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**THE NATIONAL GUARD AND ITS ROLE IN
HOMELAND SECURITY**

BY

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ABSTRACT

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Homeland Security and Homeland Defense in broad terms refers to the prevention, deterrence, preemption of, and defense against, aggression targeted at U.S. territory, population, and infrastructure. More specifically, Homeland Security is a group of diverse missions and functions performed not only to deter, preempt, and defend but to manage the consequence of such aggression. Homeland Defense is one of two major groups of Homeland Security and includes traditional warfighting tasks where the Department of Defense often plays a leading role. Homeland Defense is a basic function of our government, and has been since the colonial era. American colonial leaders, more than 100 years before our Constitution, recognized the need for homeland defense and established colonial militias to fight both internal and external threats. On September 11, 2001, terrorists guided two commercial airliners into the twin World Trade Center Towers in New York City and destroyed both towers and left thousand injured or dead. There was another almost simultaneous attack on the Pentagon in Washington, D.C. but the Pentagon sustained lesser damage. A third attempt missed its still unknown target. Shortly after, President George W. Bush established the Office of Homeland Security. Homeland Security received a great deal of attention in the months prior to the attack, but it took the events of 11 September to focus attention in earnest on homeland defense and civil support missions. With the attention turned to homeland security, the current role of the National Guard as laid out in Title 32 of the United States Code will probably change, similar to recommendations in the Phase III Report of the U.S. Commission on National Strategy in the 21st Century, also known as the Hart-Rudman Commission. In the aftermath of September 11th the National Guard has been deployed in all of their constitutional and statutory roles as disaster responders, as responders to natural disasters, as a tool in the war on terrorism and as a very flexible force for homeland security. This report will discuss the changing roles and responsibilities for the National Guard and the enhanced role they will play as the military focus for Homeland Security and, more specifically, Homeland Defense.

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THE NATIONAL GUARD AND ITS ROLE IN HOMELAND SECURITY

The National Guard and Reservists will be more involved in homeland security, confronting acts of terror and the disorder our enemies may try to create

—President George W. Bush

On September 11, 2001, terrorists guided two commercial airliners into the twin World Trade Center Towers in New York City. There was another attack on the Pentagon in Washington, D.C. and a thwarted attempt on an unknown site. As a result of this action President George W. Bush created a Cabinet level post, the Office of Homeland Security, and appointed Pennsylvania Governor Tom Ridge to head the new agency.

Prior to this event, there was stated policy on homeland security and extensive dialogue on who should have active responsibility for its implementation. Establishment of the Office of Homeland Security designates it as the lead to oversee and coordinate a comprehensive national strategy to safeguard our country against terrorism and respond to any attack that may come.¹ This reinforced the recent focus on protecting the homeland. Presidential Decision Directive 39 (PDD-39), signed in 1995, and the Defense Against Weapons of Mass Destruction (WMD) Act of 1996 are the cornerstones of the United States' Weapons of Mass Destruction terrorism strategy. This strategy is divided into four elements: intelligence and warning; prevention and deterrence; crisis and consequence management, and the acquisition of equipment and technology.²

The National Security Strategy calls for the prevention, deterrence and disruption of threats to the Homeland.³ Further the National Military Strategy has defined the asymmetric challenges that translate into terrorism and transnational dangers that threaten our national interests.⁴ The idea of Homeland Security is new to many Americans, and does not always roll easily off the lips. Many have asked about its origins and meaning. The idea that we might need defense at home was first raised in its modern context in 1949. A panel of experts completed a review of potential biological weapons and reported to the Secretary of Defense the need for "home defense, involving collaborate efforts of federal, state and private agencies."⁵ The term was next mentioned prominently in 1997. The National Defense Panel reviewed a mandated internal "Quadrennial Defense Review" of military strategy, forces and priorities and reported its conclusions, to include a concern that terrorist and other threats to the United States were becoming increasingly likely and potentially more damaging. They recommended more attention to the defense of the homeland – soon to be called "homeland defense."⁶

