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**“Citizen Soldiers” – Support to Domestic Operations**

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## **ABSTRACT**

The 2005 Defence Policy Statement establishes for Canadians, the Department of National Defence and the Canadian Forces that the defence of Canada is the government's first priority. The Government directed the Canadian Forces to reorganize and retool itself to focus on this mandate and included the formation of a new "Canada Command" responsible for the planning and conduct of Domestic Operations. The Defence Policy Statement (DPS) recognized the continuation of traditional domestic tasks and assigned several new tasks to the Canadian Forces with a clear indication of shared responsibility between the Reserve and Regular Forces. The 1987 and 1994 Defence White Papers mandated the Canadian Forces to generate Reserve Forces that could provide augmentation to expeditionary operations and provide a force base for mobilization in times of crisis. A reserve force structure and employment framework, based primarily on a legislated process heavily dependent on volunteerism for operational support, was formulated to support such a construct. Although this framework was capable of meeting contingency requirements in the past, it is not sufficient to meet ever-increasing demands. The framework will require changes in order to meet domestic operational requirements in an environment of new domestic tasks coupled with personnel demands by four new operational Commands and the higher operational tempo facing the Canadian Forces in general.

## “CITIZEN SOLDIERS”<sup>1</sup> – SUPPORT TO DOMESTIC OPERATIONS

### INTRODUCTION

In 2005 the Government of Canada released the defence section of Canada’s International Policy Statement, commonly referred to as the Defence Policy Statement (DPS).<sup>2</sup> This document was the first governmental review of Canada’s defence policy in more than ten years. The policy statement established the defence of Canada as the Government’s first priority, commonly referred to as the Canada First policy, and it directed that “the Canadian Forces will be reorganized and retooled to tighten their focus on this primary mandate.”<sup>3</sup>

To meet their fundamental responsibility to protect Canadians within Canada, the government called upon the Canadian Forces to re-examine their approach to domestic operations.<sup>4</sup> Canada is now viewed as a single operational area and the Canadian Forces is to establish a single integrated structure that will be able to bring “the best available military resources from across Canada to bear on a contingency, wherever it occurs nationwide.”<sup>5</sup> The policy statement indicates that this will be a shared responsibility between the Regular and Reserve Forces.<sup>6</sup> As a part of the single integrated structure, the

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<sup>1</sup> For the purposes of this paper the term “Citizen Soldier” will be used in a generic sense to refer to reservists in general, regardless of the environment they are associated with.

<sup>2</sup> Department of National Defence, Canada’s International Policy Statement – A Role of Pride and Influence in the World – Defence (Ottawa: ADM(PA), 2005).

<sup>3</sup> Ibid, Message from the Minister.

<sup>4</sup> Ibid, 18

<sup>5</sup> Ibid, 18-20

<sup>6</sup> Idem

Canadian Forces was directed to establish a new national command, Canada Command, responsible for responding to national contingencies.<sup>7</sup>

On 1 February 2006, Canada Command assumed operational responsibility for routine, contingency and rapid response contingency operations in Canada.<sup>8</sup> As part of this mission, the Commander of Canada Command was directed by the Chief of Defence Staff “to have CF effect on the ground within in twelve to twenty-four hours of an event.”<sup>9</sup> What he meant by an event was not clearly identified. Given the military personnel resource pressures of the Afghanistan mission, coupled with new demands by three other new Operational Commands, the Commander Canada Command will be more dependant upon reserve forces for the support of domestic operations, as well as support to staffing headquarters shortfalls.<sup>10</sup>

The reserves in general, and the Army Reserve in particular, have been structured and force generated based upon a Cold War precept as an augmentation force supporting expeditionary operations. Therein lies a dilemma for the Canadian Forces with regards to the Canada First policy. Given the historical dependence for reserve support to expeditionary operations, which does not appear to be changing any time in the foreseeable future, the reserve force must now be capable of supporting domestic operations effectively as well.

This paper will discuss a reserve force structure and employment framework, based primarily on a legislated process heavily dependent on volunteerism for operational support that is not sufficient to meet ever increasing operational support requirements.

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<sup>7</sup> Idem

<sup>8</sup> Department of National Defence, CANFORGEN 012/06 CDS 007/06 311900ZJAN 06, para 3

<sup>9</sup> Department of National Defence, 1901-1 (Comd), *Commander Canada Command Guidance* (Ottawa: DND Canada, 26 July 2006), 3

The paper will recommend changes that will be required at the policy and regulatory levels to ensure an effective and capable domestic operational reserve force, able to support the Canada First policy.

## **BACKGROUND**

The 1987 White Paper on Defence identified a growing “commitment-capability gap” within the Canadian Forces.<sup>11</sup> At the time, the Regular Force was having increasing difficulty in meeting its commitments. The Reserves were seen as cost-efficient means of closing this gap as reflected in these words from the White Paper:

It is now clear that it is both impractical and undesirable to try to meet all of our personnel requirements through the Regular Force. The costs attached to an all-volunteer military force have become too high.<sup>12</sup>

This White Paper officially introduced into the Canadian military lexicon the term “Total Force.”<sup>13</sup> In the words of the White Paper:

The Canadian Forces are a unified force of maritime, land and air elements. Their structure is based on a Total Force concept that integrates full- and part-time military personnel to provide multi-purpose, combat-capable armed forces. Under the Total Force concept, Regular Forces are maintained to provide the Government with a ready response capability; Reserve Forces are intended as augmentation and sustainment for Regular units, and, in some cases, for tasks that are not performed by Regular Forces [...]. The concept also provides the framework for training and equipping the Reserves.<sup>14</sup>

In 1994 the Government issued a new Defence White Paper that reaffirmed the Government’s commitment to the “total force” concept, and stated that the reserves were a “national institution” providing a vital link between the Canadian Forces and local

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<sup>10</sup> As the J1 Reserve at Canada Command Headquarters the author is aware of staff manning pressures.

