

## WAR AND RUMORS OF WAR

### What you should know about the draft

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#### 1. BASIC FACTS

There is already intense speculation coming from the liberal camp about a draft. Equally intense are the denials that come from the Bush Administration when officials are asked directly whether or not a draft is under consideration.

What are the legal (i.e., factual) requirements for a draft? According to the government, a draft happens when a crisis "requires more troops than the volunteer military can supply. Congress passes and the President signs legislation which starts a draft."<sup>(1)</sup> In order for Congress to pass legislation

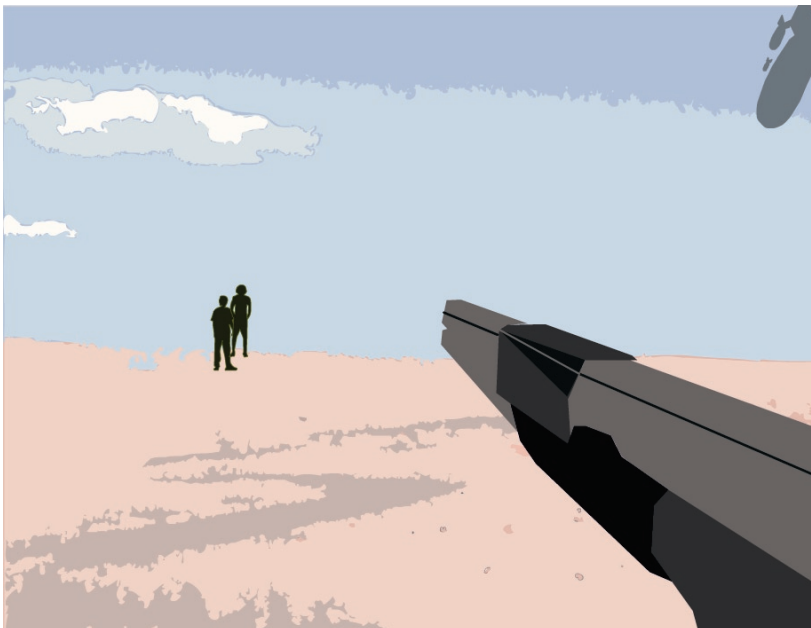
to start a draft, however, both the House and Senate must agree on a bill to send the President. How do they agree? First, legislation must be introduced and approved in both the House and the Senate. If there are any differences in the two versions of the legislation, a special conference committee must resolve any differences before it goes to the President for signature.

With this in mind, the critical question now becomes: has Congress made any move towards passing legislation to authorize a draft?

The answer is a little complicated; the short answer, however, is yes.

#### 2. MECHANICS

Each Congressional session lasts for two years. At the end of each session, any proposed legislation that has not been approved by Congress must be re-introduced at the start of the next session. For instance, in December of 2001 (during the 107th Congress) Representative Nick Smith (R - MI) introduced legislation in the House to reinstate a draft, probably in reaction to September 11, 2001. Although his version of the draft would have only required people to serve between six months and a year, Smith's proposal did not gain much support among lawmakers for the remainder of the 107th Congressional session.<sup>(2)</sup> At the end of the



session, in December 2002, the bill expired and Smith did not re-propose the legislation when the 108th Congress convened.

But here's a fact that may startle you: at the outset of the 108th session, in January of 2003, Democrat lawmakers on both sides of Congress revived the possibility of a draft by introducing new legislation. Called the "Universal National Service Act of 2003," this legislation is identical in both the House and the Senate. (3) Here are some of its mandates:

- It would draft both men and women between the ages 18 and 25;
- Duty would last for two years unless the President decides otherwise; unless a person is injured and does not fight for some period of the two years (at which point they would serve longer); and for other miscellaneous reasons;
- There does not appear to be any exemption for college students or students pursuing higher education, except for short delays in reporting to duty;
- High school students would not be eligible for the draft unless they are getting bad grades or reach the age of 20; and
- People can perform two years of non-military service if they are excused from the draft for religious reasons.