With the rise of transnational security threats such as terrorism, weapons of mass destruction (WMD), international crime, drug trafficking, and illegal immigration, the comprehensive defense of the Continental United States takes on increasing importance. The term "national defense" resumes its true meaning and focuses on protecting core United States values, those political, economical, social and cultural interests, and activities that represent our nation. The U.S. homeland's distance from potential adversaries has in the past protected its core interests and activities, which form the center of gravity for U.S. security. This luxury no longer exists because of global security threats that can target and reach the U.S. mainland. This potential danger requires the military to prepare to defend the U.S. from a multitude of unconventional threats.⁷

One method for Homeland Security proposed prior to the establishment of the Office of Homeland Security, is now a reality. To facilitate the military's role in Homeland Security a Commander in Chief – Northern Command (CINC-NORTHCOM) has been created. During the cold war, for purposes of military planning and warfighting, most of the world was under the jurisdiction of the Department of Defense's various geographic commands. Four major countries were not assigned Commanders in Chief. They were the Soviet Union, which was too big and powerful for a single command; friendly neighbors Canada and Mexico; and the United States. This new CINC will take on the major military roles and responsibilities in the homeland defense mission.⁸ This new command will be a combat command that will direct the actions of the North American Aerospace Defense Command, and elements of military support to civilian missions, and the various Joint Task Forces that have been established such as the Joint Task Force-Civil Support (JTF-CS) now at Joint Forces Command.⁹

However, even with the establishment of the Office of Homeland Security and the CINC-NORTHCOM, the question of who will have the primary focus for the military role continues to be debated. The U.S. Commission on National Security in the 21st Century suggested that the National Guard be the focus for the homeland defense mission. They suggest that the National Guard be "properly trained and adequately equipped" to take on homeland security as "a primary, but not their only, mission."¹⁰ The Guard views homeland defense as one of its historical missions and has repeatedly been outspoken about the Guard's flexibility to adapt to take on an enhanced role in homeland defense.¹¹

The National Guard, naturally, would most often be the first military force on the scene in an emergency due to its proximity to local fire and police departments, the actual first responders. It has nearly 3,300 facilities in more than 2,700 communities from Guam to Maine which allows for quick response to answer transportation, medical, security and other manpower

requirements without creating a whole new task force.¹² With its constitutional foundation, historical basis, and proven record as emergency responders and defenders of the homeland, the Army National Guard stands as an important and viable asset in the battle against terrorism and the defense of the homeland.

"Homeland security is a natural fit for the National Guard because when local authorities get overwhelmed, who is there next?" asks retired Maj. Gen. Don Edwards, former Vermont adjutant general.¹³ When you look at history, when governors call on the military, it's always the National Guard. They currently have the local knowledge and relationships that active-duty forces have not developed as warfighters.¹⁴ And the Governor "commands" them when not federalized.

The National Guard or its predecessor, the militia, has provided Homeland Defense, which is a basic function of our government, since the colonial era. It was doing so over 100 years before our Constitution established the fundamental responsibility of government to "provide for the common defense." American colonial leaders had recognized the need for a homeland defense capability and established colonial militias to fight both internal and external threats to the community and country.¹⁵ This paper will define homeland security, and provide the justification for the National Guard to serve as the focus for Homeland Defense, and propose an expanded role it should play in the military's anticipated Homeland Security missions.

DEFINITIONS

Homeland Security's definition is still open to debate, but will be used in this paper to mean "the prevention, deterrence, and preemption of, and defense against, aggression targeted at U.S. territory, sovereignty, population, and infrastructure as well as the management of the consequences of such aggression and other domestic emergencies."¹⁶ Homeland security is not, as it is often described, a single integrated mission. It encompasses a group of diverse missions and functions that are performed by numerous and diverse agencies. The missions and functions that the military performs in support of Homeland Security can be divided into two major groups: Homeland Defense (HLD) and Civil Support (CS).¹⁷ Mr. Frank Hoffman, a specialist in defense requirements who headed the study of Homeland Security for the U.S. Commission on National Security in the 21st Century, describes Homeland security as being comprised of domestic security programs, homeland defense missions performed by the military services, and diplomatic efforts that deter, prevent, protect and respond to attacks on the United States.¹⁸ "Homeland security in the 21st century is nearly synonymous with national security in

the 20th century” according to Randall J. Larsen, director of the institute for Homeland Security at Analytic Services Inc.¹⁹ They are less than synonymous because America’s national security interests extend far beyond the territory and population of the United States and include: protecting our access to open markets and resources; helping to achieve regional stability; promoting and defending human rights; and supporting our many allies and partners across the globe.²⁰

