



**Primer: The Chairman of the Joint Chiefs and Civilian Control of the Military**  
***Executive Reforms of the DOD in the Spirit of the Goldwater–Nichols Act***

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**Synopsis**

Civilian control of the military is a chief cornerstone of representative democracy. Despite protestations from the left that America is “staring the death of democracy in the eyes,”<sup>1</sup> the country’s relative stability and lack of military dictatorship have meant that many Americans have not had to actually think about the civilian control of the military all that much. Nevertheless, considering this topic is crucial not just for country stability and keeping clear of military dictatorship but also for ensuring that military power serves the interests of the people rather than its own. This primer outlines both the challenges to and importance of maintaining civilian control of the military. It argues that the contours of the Goldwater–Nichols Act provide a good framework and that the president already has all the necessary authorities to restore a robust civilian control of the military. It also offers proposals to support such efforts.

The current interplay between civilian leadership and military advisors is some cause for concern. Policy is not supposed to be made by an interagency process; it is supposed to be made by the president as the elected representative of the entire people. But the president can become over-reliant on his chief military advisor and the inertia of a relatively unified Department of Defense (DOD). While the confirmation of Secretary Pete Hegseth alleviates these concerns for the time being, these problems will arise again in future administrations as they have in previous ones. The Pentagon’s organizational inertia was on clear and dangerous display in the prolonged Afghanistan debacle, to take a recent example. Presidents Barack Obama and Donald Trump both expressed their desire to end that conflict, and both were prevented from following through by the bias of the military establishment toward the status quo.

More clear and more dangerous still was the insubordination of Chairman of the Joint Chiefs General Mark Milley during the first Trump administration. As chairman of the Joint Chiefs, Milley was the chief military advisor to President Trump, but he was barred by the Goldwater–Nichols Act<sup>2</sup> from exercising operational authority. Nevertheless, Milley undermined

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<sup>1</sup> Marita Vlachou, “Top Democrat Warns The U.S. Is ‘Staring The Death Of Democracy In The Eyes,’” *HuffPost*, February 11, 2025, [https://www.huffpost.com/entry/democrat-warning-democracy-trump-courts\\_n\\_67ab5b15e4b0142ed23d0dfc](https://www.huffpost.com/entry/democrat-warning-democracy-trump-courts_n_67ab5b15e4b0142ed23d0dfc).

<sup>2</sup> Goldwater–Nichols Department of Defense Reorganization Act of 1986, Pub. L. No. 99-433, 100 Stat. 992.

the chain of command on multiple occasions during the 2021 presidential transition, inserting himself into operational matters. Reports indicate that in a meeting of senior military officers on January 8 of that year, he demanded assurances that no actions would be taken without his involvement, and on two occasions he made unsanctioned calls to his counterpart in the Chinese Communist Party to promise that conflict was not imminent.<sup>3</sup> His example shows that amidst the strategic integration of America's national security organizations in response to a rapidly changing world, the danger to civilian control of the military has never been higher.

The conventional and appropriate understanding of America's tradition of civilian control of the military means that policy decisions are within the purview of elected officials and their duly appointed representatives. The military, for its part, is responsible for providing the means of performing the politically determined ends assigned to it. A corollary to this understanding is the principle that civilians bear responsibility for distinguishing those means and ends.<sup>4</sup> Put simply, civilian control means that only the political side can provide the unified grand strategy, which the military then executes. As President Harry Truman wrote, "The civil servant, the general or admiral, the foreign service officer has no authority to make policy. They act only as servants of the government, and therefore they must remain in line with the government policy that is established by those who have been chosen by the people to set that policy."<sup>5</sup>

## **Background**

Despite recent declines in public opinion in reaction to their apparent politicization, the U.S. Armed Forces still enjoy a relatively high degree of public favor.<sup>6</sup> But America has a long tradition of suspicion of professional militaries. Among the grievances against King George III articulated in the Declaration of Independence are that "he has kept among us, in times of peace, Standing Armies without the Consent of our legislatures" and that "he has affected to render the Military independent of and superior to the Civil power."<sup>7</sup> Following victory in the American War for Independence, in 1784 the Continental Congress reduced the standing army to fewer than one hundred soldiers, relying on militia to defend the Western frontier.

