

## RESERVE COMPONENT ALIGNMENT WITH LAW, POLICY, AND STRATEGY

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# USAWC STRATEGY RESEARCH PROJECT

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## **ABSTRACT**

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The Reserve Components of the United States military are mandated by federal law to be used as a strategic force mobilized exclusively under four specific conditions: (1) in time of war, (2) during national emergency, (3) when national security requires it, or (4) when there are insufficient Active Duty members available to accomplish a mission. The implication is that all of these conditions are temporary and that the reserves are to be returned to a strategic force upon completion of the mission. The executive and legislative branches of the government have frequently ignored the law and used the reserves to avoid politically unpopular alternatives such as drafts and budget increases. The events of September 11, 2001 exacerbated the problem and the strategic reserve has become an operational reserve constantly in need to support the Active Component for high tempo operations, operations that high level officials predict will continue. Reserve policies and strategies have been implemented to enable the completion of long-term missions, formalizing practices that will continue after the authorization of the use of force in Afghanistan expires. Civilian leadership is avoiding the hard decisions required to sustain a viable force.



## RESERVE COMPONENT ALIGNMENT WITH LAW, POLICY, AND STRATEGY

The delegates to the Constitutional Convention who met in May 1787 to finalize the Constitution of the United States were influenced by the Age of Enlightenment sweeping through Europe during the 18th Century. The Enlightenment developed out of a resistance to the absolute control exerted by the European monarchs and the church over all aspects of life including economics and politics. Many of the Founding Fathers who were delegates at the Constitutional Convention believed that intellect and reason should guide governance, ideas based on John Locke's theory of popular sovereignty, Charles Baron de Montesquieu's ideas of balanced and limited governance, and David Hume's theory of politics as a competition. The result was to institute three branches of government to divide power in an effort to accurately represent the will of the people and to establish a system of checks and balances to prevent any single branch from dominating the others.<sup>1</sup>

### Historical Basis for the Balance of Power

The Constitution provided for a standing army and navy, although the Constitutional Convention delegates knew there would be hesitancy among the colonists about the prudence of such provisions.<sup>2</sup> The early arrivals in the New World were well aware of recent abuses of European monarchs in using their standing armies for personal reasons unrelated to matters of state, abuses paid for by the people through taxes and their own blood. Louis the XIV ascended the throne of France in 1661 and embarked on a series of wars under the pretense that they were solely for the betterment of the lives of his countrymen. He built Versailles, named after Helios, the sun god, as a monument to himself, seeing himself as the instrument of God. The

palace complex cost eight years of state revenues supported by an intricate and unethical tax system that sold exemptions and advantages. Louis did not heed complaints; his large army and substantive weapons arsenal brought him prestige, renown, and fame, which were his primary aims.<sup>3</sup>

Frederick the Great assumed the throne of Prussia in 1740 and soon after occupied Silesia, a small but resource rich country half the size of Prussia. The act was unprovoked and disturbed the balance of power in Europe previously preserved by common values.<sup>4</sup> In explanation of his motive Frederick stated, "I was young, had plenty of money, a big army, and wanted to see my name in the newspapers."<sup>5</sup> Frederick practiced preemptive war without regard to ethics or laws.<sup>6</sup>

The worst and harshest example for the colonists, however, was King George III of England. He ruled the colonies through his tools, the colonial governors, taxing heavily while constantly demanding submission to the authority of the crown.<sup>7</sup>

### The Wisdom of the Delegates

Despite these examples, during the Constitutional Convention the Founding Fathers concluded that a standing army and navy were necessary for the security of the fledgling country. However, the Constitution needed to be ratified by the states. Alexander Hamilton, James Madison, and John Jay wrote eighty-seven articles published in two New York newspapers offering arguments in support of ratification. In *Federalist No. 41*, James Madison argued that even in peacetime a ready armed force was necessary for the preservation of the union; failure to take this necessary precaution would be dangerous and could be fatal. The United States could not prevent other nations from maintaining standing armies, Madison reasoned, it could only

prepare for a national defense if necessary. To prevent the misuse of this instrument of national power, Madison described a system of distribution of power as defined in the as yet unratified Constitution in which Congress was given the power to raise and support armies and the executive branch, under the President, the power to guide its use as commander and chief.<sup>8</sup>