It is important to remember that the above mandates are not final by any stretch of the imagination. Like Representative Smith's proposal in 2001, the "Universal National Service Act" would create a radically different draft from what the United States experienced during Vietnam. Likewise, the Vietnam draft differed from the World War II draft. Just because the draft happened in one certain way in the past does not dictate how a future draft would take place. We can only look at what has happened before and hope that we have learned from our mistakes.

### 3. THREE GENERAL REASONS TO STAY CALM

There are a few additional things to understand about legislation in general before speculation and fear compel you to pack up and move to France.

- First of all, proposed legislation is fluid. It can be revised through consensus. Democracy allows people to contact their Congressmen and tell them how they feel. It is up to the Congressmen, at that point, to decide whether they want to represent the concerns of their constituents by making suggested changes to the proposed legislation or perhaps stopping its passage entirely. (4)
- Secondly, just because legislation has been proposed in Congress does not mean that it is close to going to the President for approval. Some legislation languishes in Congress for years because it is not a high priority or too politically sensitive (5). Moreover, the President has the power to veto a bill that Congress sends to him for approval. The President might request changes to the bill before signing it. This could initiate a new round of debate in Congress, further slowing the passage of legislation authorizing a draft.
- Thirdly, because proposed legislation can be both fluid and sluggish, President Bush might never see a bill that would authorize the draft. If John Kerry is elected in the fall of 2004, it may be up to him to decide whether or not to make the draft a law.

### 4. THREE SPECIFIC REASONS TO STAY CALM -- FOR NOW

With the 108th session about three months from ending, and no action taken on the current proposals, it is reasonable to conclude that nothing will happen with the legislation this year. Beyond the general reasons, though, there are specific political and practical concerns that make the draft highly unlikely in 2004:

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- The United States is not necessarily in the kind of “crisis” that would lead lawmakers to risk establishing a draft just yet.

- The proposed legislation does not have much support. In the House, only 13 lawmakers have co-sponsored the proposed bill. In the Senate, no lawmakers have co-sponsored the bill.

- Both right- and left-leaning analysts agree that it would be a political disaster for any Congressman (or President Bush for that matter) to support a new or already-existing draft proposal in a major election year. Since 33% of the Senate and 100% of the House is up for re-election in 2004 (just like every other two years), it is highly doubtful that many Senators or Representatives would risk their seats on such an explosive issue.

All these important legal hoops aside, though, what would happen if there were indeed a “crisis” and more Congressmen decided to sponsor the existing proposals?

Well, if Congress agreed on the proposed legislation without changes it would go to the President; if the President signed the legislation, it would become a law. The Selective Service System, which has been largely dormant since 1973, would then gain authorization under The Military Selective Services Act to deliver American conscripts to duty stations within 193 days.

## 5. ABOUT THE SELECTIVE SERVICE SYSTEM

While Congress often sets a broad agenda, it is up to specific agencies like the Selective Service System, the Department of Labor, or the Securities and Exchange Commission to write detailed regulations that specifically enforce the laws passed by Congress. These agencies are part of the Executive Branch (not part of Congress) and often contain political appointees (i.e., special managers appointed by the President) in the positions of highest power. These appointees must do what the President and his advisors want or risk losing their jobs.

And guess what?

It just so happens that the head of the Selective Service System is appointed directly by the President.

This means that some Congressional oversight and some pressure from individual Senators or Representatives exists when it comes to the management of conscription, but for the most part there is a direct line of command going from the White House to the Selective Service System. If a draft were ever put into place, it would be up to the President to define a lot of the specific parameters. For instance, the proposed legislation before the 108th Congress directs the President to decide:

- How people are qualified as “unfit for service”;
- In what situations the President could discharge someone from service before their service was complete; and
- If someone is successfully able to avoid combat duty, but must still serve their country, what kind of services they could satisfactorily perform.