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<sup>3</sup> Isaac Stanley-Becker, "Top General Was So Fearful Trump Might Spark War That He Made Secret Calls to His Chinese Counterpart, New Book Says," *Washington Post*, September 14, 2021, <https://www.washingtonpost.com/politics/2021/09/14/peril-woodward-costa-trump-milley-china/>.

<sup>4</sup> Kenneth W. Kemp and Charles Hudlin, "Civil Supremacy Over the Military: Its Nature and Limits," *Armed Forces & Society*, 19, no. 1 (1992): 8-9.

<sup>5</sup> Harry S. Truman, *Memoirs*, vol. 2, *Years of Trial and Hope* (Doubleday & Company, 1956), 165.

<sup>6</sup> "From Businesses and Banks to Colleges and Churches: Americans' Views of U.S. Institutions," Pew Research Center report, February 1, 2024, <https://www.pewresearch.org/politics/2024/02/01/the-u-s-military/>.

<sup>7</sup> Thomas Jefferson et al., Declaration of Independence, July 4, 1776, <https://www.archives.gov/founding-docs/declaration-transcript>.

In adopting the Constitution, the Framers conceded the need for a national army and navy, but they subjected the military to the superiority of and dependence on the two branches of civil power: Congress and the president. Congress declares war, raises armies, maintains a navy, calls forth militias, and makes rules for the government and regulation of these responsibilities.<sup>8</sup> The president, meanwhile, is “Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States.” Thus the U.S. tradition of civilian control of the military, inherited from colonial understandings of the rights of free citizens, is firmly established and enshrined in American fundamental law. But what civilian control means in practice remains debated and is subject to periodic efforts at clarification and reform.

The most significant recent effort to impel civilian control of the military was the Goldwater–Nichols Act of 1986, which established measures to improve the efficiency and effectiveness of the U.S. Armed Forces. That act begins, “To reorganize the Department of Defense and strengthen civilian authority in the Department of Defense . . .”<sup>9</sup> The law, which helped to implement the most comprehensive overhaul of the DOD since the agency’s creation, is now regarded as one of the great military-reform success stories in modern American history. But despite the act’s opening line, in its triangle of purposes for the Pentagon’s reorganization—improving civilian control, efficiency, and effectiveness—effectiveness has won out.

The Goldwater–Nichols bill sought to confront a series of structural flaws within the DOD. The defense complex of the early 1980s resembled a collection of independent fiefdoms without a unified command structure, composed of entrenched interests resistant to reform. Passing the bill was an arduous, protracted struggle: The lawmaking process lasted four years and 241 days, longer than America’s involvement in World War II, and Congress had to overcome enormous resistance from the Pentagon and defense interests. Congress’s overarching objective was to restrain the disruptive competition of the then-four services, which in widely held opinion had produced a culture of lowest-common-denominator consensus in the advice the Joint Chiefs of Staff gave the president and had time and again prevented service members from operating effectively in a joint manner.

To rectify this problem, Goldwater–Nichols clarified the U.S. military chain of command as running from the president to the secretary of defense directly to the combatant commands. While the act elevated the chairman of the Joint Chiefs of Staff to the status of senior military advisor to the president, it also removed him and the Joint Chiefs of Staff from the chain of command, barring them by law from acting as a Prussian-style General Staff. Compared to the divided and confused status quo before its passage, the Goldwater–Nichols Act succeeded in improving the effectiveness of the DOD. For example, though dissenting opinions can be found,

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<sup>8</sup> U.S. Const. art. II, § 2.

