AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

HOMELAND DEFENSE: OLD FORCE STRUCTURES FOR NEW MISSIONS?

HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL SECURITY, EMERGING THREATS AND INTERNATIONAL RELATIONS

OF THE

COMMITTEE ON GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

APRIL 29, 2003

Serial No. 108–48

Printed for the use of the Committee on Government Reform

Available via the World Wide Web: http://www.gpo.gov/congress/house
http://www.house.gov/reform

U.S. GOVERNMENT PRINTING OFFICE

89–353 PDF WASHINGTON : 2003

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2250 Mail: Stop SSOP, Washington, DC 20402–0001

COMMITTEE ON GOVERNMENT REFORM

TOM DAVIS, Virginia, *Chairman*

DAN BURTON, Indiana
CHRISTOPHER SHAYS, Connecticut
ILEANA ROS-LEHTINEN, Florida
JOHN M. MCHUGH, New York
JOHN L. MICA, Florida
MARK E. SOUDER, Indiana
STEVEN C. LATOURETTE, Ohio
DOUG OSE, California
RON LEWIS, Kentucky
JO ANN DAVIS, Virginia
TODD RUSSELL PLATTS, Pennsylvania
CHRIS CANNON, Utah
ADAM H. PUTNAM, Florida
EDWARD L. SCHROCK, Virginia
JOHN J. DUNCAN, JR., Tennessee
JOHN SULLIVAN, Oklahoma
NATHAN DEAL, Georgia
CANDICE S. MILLER, Michigan
TIM MURPHY, Pennsylvania
MICHAEL R. TURNER, Ohio
JOHN R. CARTER, Texas
WILLIAM J. JANKLOW, South Dakota
MARSHA BLACKBURN, Tennessee

HENRY A. WAXMAN, California
TOM LANTOS, California
MAJOR R. OWENS, New York
EDOLPHUS TOWNS, New York
PAUL E. KANJORSKI, Pennsylvania
CAROLYN B. MALONEY, New York
ELIJAH E. CUMMINGS, Maryland
DENNIS J. KUCINICH, Ohio
DANNY K. DAVIS, Illinois
JOHN F. TIERNEY, Massachusetts
WM. LACY CLAY, Missouri
DIANE E. WATSON, California
STEPHEN F. LYNCH, Massachusetts
CHRIS VAN HOLLEN, Maryland
LINDA T. SANCHEZ, California
C.A. "DUTCH" RUPPERSBERGER, Maryland
ELEANOR HOLMES NORTON, District of Columbia
JIM COOPER, Tennessee
CHRIS BELL, Texas

BERNARD SANDERS, Vermont (Independent)

PETER SIRH, *Staff Director*
MELISSA WOJCIAK, *Deputy Staff Director*
ROB BORDEN, *Parliamentarian*
TERESA AUSTIN, *Chief Clerk*
PHILIP M. SCHILIRO, *Minority Staff Director*

SUBCOMMITTEE ON NATIONAL SECURITY, EMERGING THREATS AND INTERNATIONAL RELATIONS

CHRISTOPHER SHAYS, Connecticut, *Chairman*

MICHAEL R. TURNER, Ohio
DAN BURTON, Indiana
STEVEN C. LATOURETTE, Ohio
RON LEWIS, Kentucky
TODD RUSSELL PLATTS, Pennsylvania
ADAM H. PUTNAM, Florida
EDWARD L. SCHROCK, Virginia
JOHN J. DUNCAN, JR., Tennessee
TIM MURPHY, Pennsylvania
WILLIAM J. JANKLOW, South Dakota

DENNIS J. KUCINICH, Ohio
TOM LANTOS, California
BERNARD SANDERS, Vermont
STEPHEN F. LYNCH, Massachusetts
CAROLYN B. MALONEY, New York
LINDA T. SANCHEZ, California
C.A. "DUTCH" RUPPERSBERGER, Maryland
CHRIS BELL, Texas
JOHN F. TIERNEY, Massachusetts

EX OFFICIO

TOM DAVIS, Virginia
HENRY A. WAXMAN, California

LAWRENCE J. HALLORAN, *Staff Director and Counsel*
R. NICHOLAS PALARINO, *Senior Policy Advisor*
ROBERT A. BRIGGS, *Clerk*
DAVID RAPALLO, *Minority Counsel*

CONTENTS

	Page
Hearing held on April 29, 2003	1
Statement of:	
Decker, Raymond, Director, Defense Capabilities Managing Team, U.S. General Accounting Office; General Dennis J. Reimer, director, Oklahoma City National Memorial Institute for the Prevention of Terrorism; Dr. James Jay Carafano, senior fellow, Center for Strategic and Budgetary Assessments; and Michael Wermuth, senior policy analyst, Rand Corp.	67
McHale, Paul, Assistant Secretary of Defense for Homeland Defense; Thomas F. Hall, Assistant Secretary of Defense for Reserve Affairs; and Lieutenant General Edward G. Anderson III, Deputy Commander, U.S. Northern Command and Aerospace Defense Command	5
Letters, statements, etc., submitted for the record by:	
Anderson, Lieutenant General Edward G., III, Deputy Commander, U.S. Northern Command and Aerospace Defense Command, prepared statement of	33
Carafano, Dr. James Jay, senior fellow, Center for Strategic and Budgetary Assessments, prepared statement of	102
Decker, Raymond, Director, Defense Capabilities Managing Team, U.S. General Accounting Office, prepared statement of	71
Hall, Thomas F., Assistant Secretary of Defense for Reserve Affairs, prepared statement of	24
McHale, Paul, Assistant Secretary of Defense for Homeland Defense, prepared statement of	8
Reimer, General Dennis J., director, Oklahoma City National Memorial Institute for the Prevention of Terrorism, prepared statement of	92
Ruppersberger, Hon. C.A. Dutch, a Representative in Congress from the State of Maryland, prepared statement of	64
Shays, Hon. Christopher, a Representative in Congress from the State of Connecticut, prepared statement of	3
Wermuth, Michael, senior policy analyst, Rand Corp., prepared statement of	114

HOMELAND DEFENSE: OLD FORCE STRUCTURES FOR NEW MISSIONS?

TUESDAY, APRIL 29, 2003

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON NATIONAL SECURITY, EMERGING THREATS AND INTERNATIONAL RELATIONS,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 1 p.m., in room 2247, Rayburn House Office Building, Hon. Christopher Shays (chairman of the subcommittee) presiding.

Present: Representatives Shays, Turner, Murphy, Janklow and Ruppersberger.

Staff present: Lawrence Halloran, staff director and counsel; R. Nicholas Palarino, PhD, senior policy advisor; Robert A. Briggs, clerk; Mackenzie Eaglen, intern; David Rapallo, minority counsel; and Jean Gosa, minority assistant clerk.

Mr. SHAYS. A quorum being present, the Subcommittee on National Security, Emerging Threats and International Relations hearing entitled, "Homeland Defense: Old Force Structures for New Missions," is called to order.

We fight abroad to be safe at home. Successful military operations in Afghanistan and Iraq demonstrate an unmatched capacity and a newfound willingness to confront emerging threats where they nest, before they can migrate to our shores. But the battle lines in the global war against terrorism reach far, from Kabul to Cleveland, from Baghdad to Bridgeport. The threat demands a new military posture on the home front as well.

Today we examine efforts to reform and restructure Department of Defense [DOD], capabilities to defend the U.S. homeland and support civil authorities in the event of terrorist attacks.

