



441 G St. N.W.  
Washington, DC 20548

June 27, 2019

The Honorable James M. Inhofe  
Chairman  
The Honorable Jack Reed  
Ranking Member  
Committee on Armed Services  
United States Senate

The Honorable Adam Smith  
Chairman  
The Honorable Mac Thornberry  
Ranking Member  
Committee on Armed Services  
House of Representatives

### **Military Personnel: Factors Affecting Approval Time for Officer Appointments**

To function effectively, the Department of Defense (DOD) must have sufficient numbers of qualified officers. As of December 2018, over 360,000 officers were serving in the military services' active and reserve components. Officers must be appointed to a service, component, and pay grade.<sup>1</sup> "Original appointments" are made to new officers, such as those who graduate from a military academy, as well as to existing officers who transfer to another service or between the active and reserve components within a service. A "promotion" is an appointment of an officer to a higher pay grade. States promote National Guard officers, but these promotions must be federally recognized for officers to wear the insignia or to receive the pay of their new grade when under federal orders.<sup>2</sup>

According to the U.S. Constitution, the President, with advice and consent of the Senate, shall appoint all officers of the United States. However, Congress may by law grant the authority to appoint certain officers to the President alone, to the courts, or to the heads of departments.<sup>3</sup> In Title 10 of the U.S. Code, Congress granted the President authority to make appointments for

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<sup>1</sup>The military services each have an active component. There are also seven reserve components (U.S. Army Reserve, Army National Guard of the United States, U.S. Air Force Reserve, Air National Guard of the United States, U.S. Navy Reserve, U.S. Marine Corps Reserve, and Coast Guard Reserve). Pay grades are administrative classifications used primarily to standardize compensation across the military services.

<sup>2</sup>The process of federally recognizing state promotions of National Guard officers is intended to ensure that officers meet federal promotion requirements.

<sup>3</sup>U.S. Const., art. II, § 2, cl. 2.

certain officers while retaining the requirement for Senate confirmation for others.<sup>4</sup> The President subsequently delegated appointment authority to the Secretary of Defense.<sup>5</sup> As a result, officer appointments are either approved by the Secretary of Defense or are approved by the President and confirmed by the Senate.<sup>6</sup>

DOD's process for approving officer appointments relies on appointment packages compiled and submitted to the Office of the Secretary of Defense (OSD) by the military services. These packages include a "scroll," which is a list of names nominated for appointment, and supporting documentation. Ensuring that the approval process is timely and efficient is important because DOD officials stated that delays in officer appointments could affect when an officer is available for a unit or when a promoted National Guard officer can receive the pay of the officer's new grade.

Senate Report 115-262, accompanying a bill for the John S. McCain National Defense Authorization Act for Fiscal Year 2019, raised questions about DOD's officer appointment processes and their effects on officer retention or availability.<sup>7</sup> The Senate report included a provision for us to review those processes. In April 2019, we provided a briefing to the congressional armed services committees on the results of our work; this report formally transmits our briefing slides and communicates the final results of our work (see enclosure).

This report describes: (1) the processes used for approving original appointments and federal recognition of National Guard promotions; (2) the number of original appointment and federal recognition scrolls that were approved from fiscal years 2017 and 2018; and (3) factors that affect the time it takes to approve officer appointments.

For objective one, we reviewed relevant sections of the U.S. Constitution and U.S. Code, executive orders, and DOD policies. We also interviewed officials from the services, OSD, the White House Military Office, and the Senate. For objective two, we analyzed data from OSD's appointments database to identify the number of scrolls (and officer names) that were submitted by the military services to OSD in fiscal years 2017 and 2018 and approved by the Secretary of Defense or by the President and confirmed by the Senate. We assessed the reliability of the data by testing the data and interviewing knowledgeable officials and determined that the data were reliable for our purposes. For objective three, we analyzed data from OSD's appointments database to identify the amount of time it took from when OSD received a scroll submitted in fiscal years 2017 and 2018 until the Secretary of Defense's approval or Senate confirmation.<sup>8</sup> We also reviewed sections of the U.S. Constitution and U.S. Code, executive orders, legal opinions, and DOD policies to identify appointment requirements, and interviewed officials to

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<sup>4</sup>See, e.g., 10 U.S.C. §§ 531(a), 571(b), and 12203(a).

<sup>5</sup>Exec. Order No. 13358, 69 Fed. Reg. 58,797 (Sept. 28, 2004); Exec. Order No. 13384, 70 Fed. Reg. 43,739 (July 27, 2005).

