



Center on Conscience & War

Board of Directors

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To Members of the National Commission on Military, National and Public Service:

The Center on Conscience & War (CCW), originally the National Service Board for Religious Objectors (NSBRO) was founded by church communities in 1940, on the eve of the US entry into World War II. Members of those church communities had experienced either first hand or as witnesses the horrendous treatment religious pacifists endured during the First World War and wanted to ensure the same would never happen again. The WWI draft law of 1917 contained very few and weak provisions for the protection of religious freedom and belief. Once a man was drafted, he was considered to be in the army, even if his religious beliefs prevented him from supporting any kind of violence against another human being. During WWI at least 30 conscientious objectors died as a result of the abuse and torture they received while in military custody, simply for following their beliefs to refrain from supporting war and killing in any way. When the draft law of 1940 was proposed, our founders successfully advocated for stronger protections for conscientious objectors to be included in the law, such as the option of civilian-directed, non-military service for drafted conscientious objectors.

During WWII, NSBRO assisted in the administration of the Civilian Public Service program (CPS), the alternative service program for conscientious objectors at that time. Today, CCW continues the work our founders started 78 years ago: to extend and defend the rights of conscientious objectors. In the absence of a draft, the majority of our work is with active duty members of the US military who suffer a crisis of conscience and seek discharge as conscientious objectors. This legal avenue for discharge has been Pentagon policy since 1960.

In the event of a military draft, CCW will assist in the placement of conscientious objectors in alternative service programs. The Center is opposed to all forms of conscription.

Selective Service Registration

Part of the Commission's mandate is to study Selective Service registration, and to recommend whether it should continue, and if so, whether women should be required to register.

We hold that the Commission should recommend to end Selective Service registration for all.

All branches of our government have affirmed that the primary purpose of registration is to be prepared for war. This is a violation of conscience for many people of different faiths and beliefs.

There is currently no option to register as a Conscientious Objector; as a result, individuals who cannot participate are punished for life, without due process.

Even though failure to register is a felony, no one has been prosecuted since 1986. Instead, they are punished by being denied a variety of state and federal benefits, including driver's licenses and state IDs. According to Selective Service annual reports, there are now millions of young men who have failed to register with Selective Service and whose names have been turned over to the Department of Justice for investigation. According to the Selective Service System 2017 Report to Congress, "In FY 2017, 184,051 names and addresses of suspected violators were provided to DOJ" (p. 7). Once someone reaches the age of 26, Selective Service will no longer accept their registration. The vast majority of non-registrants are now too old to register, even if they wanted to. This results in an individual – in many cases a person simply exercising their deeply held religious or moral beliefs – being sentenced to a lifetime of punishments without ever having been charged, prosecuted, defended, or convicted of any crime. These laws imposing these lifetime punishments without trial are unconstitutional Bills of Attainder. The best way to fix this problem would be to end the Selective Service registration, and **overturn the penalties imposed on non-registrants.**

Applying for a driver's license or photo ID in most states automatically registers a young man with Selective Service, as does applying for federal financial aid for college. Many people are being registered without their knowledge or consent. This is actually contrary to the Selective Service Act itself, which requires a young man "to present himself..." (Military Selective Service Act, section 453, Registration).

Even with these coercive measures, five percent of those who are required to register fail to do so by the time they turn 26 (ibid p.4).

According to the SSS annual report, more than 65% of those who did register did so through these coercive measures. (Ibid p. 6). That means that the majority of people who are required to register do not "present themselves" to register; rather they 'are registered' when they apply for financial aid or another government program. The law requires that men register by the 29th day after their 18th birthday, yet 29% of those required to register still have not done so one year after turning 18 (ibid p. 4).

The true mark of a democratic law is consent of the governed. The Selective Service law is not one that enjoys consent of the governed, and thus should be altered or abolished. **CCW urges an end to Selective Service registration.** It seems a poor use of limited resources to ask the Department of Justice to investigate millions of people for failing to comply with a law that has not been implemented for 45 years.

The burdens of this law should certainly not be extended to women, and the cost of enforcing compliance for women should not be passed on to taxpayers.

Registration as a conscientious objector

If the Commission feels it wise to recommend a continuation of this failed law, it must recommend that **Selective Service provide a pathway for people to register as conscientious objectors**, and **restore full rights to all people of conscience by overturning lifetime punishments**. Doing so would enable people of conscience to be both in compliance with the law and true to their conscience.

This easily could be accomplished by adding a line to the registration form (SSS Form 1), by simply asking the question, "Are you a conscientious objector to participation in war?" The registrant would select yes or no. Selective Service would record this and modify the registration acknowledgement (SSS Form 3) to indicate that the registrant has been registered as a conscientious objector. Additionally, Selective Service would send the registrant information about conscientious objection when it sends out the registration acknowledgement. Attached is CCW's pamphlet, *Who is a Conscientious Objector?* as an example of the kind of information that could be provided.

This initial self-identification as a conscientious objector would be understood to not be an official determination of CO status by Selective Service; that official determination could still be made through local draft boards in the event of a draft. **Someone who did not make the initial self-identification at the time of registration should not be at a disadvantage to claim CO status at the time of a draft.**

Engaging the public with service

The United States is founded on principles of freedom and democracy. Compulsion is contrary to those principles. The 13th amendment to the constitution explicitly prohibits involuntary servitude except as punishment for those convicted of a crime. Any mandatory service program would be a violation of the 13th amendment. CCW opposes all forms of conscription.

The constitutionality of the WWI draft was challenged, in part on the grounds of involuntary servitude. In 1918 the Supreme Court ruled that a military draft in the context of WWI was constitutional. The court said, "we are unable to conceive upon what theory the exaction by government from the citizen of the performance of his supreme and noble duty of contributing to the defense of the rights and honor of the nation, as the result of a war declared by the great representative body of the people, can be said to be the imposition of involuntary servitude in violation of the prohibitions of the Thirteenth Amendment," (*Arver v. United States*; 245 U.S. 366).

So while a military draft in time of declared war has been considered constitutional, requiring non-military service outside of a declared war is something different, and we believe it to be unconstitutional.

In the event of a military draft, CCW will assist in the placement of conscientious objectors in alternative service programs. CCW supports service, and throughout most of our history we have benefitted from the service of volunteers through the Brethren Volunteer Service and the Mennonite Volunteer Service. The concept of service is voluntary. If you are doing something because it is required, then it is not service. CCW opposes all forms of conscription or compulsory service. If the Commission decides to recommend mandatory service as policy, we raise the following for your consideration, in addition to the constitutional concern raised above: If a mandatory service program is implemented, everyone serving should be treated equally. In the past, proposals for mandatory national service have favored those who choose military service over those who choose the Peace Corps, AmeriCorps, or some other non-military service. Requiring service of everyone, and then giving preferential treatment to some forms of service over another, is patently unfair. To incentivize military service with the promise of bonuses and other benefits not granted to non-military service would constitute discrimination against those whose religious and moral beliefs prevent them from participating with war or contributing in any way to making war possible. There is much the government could do to encourage service, and we urge the Commission to recommend such things:

- Student loan repayment for time spent in voluntary service.
- Providing a stipend, and good medical care for those engaged in voluntary service.
- Promoting service as a worthwhile endeavor, and
- Funding recruiters for voluntary service programs.
- Promoting service in non-governmental service organizations, not just those with government connections.

Thank you very much for your kind consideration of these important issues.

Sincerely,

Bill Galvin and Maria Santelli

For the Center on Conscience & War