<sup>9</sup> Goldwater–Nichols Department of Defense Reorganization Act of 1986, Pub. L. No. 99-433, 100 Stat. 992.

much of the victory in the First Gulf War has been credited to improvements in joint planning and operations enabled by its reforms.

Goldwater–Nichols emphasized civilian control from the start, but thanks to bureaucratic inertia, deliberate policy, and the laxity of past Secretaries of Defense, civil-military relations remain in need of improvement. The chairmen of the Joint Chiefs of Staff have with time expanded their ambit and influence, innovating beyond the law. Fortunately, further reform need not wait for a similarly protracted and conflict-prone legislative process (though to address a host of DOD efficiency and effectiveness concerns, such an effort may still be called for). The law on the books is Goldwater–Nichols, and it provides all the tools necessary to repair civilian responsibility for America’s military.

### **Reclaiming Civilian Control of the Armed Forces**

Robust civilian control, far from politicizing the DOD, insulates the military from politics. When empowered civilian appointees, who can be immediately dismissed by the president without political fallout, bear responsibility for policy decisions; the military is prevented from making policy and bearing political responsibility for the same. Instead, the sovereignty of the American people is threatened when military officers are vested with de facto policymaking powers. They then naturally seek the same sort of independence and autonomy they expect in carrying out a military operation. Each additional assignment to military responsibility diverts focus and resources from combat training and war preparations. Each instance is a self-inflicted threat to the sovereignty of the American people.

Indeed, the greatest threat to civilian control of the U.S. Armed Forces is not to be found in the vaunting ambition of one of her officers but rather in the willingness of the American people and their elected representatives to expand the scope of the DOD’s mission to the detriment of other more readily accountable institutions or of civilian policymaking. As with every other aspect of our constitutional system of government, maintaining civilian authority over the military primarily depends on the virtue of the American people and their elected leaders. This observation is not to say, however, that the organizational structure of the DOD and its normal operations present no obstacles to responsible civilian control or that no operational and managerial reforms are clearly called for.

Executive reforms of the DOD to improve civilian control of America’s military fall into three general categories: clarification of legally defined roles, emphasis on political appointee assignments, and adjustment of organizational arrangements in line with communication and information needs. The first and easiest thing to do to repair civilian control of the DOD is to

clarify what Goldwater–Nichols meant in making the chairman of the Joint Chiefs of Staff the chief military advisor to the president.

This clarification could outline that it is the president and not the chairman who is, as both commander in chief and chief diplomat, concerned with both the management of state violence and the nation’s foreign policy. Thus, it is important to consider reminding and directing the chairman and the vice chairman to bear in mind that not only does the chain of command exclude them—it runs from the president directly to the secretary of defense and then to the combatant commands—but their advice should be only of a military nature, which is to say concerned only with the management of war and the operations of the means of war, not its political ends.

Concerns that Goldwater–Nichols did not go far enough in equipping interagency cooperation are understandable, but suggestions that the chairman and the Joint Staff should act as a hub for such cooperation fail to recognize that centralizing coordination within the Joint Staff might also risk expanding its mission into the realm of political policy. Developing administration policy is a White House responsibility as it is the primary office of the president. Indeed, it is the primary purpose of the National Security Council. The chairman and vice chairman of the Joint Chiefs of Staff should therefore not be assigned development of strategic direction, planning, budget priorities, or joint doctrine except as requested by the secretary of defense. Another clarification could consider acknowledging that the chairman cannot give the secretary of defense or the president advice unless it is asked for.

Furthermore, any refocusing of the Joint Staff on presidential military advice should ensure that that change does not become a legal shield for the Joint Staff to hide its work from the eyes of political civilian officials at the DOD. This could be accomplished by clarifying the role and work of the chairman, the Chiefs, and the Joint Staff along the lines above and specifying that any desired confidential military advice will be solicited by the president when he requires it. All other documents produced by the Joint Staff for the chairman’s approval, such as draft strategic guidance or policy documents, could include a requirement that they be reviewed by political appointees assigned to such tasks by the secretary of defense. Another reform that would emphasize the advisory nature of the chairman’s role would be to return the chairman to occasional attendee status in the National Security Council; his presence would be determined as needed, rather than being a full member.