The cold war strategic pillar of containment, deterrence, reaction and mutually assured destruction crumbled on September 11, 2001. Since then, we have been building a new security paradigm, a strategy that is proactive, preemptive and, when necessary, preemptive. Significant strides have been made to reshape and refocus military capabilities to meet an uncertain world of lethal intentions and unconventional capabilities overseas. But at home less has been accomplished to clarify the structural, legal and fiscal implications of new military operations within the sovereign borders of the States.

New strategic realities prompted the creation of the Northern Command, or NORTHCOM, to unify all DOD homeland defense activities under one military authority; and the position of Assistant

Secretary for Homeland Defense was created to coordinate all DOD civil support functions.

These are important steps toward aligning Pentagon management with current missions. But below those top-level structures, particularly in the National Guard and Reserve units trained in security operations, there has been little change in what many view as an accelerating, unsustainable tempo of domestic taskings and foreign deployments. Personnel and equipment used for homeland defense missions are not available for war fighting tasks. Reserve and Guard call-ups draw heavily from local first responder ranks, degrading domestic readiness.

This apparent conflict between global security and homeland defense responsibilities strains a total force structure heavily reliant on seamless integration of Reserve components and active duty units.

The threat of terrorism demands new tactics abroad and new modes of military vigilance at home. Missions and skills that were scattered in secondary considerations in the cold war strategy must now be as manned and ready as global force projection packages. To train as they fight, military units have to practice on our streets alongside civilian first responders. Equipment inoperability standards and communication channels have to be established before the next attack is upon us.

So today we ask how military force structures, doctrine and training are being transformed to integrate homeland defense and civil support missions into a unified, sustainable defense posture. Our witnesses all bring impressive experience and important insights to our discussion today. We appreciate their time, we appreciate their devotion to our country, and we look forward to their testimony.

[The prepared statement of Hon. Christopher Shays follows:]

TOM DAVIS, VIRGINIA
CHAIRMAN

DAN BURTON, INDIANA
CHRISTOPHER SHAYS, CONNECTICUT
ILEANA ROS-LEHTINEN, FLORIDA
JOHN M. McHUGH, NEW YORK
JOHN L. MICA, FLORIDA
MARK E. SOUDER, INDIANA
STEVEN C. LATOURETTE, OHIO
DOUG OSE, CALIFORNIA
RON LEWIS, KENTUCKY
JO ANN DAVIS, VIRGINIA
TODD RUSSELL PLATTS, PENNSYLVANIA
CHRIS CANNON, UTAH
ADAM H. PUTNAM, FLORIDA
EDWARD L. SCHROCK, VIRGINIA
JOHN J. DUNCAN, JR., TENNESSEE
JOHN SULLIVAN, OKLAHOMA
NATHAN DEAL, GEORGIA
CANDICE MILLER, MICHIGAN
TIM MURPHY, PENNSYLVANIA
MICHAEL R. TURNER, OHIO
JOHN R. CARTER, TEXAS
WILLIAM J. JANKLOW, SOUTH DAKOTA
MARSHA BLACKBURN, TENNESSEE

ONE HUNDRED EIGHTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515–6143

MAJORITY (202) 225–5074
FACSIMILE (202) 225–3974
MINORITY (202) 225–5051
TTY (202) 225–6852

www.house.gov/reform

HENRY A. WAXMAN, CALIFORNIA
RANKING MINORITY MEMBER

TOM LANTOS, CALIFORNIA
MAJOR R. OWENS, NEW YORK
EDOLPHUS TOWNS, NEW YORK
PAUL E. KANJORSKI, PENNSYLVANIA
CAROLYN B. MALONEY, NEW YORK
ELIJAH E. CUMMINGS, MARYLAND
DENNIS J. KUCINICH, OHIO
DANNY K. DAVIS, ILLINOIS
JOHN F. TIERNEY, MASSACHUSETTS
WM. LACY CLAY, MISSOURI
DIANE E. WATSON, CALIFORNIA
STEPHEN F. LYNCH, MASSACHUSETTS
CHRIS VAN HOLLEN, MARYLAND
LINDA T. SANCHEZ, CALIFORNIA
C.A. DUTCH RUPPERSBERGER, MARYLAND
ELEANOR HOLMES NORTON, DISTRICT OF COLUMBIA
JIM COOPER, TENNESSEE
CHRIS BELL, TEXAS

BERNARD SANDERS, VERMONT, INDEPENDENT

SUBCOMMITTEE ON NATIONAL SECURITY, EMERGING THREATS,
AND INTERNATIONAL RELATIONS
Christopher Shays, Connecticut
Chairman
Room B-372 Rayburn Building
Washington, D.C. 20515
Tel: 202 225-2548
Fax: 202 225-2382
E-mail: hr.groc@mail.house.gov

Statement of Rep. Christopher Shays
April 29, 2003

We fight abroad to be safe at home. Successful military operations in Afghanistan and Iraq demonstrate an unmatched capacity, and newfound willingness, to confront emerging threats where they nest, before they can migrate to our shores. But the battle lines in the global war against terrorism reach from Kabul to Cleveland, from Baghdad to Bridgeport. The threat demands a new military posture on the home front as well.

Today we examine efforts to reform and restructure Department of Defense (DOD) capabilities to defend the U.S. homeland and support civil authorities in the event of terrorist attacks.

The Cold War strategic pillars of containment, deterrence, reaction and mutually assured destruction crumbled on September 11th 2001. Since then, we have been building a new security paradigm, a strategy that is proactive, preventive and when necessary preemptive. Significant strides have been made to reshape and refocus military capabilities to meet an uncertain world of lethal intentions and unconventional capabilities overseas. But at home, less has been accomplished to clarify the structural, legal and fiscal implications of new military operations within the sovereign borders of the states.

New strategic realities prompted the creation of the Northern Command, or NORTHCOM, to unify all DOD homeland defense activities under one military authority. And the position of Assistant Secretary for Homeland Defense was created to coordinate all DOD civil support functions. These are important steps toward aligning Pentagon management with current missions.

But below those top-level structures, particularly in the National Guard and Reserve units trained in security operations, there has been little change in what many view as an accelerating, unsustainable tempo of domestic taskings and foreign deployments. Personnel and equipment used for homeland defense missions are not available for war fighting tasks. Reserve and Guard call-ups draw heavily from local first responder ranks, degrading domestic readiness. This apparent conflict between global security and homeland defense responsibilities strains a "Total Force" structure heavily reliant on seamless integration of reserve component and active duty units.

The threat of terrorism demands new tactics abroad and new modes of military vigilance at home. Missions and skills that were scattered and secondary considerations in the Cold War strategy must now be as manned and ready as global force projection packages. To "train as they fight" military units have to practice on our streets along side civilian first responders. Equipment interoperability standards and communications channels have to be established before the next attack is upon us.

So today we ask how military force structures, doctrine and training are being transformed to integrate homeland defense and civil support missions into a unified, sustainable defense posture. Our witnesses all bring impressive experience and important insights to our discussion today. We appreciate their time and we look forward to their testimony.

Mr. SHAYS. At this time, I would like to call on my colleague, Mr. Murphy, to see if he has any statement to make.

I note for the record the vice chairman has come in. So let me just call on the witnesses.

We have two excellent panels. Our first panel is the Honorable Paul McHale, Assistant Secretary of Defense for Homeland Defense, Department of Defense, former Member of Congress, a good friend, and I will say one of the best Members of Congress when he served here. So I think that the Department of Defense is blessed to have you.

Mr. MCHALE. Thank you, sir.