Homeland Defense is the “prevention, preemption, and deterrence of, and defense against, direct attacks aimed at U.S. territory, population and infrastructure. The missions in homeland defense typically include fairly traditional warfighting tasks where the Department of Defense often plays a leading role. Some of these roles require limited cooperation with agencies and actors outside of the Department of Defense, while others require much more. The military’s involvement varies according to the Homeland Defense mission; the Department of Defense will have the lead and act with great autonomy for any deployed national missile defense but will work with a variety of other federal organizations (such intelligence agencies, the Federal Bureau of Investigation, and the Department of State) to deter and prevent terrorist attacks against the U.S. homeland.”²¹

Civil Support is “the Department of Defense support to civilian authorities for prevention and response to manmade domestic emergencies, civil disturbances, and designated law enforcement efforts.”²² These missions are support tasks where the military is not in the lead, but instead provides assistance to designated civilian authorities and agencies on either a case-by-case or continuing basis. They are not traditional warfighting missions and include consequence management, disaster relief, small-scale counter terrorism efforts, and supporting the defense of America’s critical infrastructures.²³

THE MILITIA

The history of an organized U.S. militia dates from colonial times. For example, the 17th-century North regiment of Boston evolved into today’s 101st Engineer Battalion of the Massachusetts National Guard. George Washington made it part of his military policy to consider the militia the keystone of the country’s security, together with a regular or standing army.²⁴ The early militia evolved from the English belief that every free, able-bodied man had the obligation to help defend the country. Citizen soldiers were the militia. As the early settlers took more and more land from the Indians, war became inevitable. Subsequently, in the 1630s militias were formed in the colonies following Indian attacks on some of the smaller settlements. The history of the National Guard began on December 13, 1636 when the General Court of the

Massachusetts Bay Colony ordered the organization of the Colony's militia companies into three regiments: The North, South and East regiments. The colonists had adopted the English militia system, which obligated all males, between 16 and 60, to possess arms and participate in the defense of the community. The early colonial militia drilled once a week and provided guard details each evening to sound the alarm in case of attack. The growing threat of the Pequot Indians to the Massachusetts Bay Colony required that the militia be in a high state of readiness.²⁵

During the French and Indian War, which began in 1754, militia regiments did much of the fighting. The Colonial militia, which often fought in small numbers and emphasized initiative, contributed badly needed skill in frontier warfare to the British Army. During the American Revolution, which began just 10 years after the French and Indian War, militia regiments contributed heavily to the Continental Army.

Following the Revolution, the framers of the Constitution compromised between opposing views from federalists and states' rights advocates. The Federalists wanted a strong central government with a large regular army and militia firmly under its control. Those who believed in states rights did not want a large regular Army and felt states should control the militias. The framers made the President the Commander-in-Chief of all the military forces, but gave Congress the right to declare war and the sole power to raise taxes to pay for military forces. The control of the militia was divided between the individual states and the federal government. The Constitution gave the states the right to appoint officers and supervise the training of the militia. The federal government was granted the authority to impose standards.

The 1792 Militia Law remained in effect for 111 years. It required all males between the ages of 18 to 45 to enroll, although enforcement was spotty. Volunteer companies of men, who would buy their own uniforms and equipment, were also authorized. The federal government would provide limited funds for weapons and ammunition. In July of 1825, The New York State Militia, renamed the 2nd Battalion 11th regiment of Artillery in 1812, turned out to welcome the Marquis de LaFayette, the French aristocrat who had helped America during its bid for independence. To honor him, the battalion took the name "National Guard" in remembrance of the celebrated Garde Nationale de Paris, which Lafayette had commanded during the early days of the French revolution²⁶

The official militia, an organization not part of the National Guard, still exists today in 19 states. They are called state guards or State Defense Forces and are authorized and commanded by the governors acting through the state adjutant general. They consist of volunteers who train and provide emergency and community support services. Members serve

on state active duty if ordered by the governor. The strength and level of activity of the state guards are determined by the attitudes of their adjutants general and varies widely from state to state. Strength has declined in recent years and they now have an aggregate strength of about 8,000, self-described as mostly older people.²⁷

