts and the rising power of the Soviet Union, Congress authorized reinstatement of the draft in the Selective Service Act of 1948, which was signed into law by President Truman on June 24, 1948.[40] The act was similar to previous acts authorizing the Selective Service System. It established registration requirements for males ages 19 to 26, and the same criminal penalties for fraudulent registration or evasion. It also dissolved the Office of Selective Service Records and transferred its responsibilities back to the newly established Selective Service System as an independent agency of the federal government. Under this act, the President had authority to appoint state directors of the Selective Service System. It also provided the authority to call National Guard and Reserve personnel into active duty to support the administration of state and national headquarters.

Korean War and the Universal Military Training and Service Act of 1951

The Selective Service Act of 1948 was set to expire on June 24, 1950. Due to budget constraints and absence of an immediate threat to national security, between 1948 and 1949 conscription was only used to fill recruiting shortfalls. On June 25, 1950, war broke out between North and South Korea. Although a bill to extend the Selective Service Act of 1948 was already in conference, the Senate rushed to approve the bill on June 28 and it was signed by the President on June 30, 1950.[41] The following year, Congress renamed the act the Universal Military Training[42] and Service Act of 1951.[43] The act extended the draft until July 1, 1955, and also lowered the registration age to 18.[44] As the new name suggested, the law also contained a clause that would have obligated all eligible males to perform 12 months of military service and training within a National Security Training Corps if amended by future legislation (it was never amended).

The act did not alter the structure or functions of the SSS; however, it did require the Director to submit an annual report to Congress on

- the number of persons registered,
- the number of persons inducted, and
- the number of deferments granted and the basis for them.

[39] P.L. 80-26.

[40] P.L. 80-759. Also known as the Elston Act.

[41] "Universal Military Training and Service," In *CQ Almanac 1951*, 7th ed. Washington, DC: Congressional Quarterly, 1952.

[42] Universal military training is a term used to describe a variety of concepts under which all citizens would receive some minimum amount of compulsory training. Following the training some may enter active status, some would enter active reserve units, and others could be placed on inactive status to be subject to a draft if needed. Switzerland, Israel, and Sweden have all implemented some form of UMT.

[43] P.L. 82-51.

[44] However, individuals were not liable to be drafted until 18 years and six months, and not allowed to be inducted until they reached the age of 19.

The United States inducted approximately 1.5 million men into the military (one-quarter of the total uniformed servicemembers) under this act in support of the Korean conflict. A draft lottery was not used in this era, rather, the Department of Defense issued draft calls, and quotas were issued to local boards. The local boards would then fill their quotas with those classified as "1-A", or "eligible for military service" by precedence as determined by policy.[45] Public concerns with the draft at this time were equitable implementation of the draft due to the broad availability of deferments for what some saw as privileged groups. Others expressed concerns about the potential disruption of citizens' lives.[46]

Between 1950 and 1964 Congress repeatedly extended the Universal Military Training and Service Act in four-year periods with minor amendments. During this time, volunteers made up approximately two-thirds of the total military force with the remainder supplemented through inductions—with some limited exceptions, the Navy, Air Force, and Marines relied on volunteers almost entirely.[47] For example, monthly draft calls in 1959 were for approximately 9,000 men out of an eligible population of about 2.2 million.[48]

The Vietnam War and Proposals for Draft Reform

In 1964, when America became involved militarily in Vietnam, conscription was again used to mobilize manpower and augment the volunteer force. Among the criticisms of the draft system during this period were that it was inequitable and discriminatory since the chance of being drafted varied by state, by local community, and by one's economic status. In the late 1960s, public acceptance of the draft began to erode for the following reasons, *inter alia*:[49]

- Opposition to the war in Vietnam.
- The U.S. Army's desire for change due to discipline problems among some Vietnam draftees.
- Belief that the state did not have a right to impose military service on young men without consent.
- Belief that the draft was an unfair "tax" being imposed only on young men in their late teens and twenties.[50]
- Perception of some observers that the draft placed an unfair burden on underprivileged members of society.[51]

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[45] Precedence policy at the time was to fill quotas with delinquents first (those who had failed to register or had otherwise failed to meet requirements of the selective service law), followed by volunteers for induction, then 25-year-olds down to 19-year-olds. Marshall, Burke, *In Pursuit of Equity? Who Serves When Not All Serve? Report of the National Advisory Commission on Selective Service*, Washington, D.C.: National Advisory Commission on Selective Service, 1967, p. 19.

[46] Rafuse, John L., "United States' Experience with Volunteer and Conscript Forces," in Studies Prepared for the President's Commission on an All-Volunteer Armed Force, Vol.2. District of Columbia: U.S. Government Printing Office, 1970, p III-1-32.

[47] Marshall, Burke, *In Pursuit of Equity? Who Serves When Not All Serve? Report of the National Advisory Commission on Selective Service*, Washington, D.C.: National Advisory Commission on Selective Service, 1967, p. 11.

[48] "Draft Extension," in *CQ Almanac 1959*, 15th ed., 08-269-08-270. Washington, DC: Congressional Quarterly, 1960.

[49] Rostker, Bernard D., *I Want You! The Evolution of the All-Volunteer Force*, RAND Corporation, Santa Monica, CA, 2006.

[50] For example, if pay would have to be $25,000 per year to attract sufficient volunteers to military service, but these volunteers are instead drafted at $17,000 per year, the draftees pay a tax of $8,000 per year each.

[51] For a further discussion of these issues see CRS Report R44321, *Diversity, Inclusion, and Equal Opportunity in the*

- Demographic change increasing the size of the eligible population for military service relative to the needs of the military.[52]
- Estimations that an all-volunteer force could be fielded within acceptable budget levels.[53]

In response to some of these concerns and associated political pressures, President Lyndon B. Johnson issued Executive Order 11289 on July 2, 1966, establishing the National Advisory Commission on Selective Service headed by Burke Marshall. President Johnson instructed the commission to consider past, present, and prospective functioning of the Selective Service System and other systems of national service, taking into account the following factors:

- Fairness to all citizens,
- Military manpower requirements,
- Minimizing uncertainty and interference with individuals' careers and educations,
- National social, economic, and employment goals, and
- Budgetary and administrative considerations.

The commission examined a number of potential options from requiring everyone to serve to elimination of all compulsory service. The commission's final report, *In Pursuit of Equity: Who Serves When not all Serve?*, was delivered to the President in February of 1967 at the time when the Selective Service law was up for renewal. The commission recommended continuing conscription but making significant changes to the Selective Service System to "assure equal treatment for those in like circumstances."[54] Among these recommended changes were (1) adopting an impartial and random selection process and order of call, (2) consolidating the local boards under centralized administration with uniform policies for classification, deferment, and exemptions, and (3) ensuring that composition of local boards was representative of the population that they served.[55]

In parallel with the Presidential Commission's review, the House Armed Services Committee chartered their own review with a civilian advisory panel chaired by retired Army General Mark Clark. The Clark panel also recommended against shifting to an all-volunteer force but disagreed on the establishment of a lottery.[56]

Armed Services: Background and Issues for Congress, by Kristy N. Kamarck.

[52] The male youth cohort age 18-27 in 1942 was approximately 10.7 million. By 1965, this age cohort was 12.5 million.

[53] Previous arguments against the all-volunteer force had been that the cost of recruiting and retaining such a force would put a significant strain on military budgets.

[54] National Advisory Commission on Selective Service, *In Pursuit of Equity: Who Serves When Not All Serve*, Government Printing Office, Washington, DC, 1967, p. 4, 8-9. According to the Commission's report, the deciding factor in rejecting an exclusively all-volunteer force was the inability of such a system to rapidly procure large numbers of men if they were needed in a crisis. Compulsory universal national service was rejected by the Commission who cited a lack of constitutional basis for such service.

[55] In some case, the board composition was not demographically representative of the population that they served. The commission found that members of local boards were all male, mostly veterans, mostly white-collar workers, and almost exclusively white. National Advisory Commission on Selective Service, *In Pursuit of Equity: Who Serves When Not All Serve*, Government Printing Office, Washington, DC, 1967, p. 19.

[56] Rostker, Bernard D., *I Want You! The Evolution of the All-Volunteer Force*, RAND Corporation, Santa Monica, CA, 2006, p. 31.

In 1967, Congress extended the SSS through July 1, 1971, under the renamed Military Selective Service Act of 1967 (henceforth MSSA). While the Administration had pushed for comprehensive draft reform based on the commission's recommendations, the bill contained few of President Lyndon Johnson's proposals. In particular, the bill, as enacted, prohibited the President from establishing a random system of selection (draft lottery) without congressional approval.[57]

In 1969, President Richard M. Nixon called on Congress to provide the authority to institute the draft lottery system. In response, Congress amended[58] the 1967 law, repealing the prohibition on the President's authority. On the same day, President Nixon signed Executive Order 11497 establishing the order of call for the draft lottery for men aged 19 through 25 at the end of calendar year 1969.[59] While the draft remained contentious, in 1971 the induction authority under the MSSA was again extended through 1973.[60] In response to concerns regarding the composition of local boards, the bill stated,

> The President is requested to appoint the membership of each local board so that to the maximum extent practicable it is proportionately representative of the race and national origin of those registrants within its district.