Mr. SHAYS. Mr. Thomas F. Hall, Assistant Secretary of Defense for Reserve Affairs, Department of Defense; and Lieutenant General Edward Anderson III, Deputy Commander, U.S. Northern Command and Northern Aerospace Defense Command.

Gentlemen, as is our custom, we swear our witnesses in, so I would ask you to rise.

[Witnesses sworn.]

Mr. SHAYS. I will note for the record that all three of our witnesses and an assistant have responded in the affirmative.

I am going to do our housekeeping part here and ask unanimous consent that all members of the subcommittee be permitted to place an opening statement in the record and that the record remain open for 3 days for that purpose. Without objection, so ordered.

I ask further unanimous consent that all witnesses be permitted to include their written statement in the record; and without objection, so ordered.

We will—this is what we do in this committee. We have the clock set for 5 minutes. We roll over for another 5, so you have technically 10 minutes. We would like you to finish somewhere between that 5 and 10. If you get to 10, all hell breaks loose.

Then we would—with the number of Members here, we do 10-minute questioning. We think that gets at—better getting the information we need. So we will just go in the order that I introduced you.

Mr. McHale, welcome; you have the floor.

STATEMENTS OF PAUL MCHALE, ASSISTANT SECRETARY OF DEFENSE FOR HOMELAND DEFENSE; THOMAS F. HALL, ASSISTANT SECRETARY OF DEFENSE FOR RESERVE AFFAIRS; AND LIEUTENANT GENERAL EDWARD G. ANDERSON III, DEPUTY COMMANDER, U.S. NORTHERN COMMAND AND AEROSPACE DEFENSE COMMAND

Mr. MCHALE. Thank you, sir.

Good afternoon. I truly am deeply honored to be here; and I want to thank you, Mr. Chairman, for your kind words a few moments ago.

As noted, Mr. Chairman, I previously submitted my formal statement for the record. Rather than reading that in terms of its verbatim text, I will simply submit it for the record.

If I may, sir, with your consent, I will provide a brief opening comment for the record.

Mr. SHAYS. Sure.

Mr. McHALE. Mr. Chairman, distinguished members of the subcommittee, President Bush has said that the world changed on September 11, 2001. We learned that a threat that gathers on the other side of the Earth can strike our own cities and kill our own citizens. It is an important lesson, one we must never forget.

Oceans no longer protect America from the dangers of this world. We are protected by daily vigilance at home, and we will be protected by resolute and decisive action against threats abroad.

Secretary Wolfowitz echoed those comments when he said, perhaps even more pointedly, "as terrible as the attacks of September the 11th were, we now know that terrorists are plotting still more and greater catastrophes. We know they are seeking more terrible weapons, chemical, biological and even nuclear weapons."

Congressman Shays, in your opening remarks you noted that we fight abroad to be safe at home, and therefore at the outset we should recognize that America's first line of domestic defense really begins overseas and results from the capabilities of our forward deployed forces. In that sense, Secretary Rumsfeld has correctly noted that the annual homeland defense budget of the Department is $380 billion.

After September 11, it was recognized that in order to ensure the security of the American people it was necessary to create a new geographic combatant command with the specific assigned mission of defending the United States, our citizens, our territory and our freedoms.

The mission of NORTHCOM is, "United States Northern Command conducts operations to deter, prevent and defeat threats and aggression aimed at the United States, its territories and interests within the assigned areas of responsibility; as directed by the President or Secretary of Defense provides military assistance to civil authorities, including consequence management operations."

NORTHCOM therefore has a mission statement that can be separated into two parts. Preceding the semicolon, the mission statement is one of war fighting. That is to physically defend the United States of America.

The second part of the mission statement relates to civil support; and that is, under extraordinary circumstances, when the Department of Defense has a unique capability or civilian officials are overwhelmed by the task at hand, to provide to those civilian agencies, both State and Federal, with the lead civilian agency establishing the goals and the military providing the support to assist those civilian agencies in addressing the mission at hand.

NORTHCOM's force structure is unique among the combatant commands. Very few forces are permanently assigned, although appropriate units have been identified for possible mission employment.

NORTHCOM's Commander is Air Force General Ed Eberhardt. He is located with his command at headquarters Peterson Air Force Base.

The Assistant Secretary of Defense for Homeland Defense is a position that was newly created by the National Defense Authorization Act of 2003. I was privileged to be nominated for that position and 3 months ago confirmed by the U.S. Senate.

During the intervening period of time, I have had the opportunity to visit virtually every major homeland defense command within the United States. This is an extraordinary responsibility. I am the first to fill it. The decisions that we make I have no doubt will affect the nature of our homeland defense for many decades to come.

We have, as one of our most important tasks, the responsibility to establish an effective working relationship with the newly created Department of Homeland Security. That relationship will involve close coordination, joint training and exercises. The Department of Defense and the Department of Homeland Security have complementary missions and capabilities. We certainly welcome the new Cabinet department as a full partner.

As we meet here today, a representative from my office, on behalf of the Department of Defense, is embedded within the operations center of the Department of Homeland Security. The cooperation that we are establishing is close and lasting.

The Department of Defense provides support to civilian agencies basically under two circumstances: when we have a unique capability such as with regard to weapons of mass destruction and the response that we might be compelled to provide in the event of a terrorist attack that would employ that kind of capability, and when civilian authorities are overwhelmed by the magnitude of the task at hand.

Finally, Mr. Chairman, let me close with a brief reference to the role of the National Guard. The National Guard is a balanced force. Historically, the National Guard has been dedicated primarily to overseas warfighting missions in terms of their Title 10 responsibilities. In short, the National Guard has been a very substantial portion of our Nation's strategic reserve.

We anticipate that in the years ahead that mission, that overseas warfighting mission, will be retained. But that it will be enhanced by additional homeland defense missions. Those missions may well be accomplished in State status, to potentially in Title 32 status which is when the National Guard is under the command and control of the Governor but the expenses are paid by the Department of Defense, or in their full Title 10 role. They provide geographic dispersion, a rapid response capability, an ability to defend critical infrastructure throughout our Nation, and of course they have been deeply involved in the establishment and the mission effectiveness of the civil support teams, 32 of which defend our Nation today.

Abraham Lincoln said, as our cause is new, so must we think and act anew. The President was right. The world changed on September 11. The Department of Defense is, for that reason, transforming its capabilities so that we will have effective responses to any conceivable attack, first to defeat it, and then if necessary to remediate it.

Mr. Chairman and Members, I can assure you that today, as always, America's men and women in uniform stand ready to defend our Nation against any threat at home or abroad.

Thank you.

Mr. TURNER [presiding]. Thank you.

[The prepared statement of Mr. McHale follows:]

Statement by

Mr. Paul McHale,

Assistant Secretary of Defense for Homeland Defense

Before the 108th Congress

House Government Reform Committee

Subcommittee on National Security, Emerging Threats,

and International Relations

U.S. House of Representatives

April 29, 2003

Introduction

Chairman Shays, Congressman Kucinich, and Members of the Subcommittee: I appreciate the opportunity to meet with you on the critical subject of our nation's security.

President Bush best characterized the challenge we face and the profound responsibility we bear today when, on the eve of the standup of the new Department of Homeland Security, he said, "The world changed on September the 11th, 2001. We learned that a threat that gathers on the other side of the earth can strike our own cities and kill our own citizens. It's an important lesson; one we must never forget. Oceans no longer protect America from the dangers of this world. We're protected by daily vigilance at home. And we will be protected by resolute and decisive action against threats abroad."