In the wake of Vietnam the Selective Service System kept a low profile. There was no reason to be nervous that the head of the agency was an individual selected personally by the President to follow orders because the main task of the Selective Service System was simply minding the store. Without a war there is no political controversy about the draft.

But we are now (apparently) at war.

And people are starting to worry.

## 6. FOUR SPECIFIC REASONS TO GET A LITTLE NERVOUS

### 1. LEADERSHIP TURNOVER

In a series of events that have gone virtually unreported in every media outlet, the Selective Service System has had three different directors since January, 2003. This is extremely unusual given the fact that the turnover is taking place in the middle of an Administration. The last time this kind of shuffling took place was during the concluding years of the Vietnam war and could definitely indicate an internal debate taking place within the Administration. (6)

During Vietnam the Selective Service System had a total of five different Directors, two of whom were appointed by President Richard Nixon. The third appointed Director, Lewis B. Hershey, headed the Selective Service system between 1941 and 1970

and was appointed under President Roosevelt. The other two Directors to head Selective Service during Vietnam were Acting Directors -- men who were not approved by both the President and Congress but who were holding the position until a suitable Director could be appointed.

Under the current Bush Administration, Alfred V. Rascon, a Medal of Honor recipient, headed Selective Service until he suddenly resigned in January 2003. His resignation was extremely quiet. (7) Acting Director Lewis C. Brodsky took over for Rascon and served until May, 2004, at which point a man named Jack Martin assumed the position of Acting Director.

For those with conspiracy theories looking for a link between the "No Child Left Behind Act," Department of Education funding for school systems, and the recruitment and/or conscription of young high school graduates into the armed forces, please remain seated: incidentally, Jack Martin's regular full-time assignment is with the Department of Education, where he is the presidentially-appointed, Senate confirmed, Chief Financial Officer.

According to the Selective Service website, Acting Director Martin "will continue to serve in [his Department of Education] capacity while assuming the additional duties as the interim steward of the SSS."

## 2. UNUSUAL PENTAGON ANNOUNCEMENT

Congress created the Selective Service System as an independent federal Agency. That means it does not have ties with the Defense Department aside from the standard intergovernmental working relationship as defined by Administration policy and legislation.

Nevertheless, several newspapers recently reported that the Defense Department had placed a link on its website calling for volunteers to fill positions on 2,000 draft and appeal boards across the country. These are local boards that would administer the draft and review appeals from individuals seeking an exemption. While the Defense Department claimed this was not a very noteworthy announcement, and that it was merely filling many positions that were vacant after 20-year terms of volunteer service, the Pentagon has since removed the post from cyberspace. The Selective Service website now carries an HTML form which allows anyone to request information about serving on a draft board. (8)

## 3. THE SELECTIVE SERVICE WEBSITE

Within the last year, the Selective Service has changed the look and feel of its website. Although aesthetics are always a matter for debate, most objective users would agree that the newer site is more user-friendly and attuned to current photographic and stylistic trends than it was last year. In addition, young adults can now register for the selective service over the internet rather than having to fill out and mail in draft cards. (9) Many agencies are in the process of upgrading their web sites and making their services available online so this may not be an indicator of a whole lot. Regardless, seeing the faces of average-looking Americans wearing commercialized "what-can-my-bank-do-for-me?" smiles on the website of the government's most explosively controversial agency should cause some concern -- if not a few raised eyebrows -- over the revamp.

## 4. SELECTIVE SERVICES PROPOSAL TO DEFENSE DEPARTMENT

In early May 2004, the Seattle Post-Intelligencer reported that it had obtained a plan transmitted by the Selective Service System to the Defense Department. The plan was obtained from the government through the Freedom of Information Act, and outlines a strategy that would involve raising the upper limit of the draft age from 25 to 34. The plan also includes the drafting of women and would require Americans to keep the government informed about what kind of training they have in specialized niches that may be of interest to the military. (10) This echoes statements about a "skills-based draft" on the Selective Services website, (11) although the site mentions nothing about raising the age ceiling or drafting women.