In *Federalist No. 4*, John Jay warned against unjust wars waged by monarchs with personal motives “for military glory, revenge for personal affronts, ambition, or private compacts to aggrandize or support their particular families or partisans.” He also argued for a single national army instead of state militias.<sup>9</sup> The will of the framers of the Constitution was to give control of the Armed Forces to Congress through the power of the purse and the power to declare war, and to the President the power of the sword to direct its use once authorized by Congress. The masses were persuaded. In June 1788 New Hampshire became the ninth state to ratify the Constitution.<sup>10</sup>

To further balance power, the Founding Fathers made the legislative branch bicameral. Chambers would be elected by popular vote, the number of representatives per state in the lower chamber would be according to population, and the upper chamber would receive two representatives per state to assure a voice for the smaller states. A majority of each chamber was required to ratify law, which could be vetoed by the President, but overridden, in turn, by a two-thirds vote by Congress.<sup>11</sup> Through the power of the purse, Congress was given the authority to raise and support an army and navy, as well as the power to “declare war” and “to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States.”<sup>12</sup> This

vague “necessary and proper” clause was purposely included by the Framers to provide for future expansion of the legislative powers of Congress, as necessary, especially in regard to states’ rights.<sup>13</sup>

### Constitutional Challenges

The Founding Fathers had the example of George Washington presiding over the Constitutional Convention when forming the executive branch. Like Washington, future heads of the executive branch were to be a presider, a president, bound by the inherent limits dictated by the balances of the judicial and legislative branches. The executive branch needed to be independent, yet unable to repeat the historical abuses of monarchs by using the armed forces in direct opposition to the other branches. However, the executive branch needed the authority to restrain an overbearing Congress, if necessary.<sup>14</sup> Like Congress, a vague provision was included for the President. Article II states that, “he shall take Care that the Laws be faithfully executed.”<sup>15</sup> Some Presidents have held that this provision justifies all actions unless specifically prohibited by law.<sup>16</sup>

After the Constitution was ratified, the vague and narrowly described duties and responsibilities of the executive branch expanded, especially during wartime. By design, in the system of checks and balances, domestic policy formation has been delegated by Congress to the Executive Branch through law while there is still disagreement over which branch should lead foreign policy development. Many Presidents have taken a strong lead with international affairs, even overstepping their constitutional powers by making agreements with foreign powers and committing troops without Congressional

approval. Constitutional direction is limited and vague regarding foreign policy formulation.<sup>17</sup>

Article One, Section Eight of the Constitution stated that Congress shall have power “to declare war.” Although resolutions were passed endorsing the Presidentially initiated use of force in some major conflicts, Congress has not formally declared war against another nation since WWII, yet military forces have been deployed in combat in excess of 100 times.<sup>18</sup> The first Executive abuse of power in this regard occurred in 1950 when President Harry Truman committed troops to Korea without consulting Congress either before or after hostilities began. In response to President Richard Nixon’s refusal to cease hostilities in Vietnam after the repeal of the *Gulf of Tonkin Resolution* authorizing the use of force, the *War Powers Resolution* was passed by Congress with a two-thirds majority overriding the veto of the President.<sup>19</sup> The act stated as its purpose “to fulfill the intent of the framers of the constitution of the United States” and cites the “necessary and proper” clause referring to the broadening of Congressional powers. The Resolution also referenced the restrictions placed on the President as Commander-in-Chief of the Armed Forces regarding the commitment of forces to combat. That is, that the military can only be committed upon a Congressional declaration of war, as authorized by law, or in time of emergency necessary for national defense.<sup>20</sup> However, even an act of Congress did not deter military operations initiated by the Executive Branch without the lawful authority of Congress.<sup>21</sup>

Like Truman, Presidents George H.W. Bush and William Clinton cited the United Nations Charter when U.S. Armed Forces were committed to Iraq and the former Yugoslavia and when their commitment was threatened in Haiti.<sup>22</sup> However, Section 6 of

the United Nations Participation Act of 1945 passed by Congress in December of that year specifically stated that all U.N. armed actions “shall be subject to the approval of the Congress by appropriate Act or joint resolution.”<sup>23</sup> President Truman assured Congress that he would not violate this provision of the United Nation Charter. He disregarded his vow just five years later and this precedent was followed by Presidents George H.W. Bush and William Clinton.<sup>24</sup>

Two tactics used by the Executive Branch to circumvent the exclusive Constitutional authority granted to Congress to declare war are the need for expediency and the contention that the Executive Branch contains the expertise to make the right decision.<sup>25</sup> In August 1964, President Lyndon Johnson expedited the commitment of troops to Vietnam by announcing to the American public and then reporting to Congress that a second attack on an American naval vessel had occurred in the Gulf of Tonkin, thus garnering popular and statutory support.<sup>26</sup> However, the National Security Agency declassified signal intelligence documents that indicated serious gaps in the sequence of events of the first attack and that the second attack did not occur.<sup>27</sup> In 2002, President George W. Bush asserted the need for military action against Iraq because Saddam Hussein possessed weapons of mass destruction. After a Coalition force led by the United States invaded, no such weapons were found.<sup>28</sup>

