

**Office of the Secretary of Defense
Reserve Affairs
Employer Support of the Guard and Reserve
Congressional Response**



March 31, 2004

**Prepared For:
House Report 108-187**

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Report on Reserve/Employer Relations

National Committee for Employer Support of the Guard and Reserve

INTRODUCTION

This report responds to the request of the House Appropriations Committee that the Secretary of Defense provide a report on the state of Reserve/Employer relations as found in Congressional Report 108-187 Fiscal Year 2004.

BACKGROUND

Established by Presidential Proclamation in 1972, the National Committee for Employer Support of the Guard and Reserve (ESGR) operates a proactive program directed at U.S. employers, employees, and communities. ESGR's mission is "To gain and maintain active support from all public and private employers for the men and women of the Guard and Reserve as defined by demonstrated employer commitment to employee military service."

In fulfilling that role, the ESGR provides advice to the Secretary of Defense concerning Reservists and their relationship with civilian employers. The Defense Advisory Board for Employer Support of the Guard and Reserve, lead by the National Chairman of ESGR, recommends policies and priorities for employer support actions and programs. The ESGR assesses the morale and spirit of America's employers as it relates to employer support for service in the Guard and Reserve. On March 30, 2004, ESGR will start measuring an employer's level of commitment against a 1 through 5 star scale/standard at the time that employers sign a Statement of Support. This data will then be recorded in the ESGR database.

The Department of Defense (DoD) is in the midst of a fundamental transformation of its strategy, policies, and force structure. Today, over 1.2 million Americans serve our Nation as members of the Guard and Reserve. From September 11th, 2001, through December 31, 2003, over 319,000 Reserve component personnel were mobilized in the Global War on Terrorism (GWOT). As of December 31, 2003, 181,459 Reserve component personnel were on active duty - here at home and in every theater around the world - supporting the GWOT. Forty-six percent of the uniformed military forces reside in the Guard and Reserve. DoD could not perform the mission as our Nation's defenders without the proper support of employers of Guard and Reserve personnel. Over the last decade, Guard and Reserve usage has increased tremendously, as reflected in Figure 1.

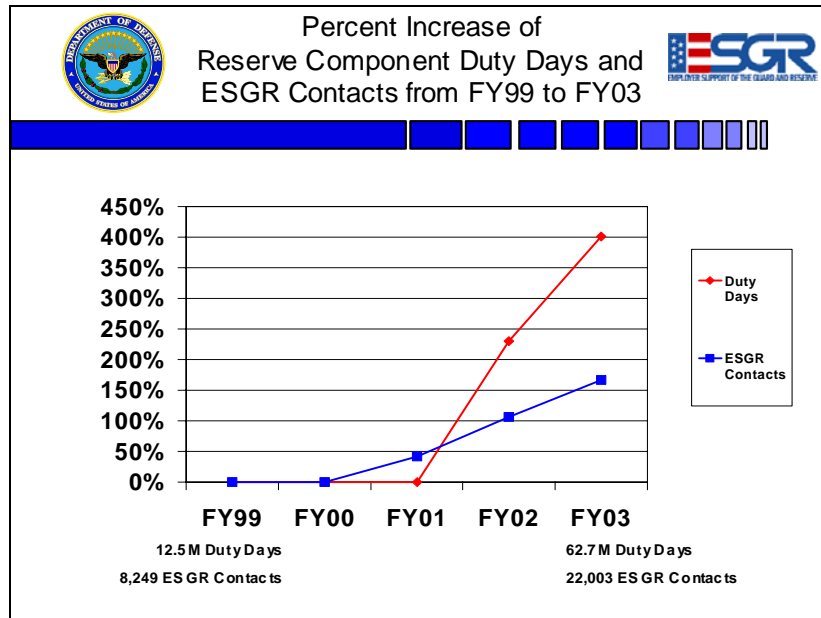


Figure 1

In FY 02 the increase in usage of Guard and Reserve personnel over FY 99 was 230% and in FY 03 the increase in usage over FY 99 was 401%. Additionally, the average length of activation for the current operations (Operations Noble Eagle/Enduring Freedom/Iraqi Freedom) is 319 days, as of December 31, 2003. This figure is for Guard and Reserve personnel who have completed their mobilization assignments as of that date. Currently mobilized Guard and Reserve personnel can expect to serve longer. This tour length is longer than earlier Presidential Recalls for Kosovo, Bosnia, and Haiti, which averaged just over 200 days, and Operation Desert Shield/Storm, which averaged 156 days.