It should be made clear that civilian control does not mean the marginalization of America’s officers but is rather a much-needed reestablishment of the recognition of who bears final authority and responsibility for the nation’s use of military force. It is prudent, then, that an administration wishing to regain civilian control of the military would outline specific guidance explaining the priorities of the president and how Pentagon officials are expected to fulfill their

advisory role. This guidance would necessarily include foreign policy assumptions, which is to say, implicit decision-making. Whether in guidance documents formalizing particular kinds of advice sought or in organically emerging processes and reaction to the particular needs of the moment, civilian control of the military depends on political leaders clearly expressing the objectives of the nation and the nature of the advice sought.

One way to achieve this aim would be for the secretary of defense to direct the Under Secretary of Defense for Policy to prepare an Interim National Defense Strategic Guidance document for his approval. This document could communicate the administration's priorities and guide DOD operations—especially the work of the Joint Staff, service chiefs, and combatant commands—until a formal and complete National Defense Strategy is released. The sooner these strategy documents are released, the better in order to maximize their impact early in a new administration. The secretary and under secretary should also consider including a civilian-led red team that engages closely with all relevant offices to develop and implement the strategy documents.

### **Other Options for Reform**

To repeat, the chain of command prescribed by Goldwater–Nichols bypasses the chairman of the Joint Chiefs entirely, running from the commander in chief to the secretary of defense and then to the unified combatant commands. This affirmation of the secretary of defense's role as *the* civilian link in the chain of command was the primary mechanism by which the reform act sought to buttress civilian control. As James R. Locher III, who served as senior staffer on the Senate Armed Services Committee during Goldwater–Nichols's passage, wrote in his magisterial history of the long ordeal, “to leave no doubt as to the defense secretary's authority, report language declared, ‘The secretary has sole and ultimate power within the Department of Defense on any matter on which the secretary chooses to act.’ Congress meant this to end claims by defense officials to jurisdictions independent of the secretary's authority.”<sup>10</sup>

The central role in planning and force development currently played by the Joint Staff, ostensibly assigned to support the advice role of the chairman, presents a dilution of the intent of the reform. Writing in the early 2000s, Locher observed, “There is no doubt that the Joint Staff now overshadows OSD [Office of the Secretary of Defense], diminishing the civilian voice in the decision-making process. Two trends have produced this result: the improved quality of Joint Staff work and a weaker performance by OSD. Ineffective leadership in a fast-paced environment and inattention to personnel matters have contributed to OSD's decline.”<sup>11</sup> Today

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<sup>10</sup> James R. Locher III, *Victory on the Potomac: The Goldwater–Nichols Act Unifies the Pentagon* (Texas A&M University Press, 2004), 438, citing Goldwater–Nichols Department of Defense Reorganization Act, H.R. Rep. No. 99-824 at 101 (1986) (Conf. Rep.).

<sup>11</sup> Locher, *Victory on the Potomac*, 439.

the Joint Staff has expanded from one hundred officers to more than two thousand personnel, plus contractors.

To address this potential problem and ensure that the Office of the Secretary of Defense is supporting the secretary of defense in a way that creates a civilian policy counterweight to the institutional opinion of the Joint Staff, a number of measures could be pursued. Primarily, these reforms would emphasize the provision of an appropriate number of political appointees.