<sup>6</sup>There are two types of officers in DOD: warrant officers (pay grades W-1 to W-5) and commissioned officers (pay grades O-1 to O-10). The Secretary of Defense has the authority to approve appointments for officers in the active component pay grades of W-1 to W-5 and O-1 to O-3 and in the reserve component pay grades of W-1 to W-5 and O-1 to O-5. The President and Senate approve appointments for officers in the active component pay grades of O-4 to O-6 and the reserve component pay grades of O-6 and above.

<sup>7</sup>S. Rep. No. 115-262, at 193-194 (2018).

<sup>8</sup>The database does not track the time it takes to process a scroll within the military services before it is submitted to OSD.

identify factors affecting how long it takes to approve officer appointments and steps DOD is taking to address them.

We conducted this performance audit from November 2018 to June 2019 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## Summary

In general, similar processes are used for approving original appointments and federal recognition of National Guard promotions. The military services develop and submit to OSD appointment packages, which include one or more scrolls. DOD requires submissions to be in both print and digital formats. OSD completes quality assurance steps and facilitates a legal review of the packages, which are then approved by the Secretary of Defense or, if required, sent to the White House for the President's signature and then to the Senate for a confirmation vote.

The Secretary of Defense approved, or the Senate confirmed, 2,832 original appointment and federal recognition scrolls with 111,837 names that were submitted to OSD during fiscal years 2017 and 2018. We found that 2,619 scrolls (about 92 percent) were approved by the Secretary of Defense and 213 scrolls (about 8 percent) were approved by the President and confirmed by the Senate.

DOD identified three factors that affect the time it takes to approve officer appointments.

- (1) **Presidential approval and Senate confirmation.** We found that appointments requiring presidential approval and Senate confirmation took, on average, an additional 34 business days (about 7 weeks) to process after OSD's review and approval—based on our analysis of data from fiscal years 2017 and 2018.
- (2) **Appointments for officer transfers.** Service officials said that obtaining Secretary of Defense or Senate approval for officers transferring between active and reserve components may affect processing time, and that obtaining such approval from military department secretaries—instead of going to higher levels for approval—could be faster. Additionally, service officials said appointments for transferring officers are redundant because existing officers have already gone through the approval process for their current appointment. However, OSD officials stated that such appointments are required under current law.
- (3) **Inaccurate information in appointment packages.** OSD officials stated that the services often submit inaccurate information in appointment packages, which can delay approval until corrected. According to military service officials, the current appointments process is not automated and is labor intensive because DOD does not currently have an information system to automate the process for developing, reviewing, and approving officer appointments.

DOD officials said they are taking steps to address these factors, including tasking RAND's National Defense Research Institute to conduct a study—planned for completion by the end of 2019—to identify improvements to DOD's officer appointment processes.

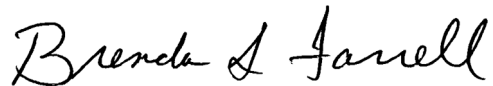
## Agency Comments

We provided a draft of this report to DOD for review and comment. DOD provided technical comments, which we incorporated as appropriate.

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We are sending copies of this report to appropriate congressional committees and the Acting Secretary of Defense. This report is also available at no charge on the GAO website at <http://www.gao.gov>.

Should you or your staff have any questions about this report, please contact Brenda S. Farrell at (202) 512-3604 or [FarrellB@gao.gov](mailto:FarrellB@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report include Alex Winograd, Assistant Director; Vincent Buquicchio; Martin De Alteriis; Kirsten Leikem; and Geoffrey Peck.



Brenda S. Farrell  
Director, Defense Capabilities and Management

Enclosure

# **Military Personnel: Factors Affecting Approval Time for Officer Appointments**

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**Information Provided to the  
Armed Services Committees  
April 3, 2019**

## Contents

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- Introduction
- Source of Work, Objectives, and Methodology
- Background
- Objective 1: Processes for Approving Original Appointments and Federal Recognition of National Guard Promotions
- Objective 2: Number of Original Appointment and Federal Recognition Scrolls Approved from Fiscal Years 2017 and 2018
- Objective 3: Factors That Affect the Time It Takes to Approve Officer Appointments

## Introduction

To function effectively, the Department of Defense (DOD) must have sufficient numbers of qualified officers. As of December 2018, over 360,000 officers were serving in the military services' active and reserve components. Officers must be appointed to a service, component, and pay grade.<sup>1</sup>

- Original appointments are made to new officers, such as those who graduate from a military academy or officer candidate school. They are also made in other instances, such as when officers transfer to another service or between the active and reserve components within a service at the same pay grade.
- Promotions are an appointment to a higher pay grade. States promote National Guard officers, but these promotions must be federally recognized for officers to wear the insignia or receive the pay of their new grade when under federal orders.<sup>2</sup>

<sup>1</sup>The military services each have an active component. There are also seven reserve components (U.S. Army Reserve, Army National Guard of the United States, U.S. Air Force Reserve, Air National Guard of the United States, U.S. Navy Reserve, U.S. Marine Corps Reserve, and Coast Guard Reserve). Pay grades are administrative classifications used primarily to standardize compensation across the military services.

