

**Conserving the Force: Adapting Guard  
Mobilization Policies for Homeland Defense to  
Enhance Retention**

**A Monograph  
by  
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## Abstract

CONSERVING THE FORCE: ADAPTING GUARD MOBILIZATION POLICIES FOR HOMELAND DEFENSE TO ENHANCE RETENTION by MAJ George F. Minde, Indiana Army National Guard, 53 pages.

The increased rate of Guard and Reserve mobilization associated with the Global War on Terror, specifically to support Operation Noble Eagle, poses a potential threat to the U.S. Army National Guard's ability to retain soldiers and thus sustain end strength and readiness. This concern is supported by the lower rates of retention associated with reserve component personnel mobilized during Operations Desert Shield and Desert Storm. Mobilizations for peacekeeping and similar missions during the late 1990s have not been associated with lower rates of retention; those mobilizations have also been very different from those experienced in 1990-1991 and since 9/11. The majority of soldiers mobilized in the late 1990s received lengthy advance notice of impending mobilizations and were able, to a certain extent, to self-select whether they would participate in by transferring into or out of units designated for mobilization. Many units being mobilized in support of Operation Noble Eagle have not been receiving significant advance notice of mobilizations; furthermore certain types of units, such as military police, have been subjected to repeated mobilizations since 9-11. Therefore there is reason to expect that retention will be negatively impacted

Unlike their Army Reserve counterparts, Guard units may also be mobilized in Title 32 status to perform certain missions in support Operation Noble Eagle in order to void the restrictions of *posse comitatus*. The ability of National Guard units to serve in Title 32 status should have little additional impact on soldier retention or the ability of Guard units to support the overall Homeland Defense mission. Current national policy is to minimize the number of Guard units serving in Title 32 status in support of Operation Noble Eagle. While approximately half of all Guard soldiers mobilized for Operation Noble Eagle were serving in Title 32 status in the first six months after 9/11, only approximately a tenth are now. With recent changes in federal law, there are no significant additional burdens placed on Guard soldiers serving in Title 32 status compared to service in Title 10 status; the impact on retention of Guard soldiers should be the same regardless of what status an individual Guard soldier is mobilized in. Therefore the ability of Guard soldiers to be mobilized in Title 32 as well than Title 10 status should have little additional impact on retention.

Options to minimize the potential negative impact of mobilization on retention include continuing current mobilization policies, transferring many of the Homeland Defense missions for Operation Noble Eagle performed by the National Guard to the active army, and providing mechanisms for Guard soldiers to select whether or not to participate in one-time or repeated mobilizations to support Operation Noble Eagle. Maintaining current policies will likely result in reduced retention. Transferring Homeland Defense missions in support of Operation Noble Eagle to the active army is not likely due to active duty force limits and competing requirements for active army manpower.

This paper recommends the third option, by providing units greater advance notice of mobilizations to support Homeland Defense. It also calls for the study of creation of temporary, provisional units to support Homeland Defense along the lines of the temporary unit formed for the Guard Sinai rotation in 1994 if the current pace of mobilizations for Operation Noble Eagle is expected to continue for an indefinite period.

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CHAPTER ONE

**INTRODUCTION**

Does the increased OPTEMPO associated with the Global War on Terror pose a threat to the Army National Guard's ability to sustain end strength? Given that many Guard units activated for Homeland Defense are mobilized under Title 32<sup>1</sup> in order to avoid the restrictions of *posse comitatus*, do the restrictions imposed by service under Title 32 create additional issues possibly impacting Guard retention? Do the increased mobilization demands of the post-9/11 environment require a change in force structure or patterns of service within the Guard in order to prevent personnel attrition threatening the Guard's readiness?

Despite the U.S. Army's Total Force policy instituted by General Creighton Abrams in 1974, the two decades prior to Operation Desert Shield/Desert Storm were characterized by extremely limited utilization of the Army's reserve components to support operations. Legislation passed in 1976 gave the president the ability to activate up to 250,000 reservists "to augment the active forces for any operational mission" without congressional approval. Increasing numbers of guardsmen and reservists trained overseas during the 1980s, with over 82,000 training in Germany, Korea, Central America, and elsewhere by 1988. However, during the entire period from passage of the 1976 law until the first mobilizations associated with Operation Desert Shield, no reservists from any component were involuntarily activated to support military

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<sup>1</sup> Title 10, United States Code governs the armed forces of the United States. All members and units of the reserve component can be mobilized under Title 10, with various sections detailing the numbers permitted to be mobilized. When so mobilized, such troops are under the control of the president and are considered to be acting as members of armed forces of the United States subject to all applicable restrictions. Title 32, United States Code deals with the National Guard performing functions as a state militia, and provides for call-up of the National Guard under state control. In such cases, Guard soldiers and airmen remain under the control of their respective governors and are not subject to restrictions (such as *posse comitatus*) applying solely to members of the armed forces of the United States. When serving in Title 32 or other state status, guardsmen can perform law enforcement duties normally barred to federal troops. Guard units mobilized under Title 10 are sometimes referred to as having been "federalized" in order to distinguish them from units mobilized under Title 32 and hence not subject to federal restrictions. From October, 2001 to December, 2002, approximately half

operations. During Operation Earnest Will, the tanker escort operations in the Persian Gulf in 1987-1988, naval reserve minesweepers were called into service--only to have the boats crewed by regular navy sailors rather than the naval reserve crews normally assigned to the vessels. Participation of the army reserve components in Operation Urgent Fury in Grenada and Operation Just Cause in Panama were limited to small numbers of volunteers.<sup>2</sup> The mobilization for Operations Desert Shield/Desert Storm therefore represented the first involuntary activation of reserve component personnel since President Johnson's limited reserve call-up of 1968.

The 1990s saw the beginning of a pattern of increasing utilization of the army reserve components to support military operations. Deployments during the 1980s had generally been participation in exercises as part of a unit's scheduled annual training. The 1990s, however, were characterized by ever increasing use of the president's authority to call up reserve component units to support operational missions. Initially this burden fell primarily on the Army Reserve, with some units being called up repeatedly. The 332nd Civil Affairs Battalion in Green Bay, Wisconsin, for example, deployed three times between 1992 and 1998. By 1996, approximately two thirds of the units in the 86th Army Reserve Command had experienced at least one overseas deployment since Operation Desert Storm.<sup>3</sup> The Army National Guard began to experience higher rates of deployments in the late 1990s, partially due to participation in peacekeeping in Bosnia, but also in support of other mission. In 1996, guardsmen provided approximately 4,400 man-years of support for state and federal missions outside of scheduled training, including the first guard unit rotations in Bosnia.<sup>4</sup> By the end of the decade, man-years of support provided by the Guard to the active Army had almost doubled.

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of the Army National Guard troops who had been mobilized were serving in Title 32 status, and were thus not counted as part of the total federal mobilization.

<sup>2</sup> Stephen M. Duncan, *Citizen Warriors: America's National Guard and Reserve Forces and the Politics of National Security* (Novato, CA: Presidio, 1997), 6-12 and 188.

<sup>3</sup> Anecdotal evidence from attendance at an 86th ARCOM Army Family Teambuilding Conference in 1996.

<sup>4</sup> National Guard Bureau, *Army National Guard (ARNG) Fiscal Year 1998 Posture Statement*, available from [http://www.arng.army.mil/publications\\_resources/posture\\_statements/97-99/p98b.html](http://www.arng.army.mil/publications_resources/posture_statements/97-99/p98b.html). Accessed 18 January 2003.

The pace of operations increased tremendously after 9/11. During the year following the attacks in New York and Washington, the Guard deployed over 46,000 personnel in support of state and federal missions. On March 19, 2002, for example, some 25,984 Army Guardsmen were serving on active duty, fairly evenly split between Title 10 (federal) and Title 32 (state) duty.<sup>5</sup> While that number represents a four-fold increase over Guard utilization prior to 9/11, the deployments were generally associated with new homeland defense duties, increased force protection requirements overseas, and ongoing peacekeeping operations; only a relatively small portion were directly associated with the Global War on Terror. In a situation unique to the National Guard, approximately half of the guardsmen mobilized at any given time were serving not under Title 10 but as state troops under Title 32. This provided additional flexibility in the use of these troops to law enforcement functions, such as at airports, helping protect the 2002 Winter Olympics, and assisting the U.S. Border Patrol in patrolling the nation's borders.

The build-up for operations in Iraq in March and April 2003 lead to a mobilization exceeding that of Operation Desert Storm. As of March 26, over 216,000 reservists had been called into federal service, of whom 150,071 were from the Army National Guard and Army Reserve.<sup>6</sup> Additional mobilizations are expected. Already, at least one unit mobilized for a year in the immediate aftermath of 9/11 has been mobilized a second time only a two months after it was deactivated.<sup>7</sup> Given that the United States will likely have forces in Iraq for several years, and that there are likely to be additional campaigns in the Global War on Terror, it is likely that Army

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<sup>5</sup> General Accounting Office, *Reserve Forces: DOD Actions Needed to Better Manage Relations between Reservists and Their Employers*, 13 June 2002 (GAO-02-608), 10.

<sup>6</sup> Department of Defense, "NATIONAL GUARD AND RESERVE MOBILIZED AS OF FEBRUARY 12, 2003," at [http://www.defenselink.mil/news/Feb2003/b02122003\\_bt070-03.html](http://www.defenselink.mil/news/Feb2003/b02122003_bt070-03.html), accessed 13 February 2003.

<sup>7</sup> The 133rd Military Police Company was first called up on 16 January, 2002. After completing an initial tour ending in December, 2002, it has been activated a second time on 12 February 2002. Department of Defense, "NATIONAL GUARD AND RESERVE MOBILIZED AS OF JAN. 9, 2003," at [http://www.defenselink.mil/news/Jan2002/b01092002\\_bt013-02.html](http://www.defenselink.mil/news/Jan2002/b01092002_bt013-02.html) and associated table at <http://www.defenselink.mil/news/Jan2002/d20020109ngr.pdf> accessed 16 February 2003, and <http://www.defenselink.mil/news/Jan2002/d20030212ngr.pdf> accessed 16 February 2003. Also [http://www.defenselink.mil/news/Mar2003/b03262003\\_bt156-03.html](http://www.defenselink.mil/news/Mar2003/b03262003_bt156-03.html) accessed 9 May 2003.

National Guard mobilizations under Titles 10 and 32 will continue at a rate in excess of 30,000 or more for the next several years. The Guard will thus be faced with a situation unprecedented in its history: a relatively high level of constant mobilization with close to ten percent (or more) of the National Guard activated at any one time, punctuated by periods of greater mobilization to levels approaching that experienced during Operation Desert Shield/Desert Storm.

This could pose severe challenges to the ability of the Army National Guard to recruit and retain soldiers. Soldiers enlisting or choosing to remain in the Guard do so knowing that there is a relatively high likelihood that they will be mobilized one or possibly multiple times during the next several years--with all of the attendant stresses mobilization imposes on families, finances, and employers.