<sup>11</sup> Government of Canada, Challenge and Commitment, A Defence Policy for Canada 1987, Supply and Services Canada, 1987, 43

<sup>12</sup> Ibid, 65

<sup>13</sup> Department of National Defence, NDHQ Program Evaluation E2/94 – Implementation of the Total Force Concept; (Ottawa: NDHQ 30 November 1995).

communities, while maintaining their main role as augmentation, sustainment and support of deployed forces. The 1994 White Paper also noted that as a result of the changing strategic environment, mobilization planning needed to be considered. Despite this written show of support for the reserves the Government also announced a reduction in the size of the Reserve Force from 1994 levels of 29,400 to 23,000 in 1999.

Additionally, the Government ordered a review of the Primary and Supplementary Reserves with an aim of focusing Reserve resources on improved operational capability and availability.<sup>15</sup>

The 1987 and 1994 Defence White Papers were developed in an era that still considered the European theatre as the greatest threat for another war. Mobilization planning was therefore set as the focus for force development and generation of Canada's military forces, including the reserves.

Also shaping this development were numerous reviews, studies, audits and a Special Commission on the Restructuring of the Reserves. The Commission's Report submitted to the Minister of National Defence on 30 October 1995 reinforced reserve mobilization force generation by stating that the priorities given to the four phases of the mobilization concept proposed in the 1994 Defence White Paper had failed to recognize that the fundamental role of the reserves was to provide the mobilization base for war. It also recommended that the mobilization plan should be completed with "dispatch," recognizing that the stated reserve role should be paramount in the planning of the eventual mobilization plan. The Special Commission Report in particular led to numerous

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<sup>14</sup> Government of Canada, *Challenge and Commitment, A Defence Policy for Canada 1987*, Supply and Services Canada, 1987, 43

changes for the reserves, which included the Land Force Reserve Restructure (LFRR) project. All together this process of these processes guided the reserve framework and structure leading up to the release of the DPS, and its new focus on domestic operations.

The DPS acknowledged that the military has been structured primarily for international operations, while the domestic role has been treated as a secondary consideration. Although the word “Reserve” is used sparingly throughout the DPS document, within the Domestic section assigned tasks have been annotated “Regular” and “Reserve” in brackets for each Environment. This was an indication by the Government that the reserves should play a greater role in domestic military responses to a crisis or defence of the country.

Having concentrated for so long on a mobilization construct for expeditionary operations, always argued for by Reserve proponents such as Reserve 2000, but never actually implemented, one is left wondering if the reserve force has the capability and capacity of simultaneously supporting a redirected domestic role.

## **THE RESERVE FORCE**

The reserve employment framework that provides the authority for the Commander of Canada Command to use the reserves in a domestic role are rooted within the laws of Canada, and the regulations that describe the make-up of the Canadian Forces. As defined in the National Defence Act (NDA), there is a component of the Canadian Forces called the Reserve Force that consists of members “who are enrolled for

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<sup>15</sup> Department of National Defence, 1994 White Paper (Ottawa: Canada Communications Group, 1994. Available at [http://www.forces.gc.ca/site/Minister/eng/94wpaper/highlights\\_e.html](http://www.forces.gc.ca/site/Minister/eng/94wpaper/highlights_e.html) Internet accessed 26 September 2006.



other than continuing, full-time military service when not on active service.”<sup>16</sup> This component is comprised of four sub-components: the Primary Reserve; the Supplementary Reserve; the Cadet Instructor Cadre and the Canadian Rangers.<sup>17</sup>

The Primary Reserve is sub-divided into several elements; the Naval Reserve (NAVRES); the Militia (Army Reserve); the Air Reserve (Air Res); and the Communication Reserve (Comm Res).<sup>18</sup> Recently, the Health Services Group has formed the Health Services Reserve and the Judge Advocate General has formed a Legal Reserve.

The Supplementary Reserve (Sup Res) is not a formed unit but rather a database of names, primarily of former members of the Regular and Reserve Forces.<sup>19</sup>

The Cadet Instructor Cadre (CIC) is made up of members who administer and instruct the Cadet program<sup>20</sup> and will not be discussed further.<sup>21</sup>

The Canadian Rangers are members who live in sparsely settled, northern, coastal and isolated areas of Canada and provide a military presence in those areas that cannot be covered conveniently or economically by other segments of the Canadian Forces.<sup>22</sup>

Armed Forces Council has directed that the Canadian Rangers will form a new

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<sup>16</sup> Government of Canada. National Defence Act, Subsection 15(3). Available from within the Consolidated Statutes and Regulations of Canada at <http://laws.justice.gc.ca/en/N-5/index.html> : Internet: accessed 20 Sept 2006.

<sup>17</sup> Government of Canada. Queens Regulations and Orders, section 2.034, Reserve Force Sub-components. Available at: [http://www.admfincs.forces.gc.ca/qr\\_o/vol1/ch002\\_e.asp#2.03](http://www.admfincs.forces.gc.ca/qr_o/vol1/ch002_e.asp#2.03) Internet: accessed 17 October 2006.

<sup>18</sup> Ibid

<sup>19</sup> Idem

<sup>20</sup> Idem

<sup>21</sup> Current legislation allows the government to make use of the Cadet Instructor Cadre (CIC) in a military capacity in an emergency. Armed Forces Council has directed that the CIC is to be removed from the Reserve Force to eliminate this capacity as the CF has indicated that it will never use the CIC for such purposes.

<sup>22</sup> Ibid

component of the Canadian Forces, separate from the reserves,<sup>23</sup> and will therefore not be discussed further in this paper.