<sup>2</sup>The process of federally recognizing state promotions of National Guard officers is intended to ensure that officers meet federal promotion requirements.

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## Introduction (continued)

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DOD uses a process to approve officer appointments. This process relies on packages compiled and submitted to the Office of the Secretary of Defense (OSD) by the military services. These packages include a list of names nominated for appointment—called a scroll—along with other supporting documentation. Scrolls do not have a standard number of names and can have as few as one name and as many as a few thousand. Officer appointments are either approved by the Secretary of Defense or are approved by the President and confirmed by the Senate, depending on component and pay grade.

Ensuring that this process is timely and efficient is important because DOD officials stated that delays in officer appointments could affect when an officer is available for a unit or when a promoted National Guard officer can receive the pay of the officer's new grade.



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## Source of Work, Objectives, and Methodology

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Senate Report 115-262, accompanying a bill for the John S. McCain National Defense Authorization Act for Fiscal Year 2019, raised questions about DOD's officer appointment processes and their effects on officer retention or availability. The report included a provision for us to review those processes.<sup>3</sup>

This briefing describes

1. what processes are used for approving original appointments and federal recognition of National Guard promotions;
2. the number of original appointment and federal recognition scrolls that were approved from fiscal years 2017 and 2018; and
3. factors that affect the time it takes to approve officer appointments.

<sup>3</sup>S. Rep. No. 115-262, at 193-194 (2018).

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## Source of Work, Objectives, and Methodology (continued)

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To describe the processes used for approving original appointments and federal recognition of National Guard promotions, we reviewed relevant sections of the U.S. Constitution and U.S. Code, executive orders, and DOD policies. We also interviewed officials from the services, OSD, the White House Military Office, and the Senate. We reviewed original appointment and federal recognition processes for the following pay grades: W-1 to W-5 and O-1 to O-6.<sup>4</sup>

To describe the number of approved original appointment and federal recognition scrolls, we analyzed data from OSD's appointments database to identify 1) the number of approved scrolls (and officer names) that were submitted by the military services to OSD in fiscal years 2017 and 2018, as reliable data prior to fiscal year 2017 were not available; and 2) how many scrolls were approved by the Secretary of Defense or by the President and confirmed by the Senate.

<sup>4</sup>There are two types of officers in DOD: warrant officers (pay grades W-1 to W-5) and commissioned officers (pay grades O-1 to O-10). Warrant officers are specialists and experts in certain military technologies or capabilities, while commissioned officers typically lead units and remain generalists. Officers in the grades of O-7 to O-10 are called general or flag officers, and according to DOD officials, the department uses a separate process for appointing these officers.

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## Source of Work, Objectives, and Methodology (continued)

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To describe factors that affect the time it takes to approve officer appointments, we took the following steps:

- We analyzed data from OSD's appointments database to identify the amount of time it took from when OSD received a scroll submitted in fiscal years 2017 and 2018 until Secretary of Defense approval or Senate confirmation.<sup>5</sup>
- We reviewed sections of the U.S. Constitution and U.S. Code, executive orders, legal opinions, and DOD policies to identify appointment requirements.
- We interviewed OSD, military service, White House Military Office, and Senate officials to identify factors affecting how long it takes to approve officer appointments and steps DOD is taking to address them.

We assessed the reliability of the data from OSD's appointments database by testing the data and interviewing knowledgeable officials. We determined that the data were reliable for the purposes of this briefing's objectives.

<sup>5</sup>The database does not track the time it takes to process a scroll within the military services before it is submitted to OSD.

## Background

According to the Appointments Clause of the U.S. Constitution, the President, with advice and consent of the Senate, shall appoint all officers of the United States, but Congress may by law grant the authority to appoint certain officers to the President alone, to the courts, or to the heads of departments.<sup>6</sup>

In Title 10 of the U.S. Code, Congress granted the President authority to make appointments for certain officers while retaining Senate confirmation for others, depending on pay grade and component.<sup>7</sup> The President subsequently delegated this appointment authority to the Secretary of Defense.<sup>8</sup>

<sup>6</sup>U.S. Const., art. II, § 2, cl. 2.