This monograph attempts to determine whether this increased tempo of mobilizations may threaten the ability of the Army National Guard to maintain strength. In doing so, it examines the effects of mobilization on retention, both the effects of Operation Desert Shield/Desert Storm and also the more limited data available regarding the impact of mobilizations during the 1990s. In addition to examining retention, it also looks at the available prior service manpower pool, a major source of Guard and Reserve soldiers, in order to determine if that potential recruiting pool is currently large enough to help cushion any possible negative impact of the increased rate of mobilizations on retention. It also examines the effects of the dual state and federal nature of the Army National Guard, particularly the implications of using the Guard in Title 32 status in order to avoid the restrictions of *posse comitatus*. What types of missions are performed in Title 32 status? Do the restrictions imposed by service under Title 32 create additional issues unique to the Guard which possibly impact Guard retention? This monograph then outlines and compares various options the Army National Guard has for mitigating the possible negative effects of these increased mobilization demands on the Guard's ability to sustain itself.



While this monograph is concerned primarily with the Army National Guard many of the other reserve components, particularly the Army Reserve, face similar issues. Therefore many of the observations are also relevant to the other reserve components.

## CHAPTER TWO

### **MANNING THE RESERVE COMPONENT: IS THERE AN ISSUE WITH MOBILIZATION AND RETENTION?**

Before discussing whether or not to restructure the patterns of service for the Army National Guard to mitigate possible negative effects of repeated mobilizations, it is first necessary to determine whether or not a negative effect on retention even exists.

During the three decades prior to 9/11, the reserve components have had two major experiences with mobilization. The first was the mobilization of approximately 265,000 reservists from all components associated with Desert Storm/Desert Shield in 1990-1991, a single episodic event. The second was the increasing utilization of reserve component forces to support operations other than war during the 1990s, generally associated with Bosnia but also including operation in Haiti and Somalia.

Although not directly related to the impact of mobilization, it is also worthwhile to consider the effects of the drawdown in the active force on the recruiting pool for the Guard and Reserve. A decline in the size of the prior service recruiting pool could exacerbate any negative effects repeated mobilizations might have on retention by making it more difficult to recruit qualified replacements.

### **THE EFFECTS OF THE MOBILIZATION FOR DESERT SHIELD/DESERT STORM**

The best data for studying the impact of the mobilization for Desert Shield/Desert Storm on reserve retention is a survey of reserve component members and their spouses conducted in 1992 and a similar 1986 survey which provides a basis for comparison. The Defense Manpower Data

Center issued a series of reports<sup>8</sup> with the results of the 1992 survey which provided relatively little analysis. A more thorough analysis was conducted by RAND, which issued two reports comparing results from the 1986 and 1992 reserve component surveys and also correlating the 1992 survey results regarding “propensity to reenlist” with actual retention data collected in 1994.<sup>9</sup>

Both RAND studies identified issues in several areas affecting retention following Operations Desert Shield/Desert Storm. The primary determinants of whether or not a reservist will re-enlist (i.e., be retained) are generally considered to be: soldier’s overall satisfaction with the reserves; family support/spousal attitude towards the reserves; and employer support.<sup>10</sup> Indicators for most of these areas declined slightly between 1986 and 1992, with the exception that employer support increased slightly in 1992, and spousal attitude/support for guard and reserve participation increased slightly for spouses of officers while declining for those of enlisted reservists.<sup>11</sup>

Some differences emerged when comparisons were made between mobilized and nonmobilized reservists. In terms of soldier satisfaction, those who had been mobilized were slightly more satisfied with the reserves than those who had not been.<sup>12</sup> There was not as strong a correlation between soldier satisfaction and retention, however--mobilized soldiers who described

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<sup>8</sup> U.S. Department of Defense, Defense Manpower Data Center, *Reserve Component Members: A Report From The 1992 Reserve Components Surveys* (Arlington, Virginia, July 1997) DMDC Report #97-033; U.S. Department of Defense, Defense Manpower Data Center, *Financial Issues of Reserve Service: A Report From The 1992 Reserve Components Surveys*. (Arlington, VA, July 1997) DMDC Report #97-034; and U.S. Department of Defense, Defense Manpower Data Center, *Spouses of Reserve Component Members: A Report From The 1992 Reserve Components Surveys* (Arlington, Virginia, March 1997) DMDC Report #97-032.

<sup>9</sup> Shiela Naturaj Kirby, David Grissmer, Stephanie Williamson, and Scott Naftel, *Costs and Benefits of Reserve Participation* (Santa Monica, California: RAND, MR-812-OSD) 1997. Shiela Naturaj Kirby, and Scott Naftel, *The Effect of Mobilization on Retention of Enlisted Reservists After Operation Desert Shield/Storm* (Santa Monica, California: RAND) MR-943-OSD, 1998.

<sup>10</sup> Kirby and others, 18.

<sup>11</sup> Kirby and others, 20-38.

<sup>12</sup> Kirby and Naftel, Figure 3.7 “Distribution of Enlisted Reservists, by Satisfaction with Reserve Participation,” 25.

themselves as “very satisfied” and “somewhat satisfied” were six and eight percent less likely to be in the reserves two years following the 1992 survey than their nonmobilized counterparts.<sup>13</sup>

The percentage of spouses with an unfavorable attitude towards the Guard and Reserve, however, was significantly greater for those whose spouses had been mobilized compared with those who had not. For E-3s and E-4s who were not mobilized in 1991-1992, for example, only 16 percent or 17 percent (respectively) of their spouses had unfavorable attitudes towards the reserves. For those who had been mobilized, however, twenty-seven and twenty-three percent had unfavorable attitudes--the largest of any enlisted contingents.<sup>14</sup> This gap is particularly significant, as enlisted reservists are generally in the grade of E-3 or E-4 when they make their first re-enlistment decision. Retention rates are lowest at that level, and it is generally maintaining enlisted strength in the grade of E-4 which presents the reserves with their greatest challenges. Looking at soldiers with four to six years of service--generally the time of a reservist's first re-enlistment decision--spouses of mobilized service members were fifty percent more likely to have a negative attitude towards the reserves compared with spouses of non-mobilized service members.<sup>15</sup> And even the association between positive spousal attitude and retention was weaker for those who had been mobilized--among soldiers whose spouses had “very favorable” attitudes towards the reserves, the retention rate two years after the survey was only 61% for mobilized reservists compared with 75% for nonmobilized reservists.<sup>16</sup>

Regarding employer support, civilian supervisors of enlisted personnel who had been mobilized were slightly more likely to have a favorable attitude towards the reserves. In terms of officers, supervisors of mobilized reservists were more likely to have an unfavorable attitude.<sup>17</sup>

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<sup>13</sup> Kirby and Naftel, Figure 3.8 “Retention rates, by Satisfaction with Participation in the Reserves,” 26.

<sup>14</sup> Kirby and others, Figure 4.1 “Percentage with Spouse with an Unfavorable Attitude Toward Guard/Reserve Participation: Mobilized and Nonmobilized Enlisted Personnel, 1992,” 50.

<sup>15</sup> Kirby and Naftel, Figure 3.12 “Percentage of Married Reservists Who Perceive That Their Spouses Have Unfavorable Attitudes Toward Reserve Participation, by Years of Service,” 30.

<sup>16</sup> Kirby and Naftel, Figure 3.13 “Retention Rates, by Perceived Attitude of Spouse,” 31.

<sup>17</sup> Kirby and others, Figure 4.3 “Percentage with Civilian Supervisor with an Unfavorable Attitude Toward Guard/Reserve Participation: Mobilized and Nonmobilized Enlisted Personnel,

However, regardless of supervisor attitude, mobilized soldiers were less likely to remain in the reserves than those who had not been mobilized.<sup>18</sup>

RAND concluded in their study of reserve enlisted retention following Desert Storm is that “mobilization appeared to have had a small adverse affect on retention, lowering retention by about five percentage points,” a difference it considered “marginally insignificant.”<sup>19</sup> Their report questioned whether or not mobilization really had had any effect on retention, despite lower retention across the board regardless of whether or not the normal predictors of retention-- satisfaction with the reserves, spousal attitude, and employer attitude--were otherwise positive.

It is worth noting, however, that RAND calculated this “marginal” effect by determining how many of the service members who responded to the 1992 survey were still in service two years later, in 1994. As reservists generally enlist (and re-enlist) for terms of four to six years, measuring retention two years after 1992 survey if anything likely understated attrition from soldiers deciding not to re-enlist, as many of those taking the 1992 survey had not had to make a reenlistment decision between 1992 and 1994. Likewise, the delay between the end of the Desert Storm mobilization and the start of the 1992 survey meant that the survey would have failed to account for service members who may have left the service in the months following the end of Desert Storm by means other than simple failure to reenlist: requesting a discharge for medical or other reasons, going AWOL, etc.

Therefore the five percent gap measured by RAND most likely understates the actual impact of Desert Storm on retention. It is this author’s opinion that, while the exact effect cannot be calculated, the mobilization for Operations Desert Storm and Desert Shield did have a negative effect on retention in the reserve components.

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1992,” and Figure 4.2 “Percentage with Civilian Supervisor with an Unfavorable Attitude Toward Guard/Reserve Participation: Mobilized and Nonmobilized Officers, 1992,” 51.

<sup>18</sup> Kirby and Naftel, Figure 3.11 “Retention Rates, by Perceived Attitude of Civilian Supervisor,” 31.

<sup>19</sup> Kirby and Naftel, p31.

## THE EFFECTS OF MOBILIZATIONS SINCE DESERT STORM

There is no counterpart to the 1992 Reserve Component Survey which correlates the effects of the mobilization which began in the mid-1990s with retention. A 2002 General Office of Accounting Report on reservist-employer relations stated that “DoD has not fully analyzed existing data on reservists’ operational tempo and recruiting and retention trends on an ongoing basis to determine how deployments might be affecting reservists....”<sup>20</sup> While a reserve component study was planned for fiscal year 2000 and questionnaires distributed to over 70,000 reservists and 43,000 spouses, the results had not yet been collated by the summer of 2001.<sup>21</sup> The study was cancelled by the Office of the Secretary of Defense for Reserve Affairs in November, 2001 as a low priority in the aftermath of 9/11.<sup>22</sup> Therefore there is less statistical evidence available regarding the effects of mobilization on retention in the 1990s and the first year of the Global War on Terror.

There are, however, some statistics available which give cause for concern. One study conducted in 2000 of units mobilized for peacekeeping operations in the 1990s indicated that retention in mobilized and non-mobilized units was virtually identical.<sup>23</sup> While at first glance this might appear reassuring, it is necessary to understand the context in which most units were mobilized in the 1990s. While advance notice has not always been the norm, most of the units involved in Balkans and Sinai peacekeeping during the 1990s received advance notice of months

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<sup>20</sup> GAO-02-608, 4.

<sup>21</sup> Gerry J. Gilmore, “Today’s Reserves Better Integrated With Active Forces” 1 June 2001, available from [http://www.defenselink.mil/news/Jun2001/n06012001\\_200106015.html](http://www.defenselink.mil/news/Jun2001/n06012001_200106015.html) on 4 February 2003.