The bill also included a significant pay raise for military members as a first step toward building an all-volunteer force (AVF).

The Gates Commission

Two months into President Nixon's first term, he launched the President's Commission on an All-Volunteer Force, which came to be known as the Gates Commission. In its 1970 report, the commission unanimously recommended that "the nation's best interests will be better served by an all-volunteer force, supported by an effective standby draft, than by a mixed force of volunteers and conscripts."[61] The Gates Commission also recommended maintaining a Selective Service System that would be responsible for

- a register of all males who might be conscripted when essential for national security,
- a system for selection of inductees,
- specific procedures for the notification, examination, and induction of those to be conscripted,
- an organization to maintain the register and administer the procedures for induction, and

[57] This Administration proposal, called the FAIR (fair and impartial random) system, had been a key component of the proposed reform package. "Message to Congress: Johnson on Selective Service," in *CQ Almanac 1967*, 23rd ed., Washington, DC: Congressional Quarterly, 1968.

[58] Selective Service Amendment Act of 1969 (P.L. 91-124).

[59] The first year all males age 19 through 25 were to be in the lottery. After that, only those who turned 19 each year were entered into the lottery, and were susceptible for a single year to being drafted.

[60] Due to a lengthy debate in Congress and fierce opposition to maintaining the draft, the legislation was delayed and the draft was not in effect for nearly three months from July 1, 1971, to September 28, 1971, when the draft extension (P.L. 92-129) was signed into law. "Draft Extended After War, Foreign Policy Debate." in *CQ Almanac 1971*, 27th ed., 06-257-06-296. Washington, DC: Congressional Quarterly, 1972.

[61] *The Report of the President's Commission on an All-Volunteer Armed Force*, February 1970.

- the provision that a standby draft system may be invoked only by resolution of Congress at the request of the President.[62]

The last draft calls were issued in December 1972 and the statutory authority to induct expired on June 30, 1973.[63] On January 27, 1973, Secretary of Defense Melvin R. Laird announced the end of conscription. The last man to be inducted through the draft entered the Army on June 30, 1973.[64]

Table 1 shows the number of inductees and total participants for each major conflict in which the United States used the draft and for which data are available. More than half of the participants in WWI and nearly two-thirds of the WWII participants were draftees. About one-quarter of the participants in the Korean and Vietnam conflicts were draftees, however, it should be noted that the possibility of being drafted may have induced higher rates of volunteerism during these later conflicts.[65]

Table 1. Draft Inductees and Total Participants in Major Conflicts

Conflict	Total Conscripts	Total Participants	% Conscripts of Total Participants
Civil War (Union only)	168,649*	2,690,401	6.2%
WWI	2,810,296	4,734,991	59.4%
WWII	10,110,104	16,112,566	62.7%
Korea	1,529,539	5,720,000	26.7%
Vietnam	1,857,304	8,744,000	21.3%

Source: Total inductions are those conscripted into service as reported by the Selective Service System (https://www.sss.gov/About/History-And-Records/Induction-Statistics). Total participants are from the Department of Veterans Affairs at http://www.va.gov/opa/publications/factsheets/fs_americas_wars.pdf. Civil War data are taken from Crowder, E.H., *Second Report of the Provost Marshal General to the Secretary of War On the Operations of the Selective Service System to December 20, 1918*, Government Printing Office, Washington, DC, 1919, p. 376.

Notes: Figures for total participants are rounded to the nearest thousand in the source document for Vietnam and Korea. The total number of conscripts in the Civil War is only those actually inducted into service and includes those who were furnished as substitutes but excludes those who were drafted but paid a commutation in lieu of service.

All-Volunteer Force (AVF) and a Standby SSS

President Gerald Ford temporarily suspended the registration requirement through Proclamation 4360 (89 Stat. 1255) in April 1975.[66] The MSSA was not repealed, however, and the requirement

[62] *The Report of the President's Commission on an All-Volunteer Armed Force*, February 1970.

[63] Selective Service System, *Semiannual Report of the Director of Selective Service, Together with A Report on the 1980 National Selective Service Registration*, January 30, 1981, 1983, p. 2.

[64] The last man was a draft evader who actually had been called in 1969, but fought his induction. The federal government responded with an indictment for failure to report. Finally, facing a courthouse offer to serve or be imprisoned, he gave in. Dwight Elliott Stone, the last draftee, was inducted into the United States Army on June 30, 1973, the last day inductions were authorized. Wood, David, "Last Draftee, Who Tried to Hide, Now Believes in Service," *Seattle Times*, June 22, 1993.

[65] The RAND Corporation estimated that 77% of nonprior service accessions were draft motivated. Rostker, Bernard D., *I Want You! The Evolution of the All-Volunteer Force*, RAND Corporation, Santa Monica, CA, 2006, p.245.

[66] Selective Service System at http://www.sss.gov/induct.htm.

for the SSS to be ready to provide untrained manpower in a military emergency remained. This proclamation essentially put the SSS into deep standby mode. At the time there were approximately 98 full-time staff operating a pared-down field structure with a national headquarters and nine regional headquarters.[67] In the late 1970s, some were concerned that this "standby" system did not have the resources or infrastructure to register, select, classify, and deliver the first inductees within 30 days from the start of an emergency mobilization.[68]

These concerns became even more salient when, in December 1979, the Soviet Union invaded Afghanistan. In his January 1980 State of the Union address, President Jimmy Carter announced his intention to resume draft registration requirements in the coming year.[69] A Gallup Poll conducted in March 1980 found that 76% were in favor of a registration requirement for young men.[70] Congress responded by providing $13.3 million in appropriations for the Selective Service System on June 25, 1980.[71] President Carter signed Proclamation 4771 on July 2, 1980, reestablishing the requirement for all 18- to 25-year-old males to register for the Selective Service and setting out guidelines for registration.[72] Penalties for failing to register were the same as those first established in the 1940 Selective Training and Service Act (a fine of up to $10,000 and/or a prison term of up to five years). However, unlike in previous draft registration regulations, there was no requirement for men to undergo evaluation and classification for fitness to serve.

The new standby SSS had five key components that are still largely in place today:

- A registration process that is reliable and efficient.
- An automated data processing system that could handle pre- and postmobilization requirements.
- A system for promulgation and distribution of orders for induction.
- A claims process that can quickly insure all registrants' rights to due process are protected.
- A field structure that can support the claims process.[73]

Supporters of reestablishing the registration requirement for men argued that it would send a message to the Soviet Union that the United States was prepared to act to defend its interests and also that it would cut down the mobilization time in the event of a national emergency. Some

[67] Prior to being placed in standby, the SSS was supported by nearly 1,000 area offices, state headquarters, and between 3,000 and 4,000 local volunteer boards. Congressional Budget Office, *The Selective Service System: Mobilization Capabilities and Options for Improvement*, Washington, DC, November 1978.

[68] The 30-day time frame was based on DOD's projected wartime mobilization requirements. Congressional Budget Office, *The Selective Service System: Mobilization Capabilities and Options for Improvement*, Washington, DC, November 1978.

[69] U.S. Congress, House Committee on Armed Services, *Presidential Recommendations for Selective Service Reform*, committee print, 96th Cong., 2nd sess., February 11, 1980 (Washington: GPO, 1980).

[70] The question posed was "Would you favor or oppose the registration of the names of all young men so that in the event of an emergency the time needed to call up men for a draft would be reduced." Selective Service System, *Semiannual Report of the Director of Selective Service, Together with A Report on the 1980 National Selective Service Registration*, January 30, 1981, 1983, p. 5.

[71] $8.6 million was for the registration of young males, and $4.7 million was for improving the SSS's computing capability. "Congress Approves Draft Registration," *CQ Almanac 1980*, 36th ed., 39-46. Washington, DC: Congressional Quarterly, 1981.

[72] 94 Stat. 3775.

[73] U.S. Congress, House Committee on Armed Services, *Presidential Recommendations for Selective Service Reform*, committee print, 96th Cong., 2nd sess., February 11, 1980 (Washington: GPO, 1980).

argued that registration was not enough, and advocated for a return of peacetime conscription, universal military training, or compulsory national service.[74]

Organizations opposed to the reinstatement of registration requirements argued that registration forms were illegal because they required registrants to disclose their Social Security numbers. Others argued that the exemption of women in the draft law was unconstitutional.[75] Carter's proposal to Congress included legislative language that would have given the President the authority to register women. As justification for this proposal, he stated,

> My decision to register women is a recognition of the reality that both women and men are working members of our society. It confirms what is already obvious throughout our society – that women are now providing all types of skills in every profession. The military should be no exception. […] There is no distinction possible, on the basis of ability or performance, that would allow me to exclude women from an obligation to register.[76]

Congress rejected the President's proposal to include women with an explanation under Title VIII of S. Rept. 96-826,

> [T]he starting point for any discussion of the appropriateness of registering women for the draft is the question of the proper role of women in combat. The principle that women should not intentionally and routinely engage in combat is fundamental, and enjoys wide support among our people. It is universally supported by military leaders who have testified before the committee, and forms the linchpin for any analysis of this problem. […] Current law and policy exclude women from being assigned to combat in our military forces, and the committee reaffirms this policy. The policy precluding the use of women in combat is, in the committee's view, the most important reason for not including women in a registration system.