In addition to circumventing the exclusive power of Congress to declare war, presidents have bypassed Congressional legislation. President Clinton used signing statements, approving laws but declaring via these statements that certain legislation would be considered only advisory and thus reserving the right to interpret the law in accordance with perceived executive powers. Likewise, President George W. Bush, by

using signing statements, refused to recognize laws that he contended encroached on the power of the executive branch.<sup>29</sup> No signing statement was announced when Title 10 of the U.S. Code was enacted into positive, or statutory, law in August 1956.<sup>30</sup>

### Evolution and Intent of the Law

Article I, section 8 of the U.S. Constitution empowers Congress “to raise and support Armies,” “to provide and maintain a Navy,” and “to make Rules for the Government and Regulation of the land and naval Forces.”<sup>31</sup> Since 1789, Congress has enacted hundreds of laws controlling the organization and administration of the armed forces. Over time, some of the laws became obsolete while others were redundant and resulted in difficulties of interpretation due to contradictions. Some laws were poorly written or ambiguous at the outset. Starting in 1873, statutes were revised to combat these issues. In 1926, fifty titles, or sections, of law were created to continue this clarification effort. Title 10 addressed the Armed Forces; Title 32, the National Guard; and Title 34, the Navy. However, these laws were enacted as “prima facie” evidence only, that is, at first appearance, and consultation of the Statutes at Large was still required for interpretation. In 1946, the process of codification began with the reissuing of the existing law without modification of meaning to establish federal statutory law which became evidence of the law as written in U.S. Code. Once codified, reference to the Statutes at Large became unnecessary.

In 1947, the War Department advocated restatement of the laws concerning the Army because considerable investigation was required to determine their intent and spirit. In addition, some laws were obsolete and redundant. The Secretary of Defense directed that all laws pertaining to the Armed Services were to be codified into a four

part title: Department of Defense General Provisions, Army, Air Force, and Navy.<sup>32</sup> The organization of provisions could be improved and obsolete sections eliminated, but the original intent had to be restated without actual change.<sup>33</sup>

### History of the Reserves

In 1636, the first militias were formally established by the Massachusetts Bay Colony.<sup>34</sup> Further rules for the government and regulation of the forces were promulgated by the Second Continental Congress in 1775 by which time individual states were controlling their organization and administration. Militias were instrumental in the success of the American War for Independence.

During the administration of Thomas Jefferson, the costs of maintaining a large standing army were diverted into funding the Reserve Components to save revenue.<sup>35</sup> During the War of 1812, President James Madison was unable to secure support for a draft and reservists were used extensively during the conflict with Britain.<sup>36</sup> American leadership was confident that a formidable navy and strategic geographic advantage enabled the U.S. to safely rely on a primarily volunteer force with a small standing army. This distribution of forces prevailed from the Spanish-American War to the Civil War. However, as the need for manpower grew during the Civil War, an unpopular and de facto limited draft was attempted to augment volunteers. For the first time in U.S. history, war powers were concentrated at the federal level, but the war extinguished the willingness of the American people to fight.<sup>37</sup> Without state militias, federal troops enforced state and territorial law. Public outcry resulted in the passage of the Posse Comitatus Act in 1878 which forbade the practice.<sup>38</sup>

The Spanish American War revealed a severe lack of training and readiness among state volunteers.<sup>39</sup> This lack coupled with the shift from federal control resulted in the Militia Acts of 1903 and 1908 which increased funding to the militias, now known as the National Guard. The Guard was included in federal training, was held accountable to federal standards, and would be used prior to a request for volunteers.<sup>40</sup> The Army Reserve was effectively established in 1908, and the Naval Reserve in 1914.<sup>41</sup> The National Defense Acts of 1916 and 1920 passed before and after WWI significantly increased the size of the National Guard and designated it as the primary trained reserve. It also authorized its activation for national overseas service and established it as a federal reserve force.<sup>42</sup>