<sup>22</sup> Department of Defense, Directorate for Information Operations and Reports, *DoD 8910.1-L, Listing of Approved Recurring Information Requirements, DoD Internal Surveys*, “Part V B - List of Recurring and One-Time DoD Internal Surveys Canceled in the last 2 Years,” dated 3 January 2003, available from <http://web1.whs.osd.mil/icdhome/CANSUR.PDF> on 5 February 2003.

<sup>23</sup> LTC Dean K. Stinson III and MAJ Curt Doescher, “The Impact of Peacekeeping Operations in the Army National Guard: An Evolving Case Study,” 2. . Paper provided by one of the authors. The authors work in the Programs, Analysis and Evaluations Division, Army National Guard Directorate. The authors found that attrition overall was 19.77% per year in mobilized units compared

or up to just over a year. The 49th Armored Division, for example, had over one year advance notice prior to its Bosnia rotation in 2000. From the legal and organizational perspective, these units were mobilized normally, and members of these units were not, in the strictest sense, “volunteers.” However, anecdotal evidence indicates that the majority of soldiers in units that received advance notice of these missions were able to self-select whether or not they would participate in the rotation by transferring into or out of designated units. This anecdotal evidence is supported up by similar anecdotal evidence—backed up by statistical observations—of significantly increased personnel turbulence in units participating in combat training center rotations. Soldiers not wanting to experience the increased--and predictable--OPTEMPO associated with these events transferring to other units, while other soldiers desiring that experience would transfer in.<sup>24</sup> It is perhaps due in part to this self-selection “process” that retention in Guard units mobilized for peacekeeping missions between 1995 and 2000 was virtually identical to that of non-mobilized units.

Such a self-selection process is not occurring for units mobilized since 9/11; therefore it would be reasonable to conclude that attrition rates for mobilized reservists would increase compared to their non-mobilized counterparts as occurred after the 1990-1991 mobilization experience. Currently, Army National Guard attrition is running at 0.85% above the Guard’s annual attrition goal for FY03. Stop/Loss is preventing many of the soldiers most affected by

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with 19.85% for non-mobilized units. Attrition was generally better across the board, with the exception of mid-career captains, who had a much higher attrition rate than in non-mobilized units.

<sup>24</sup> Data specific to units participating in peacekeeping operations prior to 9/11 is not currently available, but units going through combat training center rotations at NTC and JRTC experienced increased rates of personnel turbulence for approximately 12 months prior to and 6 months following rotations their rotations. (Stinson and Doeschner, 3). This would seem to support anecdotal observations of soldiers not wanting to experience the increased--and predictable--OPTEMPO associated with these events transferring to other units, while other soldiers desiring that experience would transfer in. Reports regarding the 49th Armored Division’s deployment to Bosnia in February 2000 cited a small number of mobilized personnel who preferred not to deploy, but stated that the majority of the soldiers participating had sought assignments in the units deploying.

post-9/11 mobilizations from leaving the service, and “once the Stop/Loss policy is lifted, critical attrition rates are anticipated.”<sup>25</sup>

In addition to the limited statistical evidence, there is a large amount of anecdotal evidence regarding several issues which may be cause for concern. The topic that has attracted perhaps the most attention is the impact of mobilization of relations between reservists and their employers. Prior to the mid-1990s, most reservists and employers viewed mobilization as a rare, episodic event. Indeed, there had been no mobilizations between 1968 and the mobilizations for Operation Desert Storm in 1990. The increasing use of reserves in the 1990s in support of peacekeeping and other operations altered this model. Employers of mobilized soldiers, however, were not necessarily supportive of this development. A survey of 2,067 employers conducted in fiscal year 2000 found that close to half considered absences of up to 14 days (i.e., the length of a reserve unit’s standard annual training) to be a problem; 80% considered absences of 30 days or more to be a problem.<sup>26</sup> (For comparison, most Guard and Reserve units that go to Bosnia or have been mobilized for various Homeland Defense missions are activated for six months or more. During the year prior to its deployment to Bosnia in 2000, the headquarters of the 49th Armored Division performed 108 days of training rather than the normal 39 days for guard soldiers.<sup>27</sup>)

The Uniformed Services Employment and Reemployment Rights Act guarantees that reserve and guard soldiers who are mobilized for any reason will regain their jobs after completing military duty. Of some 700 Texas Army National Guardsmen deployed to Bosnia in 2000, however, 37 lost their jobs as a result and required threats of legal action to regain them.<sup>28</sup> This

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<sup>25</sup> Army National Guard, Directorate of Strength Maintenance, Information Paper: “FY03 Attrition Initiatives and Mobilization, National Guard Bureau, 5 March 2003, 1.

<sup>26</sup> Department of Defense, Assistant Secretary of Defense for Reserve Affairs, “RESULTS OF THE 1999 RESERVE EMPLOYER SURVEY COMPILED,” 1 September 2000, available from <http://www.defenselink.mil/ra/documents/pressreleases/EmployerSurvey.htm>, accessed 3 February 2003.

<sup>27</sup> Department of the Army, Center for Army Lessons Learned, “*Initial Impressions Report: SFOR 7 - Citizen Soldiers in Bosnia*,” July 2000, 3-3.

<sup>28</sup> Chris Vaughn, “Double-edged Sword: Long Deployments Tax the Patience of Soldiers’ Employers,” *Ft. Worth Star-Telegram*, 4 July 2000, available from <http://www.star-telegram.com/news/doc/1047/1:METRO21/1:METRO210704100.html>. Accessed 16 February 2003.



was despite the Texas Army National Guard having made emphasized employer relations prior to and during the Bosnia rotation. A GAO study begun before 9/11 surveyed members of a unit which had been deployed to Bosnia and found that more than 30 percent of the unit members claimed to have had problems with their employers since returning from Bosnia.<sup>29</sup> In a presentation prepared in July, 2001 for the Joint Reserve Family Readiness Workshop, the Assistant Secretary of Defense for Reserve Affairs listed employer support and reducing conflicts between reservists and guardsmen as his number one quality of life issue for reservists.<sup>30</sup>

While employers were generally supportive of mobilized reservists in the immediate aftermath of 9/11, there are some indications that they may be starting to lose patience. Jay Farrar of Center for Strategic and International Studies, says that a fifth of the mobilized reservists he has talked to since 9/11 report that their careers have been negatively impacted by mobilization.<sup>31</sup> The spouse of one mobilized North Carolina Guardsmen a year after 9/11 observed “Employers are saying, 'Do you want to stay with us, or do you want to be in the Guard,' and others have returned from deployments to find their jobs gone due to “downsizing,” which is not covered by the Uniformed Services Employment and Reemployment Rights Act.<sup>32</sup> In a recent congressional fact-finding trip to Europe, representatives who talked with mobilized reservists reported that several were beginning to see their reserve participation as a liability with employers, and were omitting any mention of their reserve component service from their resumes.<sup>33</sup> And a recent

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<sup>29</sup> GAO-02-608, p16.

<sup>30</sup> Department of Defense, Office of the Assistant Secretary of Defense for Reserve Affairs, Information paper “They Also Serve - The Readiness of Guard and Reserve Families” dated 27 July 2001, available from <http://www.defenselink.mil/ra/secondary/informationpapers.html> Accessed on 2 February 2003.

<sup>31</sup> Sandy Alexander and Scott Banerjee, “Citizen Soldiers torn from the Ties that Bind,” *Baltimore Sun*, 29 December 2002, available at <http://216.239.51.100/search?q=cache:crBHB6X5YCEC:198.253.225.15/Dec2002/s20021230143122.html+Citizen+Soldiers+torn+from+the+Ties+that+Bind&hl=en&ie=UTF-8>. Accessed 2 February 2003.

<sup>32</sup> Steve Vogel, “For Reservists, Reservations: Prospect of Lengthy Service Worries Many Troops,” *Washington Post*, 26 September, 2002, available from <http://www.news.mflaterz.com/Sept%202002/Reservations%20for%20Reservists%20092602a.htm>.

<sup>33</sup> U.S. Congress, House Armed Services Committee, “Report on Total Force: Chairman McHugh’s Trip to Europe to Observe the Employment of Individuals and Units of the Reserve

General Accounting Office report has cited continuing issue with relations between mobilized reservists and their employers.<sup>34</sup> As it becomes more and more apparent that the Global War on Terror is going to be a long-term affair rather than a relatively short, extraordinary episodic event, there is a significant danger of employer backlash with employers becoming less and less willing to support mobilized reservists.

Many guard and reserve soldiers report economic hardships as a result of mobilization. After many reservists cited a loss of income during the Operation Desert Shield/Desert Storm, the Department of Defense attempted to establish a “mobilization insurance” program to cover the gap between a reservists regular civilian pay and his or her military pay, which is often significantly lower. However, problems with the program caused it to be cancelled within a year after it was established,<sup>35</sup> and many mobilized reservists experience significant decreases in income as a result of being mobilized. There are reports of reservists having to sell their homes or declare bankruptcy as a result of lost income.<sup>36</sup>

In addition to issues with employers and finance, some reservists are expressing frustration with the types of missions that they are being used for. Rather than being used for missions similar to those which they have been trained for, that they are used as “fillers” for types of jobs which do not require specific skills.<sup>37</sup>

While expressions of dissatisfaction among mobilized reserve component soldiers are currently the rare exception rather than the norm, there is concern as to whether it may become an

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Components in Support of the U.S. European Command,” 12 February, 2003, available from <http://www.house.gov/hasc/reports/reports.html>. Accessed 14 February 2003.

<sup>34</sup> General Accounting Office, *Military Personnel: Preliminary Observations Related to Income, Benefits, and Employer Support for Reservists During Mobilizations*, 19 March 2003 (GAO-03-509T), 16.

<sup>35</sup> General Accounting Office, “Reserve Forces: Observations on the Ready Reserve Mobilization Income Insurance Program,” testimony, 8 May 1997 (GAO/T-NSIAD-97-154), available at <http://www.fas.org/man/gao/ns97154.htm>. Accessed 8 February 2003. See also GAO-03-509T, *Military Personnel: Preliminary Observations Related to Income, Benefits, and Employer Support for Reservists During Mobilizations*, 6-9.

<sup>36</sup> Alexander and Banerjee.

issue. After visiting Ohio Guardsmen serving in the stabilization force in Bosnia last year, Representative David Hobson (R-Ohio) wrote to Defense Secretary Donald Rumsfeld, "Part-time reservists are being turned into full-time soldiers and airmen through extended and unpredictable active duty assignments.... Such treatment is rapidly killing the morale of the Reserves and eliminates the support of family, friends and employers."<sup>38</sup> As guard and reserve units face prolonged and repeated mobilizations, and as mobilizations cease to be rare, episodic events but rather a constant "steady state" condition, Representative Hobson's assessment could well become true.

## **CHANGES IN THE GUARD RECRUITING POOL**

At the same time that Guard retention is being stressed by high levels of mobilization, the Guard is also currently feeling the full impact of a decline in one of its primary manpower sources: prior-service recruits. The Guard recruits both prior-service personnel (individuals with prior active-duty military service), and non-prior service personnel. Prior service personnel will have been trained in a specific skill or career field, which may or may not be utilized in a unit, depending on the types of units in a recruit's home area. Even if a prior service recruit is not utilized in the same skill area in which he or she served on active duty, however, they will have at a minimum have demonstrated an adaptability to military discipline and an aptitude for training, possess knowledge and experience in generic military skills, and, depending on rank, have developed leadership skills. The precise objective value of a prior service recruit's military experience beyond specific skill training is difficult to determine, but it is considered significant

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<sup>37</sup> Vogel, "For Reservists, Reservations: Prospect of Lengthy Service Worries Many Troops." Similar reports also came from a recent congressional fact-finding mission to observe mobilized troops in Europe.

