

STANDBY DRAFT REGISTRATION

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ISSUE DEFINITION

Since the end of the draft in 1972 there has been controversy about the ability of the All-Volunteer Force (AVF) to meet U.S. military manpower requirements and the effect of the AVF on American society. An important aspect of this controversy has been the debate over the military and social effects of standby draft registration without actual conscription. This issue brief discusses the rationale for, implementation of, and difficulties involved in the standby draft registration program begun in 1980. Issues relating to the ability of the current All-Volunteer Force to provide an adequate quantity and quality of military manpower, the socioeconomic issues raised by voluntary military service, and the costs of the AVF are discussed in Issue Brief 82100, Military Manpower Policy and the All-Volunteer Force. The arguments for and against resuming a peacetime draft and what forms such a draft could take are discussed in CRS Report 83-190F, Return to a Peacetime Draft: Summary of Pros, Cons, and Major Issues.

BACKGROUND AND POLICY ANALYSIS

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INTRODUCTION

According to the Department of Defense (DoD), a major war with the Soviet Union or any other military contingency other than comparatively minor, short-term operations would require the prompt reactivation of the draft to furnish manpower above and beyond that provided by the active Armed Forces, the Selected Reserve composed of organized units which train regularly, and sources of pretrained manpower (principally the Individual Ready Reserve and military retirees recalled to active duty). (See Issue Brief 82100, Military Manpower Policy and the All-Volunteer Force, for a more detailed discussion of these categories of military manpower.) Draftees would be required to provide replacements for casualties, fill understrength active and Selected Reserve units to their full wartime complement of manpower, and activate new military units needed in an expanded wartime force structure.

The Military Selective Service Act Amendments of 1971 (P.L. 92-129, approved Sept. 28, 1971) required that after induction authority ceased on June 30, 1973, the Selective Service System be maintained as "an active standby organization, with (1) a complete registration and classification structure capable of immediate operations in the event of a national emergency, and (2) personnel adequate to reinstitute immediately the full operation of the system...." Progressive reductions in funding and manpower for the standby Selective Service System substantially reduced its capabilities and responsiveness after FY73. Standby registration of potential inductees was suspended by executive order in April 1975.

In January 1980 President Carter asked the Congress to authorize standby draft registration of both men and women. The Congress approved funds for male-only registration in late June 1980, and on July 21, 1980, registration of men born in 1960 began, followed one week later by registration of men born in 1961. On Jan. 5, 1981, registration of all men born in 1962 began, and since then registration has been required of all men born in 1963 or later upon reaching age 18. President Reagan, after considerable hesitation during the first year of his Administration, confirmed his support for continuing registration on Jan. 7, 1982.

ARGUMENTS FOR AND AGAINST STANDBY REGISTRATION

The following arguments are among those which have been advanced in favor of standby draft registration:

- Mobilization will be a time of unprecedented confusion and stress. To the extent that individuals can be registered and a standby draft structure created before such adverse conditions occur, the Selective Service System will be far more able to respond to urgent DoD requirements for draftees.
- Standby registration will not eliminate the need for pretrained individual manpower. However, by reducing the amount of time required to produce trained draftees, registration will reduce the amount of individual reserve manpower required. (See Issue Brief 82100, Military Manpower Policy and the All-Volunteer Force, for a more detailed discussion of the pretrained individual manpower issue.)
- Requiring young men to register reinforces the idea that citizenship entails responsibilities as well as rights.
- Registration evidences a willingness on the part of the United States to levy requirements on its citizens for defense, thereby improving our international political credibility.
- We cannot count on rapid escalation to nuclear war obviating the need for mobilization measures such as registration. Indeed, such measures may prevent escalation.

The following arguments are among those that have been advanced in opposition to standby draft registration:

- Actual premobilization registration is not needed to insure an effective postmobilization draft. Upgrading of other Selective Service System capabilities will enable prompt postmobilization registration to meet DoD requirements.
- Registration will not eliminate the need for pretrained individual manpower. It will only somewhat reduce it.

Rather than spending time and money on registration, a sufficient pretrained individual manpower pool should be created so as to make the few weeks saved by standby registration irrelevant.

- Analyses of registration to date show that the extreme mobility of the registration age population, plus the large number of non-registrants, renders the Selective Service System's registration rolls inadequate.
- In the nuclear age, mobilization measures are obsolete. They involve planning for a type of war which will no longer be fought.
- Registration is in the nature of, and is the first step toward, conscription, which is an inappropriate form of coercive and involuntary servitude in a democratic society.