Congress recognized that economic status and job security of Reserve component (RC) members are integral to DoD manpower strategy. Congress passed "The Uniformed Services Employment and Reemployment Rights Act (USERRA)", (Title 38 U.S. Code, Chapter 43, Sections 4301-4333, Public Law 103-353) in October 1994. Presently USERRA appears to be working. USERRA defines the rights and responsibilities of the RC and their employers. USERRA covers the specifics of mobilization and demobilization and recognizes that employer support is critical to RC retention, combat readiness and sustainment.

The National Committee for ESGR is the agency within the Office of the Assistant Secretary of Defense for Reserve Affairs with responsibility for facilitating compliance with USERRA. It is a paramount tenant of personnel strategy that ESGR continue to measure employer support and develop personal relationships with America's employers. Employer support is inextricably linked to National Security and is absolutely critical to recruiting and retaining quality men and women into our Reserve forces. Building employer support requires a strong network comprised of both military and civilian-employer leaders who are capable of fostering communication, education, and an exchange of information. ESGR is the DoD's primary office for outreach and education to employers.

In that role, ESGR volunteers (over 4200) work at the local level to ensure understanding and appreciation of the role of the Guard and Reserve in the context of DoD total force policy. ESGR helps ensure employees participating in Guard/Reserve service perform their duty without civilian job impediments of any kind. ESGR also encourages voluntary compliance with laws governing the employment and reemployment rights of RC members. ESGR's Ombudsman services assist in preventing, resolving, or reducing employer and/or employee problems and misunderstandings that may result from Guard or Reserve membership, training, or duty requirements.

The ESGR Ombudsman program provides "third party assistance" and informal mediation services to employers and members of the Guard and Reserve. ESGR partners with the U.S. Department of Labor Veterans' Employment and Training Service (VETS). Volunteer members are trained by ESGR and VETS to provide assistance in the resolution of employment conflicts that can result from military duty protected under USERRA. Employers, RC service member/employees and other interested individuals use this program extensively. (Appendix A)

CURRENT SITUATION

The House Appropriations Committee has indicated that it is concerned about anecdotal reports of diminished support for Reservists called up for contingency operations. While some problems may exist, it is also true that some employers provide support well beyond what is legally required.

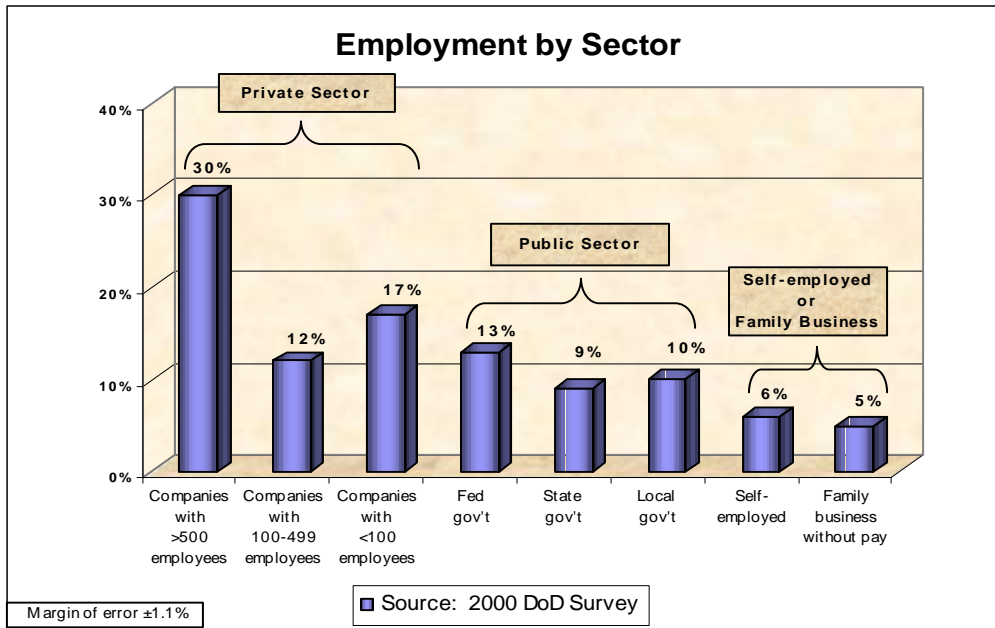
It was widely reported immediately after September 11, 2001, that many employers were providing extended benefits and pay differentials to Reservists called up to work in recovery operations and to provide immediate security across our nation. Since that time, there has been a steady increase in employers offering some financial support beyond that required by USERRA. The Reserve Officer's Association of the United States website displays the results of their 2003 survey of *Fortune* 500 companies. Of 154 respondents, 105 offer a pay differential to mobilized Reservist/employees, up from 53 in 2001. By comparison, only 17 offer no financial benefits to mobilized Reservists, down from 30 in 2001. Our experience is that the nation's employer community is overwhelmingly supportive.

