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In the Individual Ready Reserve (IRR) or National Guard marking your time? Activation and deployment orders — know your rights or go at your own peril

By David P. Sheldon and Shannon James
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With the potential call up of tens of thousands of those of you who have been marking time in the Individual Ready Reserve (IRR), the National Guard or the Army Reserves for almost a decade now, one needs to act carefully to ensure that you consider your options. You may have established a career, a family, and the responsibilities that come with those things when suddenly you are faced with activation and deployment orders. Your world just blew up. Now what?

Recent events in Eastern Europe and Russia's stated aggressive stance towards Ukraine portend activation and deployment orders for thousands, if not a 100,000 service members by the end game. Individuals who have served in the National Guard or Reserves may do so believing their commitment will likely remain restricted to weekends or a few weeks a year. While activation and deployment orders are always possible, these soldiers, sailors, Marines, and airmen may not be prepared, especially those who serve in the IRR, to activate and deploy.

Reservists and members of the National Guard should certainly take note and, of course, have a plan in place, especially if they are not in a position to deploy because of work and/or family obligations. But Congress has also allowed for service members to request delay and exemption from orders, through the delay and exemption board. But you must meet the statutory and regulatory bases. And, like everything, timing is critical.

It is important for Reserve and Guard members to understand the timeframes in which they may request a delay or deferment in reporting, or an exemption from active duty, since untimely requests may not be processed, and even timely requests can be severely truncated by not understanding the rules and regulations that govern delay and exemption boards. It is also important to have an understanding of the differences between the types of requests and how they may affect a Reserve or Guard member.

The process varies depending on the military department involved, although if denied, generally appeals are available. Having an experienced attorney from the get-go can be critical since members may not be aware of exactly what information they need to provide before a request is considered. Although the process begins with a phone call or a form which may seem simple enough to complete, it is important to know what information a board is looking for in order to provide the strongest application possible. If past conflicts have taught us anything, it is that National Guard members and reservists need to be prepared. Timing is critical. The bottom line is that before you call the number on your orders to the delay and exemption board, let alone submit the form that governs, consult the rules and regulations that apply — or, better yet — call a qualified legal counsel that can assist you in making the very best case for a delay and exemption of your activation and deployment.