Both the Defense Department and the Selective Service System have emphasized that the plan is for "contingency only." That seems reasonable enough -- after all, the Defense Department took a tremendous step recently by admitting that climate change may pose serious national security risks after all. (12)

The Pentagon probably has plans to invade the moon; fend off alien invaders; and put down mass civil insurrections. Just because there is an updated plan doesn't mean a given event is imminent.

But it's still enough to make a curious person wonder.

## 7. DO NOT BE SCARED BY FALSE LIBERAL CLAIMS

Some liberals are not just wondering about what is going on -- they are grossly exaggerating or flat-out misinterpreting various facts in an effort to scare people. It's working.

In one post on a site called Congress.org -- which has no .gov extension and is, therefore, an organization rather than an official government news source -- an unidentified writer claims that "\$28 million has been added to the 2004 Selective Service System (SSS) budget to prepare for a military draft that could start as early as June 15, 2005. Selective Service must report to Bush on March 31, 2005 that the system, which has lain dormant for decades, is ready for activation."(13)

While the first claim about \$28 million is flat-out wrong, the second claim about a report to Bush is a purely paranoid reaction towards a routine reporting requirement.

### "Added" Budget

Taking on the lie first: in short, no money has been added to the Selective Service budget between 2003 and 2004. In 2003, President Bush submitted his FY 2004 budget request to Congress in which he asked for \$28 million for the Selective Service System, which would be an increase of a little over \$1.5 million from 2003 operating levels. Congress refused to give him that much money, instead granting Selective Service \$26,480,000 -- exactly what it had gotten in 2003. So actually, there was no increase in the Selective Service budget.(14) Bush wanted to increase the budget by a routine amount but he was denied.

What about the 2005 Selective Service budget? President Bush is actually requesting a reduction from FY 2004 levels for next year. This is probably good politics but dishonest planning - - in reality, the Selective Service has been getting a \$1 million "raise" every year since at least 1997 with the notable exception of 2004, when Congress and the President were not able to agree.(15)

### "Report to Bush"

Secondly, on the matter of the report to Bush that would confirm the system is "ready for activation" there are several problems with this sensationalist exaggeration. To pick them out yourself,

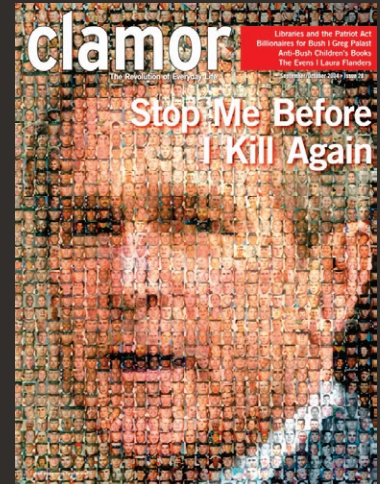
simply read 50 U.S.C. § 460(g) of the Military Selective Service Act as it is written:

"The Director of Selective Service shall submit to the Congress annually a written report covering the operation of the Selective Service System and such report shall include, by States, information as to the number of persons registered under this Act; the number of persons inducted in to the military service under this Act; and the number of deferments granted under this Act and the basis for such deferments; and such other specific kinds of information as the Congress may from time to time request."(16)

Therefore, simply by taking a moment to read the actual legislation, a few things become apparent:

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- This is not a unique report. Rather, the Selective Service System is required to report to Congress every year on May 31 -- the day that marks its anniversary of inception. In times of national crisis and in times of peace, Congress must receive a report from Selective Service no matter what.

- The report is not for Bush. It is for Congress. In general, all agencies are required to send a report periodically to Congress to keep lawmakers posted on agency activities. If Bush wanted to know about the status of the Selective Service System he could just bring the Acting Director to the White House and ask for a briefing -- this approach might not even leave a paper trail that could then be leaked to the public!