Still it is possible, with extended and rotational deployments, that employer support may diminish or may differentially impact certain segments of the business community. Thus DoD desires to have a better understanding of the impact of activations and deployments on employer support. A fundamental problem facing DoD is a lack of adequate information about who employers are; and the nature of problems they face. However, we are taking steps to remediate this lack of information as described below.

DoD recently initiated the first mandatory reporting of civilian employer information from Guard and Reserve personnel. Since extensive empirical data is not available, the best source of information on civilian employers is gleaned from periodic surveys of Reservists conducted by the Defense Department.¹

¹ DoD conducts period surveys of their active and Reserve members. Prior to 2003, DoD used independent contractors to conduct surveys of Reserve component members. Analysis of those survey results was conducted by

Survey results provide some insights into the characteristics of the civilian employment of Reservists. The most detailed information is based on the results of the DoD 2000 Reserve component survey² (Figure 2). Broken down by sectors in which Reservists are employed, 59% of Reservists work in the private sector, with 30% working for a company that employs over 500 people and 17% working for smaller employers—those who employ less than 100 people. Of the 32% of Reservists who work in the public sector, 13% work for the federal government. Only 11% work in a family business or are self-employed.



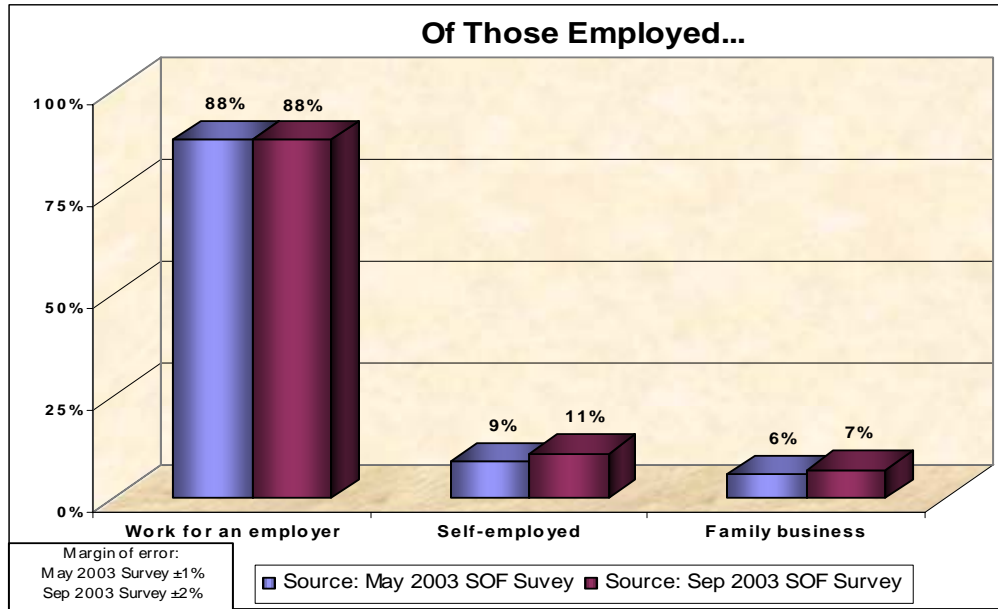
*Percentages exceed 100% due to the possibility of members working multiple jobs.