When freedom needs defending, America turns to its military. All who wear this nation's uniform have chosen to serve in America's defense and in freedom's cause. They stand tall in times of conflict, and they stand ready in times of peace.

As we speak, our military is carrying out the President's orders to deter, attack and destroy terrorist organizations and those who harbor them.

Our military is America's first and most important line of defense against homeland attacks. That is why defense of our nation actually starts abroad, where our soldiers, sailors, airmen, and Marines are putting their lives on the line every day to make it more difficult for terrorists to plan or execute their attacks before they ever near our borders.

Legal Constraints on DoD Domestic Activities

Military support to civilian law enforcement is carried out in strict compliance with the Constitution and U.S. laws and under the direction of the President and Secretary of Defense.

For example, the Posse Comitatus Act (PCA), Title 18 of the U.S. Code (USC), Section 1385, states:

"Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or Air Force as a posse comitatus or otherwise to execute the laws shall be fined under this title or imprisoned not more than two years, or both."

Department of Defense (DoD) Directive 5525.5 extended the PCA to the U.S. Navy and U.S. Marine Corps. The PCA does not apply to the U.S. Coast Guard.

The PCA generally prohibits U.S. military personnel from interdicting vehicles, vessels and aircraft; conducting surveillance, searches, pursuit and seizures; or making arrests on behalf of civilian law enforcement authorities. Prohibiting direct military involvement in law enforcement is in keeping with long-standing U.S. law and policy limiting the military's role in domestic affairs.

However, Congress has enacted a number of exceptions to the PCA that allow the military, in certain situations, to assist civilian law enforcement agencies in enforcing the laws of the United States. They include:

- The Insurrection Act (Title 10 USC Sections 331-334). This act allows the President to use U.S. military personnel at the request of the State Legislature or Governor to suppress insurrections. It also

allows the President to use federal troops to enforce federal laws when rebellion against the authority of the United States makes it impracticable to enforce the laws of the U.S.

- Assistance in the case of crimes involving nuclear materials (Title 18 USC Section 831). This statute permits DoD personnel to assist the Justice Department in enforcing prohibitions regarding nuclear materials, when the Attorney General and the Secretary of Defense jointly determine that an "emergency situation" exists that poses a serious threat to U.S. interests and is beyond the capability of civilian law enforcement agencies.

- Emergency situations involving chemical or biological weapons of mass destruction (Title 10 USC Section 382). When the Attorney General and the Secretary of Defense jointly determine that an "emergency situation" exists that poses a serious threat to U.S. interests and is beyond the capability of civilian law enforcement agencies, DoD personnel may assist the Justice Department in enforcing prohibitions regarding biological or chemical weapons of mass destruction.

Military Assistance to Civil Authorities

The U.S. military has a long and proud history of providing assistance to civil authorities. In so doing, DoD traditionally adheres to five premises when considering requests for support from civil authorities:

- That civil resources are applied first in meeting requirements of civil authorities;

- That DoD resources are provided only when response or recovery requirements are beyond the capabilities of civil authorities (as determined by the Department of Homeland Security or another Federal Agency for emergency response);

- That Specialized DoD capabilities requested for the support of civil authorities (e.g., airlift and airborne reconnaissance) are used efficiently;

- That DoD will be reimbursed in accordance with applicable laws; and

- Generally, military operations other than support to civil authorities will have priority over support to civil authorities, unless otherwise directed by the Secretary of Defense or the President.

Section 501 of Executive Order 12656 (Assignment of Emergency Preparedness Responsibilities) requires the Secretary of Defense to "[d]evelop and maintain, in cooperation with the heads of other departments and agencies, national security emergency plans, programs, and mechanisms to ensure effective mutual support between the military, civil government, and the private sector."

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, As Amended, Title 42 USC 5121, et seq., states that:

> "During the immediate aftermath of an incident which may ultimately qualify for assistance under this title or title V of this Act [42 U.S.C. 5170 et seq. or 5191 et seq.], the Governor of the State in which such incident occurred may request the President to direct the

> Secretary of Defense to utilize the resources of the Department of Defense for the purpose of performing on public and private lands any emergency work which is made necessary by such incident and which is essential for the preservation of life and property. If the President determines that such work is essential for the preservation of life and property, the President shall grant such request to the extent the President determined practicable. Such emergency work may only be carried out for a period not to exceed 10 days."

Finally, imminently serious conditions resulting from any civil emergency or attack may require immediate action by military commanders to save lives, prevent human suffering, or mitigate great property damage. When such conditions exist and time does not permit prior approval from higher headquarters, local military commanders may take necessary action to respond to requests of civil authorities. Such action by local commanders is referred to as "immediate response" and is expressly authorized by DoD Directive 3025.1, "Military Support to Civil Authorities."

Examples of military support to civil authorities over the course of the last year include but are not limited to:

- Some 1,600 Title 10 status National Guard troops who were detailed to the southern and northern borders to assist the Immigration and Naturalization Service, Border Patrol, and Customs Service to carry out their missions in a heightened post-9/11 security posture until they could hire on and train new personnel; and

- Technical and acquisition expertise from the Army's Communications-Electronics Command (CECOM) to assist the Metropolitan New York Transit Authority in solving its multi-billion dollar requirement for security upgrades to New York City tunnels.

Although the vast majority of requests for assistance have been supported by DoD, a few have not. Those few not supported did not pass muster with the five premises. In each case, Federal, State, or local authorities:

- Did not fully explore amply available civilian resources; and
- Were not looking for capabilities or resources unique to DoD.

As DoD considers any and all of the demands for assistance, it is mindful of one critical caveat that appears throughout the body of statutory law authorizing military support to civil authorities: the military may provide support to civil authorities if the provision of such support will not adversely affect the military preparedness of the United States. While the military can and should provide appropriate support to civil authorities, the military's primary responsibility is to fight and be prepared to fight our nation's wars.

Transforming the Armed Forces

Americans can rightfully take pride in the courage and achievements of the men and women in uniform. Looking over the last year and a half since the terrorist attacks of September the 11th, DoD has accomplished much – the liberation of Afghanistan and Iraq, the disruption of terrorist networks around the world, the direct defense of our nation. But U.S. forces will face even greater challenges ahead. U.S. military actions to date represent only the beginning of a

long, dangerous, and global war against international terrorism. And even as U.S. forces fight the war on terrorism, other challenges loom on the horizon.

The attacks of September the 11th showed that the United States is in a new and dangerous period. The historical insularity of the United States has given way to an era of new vulnerabilities. Current and future enemies will seek to strike the United States and U.S. forces in novel and surprising ways. As a result, the United States faces a new imperative: It must both win the present war against terrorism and prepare now for future wars notably different from those of the past century and even from the current conflict. Some believe that, with the U.S. in the midst of a difficult and dangerous war on terrorism, now is not the time to transform our Armed Forces. The opposite is true. Now is precisely the time to make changes. The attacks on September the 11th lent urgency to this endeavor.

Transforming the U.S. Armed Forces is necessary because the challenges presented by this new century are vastly different from those of the last century. During the Cold War, America faced a relatively stable and predictable threat. The challenges of the 21st century are much less predictable. Who would have imagined that terrorists would hijack commercial airliners, turn them into missiles, and use them to strike the Pentagon and the World Trade Center Towers? But it happened. As adversaries gain access to weapons of increasing range and power, future surprise attacks could grow vastly more deadly than those on September the 11th. Our challenge in this new century is to prepare to defend our nation against the unknown, the uncertain, and the unexpected. To win the war on terror and to prepare for future threats, we must transform the U.S. military to become more lethal, agile, and prepared for surprise.