In recent years the reserves have contributed to domestic contingency operations in response to crisis and natural disasters such as the Red River flood in 1997, the ice storm in 1998, the aftermath of the Swissair Flight 111 disaster in September 1998, Y2K and the B.C. forest fires in 2003.<sup>24</sup> Table 1 details the extent of reserve support to these various domestic operations.<sup>25</sup>

<b>OPERATION</b>	<b>RESERVE PARTICIPATION</b>
Op ASSISTANCE (1997) Red River Flood	Approx 200
Op RECUPERATION (1998) Ice Storm	3,740
Op PERSISTENCE (1998) Swissair Flight 111	Approx 35
Op ABACUS (1999) Millennium Rollover (Y2K)	11,000
Op SUPPORT (2001) Terrorist highjacking in the US	200
Op PEREGRIN (2003) B.C. Forest Fires	860
Op SPLINTER (2004) Hurricane Juan	300
Op CANOPY (2005) Water contamination at Kasheschewan	31

Table 1

Of particular note is the figure of 11,000 reservists who indicated that they were prepared to volunteer for Op ABACUS. No action was required, but it shows that reservists are fully prepared to commit when needed and when their support is managed

<sup>23</sup> Department of National Defence. Armed Forces Council Meeting 04/06 Held on 19 April 2006 – Record of Discussions 1180-1 (D NDHQ Sec) 26 May 2006.

<sup>24</sup> Senate of Canada: Proceedings of the Standing Committee on National Security and Defence, June 13, 2005, Chair Hon Colin Kenny (Ottawa)

and planned for.<sup>26</sup> The other operations noted were crisis contingency operations that occurred with little or no warning. Had Op ABACUS been an actual no-notice crisis operation requiring reserve support of 11,000 personnel, it is unlikely that current legal and regulatory rules would have made it possible. To the Commander of Canada Command, this should be a matter of some concern given the potential of having to action requests for support to crisis events on the scale of the 11 September 2001 terrorist attacks, a major pandemic outbreak or a major west coast earthquake. Current reserve service obligations based upon organizational and legal constraints do not make this possible without changing current internal departmental policies and amending current legislation and regulations. The next section will discuss these issues.

### **Legal Issues (Constraints)**

Reserves are twice the volunteers in that they volunteer to join the Canadian Forces and then volunteer again for employment and deployment.<sup>27</sup> This concept is firmly rooted within the laws of Canada and has been at times a point of reflection for operational planners. Anecdotally it has been mused by some that because reservists do not have the same obligations for service as their Regular Force brethren; can they be counted upon to be there when needed?<sup>28</sup> What this reflects is concern as to whether members of the Reserve Force will continue to volunteer their service in times of hardship or crisis.

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<sup>25</sup> Reserve Statistics provided by Chief of Reserves and Cadets to the Commander Canada Command for discussion with the French General in Charge of Reserves on his visit to Ottawa on 18 Jul 2006.

<sup>26</sup> Conversation with Chief of Reserves and Cadets staff indicated that reservists were surveyed in the months leading up to the millennium for their availability if required.

<sup>27</sup> Comment made by MGen Herb Petras, Chief of Reserves and Cadets at a meeting of the CDS Action Team Reserve advisors held in Ottawa on 23 April 2005.

<sup>28</sup> As a member of the Canada Command staff, this anecdotal comment has been made on several occasions in discussions with fellow staff members.

For operational planning purposes, it is important to understand the legal boundaries within which reservists may be compelled to serve should it be required domestically. Such reserve employment is governed by legislation within the National Defence Act (NDA) and regulations (Queens Regulations and Orders, Canadian Forces Administrative Orders and Defence Administrative Orders and Directives).<sup>29</sup>

Section 33 of the NDA lays out a management framework for reserve employment that is governed by three processes: active service, call-out (both government decisions) and service with consent (personal decision). In order to maximize the utilization of the reserves in times of national crisis, operational planners need to consider these three processes, their limitations and the implication upon reserve members.

Section 31 of the NDA imposes liability to serve that allows the Governor in Council to place any component of the Canadian Forces or any member of the Canadian Forces on active service in or beyond Canada at any time when it appears advisable to do so.<sup>30</sup> This section of the NDA specifies the circumstances:

- by reason of an emergency, for the defence of Canada; or
- in consequence of any action undertaken by Canada under the United Nations Charter, the North Atlantic Treaty, the North American Aerospace Defence Command Agreement, or any other similar instrument to which Canada is a party.<sup>31</sup>

The term “Active Service” has not been defined in the NDA or elsewhere. It has been postulated that it has an implied meaning of a “fighting status” vice a “peace time”

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<sup>29</sup> Department of National Defence, Discussion Paper on Employment of Reserves provided to CDS Action Team 1 – Command and Control, dated 2 October 2001.

<sup>30</sup> CANFORGEN 089/06 CMP 042 101236Z May 06 was an advisory message to advise reservists that they were on Active Service outside of Canada, and further advised of the consequences of being on Active Service, which included completing the terms of service for which they volunteered.

<sup>31</sup> Government of Canada. National Defence Act, Subsection 31. Available at <http://laws.justice.gc.ca/en/N-5/index.html> : Internet: accessed 21 September 2006.

training or employment status and that it was meant to provide the Canadian Forces with a surge capability.<sup>32</sup> This position has merit in that an “Active Service” Order in Council is the only instrument at the government’s disposal that compels continuous full-time service by all members of the reserves.<sup>33</sup> Also supporting this position is the fact that the word “emergency” is very specifically defined within the NDA as being “an insurrection, riot, invasion, war and armed conflict, whether real or apprehended.”<sup>34</sup>

Although seemingly restrictive in application, the use of the Active Service provisions of the NDA for the employment of reserves cannot be overlooked. In this current era of asymmetric warfare, the government has recognized that Canada is not immune from acts of terrorism. Through the DPS the government has stated that the Canadian Forces must be prepared to support civil authorities in dealing with terrorism.<sup>35</sup> Currently, members of the Reserve Force are on Active Service when voluntarily serving outside of Canada.<sup>36</sup> The Government of Canada could deem an act of terrorism committed on Canadian soil to be a Defence of Canada requirement and, through an Order in Council, place the Reserves on Active Service in Canada to support civil authorities.