<sup>7</sup>See, e.g., 10 U.S.C. §§ 531(a), 571(b), and 12203(a).

<sup>8</sup>Exec. Order No. 13358, 69 Fed. Reg. 58,797 (Sept. 28, 2004); Exec. Order No. 13384, 70 Fed. Reg. 43,739 (July 27, 2005).

## Background (continued)

Table 1 shows the current appointment authority for original appointments and federal recognition of National Guard promotions.

**Table 1: Appointment Authority for Original Appointments and Federal Recognition of National Guard Promotions**

| Appointment Authority | Component | Pay Grade                 |
|-----------------------|-----------|---------------------------|
| Secretary of Defense  | Active    | W-1 to W-5 and O-1 to O-3 |
|                       | Reserve   | W-1 to W-5 and O-1 to O-5 |
| President and Senate  | Active    | O-4 to O-6                |
|                       | Reserve   | O-6 and above             |

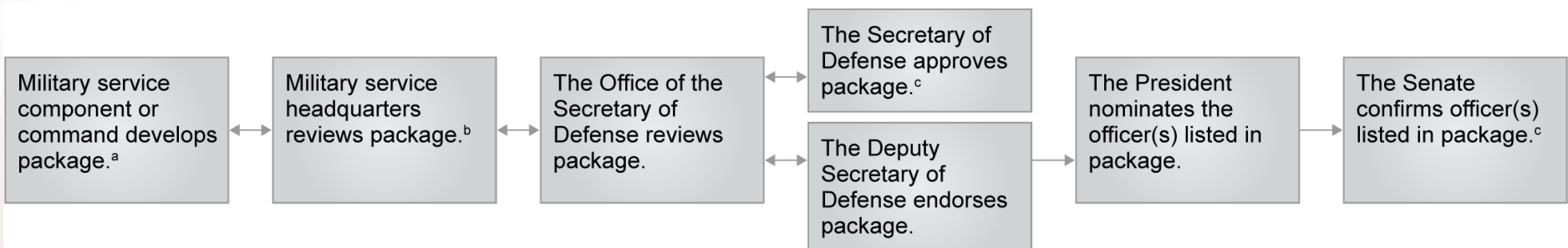
Source: Relevant laws, executive orders, and Department of Defense information. | GAO-19-527R

Note: There are two types of officers in DOD: warrant officers and commissioned officers. The pay grades for warrant officers are W-1 to W-5, and the pay grades for commissioned officers are O-1 to O-10.

# Objective 1: Processes for Approving Original Appointments and Federal Recognition of National Guard Promotions

We found that the processes for approving original appointments and federally recognizing National Guard promotions are similar. Figure 1 shows the steps generally followed by the military services, OSD, the White House, and the Senate for developing, reviewing, and approving officer appointment packages.

**Figure 1: Steps for Approving Original Appointments and Federal Recognition of National Guard Promotions**



Source: Department of Defense policies and officials. | GAO-19-527R

a: For the Marine Corps, original appointment packages are developed by Marine Corps headquarters and not a component or command.

b: For the Navy, components and commands generally submit original appointment packages directly to the Office of the Secretary of Defense and not to Navy headquarters.

c: At this point, notification of approval is sent to the Office of the Secretary of Defense and the military services.

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## Objective 1: Processes for Approving Original Appointments and Federal Recognition of National Guard Promotions

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**Military Services.** The military services develop and submit packages to OSD for both original appointments and federal recognition of National Guard promotions. These packages include one or more scrolls; a signed memorandum from the service headquarters; and adverse or reportable information for any officers listed on the scroll, if applicable. According to DOD policy, these packages must be submitted to OSD both in print and digitally.<sup>9</sup>

**OSD.** The Officer and Enlisted Personnel Management directorate (within the Office of the Under Secretary of Defense for Personnel and Readiness) completes quality assurance steps and facilitates a legal review of the military services' appointments package, according to OSD officials. After these steps are completed, the package is submitted to the Secretary of Defense or, if presidential approval and Senate confirmation is required, to the Deputy Secretary of Defense.

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<sup>9</sup>Department of Defense Instruction 1320.04, *Military Officer Actions Requiring Presidential, Secretary of Defense, or Under Secretary of Defense for Personnel and Readiness Approval or Senate Confirmation* (Jan. 3, 2014).