Well before September the 11th, senior civilian and military leaders of the Department were in the process of determining new approaches to deterring and defeating adversaries. With the 2001 Quadrennial Defense Review, senior leaders took a long, hard look at the emerging security environment and came to the conclusion that a new approach to defense was needed.

Much has been accomplished in fashioning such an approach. In the past year and a half, the Department of Defense has:

- Adopted a new defense strategy;
- Reorganized the Office of the Secretary of Defense to provide better focus and unity of effort for homeland defense, support to civil authorities, emergency preparedness and domestic crisis management;
- Fashioned a new Unified Command Plan to enhance homeland defense and accelerate transformation;
- Reorganized and revitalized the missile defense research and development program, free of the constraints of the Anti-Ballistic Missile Treaty; and
- Adopted a new approach to strategic deterrence through the Nuclear Posture Review that increases our security while reducing the number of strategic nuclear weapons.

Transformation lies at the heart of this new approach to defense. The development of the transformational capabilities and forces will be given strategic focus by the principal challenges and opportunities under the new strategy. The

Department has distilled these into six operational goals. In developing future capabilities, U.S. forces must:

- Above all, protect critical bases of operations (most importantly, the U.S. homeland) and defeat weapons of mass destruction and their means of delivery;
- Project and sustain power in distant anti-access and area-denial environments;
- Deny enemies sanctuary by developing capabilities for persistent surveillance, tracking, and rapid engagement;
- Leverage information technology and innovative network-centric concepts to link up joint forces;
- Protect information systems from attack; and
- Maintain unhindered access to space and protect U.S. space capabilities from enemy attack.

Homeland Defense Force Structure

Since my confirmation as the Assistant Secretary of Defense for Homeland Defense in February, I have given significant focus to two of the Department's transformational goals - protecting critical bases of operations and defeating weapons of mass destruction. I have considered how we can meet this goal and the corresponding implications this poses for the military's future force structure. The Department's approach is to first define the capabilities required to effectively engage the evolving challenges of the security environment and then, from these

capabilities, define the forces, force structures, and equipment necessary to realize these capabilities. While I continue this process of consideration and definition, some of the capabilities under examination include:

- An enhanced version of our current capability to defeat and respond to multiple, simultaneous attacks by terrorists employing weapons of mass destruction;

- A maritime defense-in-depth that would engage and defeat terrorists possessing weapons of mass destruction before they approach our nation's shores. To achieve this capability we may come to rely more heavily on the forces of the Naval Reserve;

- A more robust homeland defense capability resulting from a reorientation of the National Guard. The National Guard needs to remain a balanced force – capable of participating in the defeat of our nation's enemies at home and abroad – but an increased role for the National Guard in homeland defense missions is likely;

- An advanced capability, utilizing emerging WMD remote sensing technology, to deal with asymmetric terrorist threats, such as chemical, biological, radiological, and nuclear weapons; and

- A sustainable quick reaction force to protect critical infrastructure. During Operation Iraqi Freedom, DoD stood up quick reaction forces that could rapidly deal with threats to our nation's critical infrastructure. We are carefully reviewing the lessons learned from that activity to determine the proper number of units and personnel, the proper mix of Active Component and Reserve Component personnel, and optimal equipment for an improved capability in the

future. In considering this future DoD capability, we must primarily focus upon the need to defend the critical infrastructure of the Defense Department as directed by the President, and the Defense Industrial Base.

Total Force

The Department of Defense uses the Total Force concept where the right tools are used for the right jobs. The Total Force – Active, Reserve, and Guard – is even now engaged in activities at home and abroad that promote the security and interests of our nation.

Because the Reserve Components now comprise almost 50% of the Total Force, they are a key part of America's Total Force defense and an essential partner in military operations ranging from defense of our nation at home to the full spectrum of military operations around the world.

When we were attacked on September 11th, more than 100,000 reservists and National Guard members sprang into action - Army, Navy, Air Force, Marines, and Coast Guard. Since then, they have helped defend our homeland, drive the Taliban from power, shut down the terrorist training camps in Afghanistan, and liberate the Afghan and Iraqi peoples.

Primarily, as described in Title 10 USC Section 10102, the purpose of the Reserve Components is:

> "[T]o provide trained units and qualified persons available for active duty in the armed forces, in time of war or national emergency, and at such other times as the national security may require, 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 are needed than are in the regular components."

The National Guard is particularly well-suited to perform selected homeland defense missions, such as the Air National Guard's important role in continental air defense. However, the National Guard is combat ready to conduct overseas military operations and is relied upon by combatant commanders as part of our nation's strategic reserve.

In the past, the National Guard was dual-tasked. In wartime, the nation has expected the Guard to fulfill its mission overseas; in peacetime, the nation has expected the Guard to be available for domestic emergencies. The terrorist attacks of September the 11th now have taught us that the National Guard may be called upon to do both at the same time, not by accident but because our nation's enemies may attack us in both places at once.

The 2001 Quadrennial Defense Review directed a comprehensive review of the Active and Reserve mix, organization, priority missions, and associated resources. This review, which has been completed, will help determine the future utilization priorities of the Reserve Components in support of the new defense strategy at home and abroad. As the Department reviews how best to deal with the challenge of the new security environment, it is mindful of the need to properly balance the application of the Total Force to: defend the homeland, contribute to the global war on terrorism, meet military commitments abroad, and, if necessary, participate in a major theater war.

Conclusion

America's men and women in uniform continue to stand tall in their service to our nation's defense and freedom's cause. Their dedicated service gives truth daily to the President's commitment to America's people on the advent of Operation Enduring Freedom, October 7, 2001: "We will not waver; we will not tire; we will not falter; and we will not fail."

Thank you, Mr. Chairman.

Mr. TURNER. Mr. Hall.

Mr. HALL. Chairman and distinguished Members, before I start my statement, I would like to enter my written one in the record.

As a career Naval officer, it is great to be flanked by the Marine Corps and the Army today at the table. I am delighted to be here today to report on the progress in integrating the Reserve components into the Department's overall homeland defense mission area.

Defense of the homeland is a total force mission, with important roles for both the Active and Reserve components. In addressing this mission, the Department must balance requirements for homeland security with traditional warfighting requirements. To make the best use of our military capabilities, Reserve component forces are dual mission, for both wartime and domestic support missions.

I am pleased to report that, as of March 14, all 32 of our weapons of mass destruction civil support teams have been certified as fully mission capable. As you know, these teams were established to deploy rapidly, to assist local incident commanders in determining the nature and extent of an incident involving weapons of mass destruction. These teams will provide expert technical advance on WMD response operations and will help identify and support the arrival of follow-on State response assets. Each team consists of 22 highly skilled, full-time members of the Army and Air National Guard.

We are making significant progress in other areas. For example, the Army Reserve has trained and equipped 28 chemical decontamination and recon elements to act in a civil support role. We will continue to leverage the wartime capabilities of our Reserve component forces for domestic missions in support of the lead Federal agency.

Above all, we must ensure that our domestic civil support forces, particularly those in the Guard and Reserve, are readily accessible, properly trained and equipped to perform this critical mission for our citizens and interoperable within the Nation's first responder community.

Our goal is to support America's fire, police, and emergency medical personnel as rapidly as possible with capabilities and tools that complement and enhance their response, not duplicate it.