REGISTRATION COMPLIANCE

The Selective Service System has asserted that as of March 1984, approximately 11.6 million young men -- over 96% of those eligible and required to register -- had registered. Approximately 99% of men born during the years 1960-1963 have registered; 95.5% of men born in 1964 have registered, and 84% of those born in 1965. Selective Service has stated that it usually takes two years for an age group's registration point to approach its maximum, due to late registrations that continue long after men should have registered. According to the Selective Service System, only 90% of 18-year olds actually register before turning 19, but by age 20 98% or more of each age that has registered. The number of estimated nonregistrants has dropped from 585,000 in December 1982 to 436,000 as of January 1984. Of these latter nonregistrants, some are members of the Reserve Components of the Armed Forces, many of whom apparently do not realize that although in the military service they must also register (active duty military personnel are not required to register). Others are former servicemen who were born after Jan. 1, 1960 -- and were thus legally required to register after being separated from active duty -- but who had not done so. Given the understandable assumption on the part of such servicemen that registration would not be required of them, DoD ordered the military services to make registration part of the separation process. Selective Service believes that most other nonregistrants are simply uninformed about the registration requirement and will eventually register; according to a survey of nonregistrants conducted for Selective Service by the Yankelovich polling firm, only 20% of nonregistrants can be classified as having any ideological opposition to registration.

Noncompliance with the registration requirement has never been substantial in percentage terms. Reasons advanced for the noncompliance that has existed include:

- Inadequate publicity given to registration. Advertising and information efforts for the continuous registration program in effect since early 1981 was, for several months, much less than the considerable publicity given the one-time registrations of mid-1980 and early 1981.

- Delay until January 1982 on the part of the Reagan Administration in deciding whether to continue registration, leading many young men to wait until the President's decision to decide whether to register.
- A slow pace of prosecution of admitted nonregistrants. The first indictment for violation of the registration law did not take place until June 1982. Many young men, according to the above mentioned survey, are also unaware of the substantial fines or imprisonment that can result from a conviction for violation of the Military Service Act.
- The lack of a relationship of continuous registration to a perceived international crisis (such as the invasion of Afghanistan and the holding of U.S. hostages in Iran, both of which were ongoing during the July-August 1980 and January 1981 one-time registrations), and the corollary lack of psychological impact of continuous registration compared to the shared experience of one-time registration.

Various measures are underway to improve registration compliance:

- The Justice Department has begun to prosecute alleged violators of the law. Approximately 18,000 cases had been referred to the Justice Department by Selective Service as of February 1984. Most of these men have registered upon being contacted by U.S. attorneys and being warned of possible prosecution. Failure to register is a felony punishable by up to five years imprisonment and a \$10,000 fine. 16 men have been indicted and 5 convicted.
- Section 916 of the FY 1982 DoD Appropriation Authorization Act (P.L. 97-86; Dec. 1, 1981; 95 Stat. 1099) permits Selective Service to require registrants to report their Social Security numbers when registering, and to use Social Security records to cross-check for registration compliance with other kinds such as State drivers-license rolls.
- Persons who are discovered through Social Security record checks and a computer tile-matching program with State drivers' license records to be nonregistrants are being notified by mail that they are subject to prosecution, and are being allowed to register late without necessarily being subject to legal action.
- Section 1113 of the FY 1983 DoD Authorization Act (P.L. 97-252; Sept. 9, 1982) denies Federal educational grants, loans, or work assistance payments to persons legally required to register who cannot prove they have done so, although both judicial and administrative action has intermittently interfered with effective implementation

and enforcement of this measure. (See Mini Brief 83213, Student Financial Aid and Draft Registration Compliance, for further discussion of this issue.)

ADMINISTRATION OF THE REGISTRATION PROGRAM

Another problem of registration is that of maintaining the accuracy of registrant files, especially because of the mobility of young men ages 18-20. The General Accounting Office asserted in April 1982 that Selective Service files had an overall 94% accuracy rate, and a 99% address accuracy rate. However, the GAO report admitted that of the random sample of registrants it selected for detailed study, it was unable to contact fully 31% by telephone despite five tries, and could not obtain any verification of identity for 25%. A later (September 1982) GAO report estimated that address information for 20-40% of registrants in the prime induction age group -- those young men who would be drafted first in case of a mobilization -- could be outdated, threatening both the effectiveness and equity of the conscription process. The extent of current accuracy of Selective Service files is therefore unclear. Registrants are required to report address changes to the System, but the publicity effort regarding this requirement has been feeble until recently.

Measures that have been proposed to improve the ongoing accuracy of Selective Service registrant files include the following:

- Being more explicit in informing registrants of the address updating requirement and the penalties for not keeping one's address information updated.
- Periodically sampling registrant address information to determine its currency and accuracy.
- Conducting a time-limited registration to minimize the elapsed time between registration and the date of a possible induction, if an actual draft were resumed.
- Updating addresses through matching with other Government files.