THE NATIONAL GUARD

In the late 19th century, following the Civil War, more states began naming their militia regiments National Guard. In 1903, landmark legislation opened the way for increased modernization of the militia and increased federal control. It also made the name "National Guard" official and Congress declared that from then on the organized militia would be known as the National Guard. They also provided that members were to attend 24 drills per year and five days of paid annual training. This marked the first time the militia or National Guard was paid to train.²⁸

The Army National Guard predates the founding of the nation and a standing national military by almost 150 years. Since the first permanent militia regiments were established in 1636 the Guard has participated in every major U.S. conflict from the Pequot War of 1637 to Operation DESERT STORM in 1991. Current operations include both NOBLE EAGLE, associated with homeland defense and support to federal, state, and local agencies in the United States, and ENDURING FREEDOM in Afghanistan and the fight against terrorism.

The National Guard finds its formal origins in provisions of the United States Code, which reads in part:

To provide trained units and qualified persons available for active duty in the armed forces, in time of war or national emergency and at such times as the national security requires, to fill the needs of the armed forces, whenever, during, and after the period needed to procure and train additional units and qualified persons to achieve the planned mobilization, more units and persons as needed than are in the regular components.²⁹

In addition to the constitutional charter, a variety of statutes have been enacted over the years to better define the Guard's role in our nation's affairs. While federal regulations dictate much of the Guard's function and organization, control of the Guard personnel and units is divided between state and national levels. Where the colonial period saw Guard activities largely confined within the colonial borders, the later 19th century conflicts found the Guard contributing to the nation's defense both at home and abroad. Throughout the 19th century while the Regular Army was small, the militia (National Guard) provided the bulk of the troops

during the Mexican War, the early months of the Civil War, and the Spanish American War. The first half of the last century witnessed the foundation of the modern Army National Guard.

The Army National Guard fulfills a vital national defense role and has emerged as a well-armed fighting force and an important component in the nations' emergency preparedness network, the only organization with this dual mission.³⁰ Today's National Guard remains a dual state-Federal force, continuing its historic dual mission of providing to the states units trained and equipped to protect life and property, while providing to the nation units trained, equipped, and ready to globally defend the United States and its interests.³¹

POSSE COMITATU.S. ACT

The Posse Comitatus Act of 1878 has been traditionally viewed as a major barrier to the use of U.S. military forces in planning for homeland defense. In fact, many in uniform believe the Act precludes the use of U.S. military assets in domestic security operations in any but the most extraordinary situations.³² As the dialogue for a CINC-Northern Command continues with lawmakers and Pentagon officials on one side, civil libertarians on the other contend that the concept of a commander in chief is a step in the wrong direction and they cite the Posse Comitatus Act, which limits the military's role in law enforcement at home.³³ It is with this in mind that Posse Comitatus Act and its ramifications for Homeland Defense is briefly discussed.

Posse Comitatus comes from "Posse" the Common Law right of county sheriffs to enlist all males of appropriate age to enforce law and "Comitatus" the clients who protected Roman officials in the process of performing governmental responsibilities.³⁴ The original 1878 Posse Comitatus Act was indeed passed with the intent of removing the Army from domestic law enforcement. Following the Civil War the Army was used extensively throughout the South to maintain civil order, to enforce the policies of the reconstruction era, and to ensure that any lingering sentiments of rebellion were crushed. By doing so the Army became involved in traditional police roles and in enforcing politically volatile reconstruction policies. The Posse Comitatus Act was passed to remove the Army from civilian law enforcement and to return it to its role of defending the borders of the United States. The Act was passed in the 19th Century, when the distinction between criminal law enforcement and the defense of the national borders seemed clearer.