<sup>38</sup> Joshua Kucera, "U.S. Bosnia force now made up only of Guard, Reserve units," *Pittsburgh Post-Gazette*, 8 December 2002, available from <http://www.post-gazette.com/world/20021208bosnia1208p2.asp>. Accessed 10 February 2003.

enough that Congress has seen fit to establish a goal that fifty percent of Guard and Reserve recruits have prior service.<sup>39</sup>

The drawdown of the 1990s--from approximately 800,000 active duty soldiers in 1990 to 495,000 in 1996--has had the effect of decreasing the number of soldiers leaving active duty, and with it the pool of prior-service soldiers available for recruitment. In fiscal year 1996, the Army National Guard recruited 60,444 enlisted soldiers, of whom 36,933 (61.1%) were prior service.<sup>40</sup> Fiscal year 1998 Guard enlistments of 55,401 included 29,584 prior service soldiers (53.4%)<sup>41</sup> For fiscal year 2000, Guard enlistments of 62,015 included 29,943 prior service soldiers (48.3%).<sup>42</sup> As the pool of soldiers who have left active duty in the preceding two to four years has declined, so has the number of number of prior service soldiers enlisting in the Guard.

This matches the projections made in a 1994 RAND study on the effects of the active force drawdown on the reserve components. Examining the likelihood of former enlisted members joining the reserves, the study found that former army personnel were most likely to do so, with over thirty percent joining the Army National Guard and Army Reserve. Given the size of the Army reserve components--larger than the active army--the study hypothesized that the number of prior service personnel joining the reserves most likely reflected the number actually interested in doing so, rather than being artificially limited by the reserve component force structure.<sup>43</sup> Even

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<sup>39</sup> David W. Grissmer, Shiela Naturaj Kirby, Richard Buddin, Jennifer Kawata, Jerry Sollinger and Stephanie Williamson. *Prior Service Personnel: A Potential Constraint on Increasing Reliance on Reserve Forces*. Santa Monica, California: RAND MR-362-OSD, 1994, 2.

<sup>40</sup> National Guard Bureau, *Army National Guard (ARNG) Fiscal Year 1998 Posture Statement*, available from [http://www.arng.army.mil/publications\\_resources/posture\\_statements/97-99/p98b.html](http://www.arng.army.mil/publications_resources/posture_statements/97-99/p98b.html). Accessed 18 January 2003.

<sup>41</sup> National Guard Bureau, *Army National Guard (ARNG) Fiscal Year 2000 Posture Statement*, available from [http://www.arng.army.mil/publications\\_resources/posture\\_statements/2000/cover.htm](http://www.arng.army.mil/publications_resources/posture_statements/2000/cover.htm), accessed 18 January 2003. It is worth noting that the Guard recruiting goal of 56,638 was also smaller than average that year, due to a decrease in authorized Guard end-strength; even then, the Guard failed to meet its recruiting objective of 56,638 enlistments.

<sup>42</sup> National Guard Bureau, *Army National Guard (ARNG) Fiscal Year 2002 Posture Statement*, available from [http://www.arng.army.mil/publications\\_resources/posture\\_statements/2002/index.htm](http://www.arng.army.mil/publications_resources/posture_statements/2002/index.htm), accessed 18 January 2003.

<sup>43</sup> Grissmer and others, 15-16. Unlike the other reserve components, the Army reserve components are larger than that active Army; therefore, there are far more vacancies of all levels for prior service soldiers to fill. This is in sharp contrast to the reserve components of the Air Force and

with the extremely high rate of former army personnel joining the army reserve components, they comprised only 34% of enlisted soldiers in the Army National Guard, the lowest of all of the reserve components with the exception of the Marine Corps Reserve.<sup>44</sup> The Army reserve components would thus experience the greatest decline in the percentage of prior service soldiers as a result of the drawdown. Assuming that the proportion of prior service personnel joining the reserves remained the same, they projected that the proportion of prior service soldiers in the Army National Guard could decline to twenty percent or less by 2010.<sup>45</sup>

This does not necessarily mean that the Army National Guard will have trouble meeting required end-strength. At the same time that the size of the prior-service manpower pool has been declining, the size of the 18-24 year old cohort has been increasing. Since hitting a low point of 24.8 million<sup>46</sup> in 1996, the “baby boom echo” has led to an increase in the size of this cohort to a current level of 27.5 million and will increase to 30.2 million by 2010.<sup>47</sup> Possible issues of a declining “propensity to serve” among American youth notwithstanding, the ability of the reserve components to simply recruit the numbers to necessary to man the force is not necessarily threatened by the decline in the number of prior service personnel available for recruitment.

The does not, however, address issues regarding the quality of the resulting force that will remain as the proportion of prior-service personnel continues to decline. The RAND study on

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navy, which are far smaller than their parent services. The Marine Corps Reserve is likewise much smaller than its active duty counterpart, and furthermore over 55% of its enlisted positions are in the grades of E1-E3, below the rank of most marines leaving active duty.

<sup>44</sup> Grissmer and others, 7. Again, the Marine Corps Reserve enlisted force structure is concentrated at lower ranks which most prior service personnel are ineligible to fill.

<sup>45</sup> Grissmer and others, 24-25.

<sup>46</sup> U.S. Census Bureau. “Resident Population Estimates of the United States by Age and Sex: April 1, 1990 to July 1, 1999, with Short-Term Projection to November 1, 2000,” available from <http://eire.census.gov/popest/archives/national/nation2/intfile2-1.txt?PHPSESSID=8e111d37d5798984e98f9df10ebe32c1>. Accessed 5 February, 2003.

<sup>47</sup> U.S. Census Bureau. “Projections of the Total Resident Population by 5-Year Age Groups, and Sex with Special Age Categories: Middle Series, 2001 to 2005,” available from <http://www.census.gov/population/projections/nation/summary/np-t3-b.txt>. Accessed 5 February 2003. Also U.S. Census Bureau. “Projections of the Total Resident Population by 5-Year Age Groups, and Sex with Special Age Categories: Middle Series, 2006 to 2010,” available from <http://www.census.gov/population/projections/nation/summary/np-t3-c.txt>. Accessed 5 February 2003.

prior-service personnel attempted to measure this by determining the “full-equivalent training years” of prior-service and non-prior service personnel. As expected, prior service personnel had far more experience, with prior service E-5s and E-6’s having approximately three times the full-equivalent training years of their non-prior service comrades (six years compared to two years). The gap at the e-7 to e-9 range, while not as great, was also significant (seven years compared with four).<sup>48</sup> The difference in training experience for officers at the O-3/O4 and O5/O-6 levels was also similar.

Despite experiencing difficulty in determining the precise objective value of prior-service experience in reserve personnel, the study found a strong correlation between prior-service and success in the Guard. Even though only comprising 34% of the Guard enlisted force in 1989, over fifty percent of all non-commissioned officers in the grades of E-5 through E-9 came had prior service--60% in the case of E-7s. Likewise for officers, over 50% of O-4s and 60% of O-5s and O-6s had prior active service.<sup>49</sup> As the study stated, there was a definite “preference for prior-service” personnel for senior positions, implying that they were bringing “specific job proficiency, leadership, and/or supervisory advantages into the more senior positions” contributing to their being relatively over represented in the Guard’s senior ranks.<sup>50</sup>

It thus appears that prior service personnel, besides being a simple source of raw numbers, also are a significant source of experience and leadership for the Guard. Due to the drawdown, this source of manpower is at its lowest level in decades.

## CONCLUSION

While the precise extent cannot be measured, it appears that mobilization during Operations Desert Shield and Desert Storm was associated with lower retention for mobilized soldiers

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<sup>48</sup> Grissmer and others, Figure 4.8, “FETY [Full-Equivalent Training Years] Among Senior Pay Grades in the Army Guard in FY89,” 44.

<sup>49</sup> Grissmer and others, Figure 5.1, “Percentage Prior Service Among Part-Time Officers by Pay Grade in FY89” and Figure 5.2, “Percentage Prior Service Among Part-Time Enlisted Personnel by Pay Grade in FY89,” 56.

compared with those not mobilized. The limited evidence available from Guard and Reserve mobilizations to support operations prior to 9/11 also indicates that mobilization caused problems with families and employers generally associated with lower retention. Despite the relative popularity of the Global War on Terror, it is logical to assume that the high level of mobilization since 9/11, will also see a decrease in the rate of retention among Guard and Reserve soldiers. At the same time, the prior service manpower pool, an important source of manpower and leadership for the Guard, is at its lowest level in decades and will make it more difficult to replace soldiers leaving the Guard with similar quality personnel. If the current level of mobilization is prolonged over several years as currently appears likely, it will make it increasingly difficult to keep the quality of the Army National Guard at its current levels.

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<sup>50</sup> Grissmer and others, 57.

## CHAPTER THREE

### **TITLE 10, TITLE 32, AND *POSSE COMITATUS***

Another condition unique to the National Guard is that it can be called to active service in various statuses not available to the other reserve components. In addition to being mobilized for federal service under Title 10 U.S. Code (“federalized”), the Guard can also be called into service under control of the state governors under both Title 32 U.S. Code and under state laws regulating “state active duty.” From a homeland defense perspective, this raises two issues, both closely intertwined: *posse comitatus*, and state versus federal control.

### ***POSSE COMITATUS* AND FEDERAL CONTROL**

The *posse comitatus* law has its immediate origins in the aftermath of Reconstruction, when federal troops were used in the South to enforce the Fourteenth and Fifteenth Amendments granting rights to freed slaves. After federal troops were withdrawn from the south as part of the Compromise of 1877, Congress passed the Posse Comitatus Act in 1878. The law currently reads:

Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined under this title or imprisoned not more than two years, or both.<sup>51</sup>

As a result, federal troops can normally perform in a law enforcement role only as necessary to directly protect military facilities, equipment, or personnel.<sup>52</sup>

Certain exceptions to *posse comitatus* have evolved over the years. For example, the military is allowed to share information regarding violations of the law with civilian agencies; it can loan

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<sup>51</sup> 18 U.S.C., Section 1385, available from <http://www4.law.cornell.edu/uscode/18/1385.html> accessed 25 January 2003.