In 1981, the Supreme Court heard a challenge to the exception for women to register for Selective Service. In the *Rostker v. Goldberg* case, the Court held that the practice of only registering men for the draft was constitutional.[77] In the majority opinion, Justice William Rehnquist wrote

> [t]he existence of the combat restrictions clearly indicates the basis for Congress' decision to exempt women from registration. The purpose of registration was to prepare for a draft of combat troops. Since women are excluded from combat, Congress concluded that they would not be needed in the event of a draft, and therefore decided not to register them.

New Penalties for Registration Noncompliance

The first national registration after the reinstatement of the requirement was held in 1980 through registration at local U.S. Post Offices.[78] The registration rate for the 1980 registration was 87% within the two-week registration period and 95% through the fourth month of registrations. In 1973, the registration rates were 77% within 30 days of one's 18th birthday as required by statute,

[74] "Congress Approves Draft Registration," *CQ Almanac 1980*, 36th ed., 39-46. Washington, DC: Congressional Quarterly, 1981.

[75] At the time, women accounted for approximately 8% of the active duty force, but were prohibited from serving in certain combat units and occupations by law and policy.

[76] Statement by the President, Office of the White House Press Secretary, February 8, 1980, as recorded in Selective Service System, *Semiannual Report of the Director of Selective Service together with a Report on the 1980 National Selective Service Registration*, April 1, 1980-September 30, 1980, January 30, 1981, p. 18-19.

[77] 453 U.S. 57 (1981).

[78] Former Director of the Selective Service System from November 26, 1979, to July 31, 1981, Bernard Rostker, attributed the high rates of compliance and accuracy to the individual accountability imposed by face-to-face registrations.

and 90% through the fourth month.[79] The Government Accountability Office (GAO) estimated that, of the registrations submitted, there was a final accuracy level of 98%.[80]

Despite initial successes in registration, there was a push by many in Congress and the Administration to maintain public awareness of the requirements and to maintain high compliance rates. On January 21, 1982, President Ronald Reagan authorized a grace period until February 28, 1982, allowing those who had not registered to do so. In 1982, the Department of Justice began prosecution of those men who willfully refused to register for selective service.[81] In the June 1983 SSS semiannual report to Congress, the agency reported that it had referred 341 persons to the Department of Justice for investigation. At the time of the report, there were 11 indictments and 2 convictions.

In the same year, there was a movement in Congress to tie eligibility for federal benefits to registration requirements. National Defense Authorization bills for Fiscal Year 1983 were reported to the House and Senate floor without any proposed amendments to the MSSA. However, on May 12, 1982, the bill was amended by Senators Hayakawa and Mattingly on the Senate floor to prohibit young male adults from receiving any federal student assistance under Title IV of the Higher Education Act if they cannot certify they had registered with Selective Service. The Senate passed amendment as drafted by voice vote. Representative Jerry Solom introduced a similar amendment on the House floor. In conference committee, Members added language to direct the Secretary of Education and the Director of Selective Service to jointly develop methods for certifying registration.[82] This provision amending the MSSA was signed into law as part of the FY1983 National Defense Authorization Act with an effective date of July 1, 1983.[83]

Representative Solomon also led the effort to attach similar language to the Job Training Partnership Act of 1982, which was passed on October 13, 1982.[84] This law prohibited those who failed to register from receiving certain federal job training assistance. Congress repealed the Job Training and Partnership Act and replaced it with the Workforce Investment Act of 1998; however, the statutory language enforcing the MSSA was maintained in the new law.[85]

In 1985, Congress added a provision to the National Defense Authorization Act for Fiscal Year 1986 that made an individual ineligible for federal civil service appointments if he "is not registered and knowingly and willfully did not so register before the requirement terminated or became inapplicable to the individual."[86] Congress also expressed support for the peacetime registration program as a "contribution to national security by reducing the time required for full defense mobilization," and as sending "an important signal to our allies and to our potential adversaries of the United States defense commitment."[87]

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[79] Selective Service System, Semiannual Report of the Director of Selective Service, Together with A Report on the 1980 National Selective Service Registration, January 30, 1981, 1983, p. 13.

[80] Ibid., p. 12.

[81] Selective Service System, *Semiannual Report of the Director of Selective Service*, October 1, 1982-March 31, 1983, June 8, 1983.

[82] The provision became widely known as the "Solomon Amendment."

[83] P.L. 97-252 §1113.

[84] P.L. 97-300 §504.

[85] P.L. 105-220 §188(h).

[86] P.L. 99-145 §1622. The amendment was introduced in the Senate by Senator Strom Thurmond with broad support, and became known as the "Thurmond Amendment."

[87] P.L. 99-145 §1621.

On November 6, 1986, President Reagan signed into law the Immigration Reform and Control Act.[88] This law required males between the ages of 18 and 26 who are applying for legalization under the act to register for the Selective Service if they have not already done so. In response, the Immigration and Naturalization Service (INS) and the SSS established procedures for registering young men as part of the immigration application process.[89]

Other Legislative Proposals in the Modern Era

Between 1980 and 2019, several Members of Congress proposed a number of legislative changes to the MSSA; however, none have been enacted. Typically, such proposed changes to the MSSA have included one or more of the following options:

- Repeal the entire MSSA.[90]
- Terminate the registration requirement.[91]
- Reinstate draft induction authority.[92]
- Defund the Selective Service System.[93]
- Require women to register for the draft.[94]

Other proposed changes would seek to modify SSS record management or registration processes.[95] These options are discussed in more detail later in this report.

National Commission on Military, National, and Public Service

In the FY2017 NDAA (P.L. 114-328), Congress established a National Commission on Military, National, and Public Service to help consider some of the options for the future of the MSSA. The commission is tasked not only with a review of the military selective service process, but also with proposing "methods to increase participation in military, national, and other public service, in order to address national security and other public service needs of the Nation."[96] The statutory scope of the commission is to review

> (1) The need for a military selective service process, including the continuing need for a mechanism to draft large numbers of replacement combat troops;
>
> (2) means by which to foster a greater attitude and ethos of service among United States youth, including an increased propensity for military service;
>
> (3) the feasibility and advisability of modifying the military selective service process in order to obtain for military, national, and public service individuals with skills (such as medical, dental, and nursing skills, language skills, cyber skills, and science, technology,

[88] P.L. 99-603 §245A(4)(D).

[89] Selective Service System, Semiannual Report of the Director of Selective Service, April 1, 1983-April 1, 1983, September 30, 1983, p. 10.

[90] For example, H.R. 4523 (114th) or S. 3041 (114th).

[91] For example, H.R. 1495 (109th).

[92] For example, S. 1697 (98th).

[93] For example, H.Amdt. 37 to H.R. 1 (112th) or H.Amdt. 1232 to H.R. 5485 (114th).

[94] For example, H.R. 747 (113th), H.R. 4478 (114th) or H.R. 1509 (114th).

[95] For example, H.R. 4141 (115th) or H.R. 4412 (115th).

[96] P.L. 114-328.

> engineering, and mathematics (STEM) skills) for which the Nation has a critical need, without regard to age or sex; and
>
> (4) the feasibility and advisability of including in the military selective service process, as so modified, an eligibility or entitlement for the receipt of one or more Federal benefits (such as educational benefits, subsidized or secured student loans, grants or hiring preferences) specified by the Commission for purposes of the review.

Section 552 of the FY2017 NDAA also required DOD to prepare a preliminary report on the purpose and utility of the SSS to support the commission's work, to include

> (1) A detailed analysis of the current benefits derived, both directly and indirectly, from the Military Selective Service System, including— (A) the extent to which mandatory registration benefits military recruiting; (B) the extent to which a national registration capability serves as a deterrent to potential enemies of the United States; and (C) the extent to which expanding registration to include women would impact these benefits.
>
> (2) An analysis of the functions currently performed by the Selective Service System that would be assumed by the Department of Defense in the absence of a national registration capability.
>
> (3) An analysis of the systems, manpower, and facilities that would be needed by the Department to physically mobilize inductees in the absence of the Selective Service System.
>
> (4) An analysis of the feasibility and utility of eliminating the current focus on mass mobilization of primarily combat troops in favor of a system that focuses on mobilization of all military occupational specialties, and the extent to which such a change would impact the need for both male and female inductees.
>
> (5) A detailed analysis of the Department's personnel needs in the event of an emergency requiring mass mobilization, including— (A) a detailed timeline, along with the factors considered in arriving at this timeline, of when the Department would require— (i) the first inductees to report for service; (ii) the first 100,000 inductees to report for service; and (iii) the first medical personnel to report for service; and (B) an analysis of any additional critical skills that would be needed in the event of a national emergency, and a timeline for when the Department would require the first inductees to report for service.
>
> (6) A list of the assumptions used by the Department when conducting its analysis in preparing the report.

DOD submitted its congressionally mandated report in July 2017. The report noted that the department "currently has no operational plans that envision mobilization at a level that would require conscription." Nevertheless, it acknowledges that, "the readiness of the underlying systems, infrastructure, and processes to effect [a draft] – serve as a quiet but important hedge against an unknowable future."[97]

The GAO's report, released in January 2018, noted that DOD's requirements and timeline for mobilization of forces remain unchanged since 1994, despite changes to force structure, capability needs, national security environment, and strategic objectives.[98] In particular, the report authors stated the following:

[97] 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, pp. 2 & 10.