The statutory language of the Act does not apply to all U.S. military forces. The National Guard, when it is operating in its state status pursuant to Title 32 of the U.S. Code is not subject to the prohibitions on civilian law enforcement. The Guard has an expressed mission to preserve the laws of the state during times of emergency when regular law enforcement assets

prove inadequate. It is only when federalized, based on an exercise of Presidential authority, that the Guard becomes subject to the limitations of the Posse Comitatus Act.³⁵

The Act contains legal loopholes by exception, "except in such cases and under such circumstances as such employment of said force may be expressly authorized by the Constitution or by act of Congress." These exceptions provided a loophole by which Posse Comitatus has been suspended several times in the last century, including use of federal troops to end rioting in Chicago in 1919, in Washington, D.C. against "Bonus Marchers", and under the Truman administration when a railroad workers' strike was ended by nationalizing the railroads and placing them under the Army Corps of Engineers. In recent years debates have been over the authority troops should have during hurricane relief operations and when employed to support the Olympic Games within the continental United States.³⁶

Posse Comitatus does not directly apply to huge military manpower resources of the National Guard when it is operating in its state status, under the control of the state governors. National guard units have been nationalized under particular circumstances to place them under federal control and legal restraints. It is when federalized pursuant to an exercise of Presidential authority that the National Guard becomes subject to the limitations of the Posse Comitatus Act. Civil rights unrest during the 1950's and 1960's, rioting during a Democratic Party National Convention, and riots in the Watts area of Los Angeles were all events that strained the concepts of strict separation of National Guard and federal forces.

The misinterpretation of this law was evident during the Los Angeles riots in April 1992. After the rioting began, and the Governor requested assistance, the President ordered the Secretary of Defense to employ Department of Defense assets as needed to restore order. The California National Guard was federalized and a Joint Task Force (JTF) established. Most people thought that the active duty and guardsmen of the Joint Task Force were still under Posse Comitatus, but in reality the Presidential Proclamation and subsequent order to the Defense Secretary set aside Posse Comitatus.³⁷ The prohibitions against using regular troops or federalized National Guard units in law enforcement are not absolute. The exceptions and enabling structures are written into statutes, such as the Stafford Act, 42 U.S.C section 5121, that allow the president to declare a major disaster and send in military forces on an emergency basis to preserve life and property.³⁸

Does the Posse Comitatus Act present a major barrier to the National Command Authority for using military forces in the battle against terrorism? The numerous exceptions and policy shifts carried out over the past 20 years alone strongly indicates it does not. Could anyone seriously suggest that it is appropriate to use the military to interdict drugs and illegal aliens, but

preclude them from countering terrorist's threats employing weapons of mass destruction? Under both statutory and Constitutional exceptions that have permitted the use of the military in law enforcement since 1980, the President can and with authority employ the military in homeland defense.³⁹ As the debate over who will defend America continues so does the debate about and the misunderstanding of Posse Comitatus and its applicability to the defense of the homeland.

THE ROLE OF THE NATIONAL GUARD

The United States Constitution provides clear direction with regard to employment of U.S. military forces. Article I, Section 8, Clause 12, of the Constitution proclaims that Congress shall have the power "to raise and support armies...."⁴⁰ Article I, Section 8, Clause 13, declares that Congress shall have the power "to provide for the calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions."⁴¹ Article I, Section 8, Clause 16, further states that Congress shall have the power "to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States...."⁴² This lays the foundation for the next step in the Homeland Defense mission, the use of the National Guard to combat threats to homeland security. Such threats of terrorists and the possible use of weapons of mass destruction have grave implications for Homeland Security, Homeland Defense, and National Security.

The roles, force structure, and employment of the National Guard are based on three constitutional provisions. These provisions are found in statutory, constitutional and common law. Common law is that body of law based on custom, usage and court decisions.⁴³ The statutory role of the National Guard is to serve as the Reserve of the Army and Air Force (10 U.S.C, 23 U.S.C). Its constitutional role is to repel invasion, suppress rebellion, and enforce laws (Article I, Section 8, U.S. Constitution, 10 U.S.C 331/32 and 32 U.S.C 101-104). Its common law role is to protect the citizenry against all dangers and threats to their liberties, including their own standing Army.⁴⁴

The Army National Guard, approximately 367,000 strong, makes up more than one-half of the Total Army's ground combat forces and one-third of its support forces. Each state, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands has units ready for deployment. Some of the key Army National Guard assets include the 20 Air Ambulance Units located throughout the country and in proximity to 10 Regional Headquarters of the Federal Emergency Management Agency (FEMA), seven division chemical companies, one smoke/decontamination company, and one ACR chemical company. Military Police Units consist of two brigade

headquarters, 11 battalion headquarters, and 78 company size elements.⁴⁵ The Guard has eight divisions; two are being reconfigured to become combat support and combat service support forces in the division redesign (ADRS). There are two integrated divisions, with six separate brigades. The integrated divisions are being evaluated for reorganization as a deployable division. The mix of the force is appropriate for meeting projected future needs, with an about even number of maneuver combat units and combat support and combat service support units. According to MG Roger C. Schultz, Director, Army National Guard, this represents "a good force mix for the National Guard in the future".⁴⁶