Some of these will be implemented by Selective Service, within budgetary constraints. The system has began to mail address verification letters to registrants in the 19-20 year old age group -- that are most likely to actually be inducted in an emergency -- if they have not corresponded with the system in the preceding 11 months.

Other aspects of the revitalization of Selective Service, in addition to registration itself, include the recruitment and training of approximately 10,500 volunteers to staff over 2,100 local draft boards and 96 appeals boards throughout the country, should conscription actually be resumed. Major upgrading of the System's data processing capability is underway. Exercises to test Selective Service mobilization responsiveness are undertaken periodically, sometimes in conjunction with nationwide mobilization exercises involving DoD and other Federal civilian agencies.

IMPACT OF REGISTRATION ON MOBILIZATION CAPABILITY

According to DoD and Selective Service, the resumption of registration, combined with other management improvements, has assured that DoD can obtain sufficient draftees in the necessary time after mobilization begins. Before the resumption of registration in 1980, an independent Congressional Budget Office analysis, as well as the System's own projections, showed that the standby draft mechanism then in existence would be unable to meet DoD's requirements for manpower. This contrasts with the current situation assessment:

DOD INDUCTION REQUIREMENTS AND ESTIMATES OF ACTUAL SELECTIVE
SERVICE CAPABILITIES: PRE- AND POST-REGISTRATION

	DoD Require- ment	FY 1979 CBO Estimates		FY 1979 Selective Service Estimate (Before Registration)	FY 1982 Selective Service Estimate (After Registration)
		Opti- mistic	Pessi- mistic		
First Delivery of Inductees	M+30*	M+65	M+95	M+110	M+13
100,000 Inductees	M+60	M+90	M+120	M+150	M+30
480,000 Inductees	NA	NA	NA	M+230	**
650,000 Inductees	M+180	M+250	M+280	NA	**

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- * "M" denotes the first day of mobilization; numbers denote days after "M-Day."
 - ** The Selective Service System has stated that after it delivers the first 100,00 inductees within 30 days, it "can meet any higher number the Defense Department desires."

Even with a margin for excessive optimism in the FY82 Selective Service estimates, and without analyzing the validity of DoD requirements themselves, it would appear that registration has significantly improved U.S. manpower mobilization capability. It is acknowledged by both DoD and Selective Service that the primary issue today involving manpower mobilization is not the ability of Selective Service to draft men in time of crisis but the capacity of the Armed Forces' training base to train them.

SUMMARY

Prompt reactivation of the draft will be required for any major military contingency. Standby draft registration, eliminated in 1975, was resumed in 1980. The registration program appears to have substantially improved DoD manpower mobilization capability, although questions remain about compliance with the registration law and its administrative effectiveness.

LEGISLATION

H.R. 4981 (Mitchell, Boxer, Dellums)

Provides that registration under the Military Selective Service Act may only be carried out in accordance with applicable regulations and Presidential proclamations.

HEARINGS

REPORTS AND CONGRESSIONAL DOCUMENTS

U.S. Congress. House. Committee on Armed Services. Military Selective Service Act as amended through Feb. 1, 1983. April 1983. (98th Congress, 1st session) Washington, U.S. Govt. Print. Off., 1983. Committee Print. No. 4.

U.S. Congress. House. Committee on Education and Labor. Draft Registration Implementation; report to accompany H.R. 2145. Apr. 28, 1983. Washington, U.S. Govt. Print. Off., 1983. (98th Congress, 1st session. House. Report no. 98-74, Part 1)

CHRONOLOGY OF EVENTS

07/20/83 -- A U.S. Circuit Court of Appeals panel of judges upheld the legality of the draft registration program which the U.S. District Court in Los Angeles had declared illegal on Nov. 16, 1982. The appeals court stated that the individual

in question had failed to prove that he was indeed being selectively prosecuted for his public opposition to registration, and that the 30-day waiting period cited by the District Court judge in his ruling applied only to proposed administrative regulations, not presidential proclamations such as that used by President Carter to reinstate draft registration.