[98] U.S. Government Accountability Office, *National Security: Ongoing Review of the Military Selective Service Process Could Benefit from Additional Information*, GAO-18-226, January 2018, p. 11, https://www.gao.gov/assets/690/689390.pdf.

> DOD provided the personnel requirements and a timeline that was developed in 1994 and that have not been updated since. These requirements state that, in the event of a draft, the first inductees are to report to a Military Entrance Processing Station in 193 days and the first 100,000 inductees would report for service in 210 days. DOD's report states that the all-volunteer force is of adequate size and composition to meet DOD's personnel needs and it has no operational plans that envision mobilization at a level that would require a draft. Officials stated that the personnel requirements and timeline developed in 1994 are still considered realistic. Thus, they did not conduct any additional analysis to update the plans, personnel requirements, or timelines for responding to an emergency requiring mass mobilization.

The authors stated that the GAO's 2012 recommendation that DOD "establish a process of periodically reevaluating DOD's requirements for the Selective Service System in light of changing operating environments, threats, and strategic guidance" remains valid.

The National Commission on Military, National and Public Service released an interim report on their research findings on January 23, 2019. The report summarizes preliminary findings. With respect to the SSS, the commission is considering options that could

- expand the registration requirement to include women;
- identify individuals who possess critical skills the nation might need;
- call for volunteers during times of emergency using the existing system; and,
- incorporate reasonable changes to identify, evaluate, and protect those who object to military service, but are otherwise willing to serve.[99]

The commission is scheduled to continue its work through March 2020.

Selective Service Registration

Today, nearly all males residing in the United States—U.S. citizens and documented or undocumented immigrant men—are required to register with the Selective Service if they are at least 18 years old and are not yet 26 years old. Those who are required to register must do so within 30 days of their 18th birthday unless exemptions apply as listed in **Table 2**. Men born from March 29, 1957, to December 31, 1959, were never required to register because the registration program was not in effect at the time they turned 18. Individuals are not allowed to register beyond their 26th birthday. Women are currently not required to register for the Selective Service. Federal regulations state, "No person who is not required by selective service law or the Proclamation of the President to register shall be registered."[100] All of those required to register would be considered "available for service" in the case of an emergency mobilization unless they were reclassified by the SSS.[101]

Table 2. Who Is Required to Register for the Selective Service?

Category	YES	NO
All male U.S. citizens born after Dec. 31, 1959, who are 18 but not yet 26 years old, except as noted below:	√	

[99] National Commission on Military, National, and Public Service, *Interim Report*, January 2019.

[100] 32 C.F.R. §1615.5.

[101] For a description of those who might be eligible to for deferments or exemptions, please see text box titled "Categories for Exemption or Deferment Under Current SSS Operating Procedures."

Category	YES	NO
Military Related		
Members of the Armed Forces on active duty (active duty for training does not constitute "active duty" for registration purposes)		√*
Cadets and Midshipmen at Service Academies or Coast Guard Academy		√*
Cadets at the Merchant Marine Academy	√	
Students in Officer Procurement Programs at the Citadel, North Georgia College and State University, Norwich University, Virginia Military Institute, Texas A&M University, Virginia Polytechnic Institute and State University		√*
ROTC Students	√	
National Guardsmen and Reservists not on active duty/Civil Air Patrol members	√	
Delayed Entry Program enlistees	√	
Separatees from Active Military Service, separated for any reason before age 26	√*	
Men rejected for enlistment for any reason before age 26	√	
****Immigrants**		
Lawful nonimmigrants on visas (e.g., diplomatic and consular personnel and families, foreign students, tourists with unexpired Form I-94, or Border Crossing Document DSP-150)		√
Permanent resident immigrants (USCIS Form I-551)/Undocumented immigrants	√	
Special agricultural workers	√	
Seasonal agricultural workers (H-2A Visa)		√
Refugee, parolee, and asylum immigrants	√	
Dual national U.S. citizens	√	
Confined		
Incarcerated, or hospitalized, or institutionalized for medical reasons		√*
Handicapped physically or mentally		
Able to function in public with or without assistance	√	
Continually confined to a residence, hospital, or institution		√
Gender Change/Transgender		
Individuals who are born female and changed their gender to male		√
U.S. citizens or immigrants who are born male and change their gender to female	√	

Source: Selective Service Agency (https://www.sss.gov/Registration/Who-Must-Register/Chart).

Notes: * These individuals must register within 30 days of release unless already age 26. To be fully exempt the individual must have been on active duty or confined continuously from age 18 to 26.

** Residents of Puerto Rico, Guam, Virgin Islands, and Northern Mariana Islands are U.S. citizens. Citizens of American Samoa are nationals and must register when they are habitual residents in the United States or reside in the United States for at least one year. Habitual residence is presumed and registration is required whenever a national or a citizen of the Republic of the Marshall Islands, the Federated States of Micronesia, or Palau resides in the United States for more than one year in any status, except when the individual resides in the United States as an employee of the government of his homeland; or as a student who entered the United States for the purpose of full-time studies, as long as such person maintains that status. Immigrants who did not enter the United States or maintained their lawful nonimmigrant status by continually remaining on a valid visa until after they were 26 years old were never required to register. Also, immigrants born before 1960 who did not enter the United States or maintained their lawful nonimmigrant status by continually remaining on a valid visa until after March 29, 1975, were never required to register.

Processes for Registration

Almost all Selective Service registrations are completed electronically; however, registration can also be done at U.S. Post Offices and by submission of paper registrations.[102] Most states, four territories, and the District of Columbia (D.C.) have driver's license legislation that provides for automatic Selective Service registration when obtaining a driver's license, driver's permit, or other form of identification from the Department of Motor Vehicles.[103] In FY2017, 42% of all registrations, representing nearly 1 million young men, were conducted electronically through driver's license legislation (see **Figure 1**).[104]

The SSS also has interagency agreements for registration. In cooperation with U.S. Citizenship and Immigration Services, immigrant men ages 18 through 25 who are accepted for permanent U.S. residence are registered automatically. In addition, men of registration age who apply for an immigrant visa through the Department of State are also registered. The application form for federal student aid includes a "register me" checkbox for those who have not yet registered for the Selective Service, which authorizes the SSS to automatically register those individuals.[105] The SSS reports that approximately 25% of their electronic registrant data come from the Department of Education as part of the student aid application process. The SSS also has existing data-sharing relationships with the DOD and the Department of Labor.

[102] The SSS reported that 91% of registrations were received electronically in FY2017. Selective Service System, *Annual Report to the Congress of the United States: Fiscal Year 2017*, Office of Public and Intergovernmental Affairs, 2017, p. 6. Handwritten paper registration forms require manual entry of data by Selective Service Staff.

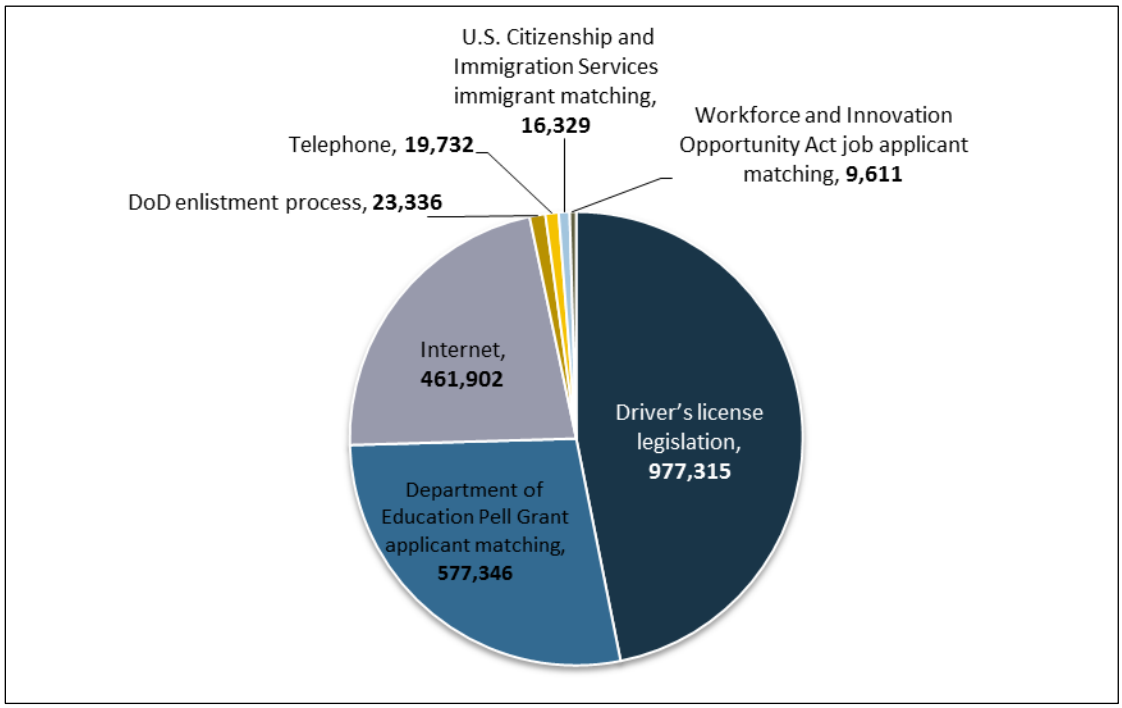
[103] States that did not have driver's license legislation in FY2017 included Alaska, California, Massachusetts, Nebraska, New Jersey, North Dakota, Oregon, Pennsylvania, Vermont, and Wyoming.