Figure 2

These findings are relatively consistent with the findings from the May and September 2003 Status of Forces surveys³, which asked about employment status. These two surveys report similar findings with 88% report working for an employer and only 15 to 17% report working in a family business or are self-employed, as shown in Figure 3. the contractor in conjunction with the Defense Manpower Data Center (DMDC), an agency within DoD. Beginning in 2003, DoD began using an in-house resource (DMDC) to conduct quarterly “Status of Forces” surveys. The survey results presented in this paper are taken from the responses from Reservists to a survey of Reserve component members conducted in 2000 and from the May 2003 and September 2003 Reserve component Status of Forces surveys.

² The 2000 DoD survey sampled 74,487 Guard and Reserve members from all seven Reserve components with a total of 37,768 (51%) members responding to the survey.

³ The May and September 2003 Status of Forces surveys sampled 71,701 and 55,155 Guard and Reserve members respectively from all seven Reserve components with 25,559 (40%) and 17,595 (38%) members respectively responding to the survey.



*Percentages exceed 100% due to the possibility of members working multiple jobs. Employed includes part-time, full-time, and full-time military.

Figure 3

IMPACT ON THE FORCE

Increased use of the RC impacts our ability to meet our future human resource requirements. It is unclear at this point what long-term effects this increased use may have. End strength objectives are currently being achieved. Experience demonstrates that highly motivated Reserve component personnel will continue to serve if they are provided predictable expectations of service and are treated with dignity and respect when mobilized. A significant or unusual exodus of members over the past 31 months has not been evident. Reserve attrition figures for FY 02 and FY 03 have remained within the established ceiling of 20%. FY 04 year-to-date figures as of January are below the FY 03 year-to-date as of January 2003, therefore projections for FY 04 should also be under that ceiling. However, 4th Quarter FY 04 is the first quarter that a significant change resulting from the current operations would be expected to appear. This data will not be available until November 2004. We remain vigilant in monitoring attrition trends.

It is recognized that retention of RC personnel can be highly influenced by employers and families. ESGR assumes responsibility for the employer retention aspect. Through an aggressive Employer Outreach, ESGR has an objective of removing the employer as an impediment to retention. For employment issues that require additional assistance, the ESGR Ombudsman program provides informal mediation of employer/employee USERRA issues. Through a network of over 400 volunteer Ombudsmen, this program responded to over 22,000 requests for assistance in FY 03. Our experience is that the Nation's employer community is overwhelmingly supportive of their employees who have been activated under the ongoing mobilization.

In the years just prior to September 11th, the Reserve component contribution was about 12.5 million duty days. (Figure 1) As a result of the Operations Noble Eagle, Enduring Freedom, and Iraqi Freedom, that contribution increased to 62.7 million duty days. Similarly, the number of employment inquiries related to Reserve component service has increased as well.

In the fiscal year prior to September 11th, ESGR had 8,355 total inquiries or cases. In the fiscal years after September 11th, ESGR experienced an increase in inquiry volume each year. ESGR inquiries in FYs 01, 02 and 03 were over 11,672, 17,000 and 22,003 respectively. Interestingly, while the annual increase has been substantial, a comparison of the two sets of data (duty days and ESGR inquiries) shows that the increase in employment issues has been less than proportional to the increased use of the RCs as shown in Figure 1. Indeed, the inquiry rate has actually *decreased* proportional to Reserve component personnel usage since September 11th.

An analysis of pre- and post- September 11th employment issues also reveals similarities. In FY01, information requests led the list for both employers (45%) and employees (26%). Generally, employer and employee inquiries differed mainly in distribution. Although, information requests led employee inquiries (25%), the distribution among other categories was more equal. In contrast, information requests constituted nearly half of employer calls. Notably, cases about workplace harassment (12.6%) and weekend drill (8.8%) represented the second and third highest type of employee inquiry. Questions about benefits (6.7%) and harassment (5.4%) represented the employer's second and third highest categories. A summary of the top five categories in FY 01 (from all callers) shows information requests led overall, followed in order by harassment cases, termination/layoffs, weekend drill issues, and benefit questions/cases.

A comparison between employer and employee concerns in FY 03 shows again that the primary reason for contacting ESGR was for information. The distribution of inquiries in that area closely matched the distribution prior to September 11th. Employer information requests again constituted almost half (46%) of employer calls, with the remainder almost evenly distributed among the other categories. In fact a number of employer calls taken at the ESGR National Headquarters were requests as to what they could do to ensure that their Reservist/employees were not harmed financially during mobilizations. In contrast, employee information requests represented only 26% of their inquiries with a larger percentage spread among the remaining categories. While there were other differences between employer and employee inquiries, most distinctions seem slight.