<sup>52</sup> Paul Schott Stevens, *U.S. Armed Forces and Homeland Defense: The Legal Framework* (Washington, D.C.:Center for Strategic and International Studies) 2001, 26-27.



equipment to civilian law enforcement agencies and provide training on its use; it can provide equipment and facilities in preparation for and in response to a WMD incident; it also has the authority to intercept communications and vessels outside of US territory in support of law enforcement. Members of the military are not, however, normally able to directly participate in search and seizure activities or be granted arrest authority outside of military posts.<sup>53</sup>

One of the conditions under which the military can be used in a law enforcement role are situations in which “unlawful obstructions, combinations, or assemblages, or rebellion...make it impracticable to enforce the laws of the United States in any State or Territory by the ordinary course of judicial proceedings,”<sup>54</sup> in what is often referred to as the Insurrection Act. A recent example of this was the use of the military--including active, reserve, and federalized National Guard troops--during the Los Angeles riots. The Stafford Act also allows the president to declare an emergency and use all available resources--to include the military in a law enforcement role--to “protect property and public health and safety”<sup>55</sup> in the event of a major disaster or catastrophe. Recent examples are the use of a Joint Task Force to restore order in St. Croix after Hurricane Hugo in 1989 and federal assistance to Florida following Hurricane Andrew in 1992.

These are, however, extraordinary situations that rarely apply. If the United States were to attempt to use federal troops in a direct law enforcement role in support of homeland defense under current conditions--that is, as a preventive measure rather than in response to specific threats or attacks--it would require such wide-ranging findings of national emergency as to make the separation between civilian law enforcement and the military relatively meaningless.

## **STATE CONTROL OF THE GUARD AND *POSSE COMITATUS***

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<sup>53</sup> David W. Chase, “Posse Comitatus: A Nineteenth Century Law Worthy of Review for the Future?” Ft. Leavenworth, Kansas 2001, 19-20.

<sup>54</sup> Title 10, section 332 available from <http://www4.law.cornell.edu/uscode/10/332.html>, accessed 25 January 2003. See also sections 331 and 333.

*Posse comitatus*, however, only applies to troops under federal control. Title 10 U.S Code defines the composition of “the Army” as specifically including “the Army National Guard while in the service of the United States.”<sup>56</sup> It omits however, army national guard troops under state control, who are regulated under Title 32 U.S. Code. National guard soldiers under state control are thus exempt from any restrictions under *posse comitatus*.

Guard soldiers can be mobilized under the control of the governor in either “state active duty” status or under Title 32 U.S. Code. Troops mobilized under “state active duty” are functioning solely as a state militia, with conditions of service and remuneration determined by local state law. When serving under state active duty, guardsmen will be paid with state funds<sup>57</sup> at whatever rate is set by the state--differing from state to state, and often at a fixed rate below that paid for duty at normal drills or annual training. They will not accrue time towards their normal (federal) reserve retirement and they will not receive other federal benefits, such as protection under the Soldiers and Sailors Relief Act. Examples of the types of duty performed include state responses to local disasters such as flooding or assisting state and local law enforcement officials with prison riots, strikes, or other incidents that exceed their capabilities.

Guard soldiers may also be ordered to active duty under Title 32 U.S. Code. Title 32 allows for the mobilization of Guard units under the control of a state’s governor, but with full federal pay and allowances being provided by the federal government.<sup>58</sup> Despite the federal funding, such

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<sup>55</sup> Title 42, section 5122 and sections 5192, available from <http://www4.law.cornell.edu/uscode/42/5122.html> and <http://www4.law.cornell.edu/uscode/42/5192.html> accessed 27 January 2003.

<sup>56</sup> Title 10, 3062 USC, available at <http://www4.law.cornell.edu/uscode/10/3062.html> accessed on 26 February 2003. Title 10, 8062 USC regarding the composition of the Air Force similarly includes “the Air National Guard while in the service of the United States,” but excludes the Air National Guard when serving in a non-federal status.

<sup>57</sup> Personnel performing state active duty will normally be paid with state funds. However, if service is in response to a natural disaster and the federal government decides to provide disaster assistance, the state may be reimbursed for the cost of soldiers mobilized under state active duty. As with activation under Title 32, however, simple use of funds provided by the government to pay guardsmen does not constitute “federalization” of those troops.

<sup>58</sup> Title 32 USC section 502, available at <http://www4.law.cornell.edu/uscode/32/502.html>, accessed 10 February 2002. See also National Governor’s Association, Information Sheet,

troops are not constrained by the restrictions placed on “the Army National Guard while in the service of the United States. If granted authority by the governor, soldiers in Title 32 status can thus perform law enforcement functions--to include direct participation in search and seizure activities and being granted arrest activities. Mobilizing Guard troops in Title 32 status thus provides an opportunity for an “end run” around the restrictions imposed by *posse comitatus*.

Indeed, the National Guard troops used for airport security in the six months following 9/11 were serving in Title 32 status so that their respective governors could grant them limited law enforcement powers. In March 2002 over 9,200 Guardsmen were serving in Title 32 Status providing security at various sites. Another 5,000 were completing service under Title 32 providing security at the 2002 Winter Olympics in Salt Lake City.<sup>59</sup> (On March 19, 2002, a total of 25,984 Army Guard soldiers were on active duty under either Title 10 or Title 32 status.<sup>60</sup>)

The number of Guardsmen in Title 32 status, however, has been highly variable. Since early 2002, the administration has adopted a policy of mobilizing soldiers primarily in Title 10 status and limited the numbers in Title 10 status. For example, 1,672 guardsmen were mobilized under Title 10 status in February 2002 to augment security at the borders. They were not permitted to carry weapons, had no arrest authority, and generally were far more restricted in the types of tasks they could perform than if they had been performing their duties in Title 32 status.<sup>61</sup> As of 19 February 2003, some 17,425 Army Guardsmen were mobilized under Title 10 to support Operation Noble Eagle while only 1,934 were active in a Title 32 Status.<sup>62</sup>

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“Comparison of Duty Status for National Guard Personnel,” available at <http://www.nga.org/common/issueBriefDetailPrint/1,1434,2670,00.html>, accessed 10 February 2003.

<sup>59</sup> Department of Defense, “Guard Bureau Chief Speaks at Homeland Security Conference,” available at [http://www.defenselink.mil/news/news/Feb2002/n02282002\\_200202282.html](http://www.defenselink.mil/news/news/Feb2002/n02282002_200202282.html), accessed 20 January 2003.

<sup>60</sup> GAO-02-608, *Reserve Forces: DOD Actions Needed to Better Manage Relations between Reservists and Their Employers*, 9.

<sup>61</sup> Bradley Graham and Bill Miller, “Pentagon Debates Homeland Defense Role,” *Washington Post*, 11 February 2002. This prompted the National Governors Association, the majority of the Senate, and various lobbying groups to send letters to the president urging that these missions be performed in a Title 32 role so that they could be granted law enforcement powers if necessary.

<sup>62</sup> Department of the Army, *Operation Noble Eagle/Operation Enduring Freedom Morning Brief*, 19 February 2003. (This material from the *Morning Brief* is unclassified.)

The proportion of Guard soldiers in Title 32 thus varies subject to administration policy and the changes in missions required under changing threat levels. For example, an increase in threat levels may require additional missions, carried out by troops with law enforcement powers; in such a case the number serving on Title 32 may increase. Or if the threat level remains constant, the proportion of Guardsmen on Title 32 status may remain at the current level. Given that many homeland defense missions would benefit from the increased authority possible under Title 32,<sup>63</sup> it is reasonable to assume a significant portion of mobilized Guardsmen will continue to serve under state control in Title 32 status.

## **ISSUES INVOLVING TROOPS SERVING UNDER TITLE 32**

While activating troops under Title 32 status to support homeland defense may provide additional flexibility in their use, are there other issues specific to use of soldiers in Title 32 status that may negatively impact retention or mission accomplishment? What command and control or other issues are involved in having troops serve under state rather than federal control while carrying out homeland defense tasks? Will states with small guard force structures be unable to provide the forces necessary to support the total homeland defense mission in that state if many missions are performed in Title 32 status, rather than being able to draw on support from out-of-state assets under Title 10? Will the response to incidents or changing circumstances be slowed by use of troops serving in Title 32 status?

Investigation of these various issues finds that mobilizing troops under Title 32 has little or no impact on retention or mission accomplishment compared with activation in Title 10 status. In terms of soldier retention, there were significant differences in the benefits and protections

provided to soldiers under Title 10 and Title 32 status in the immediate aftermath of 9/11. Soldiers serving in Title 32 status received the same pay and allowances as their federalized counterparts, and were similarly covered by the Uniformed Services Employment and Reemployment Rights Act guaranteeing re-employment after being released from active service. The Soldiers' and Sailors' Civil Relief Act, however, originally applied only to reservists who were called into active federal service.<sup>64</sup> (This law limits interest rates a lender may charge reservists called to active duty, protects a service member and his or her family from eviction while in active-duty status, and provides for a delay of civil litigation if the service member is unable to represent himself in court due to military duties.) Given the financial hardships experienced by personnel mobilized in 1990-91 and more recently as a result of 9/11,<sup>65</sup> this imposed a significant burden on troops activated under Title 32 rather than Title 10. Efforts to amend the Soldiers' and Sailors' Civil Relief Act to cover soldiers in Title 32 status began soon after 9/11, however. Wording amending the act was passed in November 2002 as part of the Veterans' Benefits Act of 2002, and signed into law on 6 December 2002.<sup>66</sup> With the passage of this act, the benefits provided guard personnel are essentially the same whether they have been mobilized under Title 10 or Title 32. As serving in Title 32 status no longer imposes special burdens on mobilized guardsmen, the effects of mobilization on retention should be the same regardless of whether a soldier is called to duty under Title 10 or Title 32.

As units mobilized under Title 32 are under the control of the governor, they generally are restricted to service within that state. This could pose problems for states with relatively small

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<sup>63</sup> Bernard Rostker, "The National Guard and Homeland Security," testimony before the U.S. Senate Judiciary Committee, December 13, 2001. Santa Monica, California: RAND, CT-192, 2002.

<sup>64</sup> There had never been any significant long-term mobilizations under Title 32 prior to 9/11, so legislation generally did not specifically address issues of mobilization in Title 32 status. The latest version of the Uniformed Services Employment and Reemployment Rights Act of 1994 (amended in 1996 and 1998) referred generically to personnel called to active duty without referring to service as occurring under Title 10 or Title 32. The Soldiers' and Sailors' Civil Relief Act, originally passed in 1940 during America's pre-war mobilization, specifically referred to activation for federal service.

<sup>65</sup> Vogel, "For Reservists, Reservations: Prospect of Lengthy Service Worries Many Troops."

force structures but which have a large potential requirement for Title 32 support. Arizona, for example, has approximately 4,000 Army National Guard soldiers, and Montana has less than 3,000. Both are border states. If the U.S. Border Patrol required significant augmentation by units in Title 32 status for a prolonged period, these two states could potentially have difficulty supporting these and other requirements without mobilizing a greater proportion of their units more frequently than other states. This example is purely hypothetical, but clearly states with large Guard establishments have greater flexibility in supporting homeland defense missions or soliciting volunteers for such missions than states with less Guard force structure.