Today, as I left the Pentagon, we have over 223,000 National Guard and Reserve men and women supporting our operations—Northern Eagle, Enduring Freedom and Iraqi Freedom. They are flying air CAPs, performing force protection duties here in the United States, flying refueling missions over Central Asia and are on the ground in both Iraq and Afghanistan.

In addition, the response to Secretary Ridge's request to the Governors to support Operation Liberty Shield, over 2,700 Army and Air National Guardsmen were activated under State control to protect critical assets of national significance in their areas.

On little or no notice, America's National Guard and Reserve have been ready to roll. To this day, their enthusiasm for the global war on terrorism remains high. They are in it for the long haul. The bottom line is they are committed and capable warriors in this

war on terrorism, and you should be justifiably proud of them. I know I am.

That concludes my opening statement. Thank you.

Mr. TURNER. Thank you.

[The prepared statement of Mr. Hall follows:]

STATEMENT
OF THE

ASSISTANT
SECRETARY OF DEFENSE FOR
RESERVE AFFAIRS

HONORABLE THOMAS F. HALL
BEFORE THE

NATIONAL SECURITY, EMERGING THREATS, AND INTERNATIONAL RELATIONS SUBCOMMITTEE OF THE HOUSE COMMITTEE ON GOVERNMENT REFORM

IN CONNECTION WITH "HOMELAND DEFENSE: OLD FORCE STRUCTURES FOR NEW MISSIONS?"

APRIL 29, 2003
1:00 P.M.

Rayburn House Office Building Room 2247

FOR OFFICIAL USE ONLY
UNTIL RELEASED BY THE
SUBCOMMITTEE

Overview Statement

Introduction

Mr. Chairman and members of this distinguished subcommittee, thank you for the opportunity to be here today, representing the Under Secretary of Defense for Personnel and Readiness, the Honorable, Dr. David S.C. Chu. On his behalf, I want to thank you for your continuing support of the men and women who serve in our Armed Forces.

As Secretary Rumsfeld has testified, "if we are to win the war on terror, and prepare for the wars of tomorrow, we must take care of the Department's greatest asset: our men and women in uniform. 'Smart weapons' are worthless to us unless they are in the hands of smart soldiers, sailors, airmen and marines." As has been recently demonstrated in Iraq, our military is comprised of the best young people, on both the active and reserve side, that our nation has to offer.

My purpose here today is to discuss the part that our Reserve components play in supporting the Department of Defense's role in Homeland Defense.

While sometimes associated exclusively with the Reserve components, from the DoD perspective and participation, Defense of the Homeland is a Total Force mission, with important roles for both the Active and Reserve components. In addressing this mission, the Department must balance requirements for Homeland Security with traditional warfighting requirements. To make the best use of our military capabilities,

Reserve component forces are "dual missioned" for both wartime and domestic support missions.

Defense of the homeland has always been a priority mission area for the Department of Defense. But since the events of September 11, 2001, defense of the homeland has received renewed focus, spurred by a realization that our citizens and people residing in our country are vulnerable to attack on U.S. soil.

On September 11th, the response of our National Guard and Reserve men and women was quick, complete and totally professional. They volunteered and responded to the nation's needs without hesitation and with a deep sense of purpose. Many reported immediately to their armories and Reserve Centers without being asked or without specific direction. They instinctively knew it was their duty. Before the fireball disappeared from above the Pentagon, Air National Guardsmen and Air Force, Navy, and Marine Reservists were patrolling the skies over Washington DC, New York, and several other American cities.

At the same time on September 11th, New York Guardsmen were on the streets of lower Manhattan assisting New York emergency service workers. Maryland, Virginia, and District of Columbia Guardsmen were patrolling the hallways and exterior of the still burning Pentagon. By the next morning, over 6,000 Guardsmen and Reservist were on duty – all were volunteers.

Shortly thereafter, at the President's request, over 9,500 Army and Air National Guardsmen began to provide protection at 400 of our airports, and continued to do so for over 9 months. This was followed by National Guard support to the Border Patrol, US

Customs Service, and the Immigration and Naturalization Service in 12 Border States. This support included several helicopters and over 1,500 National Guardsmen for over six months.

In contributing to homeland defense, the Department provides forces to conduct traditional military missions under extraordinary circumstances, such as the defense of the nation's airspace, ballistic missile defense, security of military and key national installations, and port and maritime security.

CONUS Air Defense

The Air National Guard has historically been involved in the air defense or air sovereignty mission, and comprise over 80% of the aircrews flying air sovereignty missions. On continuous alert, Air National Guard aircraft monitor and interdict threats as varied as terrorism, foreign military aircraft incursions, illegal immigration, and drug trafficking.

While the Air National Guard has been successful in sustaining a high operational tempo, the level of demand since September 11 has remained high. In the intervening 20 months, more than 15,000 airmen of the Air National Guard, Air Force Reserve and Active Air Force have flown over 29,000 fighter, tanker and airborne early warning sorties to protect our skies.

Port and Maritime Security

The Navy and Coast Guard are the two Services that predominantly perform the maritime security mission. The Navy supports the Coast Guard in its port and coastal

security tasks through an inter-Service agreement. This is a strong relationship that involves sharing people, equipment, information, and intelligence. The establishment of U.S. Northern Command is not expected to fundamentally alter how the Navy and Coast Guard divide the domestic and maritime security mission.

The Coast Guard has defended America's coasts for over 200 years, performing a range of missions, to include: maritime law enforcement and safety, national defense, maritime mobility, and maritime environmental protection. Its mission suite focuses on civil and law enforcement tasks in U.S. coastal and navigable waters. In contrast, the Navy focuses more on deterring and preempting military targets well forward of U.S. coasts.

The Reserve components already play a prominent role in the maritime security mission. The Coast Guard is the lead service in performing port security, with port security units staffed primarily with reserve personnel. Today, over 4,000 Coast Guard Reserve personnel are mobilized in support of this Homeland Defense mission.

Civil Support

As the federal government has become more engaged in aiding local government response to natural disasters and other emergencies, the military's involvement has grown proportionally and will likely continue to be strong. Although the civil support function is to assist other Lead Federal Agencies, this mission is critical to the safety and security of the American public. Our Reserve forces, especially the National Guard, have historically been the first military forces to arrive in support of local civil response efforts.

Events Involving Weapons of Mass Destruction

Because of the growing threat from chemical, biological, radiological, nuclear, and high-yield explosive weapons, incident management capabilities are critically important. There have been substantial efforts in recent years to increase the capabilities in the Reserve components to respond to domestic terrorist incidents involving weapons of mass destruction.

Thirty-two National Guard WMD Civil Support Teams have been fielded and all are now certified as being operationally ready. Twenty-five Army Reserve chemical units have been cross-trained and equipped to perform domestic casualty decontamination, and three Army Reserve chemical reconnaissance units have been trained and equipped to perform nuclear, biological, and chemical reconnaissance for domestic incidents. A substantial amount of the aerial spraying and firefighting capabilities in the Air Force reside in the Reserve component, and the Coast Guard Reserve provides both specialized port-security elements (for detection and interdiction) and environmental hazard response strike teams that may be useful in chemical or biological incidents.

CONCLUSION

Today, we have over 220,000 National Guard and Reserve men and women supporting Operations Noble Eagle, Enduring Freedom and Iraqi Freedom. They are performing force protection and security duties here in the United States, flying refueling missions over central Asia, and are on the ground in both Iraq and Afghanistan. In addition, in response to Secretary Ridge's request to the Governors to support Operation

Liberty Shield, over 2,700 Army and Air National Guardsmen were activated under state control to protect critical assets of national significance in their states.