The Army National Guard comprised 40% of all forces deployed to France during WWI, and contributed eighteen infantry divisions to WWII.<sup>43</sup> Reservists comprised 75% of all Navy personnel and 66% of the Marine Corps forces when hostilities ended in 1945.<sup>44</sup> A drawdown and reorganization after WWII under the National Security Act of 1947 created the Department of Defense and the United States Air Force, and reorganized the National Guard Bureau to assist in the administration of the Guard when federalized. Efforts to consolidate the Guard and Reserve during this period were not supported by Congress.<sup>45</sup>

### Strategic Shift

The WWII era draft ended in 1947, and it became necessary to mobilize almost a quarter of a million reservists to support the Korean conflict to augment a force that had atrophied following the post-WWII drawdown. The inadequacies highlighted by the Korean mobilization effort resulted in the Armed Forces Reserve Act of 1952, the

purpose of which was to ensure the operational readiness of the reserve force.<sup>46</sup> The Act established the seven Reserve Components.<sup>47</sup> An amendment to the Act in 1955 provided for the availability of one million reservists out of the 2.9 million authorized for mobilization by Presidential authorization for war or national emergency.<sup>48</sup> However, the large standing army and the draft lottery of 1969 under the Selective Training and Service Act of 1940 made mobilization of the reserves for the Vietnam War unnecessary.<sup>49</sup> President Nixon and Congress agreed with the overall recommendation of the President's Commission on an All-Volunteer Armed Force in 1970, ending the draft and implementing procedures to use reservists to augment the Active Component. This Commission was commonly referred to as the Gates Commission after its head, Thomas S. Gates, Jr., a former Secretary of Defense in the Eisenhower administration.<sup>50</sup> The changes were a major shift from the practice during Vietnam of sending draftees to combat before reservists.<sup>51</sup>

The basis for the shift from a strategic to an operational reserve was further enabled by initiatives known as the Abram's Doctrine, in reference to the former Army Chief of Staff General Creighton Abrams, and the Total Force Policy, promulgated in an August 1970 memo by Defense Secretary Melvin Laird. General Abrams held that if large, lengthy troop commitments were necessary, extensive use of the reserves would bolster public support of future conflicts. The Total Force Policy was in response to President Nixon's directive to reduce military expenditures. It was cheaper to maintain a reserve force than an active duty force. The resulting drawdown increased dependence on the reserves.<sup>52</sup>

The dependence on an all-volunteer force without the use of a draft to augment active duty personnel persists today. The involuntary reserve mobilization for Operations Desert Shield and Desert Storm mobilized almost a quarter of a million reservists.<sup>53</sup> In 2005, the reserves comprised over 40% of all personnel on duty in Iraq.<sup>54</sup> Between September 11, 2001 and March 2009, well over half a million reservists were mobilized.<sup>55</sup>

Due to the disjointed response of the Services during Vietnam, the Iranian hostage rescue mission in 1980, and the invasion of Grenada in 1983, President Ronald Reagan ordered a reorganization of the military by signing of the Goldwater-Nichols Act of 1986. In addition to changes realigning the military chain of command at the highest levels and redefining the roles and responsibilities of the Services, the Act mandated that the President promulgate the National Security Strategy delineating the primary national security aims of the United States.<sup>56</sup> The National Defense Strategy is the guidance of the Secretary of Defense on how the armed forces will implement the National Security Strategy. Like the National Security Strategy, the National Military Strategy is required by law and gives the guidance of the Chairman of the Joint Chiefs of Staff.

#### Lawful Purpose of the Reserves

The United States Code is the systematic arranging of the general and permanent substantive Federal law of the United States. Codification provides legal evidence of the law for judicial purposes. Title 10 is the section of law passed by the Legislative branch of the government of the United States that provides for general military law; laws governing the Army, Navy, Marine Corps, Air Force; and finally, the

section most salient to the purpose of this paper, law governing the Reserve Component. Section 10102 of Title 10 stated that,

the purpose of each reserve component is to provide trained units and qualified persons available for active duty in the armed forces, in time of war or national emergency, and at such other times as the national security may require, to fill the needs of the armed forces whenever, during, and after the period needed to procure and train additional units and qualified persons to achieve the planned mobilization, more units and persons are needed than are in the regular components.<sup>57</sup>

Title 10 Section 10102 was modified by the 108th Congress in 2004. Public Law 108-375 removed the phrase “during, and after the period needed to procure and train additional units and qualified persons to achieve the planned mobilization.”<sup>58</sup> The Congressional Record of the 108th Congress stated that this provision of Title 10 was modified to further explain Congressional intent in light of future anticipated use of Guard and Reserve members. The Record said that clarification was necessary and that the remark concerning “planned mobilization” was omitted to “more accurately reflect the operational mission, responsibilities, and contributions” of the Reserve Component.<sup>59</sup>