Mechanisms exist, however, to mitigate the effects of less available force structure on states that may have requirements better suited for Title 32 support than Title 10 support. The easiest is to shift requirements for units to be called up in Title 10 status to states with larger guard force structures. In addition, states could expand the scope of Interstate Compacts.<sup>67</sup> Dating back to 1950, these are agreements by states to share resources---including Guard units and equipment--to respond to natural disasters or other emergencies. These are generally designed solely to facilitate disaster response. The Emergency Management Assistance Compact, for example, specifically restricts support to “humanitarian purposes” only and does not permit Guard troops provided by other states to perform duties that would be prohibited by *posse comitatus* if done by troops in Title 10 status. However, new interstate compacts could be crafted which would allow support of homeland defense functions by units provided by other states. Given the time required to reach agreement on interstate compacts, this is certainly not a short-term solution, but could be used to help ease this situation in the long term. In the meantime, if Title 32 requirements on a state exceed that states ability to sustain, the Department of Defense has the option of supporting

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<sup>66</sup> See Public Law 107-330, available at [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107\\_cong\\_public\\_laws&docid=f:publ330.107](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_cong_public_laws&docid=f:publ330.107) accessed 26 February 2002.

<sup>67</sup> Advisory Commission on Intergovernmental Relations, “The National Guard: Defending the Nation and the States,” (Washington, D.C.:Advisory Commission on Intergovernmental Relations), A-124, April 1993, 3, 20-21.

them with guard or reserve units from other states in Title 10 status, but subject to *posse comitatus* restrictions.

As forces activated under Title 32 are under control of a state governor rather than federal authorities, this could theoretically raise issues concerning unity of command regarding the homeland defense effort in a state or region. However, units mobilized under Title 32 to take advantage of relief from *posse comitatus* restrictions are generally in a supporting rather than a supported role, managed on a day-to-day basis by the civilian agency they are supporting. As such, the Title 32 status of these forces is simply yet another facet of the interagency nature of homeland defense.

The joint...and interagency nature of unified action creates situations where the military commander does not directly control all elements.... In the absence of command authority, commanders cooperate, negotiate, and build consensus to achieve unity of effort.<sup>68</sup>

Ultimately, as funding for units mobilized under Title 32 comes from the federal government, the federal government retains the power of the purse--a powerful incentive for governors and supported agencies to cooperate in the utilization of these assets for the purposes for which they were intended. If a situation arose requiring unified action in which the Title 32 status of a specific unit became an impediment (i.e., the governor controlling the unit refused to cooperate), the federal government would have several options: 1) if the situation was the result of an emergency, an emergency could be declared and the unit could be called into service under Title 10 and continue to perform activities normally impermissible under *posse comitatus*; 2) the unit could be called into service under Title 10 and simply provide support as best it could under the restrictions of *posse comitatus*; 3) the federal government could withdraw funding from the unit and mobilize another unit in Title 10 status to provide support. Even though applying these checks and balances might be politically difficult depending on the specific circumstances, they provide the federal government with enough leverage to ensure that units mobilized under Title

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<sup>68</sup> FM 3-0 Operations, paragraph 4-45.

32 for specific missions in order to gain relief from *posse comitatus* should be able to be at least as effective as units mobilized under Title 10, subject to *posse comitatus*, and trying to support those same missions.

Related to the above is concern whether units can be mobilized in Title 32 status quickly enough to respond to emergencies, given the extra coordination which has to occur with a state's governor and military bureaucracy. This, however, should be a non-issue. If requirements for forces serving in Title 32 status can be planned even a few weeks out, time for the necessary coordination will exist. If there is a threat or incident requiring an immediate response then the situation may well merit the declaration of a national emergency, permitting forces to be activated in Title 10 status without being restricted by *posse comitatus*. If the situation is such that declaration of an emergency is not merited, but the requirement was not forecast in sufficient time to allow for the necessary coordination, then the necessary forces can still be mobilized in Title 10 status and have their status changed to Title 32 status at a later date.

## **CONCLUSION**

The ability of National Guard units to serve in Title 32 status unrestricted by *posse comitatus* provides the Guard a flexibility that enhances its ability to help perform the homeland defense mission. With recent changes in federal law, there are no significant additional burdens placed on guard soldiers serving in Title 32 status compared to Title 10 status, so the impact on retention should be the same regardless of what status a soldier is mobilized in. Additional coordination may be required for federal management of forces serving in Title 32 status (especially for forces performing homeland defense missions outside of their home state), but procedures exist ensuring that units serving under Title 32 should be at least as responsive and effective from the federal point of view as units serving under Title 10.



## CHAPTER FOUR

### OPTIONS FOR CHANGING PATTERNS OF GUARD SERVICE

Given that the increased pace of mobilizations associated with the Global War on Terror is likely to result in increased attrition in National Guard units what options are available to mitigate any possible impact?

For the purposes of this paper, this author will make the two following assumptions in considering alternatives. First, that the overall size of the total Army National Guard force structure will remain roughly equivalent to its current level; a large increase in the size of the Guard is not likely in the current political climate. Even if there was a desire to increase Guard force structure there exist questions as to whether or not the Guard could recruit sufficient personnel to support significant increases in force structure. Simply creating more Guard units so individual units are mobilized less frequently is not an option.

Second, the National Guard will continue to have significant Title 10 responsibilities. Despite the desire in some quarters to read the recommendation of the U.S. Commission on National Security in the 21st Century (commonly referred to as the Hart-Rudman Commission) in February 2001 that the “Secretary of Defense...should make homeland security a primary mission of the National Guard”<sup>69</sup> as “the primary mission of the National Guard,” the Abrams Doctrine will endure. The nation will not expand the active Army to such an extent that it will not require augmentation by Guard and Reserve forces to conduct major theater war. The Guard will therefore have to maintain significant force structure designed to fulfill its Title 10 role of augment the active Army in the conducting military operations. Creating a force of 350,000 military police or other forces optimized solely for Homeland Defense is not an option. Changes in force structure will have to occur at the margins.

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<sup>69</sup> U.S. Commission on National Security in the 21st Century, *Roadmap for National Security: Imperative for Change*, 15 February, 2001, p25.

Given these assumptions, there exist three options for trying to mitigate the current situation. First, do nothing - the default option. Second is to attempt to designate those units most likely to mobilize, in the hope that soldiers who want to experience repeated or frequent mobilization will self-select into those units--creating a "third force" between the active army and the traditional pattern of Guard and Reserve service. Third is to attempt to adjust the AC-RC mix of specific skills--identifying critical skill sets in the Guard that are mobilized most frequently to perform Title 10 functions, and attempting to create additional units with those skills in the active force (and perhaps moving some less-utilized skills from the active Army to the Guard in order for each component to remain within current force caps.) As the first option, "do nothing," requires no changes in current policy, it will not be discussed further in this section.

### **A SELF-SELECTED GUARD "THIRD FORCE"**

The idea of creating a "third force" originated in the FY2004 Defense Planning Guidance, which called for a study on the practicality of creating a part-time, reserve component force which would be subject to relatively high mobilization rates. Reserve component soldiers could then self-select into these units, volunteering in effect for these high OPTEMPO units, and perhaps receiving extra benefits in return.<sup>70</sup> While formally designating such units would be a new phenomenon, it would not be entirely without precedent. Some Army Reserve units--such as civil affairs detachments--have had notoriously high mobilization rates, with several reserve units spending more time deployed than most active units.<sup>71</sup>

As mentioned previously, retention in Guard units mobilized for Bosnia and Sinai peacekeeping missions between 1995 and 2001 was actually a few percentage points above that of non-mobilized units. Due to the notice given most units (up to two years in some cases

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<sup>70</sup> Lisa Burgess, "'Third Force' To Fill Gap Between Active Duty and Reserves is Subject of Study," *Pacific Stars and Stripes*, 26 June 2002, available at <http://ebird.dtic.army.mil/Jun2002/s20020626third.htm>, accessed 1 July 2002.

participation in these missions was primarily voluntary, with soldiers “opting out” of the mobilization by transferring to other units not scheduled for deployments or “opting in” by transferring into units designated to deploy. Even though designating auxiliary or “third force” units for all homeland defense missions may not be practical, there are certainly unit types with specific skill sets being mobilized at such rates that they already are de facto “third force” units even if members have not self-selected for participation in them. Many military police units, for example, are already being mobilized for a second one-year term of active service since 9/11<sup>72</sup>

## ADJUSTING FORCE STRUCTURE

Another option is to attempt to adjust force structure within either the National Guard or the active army. The Guard could increase the portion of its force structure allocated to those units which are most commonly mobilized. If specific skill sets are being repeatedly called up in order to perform Title 10 duties, especially Title 10 duties not associated with Homeland Defense, then another response may be to create new force structure with those skill sets in either the active army. Related alternatives include realigning active and reserve force structure by transferring some less utilized functions from the active force to the reserve in order to enable the active force to include these skill sets within current limits on the size of the active force. Defense Secretary Rumsfeld stated in a November 2003 memo that:

It is very clear that there are some distinctive tasks only found in the Reserves that are not found on active duty, which means if you want to do those things you have to activate Reservists. That seems to be unwise. I would like a list of what those things are, and then some indication of what the various services are doing to put those critical skills back on active duty, rather than in the Reserves.<sup>73</sup>

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<sup>71</sup> GAO-02-608, *Reserve Forces: DOD Actions Needed to Better Manage Relations between Reservists and Their Employers*, 6, 35-36

<sup>72</sup> “Around the Army” section, “MP Company Recalled for Second Year,” *Army Times*, 24 February 2003, 7, and Christian Davenport, “Called-Up Reservists Take Big Hit In Wallet,” *Washington Post*, 4 March 2003, accessed at <http://www.washingtonpost.com/wp-dyn/articles/A37196-2003Mar3.html> on 4 March 2003.

While forces which are seldom required to perform Title 10 functions may be appropriate for shifting to the reserve component, other Guard and Reserve functions which are required on a constant basis may be more appropriately placed in the active army.

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<sup>73</sup> Rowan Scarborough, Active-duty forces taking Reserve, Guard missions, *Washington Times*, 11 November 2002, available at <http://www.washtimes.com/national/20021111-16900097.htm>, accessed 20 November 2002.

## CHAPTER FIVE

### COMPARISON OF OPTIONS

Before comparing various options, it is necessary to better define the type and scale of the various homeland defense missions requiring Army Guard support. The missions performed by the Guard have varied since 9/11, making precise forecasting difficult. For example, Guard soldiers no longer are being used to patrol airports, and their use at the borders has declined as well. However, there are apparently certain base requirements for reserve component support for Operation Noble Eagle which can be used as a basis for planning.

The largest single component of the Guard contribution to homeland defense is force protection. Last fall's draft *Review of Reserve Contributions to National Defense*, for example, cited 14,000 Army Reserve and National Guard military police and infantry being utilized for force protection in both CONUS and OCONUS.<sup>74</sup> On 19 February, 2003, of 17,452 Army National Guard soldiers and 3,443 Army Reservists mobilized in support of homeland defense, 12,106 were listed as being assigned to force protection; of an additional 2,817 Guard soldiers serving in state active duty or Title 32 duty in support of homeland defense, an undetermined portion of those were also serving in infrastructure protection at power plants, bridges, dams, and similar facilities.<sup>75</sup> (These two "snapshots" are both from well after Guard units had been withdrawn from security at most airports in early 2002.) There would appear to exist, then, a relatively predictable "steady state" requirement for 12,000-14,000 Army Guard military police

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<sup>74</sup> Department of Defense, Office of the Assistant Secretary of Defense for Reserve Affairs, *Review of Reserve Contributions to National Defense*, 20 December 2002, page 26.