Issues related to reinstatement, benefits, and terminations/layoffs rounded out the top five categories in FY 03. These issues tend to be linked to active service, mobilization, and demobilization. A spike in layoffs could also result from economic conditions rather than increased use of the RC. This contrasts to FY 01 where issues related to inactive RC service received more inquiries. In spite of this, an overall comparison between FY 01 and FY 03 shows that the nature of ESGR cases again remained consistent.

The decreased inquiry rate and issue consistency lead us to conclude that we have been largely successful in mitigating problems for our Nation's employers. Yet, while experience has shown that employers have been generally supportive, we realize that issues still exist.

Accordingly, DoD is taking steps to proactively identify and address any anticipated problems before they negatively impact employer support of our RC personnel.

PROACTIVE INITIATIVES

ESGR initiatives underway provide training and information to ESGR volunteers to ensure their focused efforts are more effective. In addition, ESGR Employer Outreach continues to expand as training of volunteers is improved. The ESGR goal is to double the number of active volunteers in the ESGR program while balancing the number of volunteers with the demographics, by state, against the number of Reservists/Guardsmen in each state and focus on recruiting more business leaders. ESGR initiatives for recognizing supportive employers continue to expand. Major ongoing initiatives are to recruit additional volunteers and provide greater capability to accomplish ESGR's increased mission demands. These initiatives are accomplished by:

- Identifying the employers of Guard and Reserve members
- Determining employer attitudes and identifying trends through surveys and Ombudsman case data compilation
- Developing personal relationships with employers
- Developing and fielding IT systems to create manpower efficiencies
- Implementing follow up processes to sustain employer support
- Providing mobilization and demobilization support at all service mobilization and demobilization stations
- Increasing national awareness regarding ESGR and the employer's importance to national security

Additionally, ESGR has established a Customer Service Center hotline (800-336-4590) to provide information and assistance on issues related to Guard/Reserve member civilian employment. To capture and accurately identify the data collected by the Customer Service Center, ESGR has developed a robust database to replace the legacy system that was used through FY 03. This database will be used in conjunction with employer and service member data stored by the Defense Manpower Data Center (DMDC). The synergy derived from linking these databases will enable us to accurately identify who employs Guard and Reserve personnel and the types of problems they encounter. This, in turn, will allow DoD to proactively address employment issues before they become problems.

The current ESGR data collection process does not reflect the before, during, or after activation status of the individual Reservist/Guardsman. We do track the number of telephone calls to the ESGR Customer Service Center, but all have been treated as current and immediate. However, the planned upgrades to ESGR information technology and data collection systems will allow for capturing this in the future.

The effort to gather data on employers of Reservists began shortly after September 11th, 2001, when DoD established an employer database in which Guard and Reserve members were

encouraged to provide information about their civilian employers. We had limited success in populating the database; therefore, DoD recently established the Civilian Employment Information (CEI) program. CEI makes the reporting of civilian employer information by RC members mandatory. This information will enable DoD and ESGR to communicate directly with those employers who actually employ RC members. The CEI program will enable DoD to fulfill its statutory requirement with respect to employers and civilian employment issues.

While employer data is being gathered, other efforts to gain insights into the impact Reserve service on employers are underway. DoD has one ongoing research project involving employer support and the impact that employing Reservists has on employers. This study is an assessment of the specific costs employers incur when their Reservist-employees are absent to perform military duty. This involves surveying a number of employers in order to quantify the actual costs incurred by employers and to determine areas that are of greatest concern to them. Data collection of this study was scheduled for 2003 and 2004 with results due by the end of December 2004.

CONCLUSION/LEGISLATIVE RECOMMENDATIONS

It is premature to propose legislation that might affect employer support. Information on employers who actually employ Guard and Reserve members is limited to survey findings, but is not linked to specific employers or specific employer concerns. As previously mentioned, DoD is in the process of gathering the information that identifies employers who are actually affected by Reserve service. This data will enable us to identify areas of greatest concern to employers and develop programs specific to their needs.

As we have emerging insights based on empirical research, we will develop policies and recommend legislation, if needed, which will enhance employer support for service in the Guard and Reserve. Until such time as we have information derived from employers of reservists, proposing legislative changes may be poorly focused and not yield the desired results.

APPENDIX A

Issue Comparison '99-'03

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