- Finally, the Selective Service System is always "ready for activation." In fact, if it issued a report that said it was not ready, Congress would probably initiate some serious inquiries and attempt to find out why.

But are liberals the only ones who are misleading anyone who will hear what they want to hear?

## 8. SPECULATION

The Bush Administration has vehemently denied that it is considering a draft. The Selective Service website even has a quote from Secretary of Defense Donald Rumsfeld in which he says there is "not a chance" of reinstating the draft. (17) Then again, Secretary Rumsfeld has also gone on record as saying, in reference to Iraq's elusive weapons of mass destruction, "We know where they are. They're in the area around Tikrit and Baghdad, and East, West, South, and North somewhat." (18). When the Secretary of Defense, and other administration officials, say there is not going to be a draft, they are merely speculating. Why is their word relatively worthless?

- As discussed above, it is not up to the Secretary of Defense or any other government official whether or not to have a draft. It is up to Congress, and it is up to the President to approve legislation sent forward by Congress. Although Rumsfeld may testify in Congress saying the draft is not necessary, it is not ultimately his decision to make.

- If Bush is not elected President in November 2004, there will likely be a whole new host of government officials who

will not be bound by the statements of previous officials. In the example of Rumsfeld's statement, it will likely be removed from the Selective Services website in an Orwellian fashion and replaced with whatever information the new Administration wants the site to contain.

- If Bush is reelected in 2004 he may decide to change the leadership in various agencies for political or managerial reasons. That means that a new incoming official could act as cover for a change in Administration policies, such as supporting a draft.

Meanwhile, liberals and other folks in opposition of a draft are urging citizens to contact their Senators and Representatives immediately. Some liberals have begun to speculate on how a draft would take shape in the near future.

For instance, the above-mentioned post on Congress.org also claims that a recent agreement with Canada would prevent draft-age individuals from seeking shelter there as happened during Vietnam. According to the posting, "In December 2001, Canada and the U.S. signed a 'smart border declaration,' which could be used to keep would-be draft dodgers in." (19)

Given the sensationalism and untruths contained in this post, readers should scrutinize such information for accuracy. Other equally misleading write-ups are sure to appear in the future -- from both liberal and conservative camps.

## 9. CONCLUDING THOUGHTS

It is interesting to note that the legislation discussed above was proposed in Congress by Democrats. In 2003, Senator Hollings (D - SC) and Representative Rangel (D - NY) both introduced the identical legislation. According to Rangel, he proposed the legislation as a form of protest, to say "that war is hell and if indeed our country's security is in jeopardy then we must as a country be prepared to make sacrifice." Rangel went on to imply that a draft would make upper-class decision-makers more wary to wage war if their children could possibly find themselves drafted. "Those that have to go to fight should not be selected from those who volunteered because of economic circumstances," Rangel told the New York Times in February of last year. (20)

These are pretty words. But the antiwar movement should not submit this "logic" to the liberal echo chamber without first considering historical examples of draft dodging or, for that matter, taking into account the influence the Executive Branch will likely have in setting the specific parameters of the draft through the Selective Service System.

Historical examples of the rich and powerful being able to excuse their families (and themselves) from conscription are legion throughout American history, starting with the Revolution and continuing right up through the Civil War, the World Wars, Korea, and, most recently, Vietnam. The so-called "chickenhawk" leaders in the Administration now -- men who avoided service in Vietnam and yet seem to have no qualms about sending other people into combat -- are potential examples.

The legislation proposed in Congress during the 108th Session makes no specific mention of how to ensure universal service despite the word "Universal" in its title. In fact, the legislation would leave a great deal of the mechanics of a draft up to the President to decide through the writing of regulations.

For instance, Section 4 of the "Universal National Service Act of 2003" states that the President will "prescribe such regulations as are necessary to carry out this Act." In the same section it gets into more detail (while at the same time creating even more uncertainty) by instructing the President to determine "the manner in which persons shall be selected for induction under this Act, including the manner in which those selected will be notified of such selection."