Given that politically unsavory legislation is required to mandate duty, the government may be reluctant to do so. Given the current and foreseeable operational

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<sup>32</sup> Department of National Defence, JAG Discussion Paper on Employment of Reserves provided to CDS Action Team 1 – Command and Control, dated 2 October 2001.

<sup>33</sup> Government of Canada. National Defence Act, Section 31. Available at <http://laws.justice.gc.ca/en/N-5/269056.html>: Internet: accessed 23 Sept 2006.

<sup>34</sup> Government of Canada. National Defence Act, Subsection 2. Available at <http://laws.justice.gc.ca/en/N-5/269056.html>: Internet: accessed 10 October 2006.

<sup>35</sup> Department of National Defence, *Canada’s International Policy Statement – A Role of Pride and Influence in the World – Defence*, ADM PA, 2005, Protecting Canada and Canadians, pg 16.

<sup>36</sup> Government of Canada, Order Placing Members of the Canadian Forces on Active Service for the Purpose of Fulfilling Canada’s Obligations Under the North Atlantic Treaty, SI/89-103 at <http://laws.justice.gc.ca/en/N-5/si-89-103/148130.html> Internet: accessed 23 Sept 2006

tempo of the Canadian Forces, a major terrorist attack on Canada may require such action. The Commander Canada Command must consider this as a force requirement option and be prepared to staff a request for such action, up the chain of command for government consideration, as may be required.

This position has merit if one considers a recent suggestion by the Standing Senate Committee on National Security and Defence. They suggested that it may be time to consider some sort of “compulsory call to Active Service” for reservists to meet “Canadians expectations” that reservists would be available when for whatever reason “regular forces are short of capacity to serve the nation’s need.”<sup>37</sup> An analogy was drawn to jury duty, which is compulsory unless a person can show cause why they cannot do it.<sup>38</sup> Such discussions signal a concern that more support will be required from the reserve force in the future. The impact on reservists if such compulsory action is implemented will be addressed later in this paper.

Beyond the provisions of active service the government and the military have another reserve employment enabler available, known as Call-out. Section 33 of the NDA authorizes reserves to train or to perform any lawful military duty, other than training, for periods prescribed by regulation or otherwise by the Governor in Council. QR&O article 9.04(3) provides authority to the Minister of National Defence (MND) to call-out the primary reserves or reserve units in the event of an emergency for other than continuous full-time service. This regulation does not provide the MND with any authority to call-

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<sup>37</sup> Senate of Canada. An Interim Report of the Standing Senate Committee on National Security and Defence. *Managing Turmoil – The Need to Upgrade Canadian Foreign Aid and Military Strength to Deal with Massive Change*. (Ottawa: 5 October 2006) 83. Available at <http://www.parl.gc.ca/39/1/parlbus/commbus/senate/com-e/defe-e/rep-e/RepOct06-e.pdf> Internet accessed 16 October 2006.

<sup>38</sup> Ibid

out the Supplementary Reserve, however. The government should change this restriction or consider getting rid of the Supplementary Reserve all together. What's the point of maintaining the list unless available for supporting military operations?

The Supplementary Reserve has the potential to provide increased support to domestic operations. "The purpose of the Supplementary Reserve is to augment the Regular Force and other sub-units of the Reserve Force ... as required during normal peacetime situations, with their consent; and during an emergency or mobilization if placed on active service, without their consent."<sup>39</sup> As noted earlier, the Supplementary Reserve is simply a database of names, primarily of former members of the Regular and Reserve Forces. This database contains files on approximately 42,600 members.<sup>40</sup> The MND's ability to call-up the Supplementary Reserve is limited however, by QR&O article 2.034(b) which states that the Supplementary Reserve are "not required to perform military or any other form of duty or training."<sup>41</sup>

Their support potential for Canada Command is reflected in the CDS Action Team Report on Command and Control, which reported, "... the vast majorities of personnel on the Supp Res are not interested in day-to-day employment, but want to be there for Stage 4 Mobilization purposes."<sup>42</sup> This indicates a continuing desire on the part of these members to serve Canada in times of great crisis.

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<sup>39</sup> Department of National Defence, DAOD 5002-4, Overview section. Available at [http://www.admfincs.forces.gc.ca/admfincs/subjects/daod/5002/4\\_e.asp](http://www.admfincs.forces.gc.ca/admfincs/subjects/daod/5002/4_e.asp); Internet accessed 29 October 2006.

<sup>40</sup> Department of National Defence, 1950-9 (CAT 1) CDS Action Team (CAT1) Final Report – CF C2 (part V – Reserve C2), (Ottawa: DND Canada 29 June 2005), 5.

<sup>41</sup> Government of Canada. Queens Regulations and Orders, section 2.034, Reserve Force Sub-components. Available at: [http://www.admfincs.forces.gc.ca/qr\\_o/vol1/ch002\\_e.asp#2.03](http://www.admfincs.forces.gc.ca/qr_o/vol1/ch002_e.asp#2.03); Internet: accessed 17 October 2006.

<sup>42</sup> Department of National Defence, 1950-9 (CAT 1) CDS Action Team (CAT1) Final Report – CF C2 (part V – Reserve C2), (Ottawa: DND Canada 29 June 2005), 5.

Alternatively however, the Air Force Association of Canada noted a sense of frustration on the part of many members of the Supplementary Reserve who indicated, "... they were never contacted to do anything, have little understanding of how the Supplementary Reserve is managed, and don't expect to be asked to do anything."<sup>43</sup> The association questions the value of the Supplementary Reserve today. Current policies that do not require members of the Supplementary Reserve to train or even parade once a year challenges the Canadian Forces ability to keep information up to date to ensure availability or operational currency.<sup>44</sup>

The Canadian Forces and the government must make a decision on the continuing role and value of maintaining such a Supplementary Reserve. As a manpower resource of previously trained military members who understand basic military procedures and chain of command they would be a valuable resource to the Commander of Canada Command, should a large number of military personnel be required to assist on a major domestic crisis. Steps must be taken to ensure availability and operational capability however.