There is much debate concerning the use of documents that are not law to interpret statutes. Legislative histories document the process of proposed legislation and may include drafts, hearing testimony, reports, or studies. These histories may be used by courts to clarify the legislative intent of ambiguous statutes. However, the Supreme Court, following the opinion of Justice Antonin Scalia, was reluctant to use federal legislative histories as a guide to interpretation. Instead, Justice Scalia advocated strict interpretation of the law as written.<sup>60</sup> Title 10 Section 10102 does not reflect the revelation of the Congressional Record. In addition, there was no floor debate before the full Congress; the amendment of the Armed Forces Committee was accepted

as written. As currently codified and as presenting evidence of the law, Title 10 Section 10102, as amended, states that trained and qualified reservists are to backfill or augment Active Duty as necessary under four, and only four, conditions: (1) in time of war, (2) during national emergency, (3) when national security requires it, or (4) when there are insufficient Active Duty members available to fulfill a need required to accomplish a mission.<sup>61</sup>

### Misalignment and the Need for Dialogue

Technically, the extensive use of the Reserve Component in the last twenty years to augment and backfill active duty forces does not violate Title 10. Joint Resolutions passed by the House and Senate in 1991, 2001, and 2003 authorized the use of force in the Gulf War, Afghanistan, and Iraq respectively, triggering the lawful ability of the President to activate the reserves. Rather, the issue is that to fulfill the additional tasks, the Reserve Components have developed long-term policies and strategies that have produced a misalignment with law. The Reserve Component has become operationalized; it is no longer merely strategic, but this change is not reflected in Title 10.

Statute law is the written law established by enactments of Congress declaring the will of the legislative body of government. Congress was given the power to raise standing armed forces to provide for the common defense of the union, a core national interest. Title 10 expresses the intent of Congress. Policies and strategies are formulated with national interests that frame the goals, the objectives, and the ends of policy and strategy. Policy reflects the national interests, it gives the vision of what the end state should look like; strategy delineates how to make that end state a reality.<sup>62</sup> In

sum, Title 10 gives the will of Congress in regard to the Armed Forces, the National Security Strategy of the President of the United States gives policy, or the vision for the armed forces, and the Secretary of Defense and the Services establish the strategies that will enact the vision.

President Barack Obama promulgated his National Security Strategy in May 2010. He cited four prevailing national interests, the first of which was “The security of the United States, its citizens, and U.S. allies and partners.”<sup>63</sup> He pledged to continue to support global security, honor international commitments, and concentrate on al-Qa’ida, particularly in Afghanistan and Pakistan. Balancing all instruments of national power will be required to achieve these ends; however, conventional military superiority will be sustained. The document asserted that the United States needs to maintain a powerful military for such missions as international security operations supporting the security forces of weak and failing states through training and supply. The President acknowledged that force will be necessary at times, and that the military must remain capable of large scale operations over long distances. He acknowledged the difficulties that these burdens place upon the armed forces, promising to begin phasing forces from Afghanistan in July 2011 as the situation will allow, but to continue an advisory presence. He promised “sustainable deployment cycles.”<sup>64</sup>

Maintaining capabilities, reducing costs, and continuing the current pace of military operations for the foreseeable future will require a continuation of the high operational tempo of the Reserve Component set in motion by the events of September 11, 2001. The Reserve Component member is cheaper to recruit, train, maintain, and retire, than his active duty counterpart.<sup>65</sup>

The temptation to grow the reserve force and use it as a semi-permanent augmentation to the active component is strong. Title 10 implies that the reserves exist to fill a gap or provide an augmentation. A temporary basis is implied unless “whenever more units and persons are needed” is interpreted to mean that Congress foresaw that this could apply to a state of constant need. National policy in the National Security Strategy depicts a vision in which the high operational tempo of reserve usage will be maintained. The National Defense Strategy promulgated by the Secretary of Defense and the National Military Strategy promulgated by the Joint Chiefs of Staff delineate how each intends to enact the President’s vision.