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## Objective 1: Processes for Approving Original Appointments and Federal Recognition of National Guard Promotions

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**White House.** According to officials from OSD's White House Military Office, their office reviews officer appointment packages for completeness and then coordinates with the Executive Office of the President to obtain the President's signature and provide a printed and signed version of the package to the Senate. According to Senate staff, the Senate requires original signatures from the President.

**Senate.** According to Senate staff, the Senate Armed Services Committee reviews and votes on officer appointment packages, usually at the end of the month during a hearing or other scheduled meeting; if the committee approves the packages, the full Senate votes to confirm the appointments.



## Objective 2: Number of Original Appointment and Federal Recognition Scrolls Approved from Fiscal Years 2017 and 2018

We found that the Secretary of Defense approved, or the Senate confirmed, 2,832 original appointment and federal recognition scrolls with 111,837 names that were submitted during fiscal years 2017 and 2018 (see table 2).

**Table 2: Approved Scrolls for Original Appointments and Federal Recognition of National Guard Promotions (Submitted in Fiscal Years 2017 and 2018)**

| Type of appointment                              | Fiscal Year     | Number of scrolls | Number of names |
|--|-----------------|-------------------|-----------------|
| Original Appointment                             | 2017            | 1,107             | 50,633          |
|  | 2018            | 1,596             | 48,729          |
|  | <b>Subtotal</b> | <b>2,703</b>      | <b>99,362</b>   |
| Federal Recognition of National Guard Promotions | 2017            | 46                | 5,265           |
|  | 2018            | 83                | 7,210           |
|  | <b>Subtotal</b> | <b>129</b>        | <b>12,475</b>   |
| <b>Grand Total</b>                               |                 | <b>2,832</b>      | <b>111,837</b>  |

Source: GAO analysis of Department of Defense data. | GAO-19-527R

## Objective 2: Number of Original Appointment and Federal Recognition Scrolls Approved from Fiscal Years 2017 and 2018

We found that 2,619 scrolls (about 92 percent) were approved by the Secretary of Defense and 213 scrolls (about 8 percent) were approved by the President and confirmed by the Senate (see table 3).

**Table 3: Approved Scrolls for Original Appointments and Federal Recognition of National Guard Promotions (Submitted in Fiscal Years 2017 and 2018), by Appointment Authority**

| Type of appointment                              | Secretary of Defense Scrolls |                 | President and Senate Scrolls |                 |
|--|------------------------------|-----------------|------------------------------|-----------------|
|  | Number of scrolls            | Number of names | Number of scrolls            | Number of names |
| Original Appointment                             | 2,509                        | 98,928          | 194                          | 434             |
| Federal Recognition of National Guard Promotions | 110                          | 11,849          | 19                           | 626             |
| <b>Total</b>                                     | <b>2,619</b>                 | <b>110,777</b>  | <b>213</b>                   | <b>1,060</b>    |

Source: GAO analysis of Department of Defense data. | GAO-19-527R

Note: The President and Senate have appointment authority for active component officers in pay grades O-4 to O-6 and for reserve component officers in pay grades O-6 and above. We reviewed the processes for original appointments and federal recognition of National Guard promotions only for O-6 and below.

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## Objective 3: Factors That Affect the Time It Takes to Approve Officer Appointments

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We found that DOD has identified three factors that affect the time it takes to approve original appointments and federally recognize National Guard promotions:

- Whether the appointment requires presidential approval and Senate confirmation.
- Whether the appointment transfers an officer between components requiring approval from the Secretary of Defense or President with Senate confirmation.
- Whether scrolls submitted by the military services contain inaccurate information that requires supplemental research and correction.

DOD officials said they are taking steps to address these factors, including tasking RAND's National Defense Research Institute to complete a study due by the end of 2019 to identify improvements to DOD's officer appointment processes.

## Objective 3: Factors That Affect the Time It Takes to Approve Officer Appointments

### Presidential Approval and Senate Confirmation

Based on our analysis of data from fiscal years 2017 and 2018, we found that scrolls approved by the President and confirmed by the Senate took, on average, an additional 34 business days (about 7 weeks) to process after OSD's review and approval. For scrolls submitted by the military services in fiscal years 2017 and 2018, we found:

- OSD took, on average, about 18 business days (about 4 weeks) to process scrolls that required Secretary of Defense approval and about 15 business days (about 3 weeks) to process those that required Senate confirmation;<sup>10</sup>
- the White House took, on average, about 15 business days (about 3 weeks) to process scrolls; and
- the Senate took, on average, about 19 business days (about 4 weeks) to process scrolls.