The government could and should consider mandating that all retiring members of the Regular and Reserve Forces be automatically component transferred to the Supplementary Reserve for a period of two or three years. During this period these members would be required to attend a two-day update session once a year in order to update their personnel information and be provided an update of Canadian Forces issues. Additionally, these members could remain liable during this period, for call-up by the

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<sup>43</sup> Air Force Association Position Paper 02/2006, Towards an Effective Supplementary Reserve (8 May 2006), Available at <http://www.airforce.ca/SupplementaryReservePositionPaperMay06.htm> Internet accessed 29 October 2006.

<sup>44</sup> Ibid



MND as may be required for domestic humanitarian crisis operations. Because of the mandatory nature of this proposal, legislative and regulatory changes would be required.

If the requirements for a Supplementary Reserve are seen as minimal, then consideration should be given to eliminating it. This would allow administrative staff who currently administers the database to be employed elsewhere.

Other sections of the NDA (Sections 275 and 276), provides call-out authority to the CDS, in consultation with the Minister, when a request for aid of the civil power has been received from the Attorney General (or equivalent) of a province. Such a request would normally be in response to a riot or disturbance of the peace beyond the powers of the civil authorities to suppress, prevent or deal with.<sup>45</sup> A terrorist act or pandemic situation that incites mass panic and civil disorder beyond local authority capabilities may provide the CDS and the MND with cause to call-out the reserves, if requested by a province. The Commander Canada Command, having no authority to call-out the Reserves, would need to advise the CDS if such a call-out was required to carry out an aid to the civil power mission.

Active service and call-out provisions of the NDA have a major impact upon reservists. As part-time members of the Canadian Forces most reservists have other employment or are students. The provisions of active service or call-out would impose a 24/7 liability to service. Canada has no enforceable job-protection legislation in place that would protect a reservist's civilian employment.

In 2002 the Standing Committee on National Defence and Veterans Affairs recommended job protection legislation for Reservists called-up for duty in response to a

major emergency.<sup>46</sup> In 2004 the Government initiated a process leading to a limited degree of job protection legislation under clause 80 of Bill C-7: The Public Safety Act, 2002. The government acknowledged a requirement for job protection by stating:

without job protection, some Reservists called up for compulsory service might find themselves in a difficult situation where they would have to choose between losing their jobs because of a long absence to carry out their military duties or breaking the law if they ignore the call-up order. As a result, a number of the Reservists on which the military counted might not report to duty following a call-up, thereby hampering Canada's ability to respond to a national or international emergency.<sup>47</sup>

Despite the government's acknowledgement of a need for a level of job protection, the Government has not approved the required regulations that are required to make job protection enforceable. CANFORGEN 090/04 noted that although Bill C-7 received Royal assent on 6 May 2004 "the provisions on reinstatement will not be effective until regulations are prepared and approved by the Governor-in-Council."<sup>48</sup>

In a recent Senate debate, the Honorable Hugh Segal noted that an article in MacLean's magazine recounted the story of a reservist who returned from a training exercise and was told by a senior executive, "You were one of our best employees until you got involved in this silly army thing."<sup>49</sup>

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<sup>45</sup> Government of Canada. National Defence Act, Section 275. Available from within the Consolidated Statutes and Regulations of Canada at <http://laws.justice.gc.ca/en/N-5/269688.html#rid-269746>; Internet accessed on 26 September 2006.

<sup>46</sup> House of Commons, Standing Committee on National Defence and Veterans Affairs, Facing our Responsibilities, The State of Readiness of the Canadian Forces, David Pratt, M.P., Chair (may 2002)

<sup>47</sup> Government of Canada, Bill C-7: The Public Safety Act, 2002, 12 February 2004 pg 31. Available at <http://www.parl.gc.ca/37/3/parlbus/chambus/house/bills/summaries/c7-e.pdf>; Internet accessed on 26 September 2006.

<sup>48</sup> Department of National Defence, CANFORGEN 090/04 ADMHRMIL 044 021818Z JUL 04 Reinstatement in Civil Employment, Available at <http://army.dnd.ca/LF/Downloads/reinstatement.doc>; Internet accessed on 29 October 2006.

<sup>49</sup> Senate of Canada, Debates of the Senate (Hansard), 1st Session, 39<sup>th</sup> Parliament, Volume 143, Issue 31, 27 September 2006; Available at [http://www.parl.gc.ca/39/1/parlbus/chambus/senate/deb-e/031db\\_2006-09-27-E.html?Language=E&Parl=39&Ses=1#44](http://www.parl.gc.ca/39/1/parlbus/chambus/senate/deb-e/031db_2006-09-27-E.html?Language=E&Parl=39&Ses=1#44); Internet accessed 29 October 2006.

Once enforcing regulations are approved, Bill C-7 will provide limited job protection for reservists called-out for full-time service “in respect of an emergency” only, as defined earlier within the NDA. The legislation will provide no level of protection for students or for reservists who volunteer for service. Through Bill C-7 the government has acknowledged that as a part of the war on terrorism, there is increased possibility that Canada may have to deal with a major emergency and that the government is considering the potential of calling out the reserves if necessary. With such an acknowledgement, why then does the Government not extend job-protection to reservists who volunteer to serve under the same crisis requirement conditions? Reservists who are worried about their civilian jobs are more likely not to volunteer, but wait until mandated to do so, thus protecting their civilian jobs. This could result in a delay in getting reserves to the scene of a crisis, which may cause lives. The Government should reconsider this restriction and allow reserve volunteers the same job protection.