<sup>75</sup> Department of the Army, *Operation Noble Eagle/Operation Enduring Freedom Morning Brief*, 19 February 2003. (This material from the *Morning Brief* is unclassified.) Some of the 14,000 personnel cited in the *Review of Reserve Contributions to National Defense (Draft)* may also be included in the *Morning Brief* category of "Air Force Security." ARNG infantry units have been providing security to airbases and Patriot batteries since 1999. (*Army National Guard 2001 Posture Statement*, "Missioning the Force"). As of March 2003, the 1st battalion, 293d Infantry, Indiana Army National Guard has 670 soldiers in Kuwait serving on air force base protection duties in Kuwait.

or other units for force protection and similar missions under the current threat condition. While this does not constitute the total Guard contribution to Homeland defense, it represents the bulk of mobilized units potentially impacting Guard retention. In order to maintain simplicity, this section will focus on analyzing the various options in terms of supporting that requirement

## **DO NOTHING**

The easiest option is to make no changes in current policy and take no steps aimed at curbing potential negative effects on retention. This would require no immediate additional resources or management. However, the limited statistical data, as well as anecdotal data, indicates that the current mobilizations will have a negative impact on retention. This will result in greater future resource costs as the Guard has to recruit and then train more soldiers to replace the greater number of soldiers leaving.

If it is expected that the requirement for Guard mobilizations in support of the homeland defense mission will end in the near term (“near term” here being defined as before steps can be taken to ameliorate any negative impact on retention), then maintaining the current policy is a viable option. If, however, it is expected that the requirement for mobilizations will continue for several years into the indefinite future, then maintaining current policy will likely cost more in the long term.

## **A SELF-SELECTED GUARD “THIRD FORCE”**

There are two possible methods of implementing a “third force.” First is having specific units designated for mobilizations, either repeated, short-notice mobilizations (such as many involved with Noble Eagle), or else given long-term advance notice for specific, predictable missions. Second is increased use of individual reserve component personnel to support operations.

Designation of specific units for mobilization can be problematic. This is relatively easy to do for relatively predictable, long-standing missions, such as peacekeeping operations in the Sinai and the Balkans. In December 2000, for example, Department of the Army designated Guard divisions to serve as the SFOR command element for Bosnia rotations from October 2001 through April, 2005.<sup>76</sup> While such advance notice has not always been the norm, many of the larger units involved in Balkans and Sinai peacekeeping have received advance notice of months or years. The 49th Armored Division, for example, had over one year advance notice prior to its Bosnia rotation in 2000. From the legal and organizational perspective, these units were mobilized normally, and members of these units were not, in the strictest sense, “volunteers”. However, while it is difficult to assign precise numbers, there is evidence to support the contention that the majority of soldiers in units that received significant advance notice of these missions were able to self-select whether or not they would participate in the rotation by transferring into or out of designated units.<sup>77</sup> It thus can be asserted that these units have functioned essentially as auxiliary or third force units. Perhaps due in part to this self-selection, retention in Guard units mobilized for Bosnia and Sinai peacekeeping missions between 1995 and 2000 was virtually identical to that of non-mobilized units.<sup>78</sup>

Predicting specific unit mobilizations for homeland defense missions may be more difficult than for peacekeeping operations. However, the “steady-state” requirement of 12,000-14,000 personnel for force protection may provide a requirement which may be suitable for either

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<sup>76</sup> Army News Service, “Army sets five-year Balkans rotation,” 4 December 2000. Accessed at <http://www.dtic.mil/armylink/news/Dec2000/a20001204rotate01.html> on 5 March 2003.

<sup>77</sup> Data specific to units participating in peacekeeping operations prior to 9/11 is not currently available, but units going through combat training center rotations at NTC and JRTC experienced increased rates of personnel turbulence for approximately 12 months prior to and 6 months following rotations their rotations. (Stinson and Doeschner, 3). This would seem to support anecdotal observations of soldiers not wanting to experience the increased--and predictable--OPTEMPO associated with these events transferring to other units, while other soldiers desiring that experience would transfer in. Reports regarding the 49th Armored Division’s deployment to Bosnia in February 2000 cited a small number of mobilized personnel who preferred not to deploy, but stated that the majority of the soldiers participating had sought assignments in the units deploying.

<sup>78</sup> Annual attrition of 19.85% in non-mobilized units compared with 19.77% in mobilized units. Stinson and Doeschner, 1.

designating specific third force units for repeated, short-notice mobilizations, or in providing long-term advance notice of mobilizations to units to support this part of the homeland defense mission. To date, many units supporting Noble Eagle have failed to receive even 30 days advance notice of mobilizations.<sup>79</sup>

Some challenges to designation of specific auxiliary or “third force” units may include too low a reservist population in a region to support units subject to repeated mobilizations. As mobilization puts stress on relationships with family and employers, most of the soldiers in within the normal recruiting footprint of a unit would likely not choose to join such a unit. Thus regions with fewer reservists may not have enough soldiers volunteering to join such units to sustain them. If such units were to be created, they would most likely be best suited for more densely populated areas (with a larger recruiting base). It may also be easier to sustain a greater number of units at lower echelons of organization spread out over larger geographic regions (company, for example) than a smaller number of units at a higher echelon (battalion or above). The Guard normally has companies organic a single battalion located in multiple armories distributed over a wide geographic area (and often detachments or platoons within companies located in different armories). Organizing “third force” units at the battalion level may require that individual companies be located in different states, leading to issues associated with coordination between separate state National Guard.

Designating units at company level as “third force” units has other possibly negative implications. Currently, the majority of Guard units are organized at the battalion level. While many company-sized units in the Guard such as military police are appropriate for supporting the

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<sup>79</sup> The GAO notes that “DOD has not been as responsive to our recommendation that the services improve their compliance with DOD’s goal of issuing orders 30 days in advance of deployments....it will not be possible to achieve the 30-day goal on all cases, [and] our recommendation was directed at mature, ongoing contingency operations.” GAO-03-509T, *Military Personnel: Preliminary Observations Related to Income, Benefits, and Employer Support for Reservists During Mobilizations*, 17. The 30-day recommendation is not applicable to contingency mobilizations such as those occurring for Operation Iraqi Freedom (which are outside the scope of this paper). However, it can be asserted that with Guard forces contributing a relatively constant



homeland defense mission, a large number of the forces currently being utilized for force protection are combat arms units such as infantry and artillery--units which are normally organized at the battalion level. It may be possible to designate one company in a combat arms battalion as an auxiliary unit subject to repeated mobilizations for homeland defense. That could, however, have the effect of rendering that company's parent battalion less prepared to fulfill its federal wartime mission, as one of its three component companies would be mobilized for homeland defense on a frequent basis. Designating one company within a battalion as an auxiliary unit to be mobilized for homeland defense, while providing predictability to unit members and hopefully attracting soldiers wishing to participate in mobilizations, could have the effect of making that entire battalion essentially unavailable for wartime missions.

Another option, instead of designating specific units for repeated mobilizations, is to take the approach used for Bosnia and other OCONUS rotations and attempt to designate several months in advance which units are to be mobilized for homeland defense, and to rotate these mobilizations as much as possible between units in order to minimize the number of units called up multiple times in quick succession. Even though many missions may change on too frequent a basis to always permit advance designation of units--or designation of precisely where a unit would serve following mobilization--the relatively constant requirement for 12,000 or more soldiers for force protection should permit prior notice to most units being utilized for homeland defense. This could be applied to missions performed in Title 10 status or, for states, missions performed in Title 32 status if they can be forecast.

The *Review of Reserve Contributions to National Defense* focuses much of its attention on regulatory and organizational hurdles that need to be overcome in order to expand use of reserve personnel.<sup>80</sup> Most of this is focused on increasing the use of individual reserve component

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number of personnel for force protection since 9/11, the force protection mission within Operation Noble Eagle, at least, should be relatively predictable and allow DOD to meet this standard.

<sup>80</sup> See Chapter 4, "Creating Flexibility in Force Management," *Review of Reserve Contributions to National Defense*, 65-88. Topics include statutory issues regarding the statuses of

personnel to support operations, arguing for a “continuum of service” that would permit reservists with critical skills to serve more than the normal 39 days a year when in non-mobilized status--in the report’s concept, anywhere from 40 to 365 days a year if a soldier’s skills are required.

There are certainly many areas where individual reservists can be readily utilized. In addition to use as individual augmentees to units or headquarters elements, there are various “virtual organizations” or programs that individual reservists or specialized units participate in. One is the Joint Reserve Intelligence Organization, in which individual reservists and units use secure, networked sites to analyze intelligence in support of real-world missions for combatant commanders in a reachback mode. Others include the Joint Web Risk Assessment Cell, in which personnel operating from remote sites conduct operational security and threat assessments of DoD web sites, and the Joint Reserve Virtual Information Operations Organization, in which reservists support information operations worldwide. The “continuum of service” concept has the capability to greatly expand the amount of support provided by these operations, and as participation would be voluntary, it would likely enhance retention or at least be retention neutral. Many of these tasks are related to homeland defense. The “continuum of service” concept as presented, however, does not directly deal with the issue of retention for the majority of personnel or units mobilized for homeland defense.

The “continuum” of service” concept could, however, perhaps be adapted to support homeland defense, specifically the force protection mission that constitutes the bulk of the force protection mission. The force protection mission generally focuses on performance of tasks at the lowest levels--individual soldier or squad-level type tasks. These tasks are also relatively non-specialized--or, rather, require skills that can be relatively readily acquired by military personnel.

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reserve component soldiers on active duty, the length of time they can serve on active duty each year, benefits, “color of money” issues regarding which Budget Activity Groups and Sub Activity Groups funding for various duty statuses comes from, and making it easier to use military retirees and people with non-traditional military backgrounds but who have critical skills in automation and other areas. The bottom line is that the reserve personnel system needs far more flexibility in terms of who can be brought on active duty and for what lengths of time.

Military police are generally the preferred force for force protection at bases, but often infantry or other units have been mobilized to perform this mission in support of Operation Noble Eagle. Force protection for Fort Leavenworth during late 2002 and early of 2003, for example, was provided by C Battery, 1st Battalion, 161st Field Artillery, Kansas Army National Guard.