<sup>10</sup>DOD has stated it will take approximately 21 days for processing scrolls within OSD. Department of Defense Instruction 1320.04, *Military Officer Actions Requiring Presidential, Secretary of Defense, or Under Secretary of Defense for Personnel and Readiness Approval or Senate Confirmation* (Jan. 3, 2014).

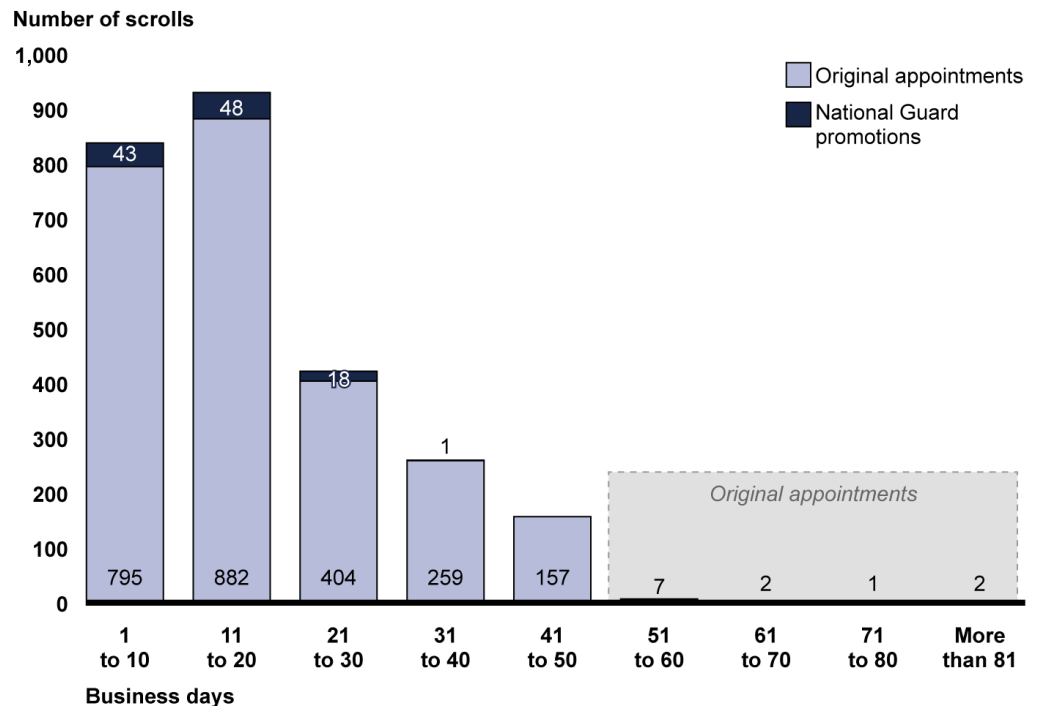
# Objective 3: Factors That Affect the Time It Takes to Approve Officer Appointments

## Presidential Approval and Senate Confirmation (continued)

Scrolls processed during fiscal years 2017 and 2018 that required Secretary of Defense approval took, on average, 18 business days for original appointments and 14 business days for federal recognition.

Figure 2 shows the distribution of processing times for each scroll approved by the Secretary of Defense.

**Figure 2: Processing Time for Scrolls Approved by the Secretary of Defense after Being Received by the Office of the Secretary of Defense (Submitted in Fiscal Years 2017 and 2018)**



Source: GAO analysis of Department of Defense data. | GAO-19-527R

Note: Processing time was calculated in business days, which excludes weekends and federal holidays.