A recent Senate Committee meeting on National Defence and Security noted that some of the delay in drafting the regulations may be the result of a review by the Government with regards to expanding the meaning of what would constitute an “emergency” for which the government could order a call-out of the reserves.<sup>50</sup>

Without a change to the definition of what constitutes an emergency, that may include natural disasters, the government cannot use the provision of active service or call-out. Regardless of the reasons for the delay in finalizing the regulations for reserve job protection, the CDS’ ability to mandated reserve support through call-out is unlikely to occur, unless the government is willing to accept the political fall-out. This forces the

Commander Canada Command to rely upon reservists to volunteer when a major crisis occurs.

In enacting the job-protection regulations, consideration must be given to the second order effects. Imposing job protection regulations may have a negative affect on the Canadian Forces and the reserves in regards to recruiting. Civilian employers may not wish to hire someone who is a reservist, if they know the person can be called away for service reasons. In turn people may be less inclined to join the reserve. The Senate recently discussed this very issue at a 27 September 2006 debate session.<sup>51</sup> To ensure that this does not occur, the government needs to consider putting in place additional protective human rights legislation against such discriminatory hiring practices.

Canada has had a long history of volunteerism when it comes to employing the reserves, and therefore has not had a history of requiring job protection legislation, which may explain the Government's reluctance to put forward what may be seen as unpopular legislation.

To the federal government's credit it has implemented "Reserve Force Training Leave" regulations for reserve members who are employed in the Public Service of Canada. These regulations permit leave to be granted to those members who may be required to be absent from their public service positions to take annual training or duty necessitated by the declaration of a disaster such as floods or fire.<sup>52</sup> This is a positive

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<sup>50</sup> Senate of Canada, Proceedings of the Standing Committee on National Defence and Security, Hon C. Kenny Chair, (Ottawa: June 6, 2005), Available at <http://www.parl.gc.ca>; Internet accessed on 30 September 2006.

<sup>51</sup> Senate of Canada, Debates of the Senate (Hansard), 1st Session, 39<sup>th</sup> Parliament, Volume 143, Issue 31, 27 September 2006; Available at

step that the federal government could enhance through discussions with provincial governments in order to enact similar regulations.

The Commander Canada Command will have difficulties getting reserve support if recent national recruiting efforts to fill staff positions within the headquarters, and the Regional Joint Task Forces headquarters are any indication.<sup>53</sup> These recruiting efforts resulted in low numbers of applications and in several circumstances no applications at all. Additionally, there are other indications that there is more work than there are reservists available to fill positions. A scan of unit Routine Orders such as CFSU(O) routinely has advertising for an average of 30 or more reserve employment opportunities. Many of these positions are repeated from month to month.<sup>54</sup> This may be an indication of difficulties to come and should be closely monitored. A way to do this would be to survey reservists on a quarterly basis to determine availability and readiness for the next quarter. By doing this and reporting it up the chain-of-command, there would be early warning of potential reserve manning shortfalls should a crisis hit.

Reserve capability should be as much an issue of concern for the Commander of Canada Command as is the issue of reserve availability, when it come to operational planning. It is difficult to determine however, if current reserve capabilities are what the Commander Canada Command requires as the Command only stood up on 01 February 2006, and has not had an opportunity to generate force generation requirements.<sup>55</sup> This

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<sup>53</sup> As J1 Reserve for Canada Command the author is very familiar with recruiting efforts.

<sup>54</sup> Department of National Defence, Reserve Employment Opportunities; [http://www.cfsuo.forces.gc.ca/csss/ro/reserve-employment-opportunities\\_e.asp](http://www.cfsuo.forces.gc.ca/csss/ro/reserve-employment-opportunities_e.asp); Internet accessed 29 October 2006.

<sup>55</sup> The author as J1 Reserve for Canada Command and a member of the Battle Staff is familiar with the Command's planning process.

needs to be rectified as soon as possible to ensure force generators are providing the capabilities required by the Commander.

Responsibility for the implementation of the previous “total force” policy, and delegated management authority<sup>56</sup> for reservists has allowed each of the force generators to organize and develop their reserves in very different and unique ways. This section will discuss each reserve elements evolution and capability to support domestic operations and discusses changes that would enhance capabilities.

### **Today’s Reserve**

The naval reserve has been specifically tasked with the control of shipping and maritime coastal defence, including the clearing of naval mines. This has permitted the Regular Force maritime ships to concentrate on other tasks. The approximate 3,900 naval reserve personnel are located in various headquarters, schools and twenty-four Naval Reserve Divisions located across the country. They operate ten Kingston Class ships and two Fleet Diving Units assigned to Maritime Operations Group of the Maritime Forces Pacific and Atlantic. About 1,200 members are employed on a full-time basis leaving 2,700 who train on a part-time basis and could be available for supporting domestic operations. The naval reserve provides personnel for Naval Coordination and Guidance to Shipping (NCAGS), which is now a sub-specialty of Reserve Intelligence (Sea). Several of these personnel have been employed at Canada Command to provide Intelligence assistance. NCAGS and Naval Reserve Port Security Units as well as their associated Port Inspection Dive Units are part-time units. When established by operations order, these units, with the exception of NCAGS units, can report to a

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<sup>56</sup> Environmental Commanders and Force Component Commanders were delegated management authority over their own Reserves by the 1993 Defence Development Guide and Plan.

Maritime Operations Group Commander, Maritime Component Commander, Joint Rear-Area Commander or a Harbour Defence (port security) Commander for tasking in the defence of North America.

The Naval Reserve can clearly contribute to Canada Command operations within the specific role they have been assigned. Additionally, naval reserve personnel undergoing training at the divisional training units located across the country provide a source of reserve manpower that could be called in the event of a crisis.