The Army National Guard is an indispensable part of our National Military Strategy. The National Guard, as part of the Total Force, is engaged in joint operational support, contingency operations, military-to-military contact, and deterrence missions. These elements provide augmentation, reinforcement, and expansion in time of mobilization.⁴⁷

With the rise of transnational security threats such as terrorism, weapons of mass destruction (WMD), international crime, drug trafficking, and illegal immigration, the defense of the homeland takes on increasing importance.⁴⁸ The term "national defense" focuses on protecting core U.S. values to include political, economic, social and cultural interests and activities that represent our nation. Because of the United States' dominant position in the Western Hemisphere and no conventional military threats on its borders, the Homeland Defense mission generally excludes the combat role and instead encompasses several nontraditional activities that falls under military operations other than war (MOOTW). Although Homeland Defense has not yet been fully defined, the assumption that the Army National Guard will play a lead role is based on its presence in all the states and territories, its historical involvement in MOOTW missions within the continental United States, and its constitutional obligations to maintain the security and well being of each state.⁴⁹

The Army National Guard's federal mission is to maintain well-trained, well-equipped units available for prompt mobilization during war and provide assistance during national emergencies (such as natural disasters or civil disturbances). These units may be activated in a number of ways as prescribed by public law, most of which can be found in Title 10 of the U.S. Code. In addition, units may be used (mobilized, AT or ADT) to perform missions that include promoting democratic ideals through programs such as Partnership for Peace; humanitarian missions such as Operation PROVIDE COMFORT (Kurdish refugees in Iraq/Turkey); counter drug operations; and peacekeeping/peace enforcement missions such as Operation JOINT FORGE (formerly known as JOINT ENDEAVOR and JOINT GUARD) in Bosnia-Herzegovina.⁵⁰

The National Guard Bureau, both a staff and operating agency, administers the federal functions of the Army and Air National Guard. As a staff agency, the National Guard Bureau participates with the Army and Air staffs in developing and coordinating programs that directly affect the National Guard. As an operating agency, the National Guard Bureau formulates and administers the program for training, development, and maintenance of the Army and Air Guard and acts as the channel of communication between the Army, Air Force, the 50 states, three territories, and the District of Columbia. When not mobilized or under federal control, the Guard units report to the governor of their respective state, territory, or the Commanding General of the District of Columbia National guard. Under state law, the Army National Guard provides protection of life, property and preserves peace, order and public safety. These missions are accomplished through emergency relief support during natural disasters such as floods, earthquakes, and forest fires; search and rescue operations; support to civil defense authorities; maintenance of vital public services; and counter drug.⁵¹

The National Guard's unique federal-state status has enabled the Guard to be the Department of Defense's primary provider of Military Support to Civilian Authorities for natural and man-made disasters, civil disturbances, and other homeland security events requiring military assistance. Thus the National Guard must continue to be structured, resourced and trained to accomplish its federal warfight and homeland security missions.⁵² The National Guard organizational framework allows for quick response to answer transportation, medical, security, and other manpower needs without creating a whole new task force. National Guard rapid assessment and initial detection teams, called Weapons of Mass Destruction-Civil Support Teams (WMD-CS Teams), are taking the lead in the U.S. military's response to domestic emergencies.⁵³

These teams are organized under the peacetime control of a state's Adjutant General. Because of their rapid response requirements, the initial ten teams, (one per Federal Emergency Management Agency region) consist of full-time Guard members. There are currently more than thirty teams, authorized or established, each consisting of 22 full-time National Guardsmen who are on call 24-hours-a-day. These teams are distributed across the FEMA regions to respond rapidly in support of their respective state governors.⁵⁴ The teams train local fire, police, and health officials in the mechanics of dealing with possible weapons of mass destruction events. In the case of such events, they would assist with casualties, quarantines, detection and identification of chemical or biological agents and act as a 'bridge' to other Department of Defense assets. Additionally, the WMD-CS Teams may expand to all 54 states and territories, as requested when the teams were first proposed. It is important that in