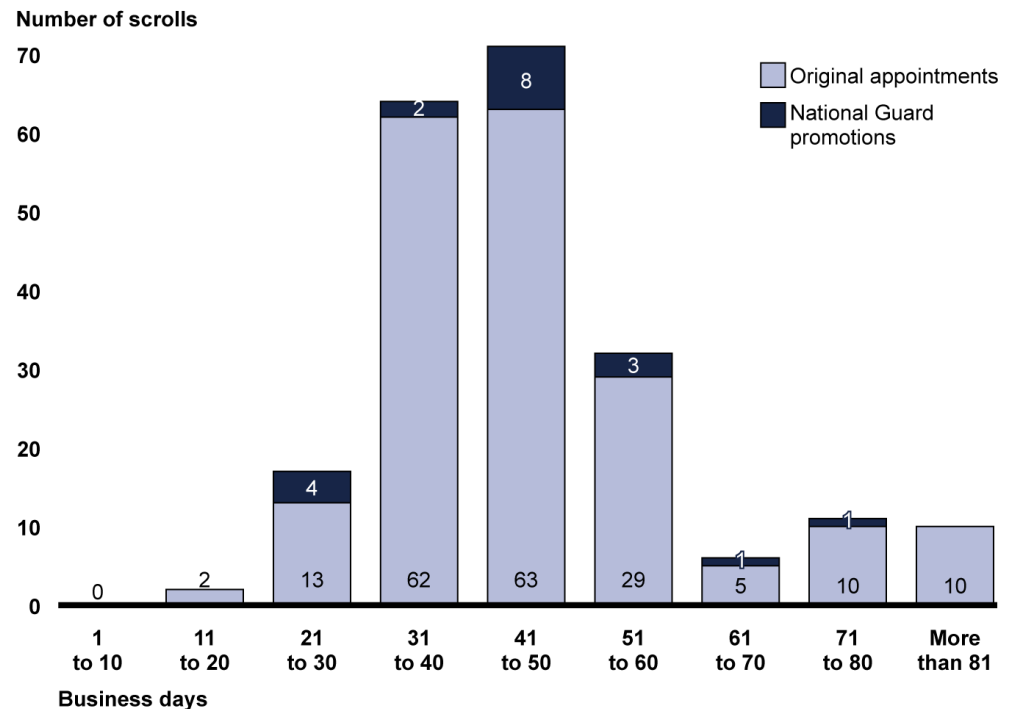
# Objective 3: Factors That Affect the Time It Takes to Approve Officer Appointments

## Presidential Approval and Senate Confirmation (continued)

Scrolls processed during fiscal years 2017 and 2018 that required presidential approval and Senate confirmation took, on average, about 47 business days for original appointments and about 44 business days for federal recognition.

Figure 3 shows the distribution of processing times for each scroll confirmed by the Senate.

**Figure 3: Processing Time for Scrolls Confirmed by the Senate after Being Received by the Office of the Secretary of Defense (Submitted in Fiscal Years 2017 and 2018)**



Source: GAO analysis of Department of Defense data. | GAO-19-527R

Note: Processing time was calculated in business days, which excludes weekends and federal holidays.

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## Objective 3: Factors That Affect the Time It Takes to Approve Officer Appointments

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### Presidential Approval and Senate Confirmation (continued)

OSD officials identified factors that cause approval of some scrolls to be delayed.

- OSD officials attributed the extra time needed by the services to respond to questions, correct errors, or provide requested documentation as being the causes for scrolls taking more than 60 business days to be approved by the Secretary of Defense (as previously shown in figure 2).
- OSD officials also identified extra time needed by the services as a factor for the scrolls that took the most time to receive Senate confirmation (over 80 business days, as previously shown in figure 3). Additionally, they stated some scrolls were affected by the Senate being in recess or by the Senate Armed Services Committee waiting to approve scrolls submitted more than 4 months before the appointment date for the officers listed on the scrolls; according to Senate staff, this is the committee's policy for approving appointments.

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## Objective 3: Factors That Affect the Time It Takes to Approve Officer Appointments

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### Appointments for Officer Transfers

Service officials stated that obtaining Secretary of Defense approval or Senate confirmation for officers transferring between active and reserve components within a service may affect processing time.

- Service officials said that obtaining approval from the secretaries of the military departments, instead of the Secretary of Defense or the Senate, for these types of original appointments could decrease the time it takes to process officer transfers.
- Additionally, service officials said appointments for officers transferring between components are redundant because existing officers have already gone through the approval process for their current appointment. However, OSD officials stated that such appointments are required under current law.



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## Objective 3: Factors That Affect the Time It Takes to Approve Officer Appointments

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### Appointments for Officer Transfers (continued)

Service officials said that the number of scrolls submitted to OSD for officers transferring between components within a service represents a large part of their workload. Data on how many of these scrolls are sent to OSD are not recorded in OSD's appointments database, but officials provided the following information.

- Army Human Resources Command officials said that about 30 percent of the scrolls they develop are for officers transferring between components.
- Air Force officials said that about 33 percent of original appointment scrolls are for existing officers, including those transferring between components.
- Navy officials said that about 25 percent of their original appointments are for officers transferring between components.
- Marine Corps officials did not provide a similar estimate, but said that scrolls for transfers between components represent a large part of their workload.