The Total Force policy and our integration efforts of the past decade are paying great rewards today. On little or no notice, America's National Guard and Reserve have been "ready to roll." To this day, their enthusiasm for the Global War on Terrorism remains high. They are in it for the long haul. We are judiciously managing the force to ensure fair and equitable treatment of our Reserve component members, but the bottom line is they are committed and capable warriors in this war on terrorism.

Thank you Mr. Chairman, this concludes my statement.

Mr. TURNER. Mr. Anderson, General.

General ANDERSON. On behalf of General Eberhart, Commander of North American Aerospace Defense Command and Commander of the U.S. Northern Command, we thank you for this opportunity to represent the outstanding young men and women of NORAD and USNORTHCOM and to tell you about our efforts to protect and defend our homeland.

I, too, would like to thank you for the opportunity to provide a written statement for the record.

While I will devote the majority of my remarks to the U.S. Northern Command, before I do I would like to take a moment to just a say a few words about NORAD.

NORAD has proved to be a resilient organization that has adapted to counter ever-changing threats over the past 45 years. One of the factors contributing to the success has been our relationship with the Canadian armed forces, which today has never been stronger. For Operation Noble Eagle, together we have flown over 29,000 sorties without incident. This includes fighters as well as airborne early warning and tanker aircraft. With the Air Guard and Reserves flying over 75 percent of our fighter and tanker sorties, we simply could not complete our mission without the men and women of the Reserve component. NORAD remains ready to defend against any aerospace threat.

USNORTHCOM is a product of transformation. Everything about us, from our mission, to our organization, to the way we have members of the National Guard and Coast Guard on our staff, reflects the way that the Department of Defense is moving toward countering the threats of the 21st century.

Our missions are homeland defense and military assistance to civil authorities. While these missions are not new, placing them under a single command to ensure unity of command and unity of effort with a unity of purpose is new.

USNORTHCOM is a U.S. unified combatant command. We have all of the responsibilities and authorities of other combatant commands when it comes to national defense and protecting the interests of the United States and her allies in our area of responsibility.

However, one thing that makes us different from other combatant commands is that our homeland is in our area of responsibility. For the first time since George Washington and the Continental Army, the United States has a military command that focuses solely on homeland defense in support to homeland security, USNORTHCOM.

Although we are a small command with very few permanently assigned forces, we are confident we can get the forces we need to do our mission. We have combatant command authority over a standing joint force headquarters with two operational joint task forces, one to support counterdrug activities and the other to support civil authorities for weapons of mass destruction consequence management. However, through well-established procedures, we can quickly draw upon the total force to expand our assigned forces to respond to any contingency within our assigned area of responsibility.

Since our stand-up on October 1, 2002, we have developed operational plans, exercised our capabilities with over 50 government agencies, and provided real-world assistance to lead Federal agencies. We have supported the President's attendance at the Asian Pacific Economic Cooperation Conference, the D.C. sniper investigation, the State of the Union Address, and the Shuttle Columbia recovery operations as well as Operation Noble Eagle.

As we advance toward full operational capability we will continue to exercise with first responders, our National Guard and Reserve forces, and government agencies to ensure our Nation is ready to respond to any and all threats.

We understand full operational capability is a moving target. We know the threat and our mission will evolve over time, and we will never be satisfied. We will always look for ways to be better prepared to protect our homeland.

We believe a key to homeland defense is actionable intelligence. We want to work the front end of this problem. We are sharing intelligence and information with a variety of organizations to include local, State and Federal law enforcement organizations. A lot of this is open intelligence and information that we get from the Internet and other sources as part of our red teaming efforts. Our challenge is to fuse this information, as the Secretary of Defense says, to connect the dots into a threat picture upon which we can act.

Our Combined Intelligence and Fusion Center is doing just that. They are collating and analyzing data from many different government agencies and the intelligence community to attempt to provide us clear situational awareness on the threat so that we can deter, prevent and defeat attacks against our Nation.

We are grateful for all Congress has done to support us in this effort. With your continued help, our homeland will be safer tomorrow than it is today.

As the Secretary says, this is important business. There is no more important mission than protecting the American people where they live and work. I can assure you that the men and women in USNORTHCOM are dedicated to accomplishing that very important and critical mission. Thank you for your commitment to a strong defense, and I look forward to your questions.

[The prepared statement of General Anderson follows:]

UNCLASSIFIED
FOR OFFICIAL USE ONLY
UNTIL RELEASED BY THE
HOUSE GOVERNMENT REFORM COMMITTEE, NATIONAL SECURITY,
EMERGING THREATS AND INTERNATIONAL RELATIONS SUBCOMMITTEE

STATEMENT OF

LIEUTENANT GENERAL EDWARD G. ANDERSON III, USA

VICE COMMANDER

U.S. ELEMENT, NORTH AMERICAN AEROSPACE DEFENSE COMMAND

AND

DEPUTY COMMANDER

UNITED STATES NORTHERN COMMAND

BEFORE THE

HOUSE GOVERNMENT REFORM COMMITTEE,

NATIONAL SECURITY, EMERGING THREATS

AND INTERNATIONAL RELATIONS SUBCOMMITTEE

29 APRIL 2003

UNCLASSIFIED
FOR OFFICIAL USE ONLY
UNTIL RELEASED BY THE
HOUSE GOVERNMENT REFORM COMMITTEE, NATIONAL SECURITY,
EMERGING THREATS AND INTERNATIONAL RELATIONS SUBCOMMITTEE

Chairman Shays, Congressman Kucinich and Members of the Subcommittee:

On behalf of Gen Eberhart, it is an honor to appear before this Committee, and to represent the outstanding men and women of North American Aerospace Defense Command (NORAD) and United States Northern Command (USNORTHCOM). The soldiers, sailors, airmen, Marines, Coast Guardsmen, National Guardsmen, reservists and civilians serving in our Commands are truly the "best of the best," and give our two great Nations—the United States and Canada—every reason to be proud.

NORAD

Our number one priority is to strengthen aerospace warning and control of United States and Canadian airspace. Prior to 11 September 2001, we focused on threats originating from outside North America. As a result of these terrorist attacks, we now also look for threats from within our borders.

Thanks in large part to the timely passage of the Fiscal Year 2002 Defense Emergency Response Fund, today we have connectivity with 70 Federal Aviation Administration (FAA) long-range interior en route radars, better ground-to-air communications, and a robust coordination capability to provide comprehensive coverage of our airspace.

Throughout this integration effort, the FAA has been very responsive to our requests for technical assistance. This strong partnership of dedicated people is committed to further improving our ability to protect the Nation's airspace.

Operation NOBLE EAGLE. NORAD defends North America from domestic air threats through Operation NOBLE EAGLE. Across the United States and Canada, armed fighters are on alert and flying irregular combat air patrols to identify and intercept suspect aircraft. Since 11 September 2001, we have flown over 29,000 sorties to deter, prevent and defend against potential terrorist attacks, without a single mishap. This tremendous accomplishment

is a tribute to the professionalism and perseverance of the men and women executing these missions.

In addition, we are supporting homeland defense operations with a layered air defense of the National Capital Region. We have developed new relationships across the Department of Defense (DoD) and with interagency partners to establish a comprehensive shield to guard our Nation's capital.

To maintain our warfighting edge, we routinely exercise and evaluate our ability to defend against the full spectrum of air threats. United States' and Canadian civil agencies continue to make air travel safer through increased airport and aircraft security measures. However, if called, we stand ready as the last line of defense against threats within our airspace.