23 states, the National Guard adjutants general are also the state directors of emergency management, which simplifies the process for any kind of disaster coordination.⁵⁵

Joint Task Force Civil Support (JTF-CS) was established as part of U.S. Joint Forces command (U.S.JFCOM) to deploy to a chemical, biological, radiological, nuclear, and high explosive (CBRNE) incident site and coordinate the military support to the lead federal agency. A Major General in the National Guard commands this 80-member unit that also plays an important role in the training, exercises, and doctrine associated with CBRNE Consequence Management. In addition, U.S. Joint Forces Command can call upon two Response Task Forces (RTF-East and RTF-West) to help coordinate the military's response to a CBRNE disaster. RTF-East was established for WMD incident support to civilian officials responsible for the 1996 Atlanta Olympics.⁵⁶

The vast majority of first response assets will be from state and local governments, particularly following the mass disruption and consequences of any mass casualty attack. The federal government plays an important role in providing equipment and the standards for equipment and training, and some unique skills, such as the Department of Energy's ability to handle nuclear weapons and the Department of Defense's technical support following a chemical attack. However, these first responders will clearly be under the command of a state or local incident commander. These resources serve the nation best when they can be used by nearby jurisdictions as needed.

The National Guard, commanded by state governors when not federalized, is a superb example of how national standards can be of great benefit to state assets. National Guard units have often responded in other states following natural disasters. Thus the Guard's national standardization facilitates effective integration with the units in other states, which is a capability that is especially important when responding to weapons that self-replicate, such as computer and biological viruses.⁵⁷

Beyond employment in their traditional role as the combat support for the Regular Army, other looming missions for the National Guard are peacekeeping, the war on drugs, and border security. These missions are even more important as a result of the events of 11 September. Numerous Guard units have served in Bosnia since 1995 and in the many humanitarian missions undertaken by the Army during the 1990's. In late 1997 a Virginia National Guard infantry company, was the first combat unit sent to an imminent danger area since Desert Storm and the first infantry company since Vietnam.

On the domestic front the Guard has been active on the Mexican border assisting the Border Patrol and port authorities in freight/cargo inspections. They also assist with covert

surveillance of areas outside the legal crossing sites. In 1916, President Woodrow Wilson federalized the National Guard and sent them to the Mexican border in response to cross-border depredations of Mexican bandits. This highlights how important the Guard is in the defense of the U.S. borders. The attacks on the World Trade Center and the Pentagon remind us of the recently acquired plethora of arms, in unfriendly hands, and the possibility of unacceptable risks to U.S. borders and interests.⁵⁸

FUTURE ROLES OF THE NATIONAL GUARD IN HOMELAND SECURITY

Since early September 2001, both the Air and Army National Guard have performed incredibly well with the assignments given them in the aftermath of the terrorist's attacks. They are again proving that they are and should be the nation's first choice for a homeland defense force. Thousands of troops from the Guard are standing watch at airports and may in the future be at immigration posts. These roles have been carried out under long standing authorities with little question about chains of command and local control.⁵⁹ As the American people come to appreciate today's threat environment, new strategic concepts, force structure, and resources will be committed to homeland security. In this respect, it is likely that the National Guard's responsibility for preemption and deterrence as well as consequence management will expand.⁶⁰

Integration of U.S. military deployment and sustainment systems with the civilian economy's communications and transportation systems has created great efficiencies, but it also means attacks on civilian systems can collapse the military systems that depend on them. Likewise, the international integration of national economic systems has increased U.S. vulnerability to attack. Addressing this vulnerability requires system-wide defense, recovery, and reconstitution. Because attacks on U.S. systems could come with little or no warning, some defense, recovery and reconstitution capabilities must be mobilized within hours, if not minutes. These requirements for system-wide defense, recovery and reconstitution clearly cannot be met by active component forces because of the enormous difficulty of embedding them in the systems that must be protected.⁶¹

Today, the U.S. national information infrastructure is an essential component of our critical economic and national security systems. The vulnerability of this "system of systems," long identified by potential enemies as the key U.S. center of gravity, is apparent. To protect this key center of gravity, integrating information assurance capabilities into a nationwide, fully integrated information defense system has been suggested. Some agencies are already recognizing the role the National Guard can play in information assurance.