Following the attacks against America on September 11, 2001, the National Defense Strategy recognized that existing efforts to defeat the enemies of the United States were not sufficient and required patience and “an extended series of campaigns” and that the fighting would be “long-term, episodic, and multi-front.” Safe havens for those who would target the United States and its Allies must be eliminated. This was a large task that would be ongoing, calling for operations that would attempt to bring governance where there is little or none, and then this established governance could be transferred to local entities for long-term security. Efforts must be concentrated in these areas, according to the strategy, areas that could not only allow training grounds and bases of operation for the enemy, but areas that may be destabilized with negative impacts on local security. The Defense Strategy was in line with the National Security Strategy in regard to maintaining conventional military dominance, promoting international security, and cultivating economic growth.<sup>66</sup>

The Executive and Legislative branches of the government have sidestepped the fundamental issue of exactly what the national instrument of military power should look like in terms of the mix of reserve and active forces. Additional missions have been assumed by the reserves and the Active Component has come to depend on augmentation. The reserves have morphed out of necessity, but clear discernment and guidance is lacking.

The confusion started in 1970 when the Gates Commission established the all-volunteer force, but the instituted changes did not include an operational plan for their use. As a result, the first test of the new doctrine during the Gulf War in 1990-1991 revealed gaps, many that still exist.<sup>67</sup> Lack of resourcing for training caused inadequate readiness within the reserves, and planning for reserve use was insufficient and uneven making the partial mobilization during the Gulf War more difficult than necessary.<sup>68</sup>

In 1997, the Assistant Secretary of Defense for Reserve Affairs, Stephen M. Duncan, recognized that reserve reliance is “politically inevitable,” but warned that “clear political strategy and policy guidance” is needed. Until that happens “there may not be satisfactory answers to the questions of how much military power is enough and what kind of power it should be.”<sup>69</sup> In other words, there needed to be a serious discussion regarding the proper mix of active and reserve forces, but he acknowledged that the unpredictability of global challenges would make that difficult.<sup>70</sup>

Concerned about the Gulf War mobilization issues, the George H.W. Bush Administration submitted its Fiscal Year 1992-1993 defense budget to Congress that requested an increase in the active-reserve balance of forces. Due to the large mobilization necessary to field the Armed Forces in the numbers needed for the Gulf

War, the President, the Services, and the Joint Chiefs sought to increase the active force to make a future large mobilization unnecessary. However, Congress balked, rejected the budget, and instead funded increased reserve manning levels in the National Defense Authorization Act for Fiscal years 1992 and 1993. The Act also mandated that the Secretary Defense conduct additional study to analyze policies and the current and future structure of the active and reserve forces required to meet future challenges under existing budget constraints. The final report, issued in 1993, began by noting that Congress had traditionally favored maintaining a robust Reserve Component in peacetime against the wishes of many Presidents, but that the Abram's Doctrine and Total Force Policy was followed in order to cut costs. However, the study sidestepped the fundamental question of proper use of the reserve forces and instead recommended a greater integration of reserve and active forces and stated that "the reserves must provide the forces that will enable us to fight and win."<sup>71</sup>

The much needed discussion concerning the role and mission of the reserves and the proper mix of active and reserve forces still did not occur after President Clinton assumed office. In fact, by the end of his presidency, the notion of a purely strategic reserve activated only to protect vital national interests had lost all credibility. Meanwhile, Mr. Duncan, still Assistant Secretary of Defense for Reserve Affairs, continued to call for a serious dialog concerning the use of the reserves.<sup>72</sup>

Subsequent studies showed the need for continued debate and some recommended ways to operationalize the reserves; however, there were neither answers nor action by leadership concerning roles and missions. Congress attempted to address the issue in 2005 when it mandated the convening of the independent

Commission on the National Guard and reserves in the National Defense Authorization Act of that year. The stated purpose of the commission was,

to assess the reserve component of the U.S. military and to recommend changes to ensure that the . . . components are organized, trained, equipped, compensated, and supported to best meet the needs of the U.S. national security.<sup>73</sup>

The Commission was tasked to recommend statute or policy changes to the way the reserves are organized, trained, equipped, or compensated so that they could best respond to the national security needs. The study acknowledged that no statutory changes concerning reserve governance had occurred in more than fifty years; however, the Commission assumed that the operational reserves were in place and did not address strategic governance of the reserves nor its lawful use.<sup>74</sup> The Chairman of the Committee, during Congressional testimony, saw no future decrease in the greater operational demands being placed upon the reserves, acknowledged that the current debate was inadequate, that “the All-Volunteer Force was never designed for sustained combat,” yet “we haven’t made the fundamental changes that are required to make (an operational guard and reserve) sustainable over the long term.” The Chairman supported the use of the reserves as an operational force because “we don’t want to go back to the draft” and in fact, “the Guard and Reserve are a true bargain for the taxpayer.”<sup>75</sup>