[104] Selective Service System, *Annual Report to the Congress of the United States: Fiscal Year 2017*, Office of Public and Intergovernmental Affairs, 2017, p. 6.

[105] See questions 21 and 22 on the 2016-2017 Free Application for Student Aid (FAFSA) form, https://fafsa.ed.gov/fotw1617/pdf/PdfFafsa16-17.pdf.

Figure 1. Registrations by Method of Registration

FY2017



Source: Selective Service System, *Annual Report to the Congress of the United States: Fiscal Year 2017*, Office of Public and Intergovernmental Affairs, 2017.

In FY2017, the SSS reported a 73% compliance rate for the 18-year-old year of birth (YOB) group. Registration compliance rate for the 20 through 25 YOB group was 92% in calendar year 2016, a decrease of 2% from the previous year, but above the SSS goal of 90%.[106] Reasons for noncompliance may include lack of awareness of requirements, or purposeful avoidance. Knowingly failing to register comes with certain penalties including the following:

- If indicted, imprisonment of not more than five years and/or fine of not more than $10,000 (increased to $250,000 in 1987 by 18 U.S.C. §3571(b)(3)).[107]
- Ineligibility for federal student aid.[108]
- Ineligibility for appointment to a position in an executive agency.[109]
- Ineligibility for federal job training benefits.[110]
- Potential ineligibility for citizenship (for certain immigrants to the United States).[111]

[106] Selective Service System, *Annual Report to the Congress of the United States: Fiscal Year 2017*, Office of Public and Intergovernmental Affairs, 2017, p. 3.

[107] 50 U.S.C. §3811(a).

[108] 50 U.S.C. §3811(f)(1) and C.F.R. §668.37.

[109] 5 U.S.C. §3328 and 5 C.F.R. 300.704—Considering individuals for appointment.

[110] 29 U.S.C. §1504.

[111] According to an internal memo from the Immigration and Naturalization Service (INS) on June 18, 1999, "Section 316(a) of the Immigration and Nationality Act (INA) requires a naturalization applicant to prove that he or she is, and

- Possible inability to obtain a security clearance.[112]

In addition, a large number of state legislatures as well as county and city jurisdictions have conditioned eligibility for certain government programs and benefits on SSS registration.[113]

Failing to register for the Selective Service, or knowingly counseling, aiding, or abetting another to fail to comply with the MSSA, is considered a felony. Those who fail to register may have their names forwarded to the Department of Justice (DOJ). In FY2017, 184,051 names and addresses of suspected violators were provided to DOJ.[114] In practice, there have been no criminal prosecutions for failing to register since January 1986. At that time the SSS reported a total of 20 indictments with 14 convictions.[115]

Other penalties adversely affect the population required to register. For example, California estimated that between 2007 and 2014, young men in that state who failed to register were denied access to more than $99 million in federal and state financial aid and job training benefits.[116]

There is some relief from penalties for those who fail to register. The MSSA establishes a statute of limitations on criminal prosecutions for evading registration to five years after a fraudulent registration or failure to register, whichever is first.[117] Also, individuals may not be denied federal benefits for failing to register if

- the requirement to register has terminated or become inapplicable to the person; and
- the person shows by a preponderance of the evidence that the failure of the person to register was not a knowing and willful failure to register.[118]

Individuals who unknowingly fail to register may ask for reconsideration from the official handling their case and may be required to submit evidence that they were unaware of their requirement to register.

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has been for the requisite period, a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed toward the good order and happiness of the United States. Section 337(a)(5)(A) of the INA also requires applicants to declare under oath his or her willingness to bear arms on behalf of the United States when required by law. Therefore, it is INS policy that refusal to or knowing and willful failure to register for Selective Service during the period for which an applicant is required to prove his compliance with § 316(a)(3) supports a finding that the applicant is not eligible for naturalization, because he has failed to establish his willingness to bear arms when required and his disposition to the good order and happiness of the United States."

[112] Failure to obey a federal law could raise a security concern and may be disqualifying in accordance with Adjudicative Guidelines for Determining Eligibility for Access to Classified Information, Guideline J: Criminal Conduct, at http://www.state.gov/m/ds/clearances/60321.htm#j.

[113] For a full list of provisions by States, Territories, and the District of Columbia, see https://www.sss.gov/Registration/State-Commonwealth-Legislation/Other-Legislations.

[114] Selective Service System, *Annual Report to the Congress of the United States: Fiscal Year 2017*, Office of Public and Intergovernmental Affairs, 2017.

[115] Selective Service System, *Semiannual Report of the Director of Selective Service*, October 1, 1986-March 31, 1987.

[116] Griego, Tina, "America May Never Have a Draft Again. But We're Still Punishing Low-Income Men for not Registering," *Washington Post*, October 16, 2014.

[117] 50 U.S.C. §3811(d).

[118] 50 U.S.C. §3811(g).

Selective Service System

The Selective Service System is an independent federal agency within the executive branch with headquarters located in Arlington, VA. The agency is currently maintained as an active standby organization. The statutory missions of the SSS are to maintain

- a complete registration and classification structure capable of immediate operation in the event of a national emergency (including a structure for registration and classification of persons qualified for practice or employment in a health care occupation essential to the maintenance of the Armed Forces), and
- personnel adequate to reinstitute immediately the full operation of the System, including military reservists who are trained to operate such System and who can be ordered to active duty for such purpose in the event of a national emergency.[119]

If the SSS were activated with the authority to induct individuals, the agency would be responsible for (1) holding a national draft lottery, (2) contacting registrants who are selected via the lottery, (3) arranging transportation for selectees to Military Entrance Processing Stations (MEPS) for testing and evaluation of fitness to serve, and (4) activating a classification structure that would include area offices, local offices, and appeal boards.[120] Local boards would also evaluate claims for exemption, postponement, or deferments. Those classified as conscientious objectors would be required to serve in a noncombatant or nonmilitary capacity. For those permitted to serve in a nonmilitary capacity, the SSS would be responsible for placing these "alternative service workers" with alternate employers and tracking completion of 24 months of their required service.

[119] 50 U.S.C. §3809(h).

[120] Currently new voluntary recruits do a majority of their entry processing and testing at regional MEPS. Selective Service System, *Congressional Budget Justification, FY2016*, Arlington, VA.

Categories for Exemption or Deferment Under Current SSS Operating Procedures

- Conscientious objectors perform service to the nation in a manner consistent with their moral, ethical, or religious opposition to participation in war in any form. Depending upon the nature of his beliefs, a conscientious objector serves either in a noncombatant capacity in the Armed Forces or in a civilian job contributing to the national interest.
- Surviving sons or brothers in a family where the parent or sibling died as a result of U.S. military service, or is in a captured or missing in action status, are exempt from service in peacetime.
- Hardship deferments are available for men whose induction would result in hardship to persons who depend upon them for support.
- Members of Reserve components (including the National Guard and advanced level ROTC cadets who have already signed a Reserve contract) are eligible for a separate classification and perform their military service in the National Guard or the Reserves.
- Ministers are exempted from service.
- Ministerial students are deferred from service until they complete their studies.
- Certain elected officials are exempt from service as long as they continue to hold office.
- Veterans generally are exempt from service in peacetime.
- Immigrants and dual nationals in some cases may be exempt from U.S. military service depending upon their place of residence and country of citizenship.

Source: Selective Service System.

Workforce and Organization

The agency's workforce is comprised of full-time career employees, part-time military and civilian personnel, and approximately 11,000 part-time civilian volunteers. In FY2017, the agency had 124 full-time equivalent civilian positions for administration and operations across agency headquarters, the Data Management Center, and three regional headquarters offices.[121] Part-time employees include 56 State Directors representing the 50 states, four territories, the District of Columbia, and New York City. The median GS grade for the agency is GS-11.[122]

The SSS maintains a list of unpaid volunteers who serve as local, district, and national appeal board members who could be activated to help decide the classification status of men seeking exemptions or deferments in the case of a draft. The Selective Service System also has positions for 175 part-time Reserve Forces Officers (RFOs) representing all branches of the Armed Forces.[123] RFO duties include interviewing Selective Service board member candidates, training board members, participating in readiness exercises, supporting the registration public awareness effort, and maintaining space, equipment, and supplies.[124]

[121] Region I is Headquartered in Chicago, Illinois; region II is in Dobbins ARB—Air Reserve Base, Georgia; and region III is in Denver, Colorado. Selective Service System, *Annual Report to the Congress of the United States: Fiscal Year 2015*, Office of Public and Intergovernmental Affairs, 2015.

[122] Selective Service System, *Congressional Budget Justification, FY2019*, Arlington, VA.