Are Rangel, Hollings, and other Democrats really so naive? Do they actually think a Selective Service System orchestrated by a single powerful and wealthy man -- Democrat OR Republican -- will actually act as a deterrent to war on the assumption that the President will go forth and institute a fair draft for Americans regardless of tax brackets or political connections?

If Rangel and Hollings make an attempt to pass similar draft legislation during the next Congressional session (2005 - 2006), clear-headed antiwar activists should raise an outcry and encourage their more sloppy-thinking associates to do the same: not only would this kind of legislation give the Commander in Chief incredible flexibility in creating potential loopholes for Selective Service; it would also provide a great

talking point for Republican hawks looking to swing moderate or undecided voters to their corner, allowing them to refer to the draft as a "bipartisan initiative" that was, after all, proposed by Democrats in the first place.

That kind of thing goes over really well on Fox News.

## ENDNOTES

(1) This is the plain language explanation on the Selective Service System's web page <<http://www4.sss.gov/seq.htm>> entitled "What Happens in a Draft?"

(2) I provide a web archive version of the bill here <<http://www.waypointsf.com/draft/archive/HR3598.htm>>. You may access the text directly from the government by going to the Thomas search engine, <<http://thomas.loc.gov/bss/d107query.html>> for bills proposed during the 107th Congress and entering "HR3598" in the search window.

(3) The legislation is the same, except for the fact that the House version misspells "reserve" as "reverse" throughout the online document. There are also standard differences, such as the labeling of the bills via a vis formal recording procedure. The web archive of the Senate bill is at <http://draft.indaclub.us/archive/S89.htm>; the web archive of the House bill is at <http://www.waypointsf.com/draft/archive/HR163.htm>. You may access the text directly from the government by going to the Thomas site <<http://thomas.loc.gov/bss/d108query.html>> and typing in "S89" for the Senate version and "HR163" for the House version.

(4) For contact information for your Congressmen, go to the websites for the Senate <<http://www.senate.gov/>> and the House <<http://www.house.gov/>>.

(5) National energy policy, amendments to the Constitution, formal rebukes of government officials, formal policies dealing with other countries (S. 1888, "A bill to halt Saudi support for institutions that fund, train, incite, encourage, or in any other way aid and abet terrorism" for instance) are all examples of some politically sensitive issues that may stall a bill before it can go to the President for approval.

(6) There are frequent hand-offs of leadership during a transition from one Administration to another. But there has not been such "mid-stream" shuffling since the period 1970 - 1973, when Nixon was in office. For a historical listing of Selective Service Directors, go to the Selective Service's About the Agency page <<http://www.sss.gov/previousdir.htm>>.

(7) In fact, I challenge anyone to even locate a single press release, news story, resignation letter, or other write-up that refers to the Rascon resignation. The only hint it ever happened is a note on the biographical page for Acting Director Brodsky <<http://www.sss.gov/directbrodsky.htm>>, which is now only available by searching Google. For some reason the SSS website also still has the original Rascon biography <<http://www.sss.gov/direct.htm>> available online, again located through Google.

(8) A news article about this is available here <[http://seattlepi.nwsource.com/national/147483\\_draft08.html](http://seattlepi.nwsource.com/national/147483_draft08.html)> from the Seattle Post-Intelligencer, which is apparently the only American newspaper following this story. Here is a link to a web archive of the now-unavailable DoD announcement <<http://www.thememoryhole.org/mil/defendamerica-draftboards.htm>> which was, thankfully, saved by Russ Kick of <http://TheMemoryhole.org> (among others). Trying to access the link from fall 2003 gives you this error message <<http://www.defendamerica.mil/articles/>>

sss092203.html>. The "Local Board membership Information Request" on the Selective Service website is accessible here <<https://www4.sss.gov/localboardmembers/bminquiry.asp>>.