- 11/16/82 -- A U.S. District Court Judge in Los Angeles ruled that the standby draft registration program was illegal, because President Carter had not allowed 30 days for public comment when he originally issued his proclamation requiring registration in 1980. This illegality was one of four grounds cited in the dismissal of the Government's case against David Alan Wayte, 21, who had been indicted for failing to register. The other three grounds were that the Government was "selectively prosecuting" only individuals who had publicly announced their failure to register; that the Government had failed to provide Wayte's attorneys internal documents needed for their case; and that Counselor to the President Edwin Meese III had refused to testify on how the Government had decided to prosecute certain individuals first. The Justice Department announced that it would appeal the ruling and continue with investigation and prosecution of alleged draft violators.
- 10/04/82 -- Benjamin H. Sasway, convicted on Aug. 26 of failing to register for the draft in violation of the Military Selective Service Act, was sentenced to 30 months in Federal prison. He was allowed release on \$10,000 bail pending appeal of his conviction.
- 08/26/82 -- Benjamin H. Sasway, the first man indicted for failure to register for the draft under the current registration requirement, was convicted in U.S. District Court, San Diego, California, and immediately jailed pending sentencing.
- 08/17/82 -- Enten Eller was convicted in U.S. District Court, Roanoke, Virginia, of violating the Military Selective Service Act by failing to register for the draft. His was the first such conviction relating to the standby draft registration program begun in 1980. He was sentenced to three years probation and required to register within 90 days or then face imprisonment and a fine. Eller said after his conviction that he would again refuse to register.
- 06/30/82 -- The first indictment for violation of the legal requirement to register for the draft was returned against Benjamin H. Sasway, 21, in San Diego, California.
- 01/07/82 -- President Reagan announced that standby draft

registration would continue. He also directed the Department of Justice to designate a grace period during which persons obligated to register could do so without fear of prosecution.

- 06/25/81 -- The Supreme Court ruled that requiring only men and not women to register for the draft was constitutional.
- 01/05/81 -- Registration of all men born in 1962 began. Thereafter all men born in 1963 or later were required to register upon reaching age 18.
- 07/28/80 -- Registration of men born in 1961 began.
- 07/21/80 -- Registration of men born in 1960 began.
- 07/02/80 -- President Carter issued Presidential Proclamation 4771, ordering the registration of men under the Military Selective Service Act to begin on July 21, 1980.
- 06/27/80 -- President Carter signed into law H.J.Res. 521, authorizing the transfer of funds from DoD to the Selective Service System to begin registration of men only (P.L. 96-282).
- 06/25/80 -- The House approved the Senate version of H.J.Res. 521, authorizing the transfer of \$13.3 million from the Department of Defense to the Selective Service System to begin registration of young men.
- 06/12/80 -- The Senate approved (58-34) H.J.Res. 521, transferring \$13.3 million from DoD to the Selective Service System for purposes of beginning standby draft registration. An amendment added in the Senate Appropriations Committee by Senator Hatfield requiring that registration forms provide a space for a registrant to indicate whether or not he was a conscientious objector was deleted on the floor of the Senate.
- 04/22/80 -- The House approved 218-188 a House Appropriations Committee recommendation to transfer \$13.3 million to the Selective Service System in order to begin standby draft registration of 19- and 20-year-old males.
- 02/08/82 -- President Carter requested that the Congress approve mandatory registration of both men and women for the draft. Persons turning age 19 and 20 in 1980 would begin registering in the summer of 1980. Those turning 18 in 1980 would have to register later in 1980, and in 1981 and thereafter each person would be required to register upon reaching their 18th birthday. The President stated that he had no intention of modifying current policies or statutes which bar women

from various combat assignments. The President reiterated his position that he saw no need at the time for a reinstatement of actual conscription.

- 01/23/80 -- In his State of the Union message, President Carter announced that in February 1980 he would send legislation to the Congress to authorize standby draft registration.
- 09/12/79 -- By a recorded vote of 252-163, the full House defeated a measure proposed by the House Armed Services Committee in the FY80 DoD authorization bill (H.R. 4040) to begin standby draft registration of 18-year-old males in 1981.
- 06/30/73 -- The legal authority of the President to induct men into the Armed Forces expired, with certain minor exceptions.
- 01/27/73 -- Upon the signing of the Vietnam peace agreement, the Department of Defense announced that all involuntary inductions would cease immediately.
- 12/27/72 -- What eventually became the last draftees to enter the Armed Forces were inducted (with the exception of persons previously deferred).
- 09/28/71 -- With the signing of P.L. 92-129 (the 1971 amendments to the Military Selective Service Act) into law, drafting individuals was legally authorized until June 30, 1973.
- 04/23/70 -- President Nixon proposed in a message to Congress that induction authority be extended until June 30, 1973, and that thereafter the Armed Forces be manned solely by volunteers.
- 02/20/70 -- The Gates Commission submitted its report with favorable recommendations toward creating an All-Volunteer Force.
- 03/27/69 -- The President's Commission on an All-Volunteer Armed Force (the Gates Commission) was created.

ADDITIONAL REFERENCE SOURCES

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