The relative rapidity with which required special skills can be acquired for this mission raises the potential of using specially created temporary organizations for part of this mission. A potential model for this is the 4th Battalion, 505th parachute Infantry Regiment, a composite (AC/RC) formed in November 1994, which performed peacekeeping in the Sinai from January 1995 through July of that year. The unit was comprised of 20 percent active component personnel and 80 percent reserve component (most Army National Guard), with all of the reserve component personnel having volunteered for this tasking. While there was a substantial train-up involved with this mission--the leadership, for example, attended the month-long Infantry Leaders Course at Ft. Benning prior to mobilization--this was due in part to the fact that reservists had not had primary responsibility for peacekeeping before (much less the Sinai mission) and the intense scrutiny which resulted.<sup>81</sup>

Given that many force protection missions are performed at the company level and require relatively easily acquired skills, it may be feasible to create temporary, provisional organizations to perform specific missions. The Army Reserve, for example, maintains an on-line database for personnel to support the Joint Reserve Intelligence Program and other missions; soldiers are able to log in and update the database regarding their current skills and availability for taskings. If such a "continuum of service" concept were to be applied to force protection, soldiers interested in participating could "enroll" in the program via an online database. Leadership cadres for company-sized units could be formed by either tasking states to provide them (presenting the

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<sup>81</sup> Army Research Institute for the Behavioral and Social Sciences, "Reserve Component Volunteers in the Sinai: A Test," accessed at <http://www.ari.army.mil/rescom.htm> on 5 March 2003. See also M.S. Salter, G.W. Fober, R.J. Pleban, and P.J. Valentine, "Sinai Task Leaders At The

opportunity for states to provide cohesive leadership teams of personnel with experience working together), or else by assembling cadres from volunteers. Leadership cadres could be mobilized a short period prior to the rest of the unit in order to receive specialized training and be afforded the opportunity to bond. After a short period of leadership training, the remainder of the personnel for the company could be mobilized and proceed through training similar to that currently provided units assigned the force protection mission.

Such a program would not be without cost. It would require the ability to forecast requirements several months out; procedures and mechanisms for administering the program would have to be developed (to include creation and hosting of appropriate databases); a certain amount of the unit leadership would have to be mobilized early, and the unit may require additional training/bonding time upon mobilization compared to simply mobilizing a pre-existing unit. The various issues discussed in the *Review of Reserve Contributions to National Defense* regarding funding and duty statuses would still apply, and the personnel system would have to be significantly streamlined in order to facilitate creation of temporary units for force protection missions. The program would also temporarily remove personnel from existing units, resulting in readiness issues for those units while a proportion of a unit's members are serving in these notional provisional units.

In terms of direct and immediate costs, mobilizing existing units is likely to be more cost effective for performance of the force protection mission. However, if the current requirement of 12,000-14,000 soldiers for force protection is expected to continue for the indefinite future, the creation of provisional units may be an alternative worth considering in order to avoid the indirect costs associated with increased attrition/lower retention.

## **ADJUSTING FORCE STRUCTURE**

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Infantry Leaders Course," Army Research Institute for the Behavioral and Social Sciences, RR1677, June 1995.

Adjusting force structure could be another method to alleviate the stresses caused by repeated mobilizations, either realigning existing Guard force structure itself so as to better support the homeland defense mission, or changing the mix between active and guard forces so that the active army force structure contains more of those skill sets required to perform homeland defense missions currently being executed by the reserve component.

The concept of adjusting reserve--specifically Army National Guard--force structure to better support homeland defense is not new. The National Defense Panel Report of December 1997 stated that the National Guard should:

...provide forces organized and equipped for training of civil agencies and the immediate reinforcement of first-response efforts in domestic emergencies. They will focus on management of the consequences of a terrorist attack (to include weapons of mass destruction) and natural disasters. They must also be prepared to defend critical infrastructure....

As new homeland defense missions develop...the Guard should be used in lieu of active forces wherever possible<sup>82</sup>

The U.S. Hart-Rudmann Commission, recommended in February 2001 that:

The Secretary of Defense, at the President's direction, should make homeland security a primary mission of the National Guard, and the Guard should be reorganized, properly trained, and adequately equipped to undertake that mission.<sup>83</sup>

More recent authors have argued that specialized units should be created to support homeland security tasks, with one stating that there is:

... a benefit for specialized units, as opposed to an infantry battalion deployed to perform an airport security mission....infantry soldiers take little away from the airport experience to translate into combat mission essential tasks... The trade-off for military units performing security missions involving tasks outside their mission essential task list is a lower level of training efficiency.<sup>84</sup>

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<sup>82</sup> Report of the National Defense Panel, *Transforming Defense: National Security in the 21st Century*, Arlington, VA, December 1997, p55.

<sup>83</sup> Report of the U.S. Commission on National Security in the 21st Century, *Roadmap for National Security: Imperative for Change*, 15 February, 2001, p25.

The DoD 1999 *Reserve Component Employment Study*, however, while seeing a need for increased preparedness in the areas of consequence management and infrastructure protection, noted that more specialized WMD consequence management tasks might not be appropriate for traditional reserve component units given the training and specialized equipment required. It argued for specialized WMD-consequence management units (such as the Guard WMD-Civil Support Teams) and study of possible dual-missioning of traditional reserve component units for non-specialized tasks, examining how they could be used to support both traditional warfighting missions and homeland defense.<sup>85</sup>

As this paper is focused on the homeland defense mission as performed by the Guard since 9/11, the appropriate level of specialized consequence management units will not be addressed. However, reviewing utilization of the Army National Guard over the past eighteen months, it appears that the *de facto* dual-missioning of units for both traditional wartime missions and homeland security (i.e., force protection and physical infrastructure protection). The *Review of Reserve Contributions to National Defense* recommended that “no specific force structure be formally apportioned to the civil support mission, with the exception of existing Weapons of Mass Destruction (WMD) Civil Support Teams and Emergency Preparedness Liaison Officers (EPLOs).”<sup>86</sup> Guard TOE units appear to already possess the necessary skill sets (or can be rapidly trained to perform them) required to successfully transition to the homeland defense tasks they have been tasked to perform.

This is not to say that there is no room for modification of Guard force structure to better meet overall homeland defense mission requirements. The Army National Guard Restructuring

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<sup>84</sup> Lieutenant Colonel Daniel J. Shanahan, “The Army’s Role in Homeland Security” in *Transformation Concepts for National Security in the 21st Century*, Dr. Williamson Murray, ed. (Carlisle, Pennsylvania: Strategic Studies Institute, 2002), 301.

<sup>85</sup> Department of Defense, Office of the Undersecretary of Defense for Strategy and Threat Reduction, *Reserve Component Employment Study 2005, 1999*, page 3 and Annex B, Tab 1, “RC Missioning for WMD Consequence Management (CM) and Providing Physical Security for Critical Assets.”

<sup>86</sup> *Review of Reserve Contributions to National Defense*, 38.

Initiative,<sup>87</sup> which will convert heavy forces currently equipped with obsolescent equipment into wheeled “multi-functional” divisions, will provide force structure more appropriate for the many homeland defense tasks and the stability and support operations that Guard combat units have been most frequently called upon to support in recent years.

Modification of Guard force structure alone, however, has only a very limited capability at best to relieve the pressures on retention caused by the type and pace of mobilizations since 9/11. The assignment of artillery and other non-military police/infantry units to perform force protection would seem to indicate that most units in the current force structure already have the skill sets necessary for the homeland defense mission. If artillery and other units besides military police are considered satisfactory for the force protection mission, then restructuring solely within the Guard is not likely to significantly increase the pool of units available for such duty. If approached solely from a Guard perspective, it may be more beneficial to examine further increasing the use of non-military police and infantry-type units in the force protection, so as to minimize the number of these units that experience multiple mobilizations.<sup>88</sup> Even this, however, has limited potential in and of itself to ameliorate the impact on retention of the requirement for 12,000-14,000 Guardsmen for the force protection mission as well as the other 6,000-8,000 required for additional homeland defense tasks.

Another alternative from a force structure perspective is to look at transferring part of the force protection requirement to the active army, by creating personnel with the required skill sets in the active force and/or freeing them up from current missions. The current political climate, however, would seem to indicate that this is unlikely to occur. Secretary of Defense Rumsfeld’s

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<sup>87</sup> Department of the Army Press Release, “ARMY NATIONAL GUARD RESTRUCTURING INITIATIVE ANNOUNCED,” 8 September 2002, available at <http://www.dtic.mil/armylink/news/Sep2002/r20020909r-02-52.html>, accessed 16 September 2002.

<sup>88</sup> This is not to argue that the current Guard force structure should not be changed. Rather, changes in Guard force structure are not likely to significantly improve the Guard’s ability to support the current force protection mission. The chief consideration for changes in Guard force structure should therefore be whether it is appropriate to meet the wartime and other non-force protection missions it may be called upon to perform.

directive to DoD to examine “[putting] those critical skills back on active duty, rather than in the Reserves,” appears to have been focused at ensuring that the active force had the necessary skill sets on-hand to rapidly react to military contingencies. While the active army has been authorized to increase its end-strength by approximately 5,000, it has articulated a requirement for 20,000 to 40,000 more soldiers.<sup>89</sup> New active army force structure will likely be addressing those needs rather than decreasing the overall number of reservists needed for homeland defense tasks.

The *Review of Reserve Contributions to National Defense* identified a potential for “Rotational units, comprised of either Active or Reserve forces or both...tak[ing] the place of some permanently stationed Active forces.”<sup>90</sup> This could conceivably free up active army force structure/end strength to assume some of the missions currently being performed by reserve component forces. Such plans will likely take several years to come to fruition, however--first, identifying which permanently stationed forces to remove, redeploying them stateside, establishing a rotation schedule for replacement units (active or reserve component), and finally converting the active force structure thus made available to other uses. Given the scale of the Which the current caps on end-strength and the increasing tempo of operations overseas, it does not appear likely that the active army will assume a significant portion of the homeland defense mission currently performed by the Guard and Reserve in the near future.

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<sup>89</sup> James Dao, “Rumsfeld Resisting Calls from Military to Build Up Forces,” *New York Times*, 19 April 2002.

<sup>90</sup> *Review of Reserve Contributions to National Defense*, 57.



## CHAPTER SIX

# RECOMENDATIONS

The high levels of mobilization the Army National Guard has experienced since 9/11 threatens the ability of the Guard to retain soldiers and hence maintain end strength and readiness. If, as appears likely, the level of mobilizations for homeland defense are expected to continue for several years, the Guard should re-evaluate how it mobilizes units to support the homeland defense mission.

The Guard should:

1) Examine the feasibility of expanding the use of non-traditional units to support force protection and other homeland defense missions. The performance of artillery and other non-military police/infantry units to support this mission indicates that most Guard units can perform this task. This would increase the pool of units available, decreasing the number of units being mobilized repeatedly in rapid succession.

2) Examine the feasibility of providing units advance notice of several months for homeland defense missions. This would permit soldiers a limited ability to ‘self-select’ whether they wished to participate in mobilization by transferring into or out of notified units. This should help bring retention in Guard units mobilized for homeland defense closer to the levels seen in units mobilized for peacekeeping operations in the 1990s.

3) Examine the feasibility of designating select units at the company level as high priority units for mobilization. To a certain extent the Guard already has this in their military police units and certain other units. Formalizing it would enhance predictability for reservists and attract soldiers seeking that type of reserve experience.

4) Examine the feasibility and utility of organizing temporary units at the company level to support force protection and other homeland defense tasks, using lessons from the creation of the 4<sup>th</sup> Battalion, 505<sup>th</sup> Parachute Infantry Regiment. This will be more costly than mobilizing

existing units, but it would also allow the Guard to leverage many of the institutional changes called for by the *Review of Reserve Contributions to National Defense* in their concept of a continuum of service to support the force protection mission if such changes are implemented. If, however, the other three measures recommended above are successful, this step may not be cost-effective for the benefit gained.

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