(9) The online registration <<http://www4.sss.gov/registrar.htm>> routes young registrants by location and is displayed prominently on the Selective Service website.

(10) The Post-Intelligencer article is available here <[http://seattlepi.nwsourc.com/national/171522\\_draft01.html](http://seattlepi.nwsourc.com/national/171522_draft01.html)>.

(11) Information about a "skills-based" draft is included in the FY 2004 Performance Plan <[http://www.sss.gov/perfplan\\_fy2004.html](http://www.sss.gov/perfplan_fy2004.html)> and the FY 2003 Report to Congress <<http://www.sss.gov/PDFs/AnRepFY03.pdf>> (.pdf file, 6.5 MB) on the Selective Service website.

(12) An article about the Pentagon findings was written up in the UK/Observer <<http://observer.guardian.co.uk/print/0,3858,4864237-102275,00.html>> and went unreported in major American media outlets. You can download the Pentagon's report from Environmental Media Services <[http://www.ems.org/climate/pentagon\\_climate\\_change.html](http://www.ems.org/climate/pentagon_climate_change.html)>.

(13) The reactionary "Soapbox Alert" article by an unidentified writer. Update (10/3/04): post no longer available, archived here <<http://www.waypointsf.com/draft/archive/congressorg.htm>>. This article is strikingly similar to an email that was circulated and reported in the news towards the end of September.

(14) This information is contained in the FY 2003 Report to Congress <<http://www.sss.gov/PDFs/AnRepFY03.pdf>> (.pdf file, 6.5 MB). It is also verifiable by A) looking at the President's FY 2004 budget proposal <<http://www.waypointsf.com/draft/archive/2004SSSbudget.htm>> (web archive) for the relevant section on Selective Service; and B) reading the appropriations authorization <<http://www.waypointsf.com/draft/archive/HR2673.htm>> (web archive) Congress enacted. You may access the budget information from the

government by going to the Office of Management and Budget website <<http://www.gpoaccess.gov/usbudget/search.html>>, selecting 2004 as your budget year, and searching for "Selective Service." You may have to scroll down several pagelengths to find the appropriate file, which is labeled "Selective Service System." The appropriations information is also available directly from the government. Go to the Thomas site <<http://thomas.loc.gov/bss/d108query.html>> and type in "HR2673." Scroll way down to the bottom of the page click on "Selective Service System."

(15) The Office of Management and Budget lists the Presidential budgets back to 1997 on its website <<http://www.gpoaccess.gov/usbudget/search.html>>. Select a budget year and search for "Selective Service" to read the President's request for that year. You may have to scroll down several pagelengths to find the appropriate file, which is labeled "Selective Service System." Monetary numbers in [brackets] indicate how much money the President requested in the previous fiscal year.

(16) Citation, 50 U.S.C. § 460 Sec. (g). Scroll down on the Cornell U.S.C website <[http://www.access.gpo.gov/uscode/title50a/50a\\_9\\_1\\_.html](http://www.access.gpo.gov/uscode/title50a/50a_9_1_.html)> to find the provision.

(17) Selective Service statement <<http://www.sss.gov/statement.htm>> on its website dated September 30, 2002.

(18) Rumsfeld made this remark in an interview with George Stephanopoulos on ABC news, March 30, 2003. Transcript of the interview is here <[http://www.defenselink.mil/transcripts/2003/t03302003\\_t0330sdbabcsteph.html](http://www.defenselink.mil/transcripts/2003/t03302003_t0330sdbabcsteph.html)>.

(19) Once again, the reactionary "Soapbox Alert" article. Update (10/3/04): post no longer available, archived here <<http://www.waypointsf.com/draft/archive/congressorg.htm>>. This article is strikingly similar to an email that was circulated and reported in the news towards the end of September.

(20) Article is reprinted by Comondreams.org here <<http://www.comondreams.org/headlines03/0209-04.htm>>.

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