The Conservative government has indicated that it is examining options for a deep-water port in the Arctic that will extend the Navy's reach.<sup>57</sup> Such a requirement may require the acquisition of arctic capable icebreakers. This is a role that should be given to the naval reserve in addition to their MCDV role, in order to allow the Regular Force navy to continue to concentrate on more expeditionary operations.

Unlike the Naval Reserve that has concentrated on supplementary roles within the navy, the Air Force Reserve has concentrated primarily on complementary roles, through an integrated force structure. Reserve positions are embedded as a part of the establishment of most Air Command units. No unique roles or tasks have been assigned to the Air Reserve. Their defined mission is, "to provide a flexible, responsive and reliable contribution to Air Force capabilities where and when required."<sup>58</sup> There are approximately 2,400 Air Reserve personnel employed in over 90 Air Command units across the country. Approximately 70% of Air Reservists are former Regular Force

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<sup>57</sup> Prime Minister's speech on asserting northern sovereignty delivered in Alert, Nunavut on 13 August 2006. Available at <http://www.pm.gc.ca/eng/media.asp?category=1&id=1276>; Internet accessed on 29 October 2006.

<sup>58</sup> Department of National Defence, *Air Reserve Development Strategy* (draft) (Ottawa: Chief of the Air Staff, September 2006), 13

members who are more like part-time employees, providing an average of 8-12 days a month direct contribution to the day-to-day operation of the Command.

The Air Force has adopted a surge model that allows members to move from part-time to full-time employment in response to Regular Force manning shortfalls and in response to periods of increased operational tempo. At any one time over 40% of the Air Reserve can be on full-time service, although most individual full-time service is less than 180 days total in a year.<sup>59</sup> This is mainly due to the fact that many of these retired members are collecting a pension and do not feel a need for civilian employment.

This surge model is worthy of wider consideration by the Canadian Forces. There are many reasons why members of the regular force choose to retire. As the Air Force has shown, many are still willing to contribute on a part-time basis. This is a cost-effective method of recruiting and employing an already trained and highly skilled workforce that can be called upon to meet no-notice domestic operational requirements. The high percentage of acceptance of periodic full-time service shown by members of the Air Reserve, displays a potential willingness of this segment of the reserve force to respond in support of domestic operations. Additionally, without having to be concerned about getting time away from civilian employment, Canada Command could rely more on service by consent, than call-out or active service provisions. The Canadian Forces force generators need to explore this option more fully within their respective environments in support of Canada Command.

The Communication Reserve is a force of approximately 2038 personnel. There are 23 units located across Canada, organized geographically into five Communication Groups (Comm Gp). Each Comm Gp provides a National Command and Control system



through small detachments, on 24, 48 and 72 hours notice-to-move. These detachments are capable of providing basic strategic communication services. They also provide short notice services to JTF Commanders in the event of a domestic crisis and provide a secure means to access the National Command and Control systems when deployed. Comm Res personnel have historically been attached to Regular Force Signal Squadrons as individual augmentees or detachments within the Land Force Areas for the duration of an operation.<sup>60</sup>

The Comm Res have developed a domestic response capability that will provide basic communications support to Canada Command. The 24-hour notice-to-move readiness capability meets the CDS' intent in regards to Canadian Forces response to a domestic crisis.

The Health Service Reserve supports the mandate of the Health Services Group, which is to provide health services necessary to forces across the full spectrum of military operations. There are 188 Health Service personnel from various Medical and Dental trades within the Health Services Reserve. The Health Services Primary Reserve is organized as 14 Reserve Field Ambulance units dispersed across the country. Each of these units is under an "OPCON" relationship to a supported Reserve Canadian Brigade Group (CBG). Reserve Field Ambulance units have the same structure and establishment as their Regular Force counterpart. The CF Health Services also maintains a Primary Reserve List (PRL) primarily composed of clinical members who are tasked to operate as

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<sup>59</sup> Col P.J. Davies, Briefing Note for CDS Action Team 1. (NDHQ Ottawa), 15 March 2005.

<sup>60</sup> Maj D. McLellan, Briefing Note for CDS Action Team, (NDHQ: Ottawa) 16 March 2005.

elements of Advance Surgical Centers, in support of naval, land and air operations.

These individual members are used to backfill positions vacated by deployed personnel.<sup>61</sup>

Although small in numbers the Health Service Reserve provides an increased capability and capacity for the Health Service Group, in particular as backfill when Regular Force members are not available due to high expeditionary operations tempo. Civilian health service providers, expressing a desire to assist the Canadian Forces, have approached the Health Service Group on several occasions. These individuals are not looking to join the Regular Force, but rather are willing to provide service here in Canada or on deployed operations. Unfortunately, issues such as security clearances, recruiting delays and liability insurance have forced many away.<sup>62</sup>

The Canadian Forces should consider developing a process and procedures to bring these individuals into the Reserve Force, even if it is for short periods of time, to help elevate manpower pressures within the Health Services Group.

The Army Reserve currently has 168 units organized across 10 Reserve Brigades, with an approximate strength of 16,000 personnel.<sup>63</sup> Under the auspices of the LFRR project, the following capabilities unique to the Army Reserve are being established: Civil and Military Cooperation (CIMIC), Canadian Psychological Operations Capability (CPOC), and Community-based Contingency Planning Officers (CCPO). To add depth to the Army, traditional functions within Public Affairs and Military Police are also being enhanced in the Army Reserve. CCPO positions are a good initiative that will provide

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<sup>61</sup> Department of National Defence, Briefing Note to CDS Action Team 1 on control # 1209 DGHS/CF Health Services Group (CF H Sves Gp).

<sup>62</sup> Advanced Military Study Program 9 Syndicate A discussion with Colonel Sanschagrin of the Health Service Group, 27 October 2006.

direct community liaison support to Canada Command. Canada Command needs to ensure that the training for these positions is directed to meet Commander's intent for such activities. CCPOs can enhance situational awareness on the domestic footprint across Canada.