- Consider filling OSD political appointee positions as quickly as is feasible. An assessment should also be made of any roles conventionally left to career incumbents out of convenience. Particular focus should be given to requiring civilian leadership of the processes that manage DOD planning, budgeting, and deployments, as each is a political calculation. Too much military influence or leadership in these processes risks compromising the U.S. Armed Forces' reputation as nonpartisan.
- Consider filling as many assistant secretary and deputy assistant secretary roles as necessary to fulfill the responsibility of having a civilian element review all contingency plans produced by the DOD, including both deliberate and crisis plans, and to ensure a match between military capabilities and administration intentions. Some of these efforts could take the form of designated civilian teams tasked with developing minority reports or "disagree" papers, in order to red team as many planning documents as possible for review by the secretary of defense and president.
- The president and secretary of defense could direct a staff reduction of at least 20 percent of the Joint Staff, including contractors, and reorganize the body away from a focus on military diplomacy and day-to-day DOD operations (J5 and J3) to a narrower focus on the jointness of the U.S. Armed Forces.
- The elevation of the chairman above the Joint Chiefs of Staff diminished conflict between service priorities, but the emphasis on jointness also minimized potentially constructive give-and-take regarding the long-term development of the various armed forces to meet the strategic needs of the nation as defined by policymakers. Too thorough unification of services undermines a critical check on military independence from civilian authority. Some of this beneficial conflict between services could be recreated by the secretary of defense's regularly convening the service secretaries to compare acquisition and personnel development to the president's policy goals and forecasting by DOD planners.
- The services as bureaucracies are infamously and in some sense necessarily at odds. Goldwater–Nichols sought to address this situation, but their integration and cooperation have historically been conditioned by the war being fought and continuation of the

lessons of the war just fought. Present military unity, then, to the degree it is effective, is primarily an artifact of the Global War on Terror and thus unsuited for directing military readiness for the challenges of the next war in a new era of great power conflict. For that reason, a service bias in political appointees should be avoided since their job is to maintain that disinterest despite bureaucratic acculturation. Some mutual acculturation is inevitable and in the case of the service secretaries can be harnessed for good; nevertheless, the overarching goal remains to minimize political appointees' adoption of service culture and maximize officers' understanding of the president's strategic priorities.

- The development of military capabilities is a two-way street: Civilian officials must ask the military to accomplish the goals of the administration and to develop the operational capacities required, and at the same time, it is incumbent on civilian leaders to be aware of available means and the limits of current force posture and equipment, orienting strategy and foreign policy to what is achievable under given conditions. Another method by which the constructive features of service rivalries can be brought into alignment with civilian control, then, while retaining the preeminence of the chairman as chief military advisor to the president, is by ensuring their proximity to the executive branch. The Joint Chiefs of Staff, including the chairman and vice chairman and a core body of Joint Staff deputies, could be given office space in the Eisenhower Executive Office Building and asked to spend a significant portion of their working hours there.

This simple measure would make their advice more readily available in both a formal and informal capacity to the president and his policy team while removing the Joint Chiefs from the distraction of daily operations in the Pentagon. The president, or at least the secretary of defense, should not have difficulty hearing the competing perspectives of the service chiefs. In their advisory role, the chairman and vice chairman as well as other members of the Joint Staff may point out the national security dimension of other domains, but the DOD should not be tasked with resolving those questions either in theory or in practice; they should be left to the civilian agencies as coordinated by the National Security Council and White House.

## **Conclusion**

The president, as “Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States,” has all the legal power necessary to maintain civilian control of the U.S. Armed Forces. The Goldwater–Nichols Act of 1986 made the secretary of defense the chief instrument by which that responsibility is exercised. Every employee, uniformed or civilian, who works for the Department of Defense, or any component of the DOD, is subordinate to the



secretary of defense as principal assistant to the president in all matters relating to the DOD. This includes the chairman of the Joint Chiefs of Staff and the Joint Staff. The chairman's function, as clearly defined in law, is to provide his best advice to the president regarding the ability of the joint forces to integrate and operate effectively under unified command.

The proposals offered in this primer would support efforts to reestablish civilian control over the military by clarifying the legally defined role of the Joint Chiefs of Staff and its chairman, emphasizing the importance of political leadership over policy formation, and making adjustments to the organization arrangements within the military.