The national information system is but one area of possible synergistic relationships between the National Guard and the commercial and military systems it must defend. The same is true of transportation, communications, and other critical systems. The people who best understand these systems and their vulnerabilities already work in the industries. Therefore, if the Guard were required to defend these capabilities, a logical place to recruit for the defense organizations would be within the industries themselves. The Guard is well suited to this mission.⁶²

The United States must be prepared to defend its homeland from a variety of nontraditional threats. The Army National Guard provides an excellent and natural instrument for confronting these threats. However, this approach might divert some of the Guard from its combat mission. One way to resolve this issue would be to place all Army Guard combat formations into the United States Army Reserve. This would align the nation's primary strategic combat reserves with their active component partners, eliminate dual control over these combat formations and allow the active Army to direct training and combat readiness without subordination to state control.

Conversely all combat support and combat service support units could then be integrated into the Army National Guard and focus on the homeland defense role, which more closely mirrors the types of crises and emergencies faced by individual state governors. This would in effect, return the Army National Guard to its territorial or constabulary nature, which more closely approximates the legacy of their militia history and tradition. Placing the reserve combat forces in the Army Reserve makes sense for the states since state governors have a greater need for transportation, military police, medical, engineer and helicopter units than they do for tank and infantry battalions. The Reserves will continue their unique functions such as Psychological Operations (PSYOPS).⁶³ This is not the only way to facilitate an expanded role for the National Guard, but has been suggested even though the current configuration has been successful. But troop reductions outlined in the 2001 Quadrennial Review process if not overtaken by the events of 11 September will force the National Guard to react to Active Forces changes. Many others have simply stated that the answer may be to add more combat support and combat service support elements to the active military. But the bottom line is that the National Guard needs to be in a position to take on the additional responsibilities, all of which have not been completely defined, associated with homeland defense.

CONCLUSION

The National Guard is already seeing the genesis of their expanded and future role in homeland defense. They were deployed immediately in the aftermath of the 11 September terrorists attacks to protect U.S. skies, nuclear power plants, and weapon depots. The Army National Guard for the District of Columbia joined the U.S. Capitol Police in providing security for Congress. They provided deliberate visible perimeter security and traffic control. And while this is unusual, it is not unprecedented. They were deployed in the 1930s when World War I veterans marched on Washington demanding benefits and again when Dr. Martin Luther King was assassinated in 1968 and rioting broke out in the District of Columbia.⁶⁴

More than 7,000 guardsmen are providing security at airports and another 2,200 providing security at National Guard facilities under Title 32. Title 32 allows the National Guard to remain under the control of the state governor, but paid and equipped by the federal government. Another 4,000 guardsmen from 23 states bolstered the security at the recent Winter Olympic games. Governors are also using the Guard for homeland security missions providing security at nuclear power plants, ports, bridges and other critical infrastructure that are potential terrorist targets.⁶⁵

Today more than 26,000 guardsmen, Army and Air Force, have been mobilized to participate in Operation ENDURING FREEDOM and Operation NOBLE EAGLE. The use of the National Guard in their various constitutional and statutory statuses have further highlighted the tremendous contribution they have made in the aftermath of September 11th as responders to natural disasters, as a tool in the war on terrorism, and as a very flexible force for homeland security.⁶⁶ The National Guard is not only reengineering itself to take on its acknowledged role in the Homeland Security arena but is proving its durability as the "first defenders". Senator Patrick Leahy said it best during the hearing of the Subcommittee on Technology, Terrorism, and Government Information, "on all fronts, the National Guard is performing incredibly well and proving every day they are the nation's premier homeland defense force."⁶⁷

RECOMMENDATION

- The National Guard, with their current assets, remains under the control of the State Governor during peacetime.
- Review and consider a shift in structure for the Active Component (AC), Army Reserve (USAR), and National Guard (NG) to determine proper configuration to allow the

National guard to perform their Homeland Security role while shifting responsibility for other operations and increased OPTEMPO and PERSTEMPO to other components.

- Define and add responsibilities based on homeland defense requirements, if needed.
- Provide for more WMD-CS Teams and accelerate their certification.

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