Through the LFRR process, the Army has worked to develop an Army Reserve within a framework that would be used to mobilize or expand the Army "should the nation ever need to respond to a large crisis" and that "augments the professional Army by providing soldiers, units or specialist...."<sup>64</sup> The Army Reserve has been focused on force generation to meet mobilization requirements and expeditionary operations. The CLS has now proposed a midcourse correction to this traditional Army Reserve role. On 9 September 2006 the CLS outlined a vision for future Army capabilities. He proposed that the primary role of the reserve component would be support to domestic operations, with augmentation by the Regular Force when needed. The Army Reserves will continue to augment deployed operations as required.

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principle of mobilization planning that assigns roles and tasks to the Army Reserve, and that mobilization planning should drive the shape of Canada's Army.<sup>67</sup>

The CLS is proposing a new Command and Control structure be established by the creation of 12 Territorial Defence Battalion Groups (TDBG) across the country.<sup>68</sup> Each TDBG will initially be supported by a headquarters cadre of 57 reserve personnel, growing to 100 in time. These are ambitious personnel requirements for an Army Reserve that has traditionally had Regular Force administrative support staff. It will take some time to recruit and train enough reserve-qualified staff. The Army reserve will need to seek out reservists who may have the available time and are willing to take more advanced training at a quicker pace in order to meet the CLS' requirements. Alternatively, the Army Reserve should look at implementing a form of the Air Reserve surge model by actively recruiting retiring Regular Force personnel. This would provide the highly skilled personnel required for such new units.

The TDBGs are designed to draw upon local reserve units to form new Domestic Response Companies (DRO) that will support domestic operations. At stand-up there will be approximately 450 identified troops, eventually growing to 1,000. Army Reserve units will be tasked to provide a DRO for humanitarian assistance domestic operations at 8 hours notice to move.<sup>69</sup> It is conceivable to believe that actionable job protection regulations will be required to assist in this endeavour.

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<sup>67</sup> Reserves 2000, *Canada's Army of the Future – Restructuring for Prudent Defence*, [http://www.reserves2000.ca/restructuring\\_for\\_prudent\\_defenc.htm](http://www.reserves2000.ca/restructuring_for_prudent_defenc.htm); Internet accessed 29 October 2006.

<sup>68</sup> Presentation by Lt Gen A. Leslie presentation to the Army Senior Leadership Forum, *Future Army Capabilities and Force Structure*, 09 September 2006.

<sup>69</sup> Department of National Defence, *LFRR Annex Q – Domestic Response Platoons*, (Ottawa: CLS), pg 3

Phase one locations include Victoria, Vancouver, Edmonton, Ottawa, Montreal, and Halifax.<sup>70</sup> This proposal would take into consideration the increased numbers of reservists that the Government has promised, focusing them in major urban centres, thus adding support to domestic operation missions. No explanation has been provided for the locations selected. Victoria and Vancouver are good choices given the potential for Canadian Forces support to the upcoming 2010 Olympics. On the other hand no locations have been selected in the Prairie Provinces, nor has one of Canada's largest metropolitan centres, Toronto, been selected. Toronto should have been as part of the Phase 1 initiative. One would suspect that Toronto would be a primary target for terrorists if they were to strike Canada. Additionally, the size of the population base would make recruiting of additional personnel less difficult.

### **Conclusion**

The DPS directed that the first priority for the Government is the defence of Canada. The reserves are expected to contribute to the Canadian Forces mission of protecting Canada and Canadians. Today's reserve force structure and employment framework however was designed upon earlier government direction in earlier Defence White Papers of 1987 and 1994. This structure and framework was centered upon Cold War thinking that the reserves were needed to augment the Regular Force as a part of a mobilization plan for expeditionary operations. The government has now redirected a focus on domestic operations. Given historical reserve support to expeditionary operations the challenge for the reserves is to now be able to support domestic operations effectively as well.

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<sup>70</sup> Colonel Halfper, ADComd LFCA interview with author, 12 October 2006

The legal constraints put in place by the government have resulted in a system whereby Commanders are dependent upon the willingness of reservists to volunteer for operations. Although this has supported contingency operations in the past, given the pressures of supporting four new operational commands this may not be realistic for the future. A major terrorist attack on Canada would allow the government to place reservists on Active Service to support Canada Command. Other crisis situations would allow the MND or the CDS to place reservists on call-out. The difficulty with such action is that there is no enforceable job-protection in place to protect reservists' civilian employment. Without this protection it is unlikely that the government or the CDS would take such action but given the operational tempo of the Afghanistan mission and CF Transformation they may have no choice if a major event were to occur in Canada requiring the Forces assistance, something that the Senate has discussed. The government must put such job protection regulations in place as soon as possible.

The current utility of the supplementary reserve is questionable given the challenges of maintaining information on its members. It could become a useful tool for the Commander of Canada Command if the government would make changes to the law that made it mandatory for retiring Canadian Forces members to join the Supplementary Reserve for a minimum of two to three years with mandatory annual DAG requirements. Adding a liability for call-out to support domestic humanitarian contingency operations would enhance reserve support to Canada Command. Such an initiative would also require supporting job-protection regulations to be effective.

Each of the reserve elements has been force generated in different ways. Each is capable of supporting domestic contingency operations; however the question is if it is

the right support capability for Canada Command? The Commander Canada Command must put forward his anticipated requirement so that the force generators can develop and train to his requirements.

The Air Force surge model for its Air Reserve has utility for other reserve elements in that it utilizes already highly training military personnel, many of whom have shown wiliness to surge to periods of full-time service when required.

The Army's new TDBGs concept has potential for added reserve support and higher readiness levels to support domestic operations, however time will tell if the CLS is effective in implementing this concept.

A reserve employment framework that relies primarily on volunteerism for support is no longer valid; however there are options available that would ensure an effective and capable domestic operational reserve that would be in concert with a Canada First policy.

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