[123] Reserve Force Officers (RFOs) are maintained at a maximum level of 175, which includes 150 funded and 25 unfunded.

[124] For more information see https://www.sss.gov/About/Agency-Structure/Reserve-Forces-Officers.

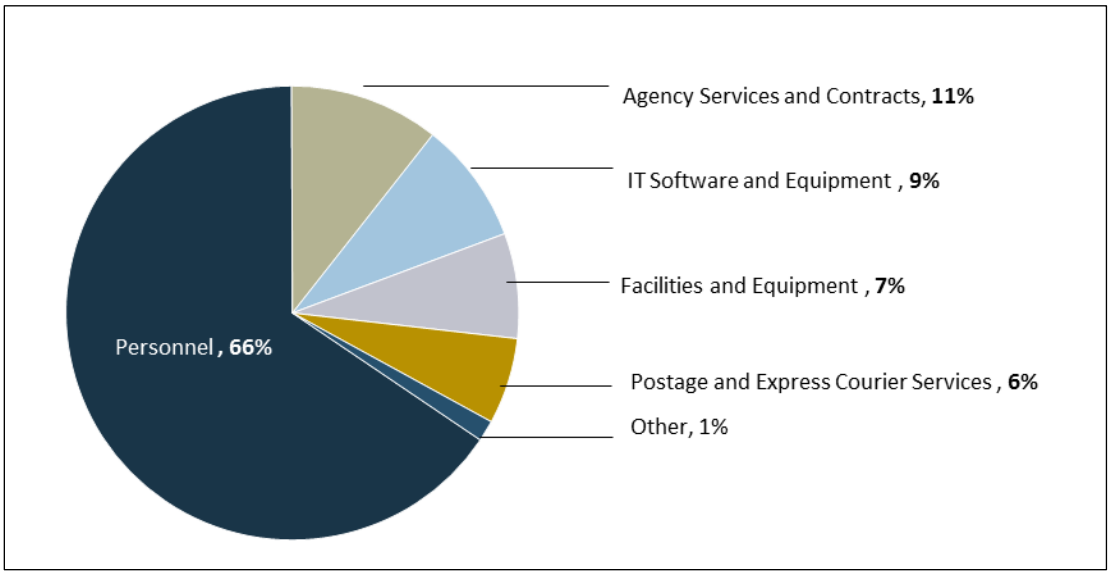
Funding

Congress appropriates funds for the SSS through the Financial Services and General Government Appropriations Act. For FY2018, Congress appropriated $22.9 million, the same as the FY2017 appropriation. The budget request for FY2019 was $26.4 million, an increase of $3.5 million over the FY2018 appropriation.[125] Funding decreased by 10% from FY2012 to FY2013, from just under $25 million to $22 million in FY2013. Since FY2013, funding has remained fairly stable in terms of current dollars, but has decreased in terms of inflation-adjusted (real) dollars. In current dollars, funding for the SSS has been about $25 million since 1980, when the requirement to register was reinstated. In FY1977-FY1979, while the SSS was in "deep standby" mode, funding for the agency was between $6 million and $8 million.[126]

About two-thirds of the agency's annual budget goes to personnel compensation and benefits, 11% of which is Reserve Force Officer training pay and allowances.[127] Government and commercial agency contracts and services accounted for 11% ($42.4 million) of total spending. The SSS allocated approximately $1.4 million to postage and express courier services in FY2017, and spent nearly $2 million on software and data processing systems (see **Figure 2**).

Figure 2. SSS Enacted Budget by Function

FY2017



Source: Selective Service System, *Annual Report to the Congress of the United States: Fiscal Year 2017*, Office of Public and Intergovernmental Affairs, p. 23.

Notes: *Personnel* includes civilian pay and benefits, military reserve office support services, and training, travel, and transportation of personnel. *Facilities and Equipment* includes general supplies and furniture, GAS occupancy agreement, other rent, lease, storage, and maintenance, and communications services, utilities and facilities operations. *Agency Services and Contracts* includes government and commercial services, program contracts, and employee services. *Other* includes printing and reproduction, strategic initiatives, and legal and equal opportunity services and indemnities.

[125] Selective Service System, *Congressional Budget Justification, FY2019*, Arlington, VA.

[126] Office of Management and Budget, *Budget of the United States* Government, Fiscal Years 1974 -1979.

[127] The RFOs receive their drill pay from DOD and then DOD is reimbursed by the SSS.

Data-Sharing and Data Management

The agency maintains data for registrants until their 85th birthday at the Data Management Center in Palatine, IL; the center is authorized 48 full-time employees.[128] The purpose of retaining the data for this length of time is to enable SSS to verify eligibility for registered males who apply for certain government employment or benefits. The number of records in the database is approximately 78 million.[129] According to the SSS, this database grows by 2 million to 2.5 million records per year. The information held in this database includes registrants' full name, date of birth, street address, city, state, zip code, and Social Security number.[130] The SSS also maintains a "Suspected Violator Inventory System," which includes data on nonregistrants that the SSS has received through data-sharing agreements.[131] The SSS uses information on this list to reach out to individuals and remind them of their obligation to register.

Most of the registration and data-sharing is automated. The SSS both provides data to and receives data from other government agencies, including the Department of Labor, the Department of Education, the Department of State, the United States Citizenship and Immigration Services, the Department of Defense, and the Alaska Permanent Fund. Information received from these agencies by the SSS is matched with existing data and if no record exists, one is created.

On a monthly basis, SSS provides the Joint Advertising and Market Research Studies (JAMRS, part of DOD) new registrant names, addresses, and date of birth, and a file of individuals identified as deceased.[132] These data are kept for three years by JAMRS and are used by DOD for recruiting purposes. Yearly, SSS provides the names, addresses, and Social Security numbers of individuals ages 18 through 25 to the U.S. Census Bureau for its intercensus estimate program. The Census Bureau keeps these data for two years. Annually, the SSS also sends the Department of Justice a list of individuals who are required to register, but have failed to do so.[133]

Men are required to update the Selective Service within 10 days when their address changes until January 1 of the year that they turn 26 years old. Those who register at 18 years old are likely to move at least once, if not a number of times, before their 26th birthday. For example, a college-bound 18-year-old may move away from their parents' home to university housing, then into an off-campus apartment, and into a new home after graduation. The SSS updates addresses in its database using information from other agencies and self-reported information from individuals.

What are Some Options for the Future of the Selective Service System?

Although Congress has amended the MSSA a number of times, some of its main tenets—the preservation of a peacetime selective service agency and a registration requirement—have remained much the same since the mid-20th century. The future of the Selective Service System is a concern for many in Congress. The registration requirements and associated penalties affect

[128] https://www.sss.gov/About/Agency-Structure.

[129] Selective Service System, *Congressional Budget Justification, FY2017*, Arlington, VA.

[130] An amendment to the MSSA by P.L. 97-86 authorized SSS to require registrants to furnish their Social Security account number.

[131] Seago, Laura, *Automatic Registration in the United States: The Selective Service Example*, Brennan Center for Justice, New York University School of Law, 2009, p. 9.

[132] Information provided by the Selective Service System to CRS.

[133] Information provided by the Selective Service System to CRS.

young men in every congressional district. At the same time, some see the preservation of the SSS as an important component of national security and emergency preparedness. Others have suggested that the MSSA is no longer necessary and should be repealed. Still others have suggested amendments to the MSSA to address issues of equity, efficiency, and cost.

Arguments For and Against Repeal of MSSA

Some form of selective service legislation has been in effect almost continuously since 1940. Repealing the MSSA and associated statute would dismantle the SSS agency infrastructure and would remove the registration requirement with its associated penalties. Efforts to repeal the Selective Service Act have been repeatedly introduced in Congress, and repeal is popular among many advocacy groups and defense scholars.[134]

Those who would like to disband the SSS question whether the agency is still necessary in the modern-day context. A return to the draft is unpopular with a majority of the American public.[135] Some argue that there is a low likelihood of the draft ever being reinstated. Even in the face of nearly a decade of conflict in Iraq and Afghanistan, DOD has maintained its ability to recruit and retain a professional volunteer force without resorting to conscription. The nature of warfare has shifted in such a way that the United States would not likely need to mobilize manpower at the rates seen in the 20th century. Even if such high mobilization rates were needed, some question whether the Armed Forces would have the capacity and infrastructure to rapidly absorb the large numbers of untrained personnel that a draft would provide.[136] DOD has reported that the Military Entry Processing Command (MEPCOM) can process approximately 18,000 registrants per day. These new accessions would then be sent to training centers/duty stations as identified by the Office of the Secretary of Defense.[137]

Some analysts have suggested that a draft, if implemented, would be an inefficient use of labor, as it would "indiscriminately compel employment in the military regardless of an individual's skills where that individual could have much greater value to our society elsewhere."[138] In addition, when conscription has been used, it has generally provided a lower-quality force in comparison with today's all-volunteer force. Others, including civil rights advocacy groups, contend that the registration requirement and conscription are an invasion of civil liberty.