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## Objective 3: Factors That Affect the Time It Takes to Approve Officer Appointments

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### Appointments for Officer Transfers (continued)

Legislation enacted in 2004 provided that original appointments for officers transferring between the active and reserve components, subject to certain restrictions, may be made by the military department secretaries, without Secretary of Defense approval or Senate confirmation.<sup>11</sup>

According to an official from DOD's Office of General Counsel, DOD is not using these authorities because it considers the relevant statutory provisions to be unconstitutional, since the Secretary of Defense—not the military department secretaries—is the only head of a department within DOD for purposes of the Appointments Clause.

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<sup>11</sup>10 USC §§531(c) and 12203(b). (In the case of 10 U.S.C. § 12203(b), this authority is reserved to cases in which an officer is being transferred from one component to another pursuant to 10 U.S.C. § 647, permitting certain such transfers for purposes of force shaping.)

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## Objective 3: Factors That Affect the Time It Takes to Approve Officer Appointments

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### Appointments for Officer Transfers (continued)

DOD officials said the department's position that these provisions are unconstitutional is based on a 2005 Department of Justice memorandum opinion on military appointments.<sup>12</sup>

- An official from DOD's Office of General Counsel told us that because both DOD and the Department of Justice firmly believe these provisions to be unconstitutional, DOD has never implemented them.
- Department of Justice officials said that DOD is best positioned to explain its interpretation of that opinion, as the Department of Justice does not supervise the implementation of its legal advice provided to executive branch agencies.
- Officials from military department legal offices stated the services follow the legal positions of DOD's General Counsel.

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<sup>12</sup>Department of Justice, Office of Legal Counsel Memorandum Opinion, *Assignment of Certain Functions Related to Military Appointments* (July 28, 2005).

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## Objective 3: Factors That Affect the Time It Takes to Approve Officer Appointments

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### Inaccurate Information in Appointment Packages

OSD officials stated that the services often submit inaccurate information in appointment packages—such as missing components, incorrect pay grades, or misspelled names—which can delay approval until corrected. An OSD official who reviews these packages gave the following examples of errors that must be corrected before an appointment can be approved:

- A scroll for a transfer appointment may list an outdated pay grade because the officer was promoted to a higher grade after the scroll was drafted.
- An officer may not have an approved appointment for the officer's current pay grade and component.

The number of errors in the services' appointment packages is unknown because OSD's appointments database does not record when errors occur.

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## Objective 3: Factors That Affect the Time It Takes to Approve Officer Appointments

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### Inaccurate Information in Appointment Packages (continued)

According to military service officials, the current appointments process is not automated and is labor intensive.

- Officials said that DOD does not currently have an information system to automate the process for developing, reviewing, and approving officer appointments.
- The services need to produce paper versions of the appointments packages, which service officials said contributes to processing time—although to a lesser extent than developing packages and obtaining their approval. OSD officials stated that printed packages are necessary because the Secretary of Defense and Deputy Secretary of Defense do not sign documents electronically.

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## Objective 3: Factors That Affect the Time It Takes to Approve Officer Appointments

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### Addressing Factors That Affect Time to Approve Appointments

DOD is taking steps to address factors that affect approval time for appointments.

#### **Presidential Approval and Senate Confirmation.**

DOD officials told us that the department is evaluating the delegation of additional appointment authority to the Secretary of Defense, which could streamline the appointment process by reducing the number of appointments that need presidential approval and Senate confirmation.

#### **Appointments for Officer Transfers.**

Officials did not provide any examples of officers losing pay or benefits due to delays in processing transfers between components. However, some services have taken steps to minimize potential delays. Army, Navy, and Marine Corps officials told us they submit transfer scrolls to OSD in advance for all officers leaving active duty, should they decide to transfer to the reserve components.

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## Objective 3: Factors That Affect the Time It Takes to Approve Officer Appointments

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### Addressing Factors That Affect Time to Approve Appointments (continued)

#### **Inaccurate Information in Appointment Packages.**

OSD officials said the services have improved the quality of information in recent appointment packages by conducting more thorough data quality checks prior to submitting packages to OSD. Additionally, OSD officials said that if a name on a scroll has a data quality issue, that name can be removed so the other names on the scroll can continue through the process without delay.

DOD has also tasked RAND's National Defense Research Institute to study DOD's appointment processes, recommend changes, and improve their efficiency. According to RAND, the study will examine OSD and service appointment processes, to include identifying data sources and systems used and identify gaps, errors, or other challenges in the officer appointment process.

OSD officials said the study's results—due by the end of 2019—may provide a business case for acquiring an information system to automate the process.

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James-Christian Blockwood, Managing Director, [spel@gao.gov](mailto:spel@gao.gov), (202) 512-4707 U.S. Government Accountability Office, 441 G Street NW, Room 7814, Washington, DC 20548



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