A Center for Strategic and International Studies Report in July 2006 called for a debate that addresses the purpose and function of the reserves, the best way for the Services to carry out their Title 10 responsibilities, and how best to sustain an increased operating tempo. It noted that,

It is clear that the role of the Reserve Component is no longer solely to act as a strategic reserve for the active military if a conventional campaign

takes longer or is more difficult than planned. For the next ten to 15 years, the Reserve Component will function as part of the operational force, side by side with the active military.<sup>76</sup>

The former deputy director for Joint Capabilities Development and Joint Doctrine Directorate at Joint Forces Command, Major General William Rajczak, interviewed eight key leaders within the reserves in 2008. The consensus was that the use of the reserves as an operational force in combat and in homeland defense was both cost effective and good policy. All the leaders interviewed advocated the concept of Continuum of Service in which reserve and active personnel seamlessly move between components. The extended careers would give the force the flexibility needed to meet changing demands. However, General Rajczak was not encouraged by the fact that although these leaders seemed ready to move forward with the needed changes in organization, training, equipping, chains of command, and culture to enact new roles and missions, by 2009 five of the eight leaders changed duties. No progress was made.<sup>77</sup>

Congress tasked the Joint Chiefs of Staff to review the Services' roles and missions in preparation for the 2010 Quadrennial Defense Review, but recommendations for administrative or policy changes were not included in the final Review.<sup>78</sup> The official Review promulgated by the Secretary of Defense spoke of continued prolonged use of the Armed Forces in Afghanistan and Iraq and directed the continued use of the reserve forces to augment the Active Component as needed. The Review directed that Reservists should not be mobilized more than one out of every six years. However, the Review declared that "we must ask more of the Reserve Component" and this "will likely necessitate the continued use of some elements of the Reserve Component." The Secretary alluded to the strategic statutory intent of the

reserves, and that attempts would be made to rebalance the force, but operational needs would prevail. The document pledged an extensive review of the role of the reserves in 2011.<sup>79</sup> If the review includes a discussion of the stated intent of the reserves beyond a strategic force that augments the Active Force, it would be the first of its kind in over 200 years.<sup>80</sup>

### Conclusion

The national leadership is so preoccupied with how best to operationalize the reserves that few have asked the logically preceding question of whether the reserves should be operationalized. According to law, the purpose of the reserves is not to constantly serve as an augment to the always in need active duty force.

Congress refuses to take a stand. Congressional members are ever cognizant of the will of the public, maintaining the support of a constituency is how membership is retained. The conundrum caused by doing what is in the national interests versus doing what is popular causes Congress to equivocate. For example, during the air campaign in Kosovo, Congress voted to continue funding, yet refused to approve the operations.<sup>81</sup> The Legislative Branch realizes that it can cut costs by maintaining a latent capacity in the reserves as opposed to a standing capability in an active force. Congressional members do not want to have to propose, yet alone approve, an involuntary draft that would surely be unpopular to those of draft age or to those with memories of the Vietnam debacle. It seems to be the intent of Congress to continue with the status quo, that is, using the reserves as an operational force to augment the Active Component as required, even if that need is constant. However, the operational pace is unsustainable and imprudent. When the Joint Resolution authorizing the use of force in Afghanistan

expires, Title 10 will not only be stretched, but broken. Policy and strategies for an operational reserve force will continue to position the reserves to be constantly used to augment the active force as predicted.

### Recommendations

The reserve leadership queried by General Rajczak recommended that the Reserve Component provide an operational reserve, a traditional strategic reserve, and a homeland defense subcomponent apportioned for short-fused activation. In the Continuum of Service paradigm, the operational reserve would be at the top end in terms of training and service time, with the strategic reserve at the other end. Personnel dedicated to the homeland defense mission would be somewhere in between. This is a viable alternative to the current reserve structure. However, the major hindrance to this concept cited by the leaders was institutional culture. Other problems requiring a solution were roles and missions and the balance of forces.<sup>82</sup> It is time for a serious discussion among Congressional leadership, the Executive Branch, government agencies including intelligence, treasury and justice, the Chairman of the Joint Chiefs of Staff and the Service Chiefs to determine roles, missions, and force mix in light of future challenges to national interests that will require integration of all of the instruments of national power.

This discussion will be ongoing as global conditions continue to change, but Congress must exercise the Constitutional powers granted by the Founding Fathers. The Legislative Branch was tasked to raise and support an army and navy through the power of the purse. Congress must decide, on the advice of the national military leadership and other government stakeholders, the true purpose of the reserves. The

United States Code must be amended to reflect the true will of Congress. As the law currently reads, the reserves are a strategic reserve, to be used for a short-term conflict, not a prolonged engagement. Law, policy, and strategy must be aligned.