Those who advocate for suspension of all SSS activity contend that the SSS infrastructure and registrant databases could be reconstructed in due time if the need arose. In the short term, additional manpower needs might be augmented by Delayed Entry Program (DEP) participants, nonprior reservists awaiting training, and other inactive reserve manpower.[139] A reauthorization of the draft might also encourage volunteerism, as choosing a branch of service and occupational

[134] See for example, S. 3041 (114th) Muhammad Ali Voluntary Service Act, and H.R. 4523 To repeal the Military Selective Service Act, and thereby terminate the registration requirements of such Act and eliminate civilian local boards, civilian appeal boards, and similar local agencies of the Selective Service System.

[135] Recent polling data suggest that 65% of Americans are opposed to reinstating the draft (with 28% in favor and 8% don't know). Quinnipiac University Poll, February 7, 2013.

[136] LA Times Editorial Board, "Draft registry for women? How about for no one?" *Los Angeles Times*, February 16, 2016.

[137] 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, p. 24.

[138] Powell, Benjamin W., *Time to Abolish Selective Service*, Independent Institute, January 7, 2016.

[139] Bandow, Doug, *Draft Registration: It's Time to Repeal Carter's Final Legacy*, Cato Institute, Policy Analysis No. 86, May 7, 1987, http://www.cato.org/pubs/pas/pa086.html. Inactive reserve strength would include Individual Ready Reserves, Standby Reserves, and Retired Reserves. The Individual Ready Reserve is composed of former active duty and reserve military personnel and is authorized under Chapter 1005 of Title 10 United States Code.

specialty might be more preferable to the possibility of being drafted into a less favorable branch and occupation.

Proponents of maintaining the SSS and registration requirement often cite a few key arguments. First, at approximately $23 million per year, it provides a relatively low-cost "insurance policy" against potential future threats that may require national mobilization beyond what could be supported by the all-volunteer force. Second, adversaries of the United States could see the disbanding of the SSS as a potential weakness, thus emboldening existing or potential enemies. Third, the registration requirement is important to maintain connections between the all-volunteer force and civil society by creating an awareness of the military and duty to serve among the nation's youth. Finally, maintaining an all-volunteer force is costly, particularly in times of conflict. Sustaining the AVF over the past decade has stretched DOD's resources. If the United States were to become involved in a sustained large-scale conflict, the compensation and benefits required to incentivize voluntary military participation by a larger segment of the population could be substantial.[140]

Options for Amending MSSA

Some of the options for amending the MSSA include the following:

- Repealing the registration requirement.
- Dissolving the SSS agency and transferring certain functions to an existing federal agency.
- Removing or modifying penalties for failure to register.
- Requiring women to register.
- Enhancing SSS data collection.

Repealing the Peacetime Registration Requirement

Congress could repeal the registration requirement and terminate the existing penalties for failing to register.[141] Removing the registration requirement and the need to verify registration would reduce the activities of the SSS. In this instance, the agency's functions would likely be limited to historical record preservation and maintenance of standby plans and volunteer rolls.

Some have proposed that if registrant data were needed for a future draft, they might be acquired through existing federal or state government databases. The current SSS database relies heavily on information collected by other federal and state entities for initial inputs, updates, and verification of registrants' address information. However, this data sharing is enabled by existing statutes and agency agreements that if repealed or allowed to lapse might require time and effort to reconstitute. The use of existing government or even commercial databases to develop a list of draft-eligible youth also raises concerns about a fair and equitable draft, as these lists might also exclude some draft-eligible individuals.[142]

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[140] For more information on these topics see CRS Report RL33446, *Military Pay: Key Questions and Answers*, by Lawrence Kapp and Barbara Salazar Torreon, and CRS Report RL31297, *Recruiting and Retention in the Active Component Military: Are There Problems?*, by Lawrence Kapp.

[141] 50 U.S.C. §3802 and 50 U.S.C. §3811.

[142] In 1978 the Congressional Budget Office proposed automatic registration of eligible persons by merging existing data on file with the Social Security System and Internal Revenue Service (IRS).[142] The report's authors suggested, however, that such a list might miss as many as 40% of eligible registrants and thus raise issues of inequity. IRS

In the case of a national emergency, Congress could enact a new statutory requirement for draft registration, and reconstitute the SSS (if it had been dissolved). A 1997 GAO study found that the time needed to raise the necessary infrastructure might be insufficient to respond to urgent DOD requirements.[143] There may be other challenges in enforcing a new registration requirement in a time of national need. Currently, compliance rates for registration are relatively high, but the probability of implementing a draft is considered to be very low. If the government tried to reintroduce a registration requirement during a time when conscription were more likely, compliance rates could fall and it might be more difficult to build up a database of eligible individuals. On the other hand, some point to the SSS experience in 1980, when the the SSS reported 95% compliance rates within four months of reinstatement of the registration requirement.[144]

Transferring SSS Functions to an Existing Federal Agency

Current law states, "the Selective Service System should remain administratively independent of any other agency, including the Department of Defense."[145] Nevertheless, Congress could amend the MSSA to transfer its functions to an existing federal agency. Such a transfer might take into account not only the SSS's value as a unique data center, but also the staff who comprise the agency at many levels, who would be needed in case of an actual draft.

As described previously, this staffing includes regional directors and a pool of civilian volunteers that would serve on local draft boards. This responsibility for maintaining volunteer rolls and training could also be transferred to an existing federal agency, potentially the Department of Defense, and the capability could be augmented with military reserve manpower (as is currently done). The statutory independence of the SSS with respect to DOD and the presence of local civilian boards have historically been viewed as important to the public's perception of a fair and equitable draft. To address this concern, some have proposed that administrative responsibilities could be transferred to DOD while the draft is inactive with the option of transferring all functions back to an independent agency if draft authority were reinstated.[146]

Another option might be to transfer the agency and/or its functions to the Department of Homeland Security. There are potential synergies between the SSS and other DHS agencies that would play an active role in a time of national emergency.[147] At least one agency under DHS (the U.S. Citizenship and Immigration Service) already has a role in data sharing with the SSS.[148]

Some suggest that suspension or transfer of SSS operations could deliver some federal budget savings. In 2012, as mandated by the National Defense Authorization Act for Fiscal Year 2012,

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officials were also concerned that such an approach would also raise the rates of tax evasion from those seeking to avoid draft registration.

[143] U.S. Government Accountability Office, *Selective Service: Cost and Implications of Two Alternatives to the Present System*, NSAID-97-225, September 1997.

[144] Selective Service System, Semiannual Report of the Director of Selective Service, Together with A Report on the 1980 National Selective Service Registration, January 30, 1981, 1983, Table 4, p. 13.

[145] 50 U.S.C. §3801(f).

[146] In 1975, the Office of Management and Budget proposed this possibility for the agency in a "deep standby" mode. Lynn, James T., *The Selective Service System: Draft of 10/17/75*, Washington D.C.: Office of Management and Budget, 1975.

[147] Agencies under DHS include the Federal Emergency Management Agency (FEMA), U.S. Coast Guard. U.S. Citizenship and Immigration Services, U.S. Customs and Border Protection, U.S. Secret Service, and the Transportation Security Administration.

[148] The USCIS provides registrant data to the SSS.

the GAO compared the potential costs and savings of operating in a "deep standby" mode versus active registration.[149] According to the report, the SSS estimated that operating in a deep standby mode would provide approximately $5 million in savings in the first year with recurring savings of $6.6 million annually. This would be a reduction of about 25% of the current budget. The transfer of SSS functions to an existing agency might have some initial implementation costs but could potentially reduce some of the overhead costs of maintaining an independent agency.[150]

Amending or Repealing the Penalties for Failing to Register

Finally, some argue that Congress should amend the MSSA and associated statute to remove penalties for failing to register, particularly since only men are subject to the requirements. They argue that ineligibility for federal benefits is most harmful to those with fewer financial resources who also might be least aware of their obligation to register. Nevertheless, weakening or removing penalties could affect registration compliance rates.

Alternatively, Congress could amend the penalties to limit the amount of time that one is ineligible for federal benefits following failure to register. For example, under current law, the statute of limitations for criminal penalties is five years following the individual's 26th birthday or fraudulent registration. The MSSA could be amended to sunset ineligibility after a certain time period, or to reinstate eligibility for federal benefits through some other form of public service.

Changing Registration Requirements to Include Women

Women in the United States have never been required to register for the draft; however, recent DOD policy changes that have opened all military occupational specialties (MOSs) including ground combat positions to women have called into question the Selective Service exemption for women.[151] Although the Trump Administration has not announced a formal position, in 2016, several senior DOD leaders made personal statements in favor of registering women for the draft.[152] Some military leaders have argued that in the case of national need, it would be unwise to exclude 50% of the population from draft eligibility.

In a February 2019 decision, the U.S. District Court for the Southern District of Texas granted a summary judgement declaring the male-only registration requirement was unconstitutional; however, the court did not grant injunctive relief blocking the government's current male-only registration policy because the plaintiffs' summary judgment motion seeking declaratory relief failed to request it.[153] As such, the male-only registration policy remains in place. The plaintiffs in this case, the National Coalition for Men and two men of registration age, argue that requiring

[149] P.L. 112-81. U.S. Government Accountability Office, *DOD Should Reevaluate Requirements for the Selective Service System*, GAO-12-623, June 2012.

[150] U.S. Government Accountability Office, *DOD Should Reevaluate Requirements for the Selective Service System*, GAO-12-623, June 2012.

[151] U.S. Congress, Senate Committee on Armed Services, *Implementation of the Decision to Open All Ground Combat Units to Women*, 114th Cong., 2nd sess., February 2, 2016 (Washington: GPO, 2016).

[152] For example, when questioned in a February 2016 hearing, the Commandant of the Marine Corps, General Robert B. Neller, and Army Chief of Staff, General Mark Milley, expressed support for draft registration for women. U.S. Congress, Senate Committee on Armed Services, *Implementation of the Decision to Open All Ground Combat Units to Women*, 114th Cong., 2nd sess., February 2, 2016 (Washington: GPO, 2016). The Obama Administration did not take an official position on whether to register women form the draft. Hunter, Melanie, "Marine Commandant, Army Chief of Staff Agree: Women Should Register for Draft," *cnsnews.com*, February 2, 2016.

[153] *National Coalition for Men, et al. v. Selective Service System*, (U.S. District Court, Southern District of Texas, Houston Division, 2019).

only men to register constitutes sex discrimination in violation of the Fifth Amendment's equal protection clause.

Some women have also pushed for female registration, arguing that women cannot be equal in society as long as they are barred from full participation in all levels of the national security system and thus should be *allowed to* register for Selective Service.[154] Others believe that equal access to combat jobs should *oblige* women to take equal responsibility for registering for Selective Service and potential assignments to combat roles should the draft be reinstated.[155] Still others suggest that women should be obliged to enroll in the selective service system but should not be forced into combat roles in the occasion of a draft.[156] Any exemptions for women would raise fairness concerns for men, who would not have the same opportunities to opt out of combat assignments. Making the choice not to serve in combat available to both men and women might make it difficult for the services to function, especially in the event of war or national emergency.

Those who are opposed to a requirement for women to register suggest that it is not fair and equitable for women to be placed in the same roles as men. They argue that the average woman does not have the same physical capabilities as the average man and thus would have higher rates of injury and a lower probability of survival if forced to serve in direct ground combat roles.[157] Some have countered that the physical standards for assignment to these roles are unlikely to be lowered on the instance of draft mobilization, ensuring that the cadre of men and women would be assigned to those roles at rates proportional to their ability to meet those standards.[158] This approach would prevent both women and men who were unable to meet physical standards for direct ground combat occupations from those assignments. Moreover, opponents of drafting women point out that it would be militarily inefficient to draft thousands of women when only a small percentage would be physically qualified to serve in direct ground combat roles.[159] At the same time, future wars may have requirements for other skills in noncombat fields where the percentage of individuals qualified would not be as variable by gender.

A requirement for young women to register may have some benefits for DOD in terms of military recruiting. The address data collected by the Selective Service System and shared with DOD currently enhances recruiters' ability to identify potential enlistees and distribute marketing materials to registered young men by mail. DOD estimates that marketing materials included with SSS registration confirmation mailing—or *joint* leads—generate between 75,000-80,000 male recruiting prospects annually.[160] DOD, through JAMRS, purchases similar databases for information about enlistment-eligible women. Although most registrations are now completed

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[154] In July 2015 a teenage girl from New Jersey brought a federal class action suit against the Selective Service claiming the refusal to allow women to register is discriminatory now that women are eligible for combat roles.

[155] Barno, David and Nora Bensahel, "Now Women Should Register for the Draft," *Time*, December 7, 2015.

[156] Lafond, Nicole, "Poll: Most Women Believe They Should Not Be Forced Into Combat," *The Daily Caller*, February 7, 2013.

[157] Eden, June, "Thanks, Ashton - Women Not Subject to Involuntary Assignment to Combat Units, Selective Service," *Breitbart Texas*, December 10, 2015.

[158] When registering women for the draft was considered in the early 1980s, some raised equity concerns about draft calls since combat positions were closed to women, therefore, men and women would not likely be drafted in equal numbers. Proponents of registering women asserted that conscription would be based on military personnel needs and men and women would serve "in proportion to the ability of the Armed Forces to use them effectively." U.S. Congress, House Committee on Armed Services, *Presidential Recommendations for Selective Service Reform*, committee print, 96th Cong., 2nd sess., February 11, 1980 (Washington: GPO, 1980).

[159] Dunlap, Charlie, "Register Women for the Draft? Not So Fast," *Lawfire*, January 30, 2016.

[160] Office of the Under Secretary of Defense for Personnel and Readiness, *Report on the Purpose and Uitlity of a Registration System for Military Selective Service*, July 2017, p. 11.

automatically through other interactions with the federal or state government, some contend that the very act of registering would make young women more aware of their citizenship duties, thus broadening the percentage of qualified women considering a career in the military.

From certain theological or moral perspectives, some say that it is wrong for women to serve in combat roles, and since a draft would most likely be used to fill positions for combat operations, women should be exempt from registering.[161] These arguments resonate with a segment of the U.S. population, and polling data suggest that if women were required to register for the draft, it would significantly increase public opposition to reinstating the draft and could affect public support for engaging in any conflict that has the potential to escalate beyond the capability of the all-volunteer force.[162]

Including women in the registration process may require some additional budget resources for the SSS due to increased administrative processing and public awareness needs. Currently there are about 11 million women ages 18-26 who would be eligible to register under the statutory age requirement.[163] In January of 2016, the SSS reported to the White House Office of Management and Budget that it would need about $8.5 million more for the first year of registering women and slightly less in the following several years.[164]

Enhanced SSS Data Collection

As previously discussed, some have suggested that the future threats that the United States may face may require rapid mobilization of those with specialized skills and experience (e.g., engineers, coders, truck drivers). Congress could expand the current SSS registration system to collect data on degrees, licenses, or other certifications. It could also be extended to include these types of experts outside of the 18- to 26-year-old age range.

For example, Norway operates a peacetime conscription registration system in this fashion. All Norwegian citizens in a conscription cohort (men and women, age 17) are required to fill out an online questionnaire that helps to determine their relevant skills, eligibility for, and interest in military service. Based on the results of this questionnaire, the armed forces calls in about 22,000 individuals to “Session Part 2” to determine fitness for service through physical and

[161] For example, in 1998 the Southern Baptist Convention issued a resolution on women in combat which argued females should not be assigned to combat units because doing so rejects gender-based distinctions established by God in the order of creation, undermines male headship in the family by failing to recognize the unique gender-based responsibility of men to protect women and children, and subordinates the combat readiness of American troops, and the national security of the United States, to the unbiblical social agenda of feminism. Roach, David, "Female Military Conscription 'Absurd' But Likely," *Baptist Press*, February 3, 2016.

[162] Current polling data suggest that if the military draft was reinstated, 52% of Americans would be in favor of drafting women as well as men. Thirty six percent of men and 48% of women were opposed to drafting women. Quinnipiac University Poll, February 7, 2013. Public opinion on this matter has remained about the same since 1980, when draft registration requirements were reinstated. At that time, 50% of Americans were in favor of requiring women to participate in a draft should it become necessary. A 2011 study reported survey results that found that instituting a draft significantly reduced the public's support for war: “moving from an all-volunteer to a conscript army decreases support by 17% (from 54% to 37%).” Horowitz, Michael C. and Matthew S. Levendusky, "Drafting Support for War: Conscription and Mass," *The Journal of Politics*, vol. 73, no. 2 (April 2011).

[163] Based on 2010 U.S. Census figures and projections.

[164] In the first year the SSS would need to conduct a “catch-up” registration for the entire 18 to 26 year old cohort, while in subsequent years the bulk of the new registrations would be those turning 18 in that year. Schmidt, Michael S., "Draft Registration for Women Would Stir a Sleepy Government Agency," February 7, 2016.

psychological tests. Selection boards choose individuals for a mandatory 12-month service obligation based on the armed forces' needs for various skills.[165]

DOD has also pointed to the Health Care Professional Delivery System (HCPDS), currently a congressionally mandated *standby plan*, as a potential model for a registration/draft system by specialty.[166] The HCPDS, if activated, would require registration of all health care workers between the ages of 20 and 45.

DOD's 2017 report to Congress considered what a "mobilization by military occupational specialty (MOS)" might require.[167] The benefit of establishing an enhanced registration system would be to allow rapid acquisition of personnel with necessary expertise through a *targeted draft.* This type of data collection could also support targeted recruiting. Should a draft ever be reinstated, available information on individual qualifications could also shorten the timeline needed to train personnel in certain specialties and could support more efficient alternative service matching with employers for those who are conscientious objectors. The challenges with pursuing this option for the SSS would be increased administration costs to maintain, update, and enforce reporting for such a database. In addition, some may oppose such a proposal due to privacy or civil liberty concerns.

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[165] Following their year of service, those who were drafted remain liable for reserve duty and must report for 4-5 refresher training periods until age 35, 44, 55, or 60, depending on rank and function.

[166] P.L. 100-180 §715, codified in 50 U.S.C. §3809.

[167] 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, p. 27. Norway Ministry of Defense, *A Bill Introducing Compulsory Military Service for Women*, October 4, 2014, https://www.regjeringen.no/en/aktuelt/A-bill-introducing-compulsory-military-service-for-women/id763120/.

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