The Total Force concept, as described in the Service strategies, spoke of seamless integration of the Reserve and Active Components with an ongoing exchange of personnel, duties, and functions. The Total Force concept could be implemented in the three tiered structure of operational, strategic, and homeland defense paradigm proposed by the reserve leadership queried by General Rajczak. Title 10 Section 10102 would need to be amended to reflect the revised purpose of the reserves.

In addition, Sections 10171 and 10172 of the Code established the United States Army Reserve Command and the Naval Reserve Force as separate commands of the Services. The Commander of the Army Reserve Command chain of command is directed by the Secretary of the Army. The Chief of the Naval Reserve Force, by law, is directed to report to the Chief of Naval Operations. The implication is that integrating the Navy Reserve forces and Active Duty forces with respect to personnel management must have dual consent of both the Chief of Navy Personnel and Commander, Navy Reserve Forces, under the direction of the Chief of Naval Operations. The same would be true of the Army.<sup>83</sup> This section of law does not seem to allow, for example, the Chief of Naval Operations to consolidate the two personnel forces; if they are to work virtually as one by law, as called for by the Continuum of Service and Total Force concepts, it must be under the cooperation and coordination of both commands. This integration would be tenuous at best because a change in leadership can easily disrupt any progress towards a Total Force. Even if the Navy achieved a level of cooperation,

insufficient guidance can cause disagreements between the Active and Reserve Components of the individual Services. There must be one chain of command for all aspects of reserve and active management.

Another issue is funding. The increases in end strength of the Reserve Component under the Total Force Policy and the Abram's Doctrine were not initially matched with the increased funding necessary to ensure readiness and modernization. The increased reserve operational tempo has resulted in some increases in funding, although it is still inadequate to ensure the sufficient recruiting, training, and equipping to fully enable the reserve forces.<sup>84</sup> Lack of resourcing for training caused inadequate readiness within the reserves, and planning for reserve use was insufficient and uneven and made the partial mobilization during the Gulf War more difficult than necessary.<sup>85</sup> If the reserves are to be used truly as an operational force, then law, policy, strategy, and funding need to be aligned. The current usage is politically viable, no draft is needed, and it is cost effective, but the operational tempo is not sustainable. If prolonged conflict is a way of life, if the President of the United States will continue to use the military as the instrument of power of choice, even sometimes bypassing Congress, then the Active Component needs to be grown accordingly. The questions of the right mix of active and reserve forces and their roles and missions in today's post-9/11 world must be answered; they can no longer be ignored. Without balancing the force, misalignment of law, policy, and strategy will continue with unanticipated consequences. Programs such as Continuum of Service can be used to alleviate the problems caused by a high operating tempo and provide the flexibility needed for the unpredictability of today's world, but to continue to ignore the issue is untenable.

## Endnotes

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<sup>65</sup> Jennifer C. Buck, *The New Guard and Reserve* (San Ramon, CA: Falcon Books, 2008), 175-185. Buck used three approaches to analyze the cost effectiveness of the army guard and reserves versus the army active component. One technique was not very accurate as it did not take into account the cost of equipment or research and development, a financial burden shouldered by the active component. This method also did not factor in the additional costs of frequent deployments. A second method, called the "cost of guard and reserve units" sought a comparison based on deployment cycles. A third approach was used in response to a 2004 tasking by Secretary of Defense Rumsfeld taking into account the way in which the reserve

component is used. Assuming a reserve member will deploy four times throughout his career and an active member seven times, and taking into account pay, retirement, privileges, and medical and other benefits, the lifetime cost of an active component member is \$2.4 million, the lifetime cost of a reserve component member is just \$780,000. A reservist can be mobilized for a deployment at a little over half the cost of active member. Regardless of the method used, the conclusion was that the reserves are not only cost effective, they bring value to the military that cannot be denied. Reservists bring specialized skills to the fight, skills that are difficult to obtain and maintain in the active component member and reservists are indispensable to community awareness by virtue of their very existence.

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<sup>79</sup> Robert M. Gates, *Quadrennial Defense Review Report* (Washington DC: Department of Defense, February 2010), vii, xii, 53, 54.

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<sup>81</sup> Bruce Nardulli, et al, *Disjointed War: Military Operations in Kosovo, 1999* (Santa Monica, CA: RAND Corporation, 2002), 43.

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<sup>84</sup> Carafano, "Total Force Policy."

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