North American Air Surveillance Plan. In our efforts to provide the best possible coverage of North America, we have teamed with the FAA and North American Air Surveillance Council to further enhance our wide-area surveillance capabilities. There has been an outstanding level of interagency cooperation to develop a comprehensive North American Air Surveillance Plan that addresses our requirements to detect, identify and classify all aircraft within North American airspace. We look forward to fielding expanded capabilities that track even smaller, low-altitude threats.

NORAD'S RELATIONSHIPS

USNORTHCOM. NORAD and USNORTHCOM are two separate commands. Neither command is subordinate to the other or a part of the other, but we work very closely together. Members of the two commands work side-by-side within the Cheyenne Mountain Operations Center and, in many cases, United States military members are dual-hatted in positions on both staffs.

Bi-National Planning Group. The Departments of Defense and State have been working with their counterparts in Canada to develop additional areas of cooperation to better protect our citizens. One promising outcome of this

collaboration is an agreement to establish a Bi-National Planning Group for a two-year term.

This group will identify additional ways to protect our citizens and strengthen land and maritime defense of North America, while respecting the national interests and sovereignty of each nation. Members have already begun arriving and will be appended to NORAD.

USNORTHCOM

On 1 October 2002, the President established USNORTHCOM as a regional combatant command to provide "unity of command" for United States military actions that counter threats to our homeland from the air, land, or sea domain. We are just like the other regional combatant commands, with one important difference—the United States homeland is in our area of responsibility.

We conduct operations to deter, prevent, and defeat threats and aggression aimed at the United States, its territories and interests. We also provide military assistance to civil authorities, when directed by the President or the Secretary of Defense. When we work with civil authorities, we will most likely be in a support role to a lead federal agency, providing "one-stop shopping" for federal military assistance. The President's decision to establish USNORTHCOM has enhanced the DoD's ability to provide quick, responsive support, when and where needed.

Organization. USNORTHCOM has few permanently assigned forces. Whenever mission requirements dictate, we will request additional forces from the Secretary of Defense, and if approved, receive them from our force provider, United States Joint Forces Command. Our day-to-day operations are conducted by three subordinate commands:

- The Joint Force Headquarters—Homeland Security supports land and maritime defense planning for the continental United States, and provides military assistance to civil authorities.

- The Joint Task Force–Civil Support provides command and control of consequence management forces that respond to chemical, biological, radiological, nuclear, and high-yield explosive events.
- The Joint Task Force-6 provides support to federal, state and local counterdrug law enforcement agencies.

Exercises. Over the past several months, we have trained and exercised with 55 federal, state and local agencies across a broad spectrum of scenarios. During UNIFIED DEFENSE 02-2 in September 2002, we validated our initial capability to command and control forces in response to future attacks. Most recently, in February 2003, we completed a second major exercise, UNIFIED DEFENSE 03-01, to strengthen the trusted relationships we need with interagency partners to defend our Nation's homeland.

Current Operations. USNORTHCOM has five Quick Reaction Force/Ready Reaction Force units for Critical Infrastructure Protection, Show-of-Force operations, or support for Military Assistance for Civil Disturbance, when directed by the Secretary of Defense or the President. We also maintain a Maritime Alert Force of six surface combatants and four maritime patrol aircraft to provide support for United States Coast Guard maritime homeland security operations or to respond to maritime threats.

We have demonstrated our ability to conduct operations in a number of emergency situations. During the Washington D.C. sniper attacks, we coordinated aerial surveillance for the Federal Bureau of Investigation's efforts. Most recently, we supported military operations in the aftermath of the Space Shuttle Columbia tragedy. As directed by the Secretary of Defense, we established a response task force to provide command and control for DoD resources and units, in support of the Federal Emergency Management Agency.

We have also been called upon to conduct operations in support of pre-planned events. In October 2002, using forces provided by United States

Pacific Command, we supported the President's attendance at the Asia Pacific Economic Cooperation Conference in Los Cabos, Mexico. In January 2003, we provided command and control of all military support to the State of the Union Address, to include security, emergency medical, and chemical and biological response forces.

Emergency Preparedness and Response. We have the capability to assist local responders and lead federal agencies in their response to a bioterrorism incident. Although biohazard investigative expertise exists in most local and state health departments and in the Federal Centers for Disease Control and Prevention, these resources may become overwhelmed in emergency circumstances. When directed by the President or Secretary of Defense, we will provide bioterrorism experts to a lead federal agency to help prevent or contain a situation. Likewise, we are ready to provide field medical units, as well as logistics, transportation and security capabilities to assist federal, state and local agencies, as required.

USNORTHCOM'S CHALLENGES

Intelligence. Homeland defense relies on the sharing of actionable intelligence among the appropriate federal, state, and local agencies. Our Combined Intelligence and Fusion Center collates and analyzes data from the United States Intelligence Community and nearly 50 different government agencies. One of our greatest challenges lies in sifting through the volumes of intelligence and operational data from these sources. Our goal is to help connect the dots to create a clear threat picture, playing our appropriate military role as part of the interagency team. Another shared challenge is to overcome cultural and procedural differences among the DoD and other Departments for information that is collected, categorized, classified, analyzed and disseminated.

Homeland Command, Control and Communications. We need to be able to command and control forces and to coordinate planning and operations with

agencies at the federal, state and local levels. Interoperable communication architectures and trusted information exchange environments provide the framework for coordinated operations. We have ongoing efforts with our homeland defense and civil support partners to upgrade existing architectures and to better integrate our information collection and exchange capabilities.

Ballistic Missile Defense. We are working with the Missile Defense Agency, United States Strategic Command and other combatant commands to develop the Concept of Operations that will ensure the United States has an effective missile defense capability by the fall of 2004.

Posse Comitatus. We will remain vigilant in ensuring that USNORTHCOM is used in accordance with the laws of our great Nation—respecting the rights and liberties of every American. We understand the Posse Comitatus Act and related laws and the clear limits placed on military support to civil law enforcement. We believe the Act, as amended, provides the authority we need to do our job, and no modification is needed at this time.

USNORTHCOM'S RELATIONSHIPS

Our Command is built upon a total force and total national team concept that includes members from all five Services, the National Guard, the Reserves, DoD Civilians and numerous federal, state, and local agencies. We believe we are redefining "jointness" by forming new partnerships within the DoD and with numerous civilian agencies, as well as strengthening existing ones. Developing these strong relationships is key to our success.

Department of Homeland Security. The Secretary of Defense will coordinate with the Secretary of Homeland Security on policy and resource issues. In accordance with decisions by the Secretary of Defense, we will work with various sectors of the Department of Homeland Security on operational planning, training and execution.

Assistant Secretary of Defense for Homeland Defense (ASD(HD)). We have frequent interaction with Paul McHale on a broad range of issues. As

ASD(HD), his principal duty is the overall supervision of the homeland defense activities of the DoD.

Other Combatant Commands. We have established a conceptual framework with Admiral Jim Ellis, Commander, United States Strategic Command; Admiral Ed Giambastiani, Commander, United States Joint Forces Command; and General Charlie Holland, Commander, United States Special Operations Command to secure the homeland. We are also working closely with the regional combatant commanders to eliminate threats to our homeland from afar. Our focus is to address gaps in coverage and any overlapping responsibilities to ensure that we provide an integrated defense for our citizens at home and abroad.

National Guard. We have a close relationship with the National Guard Bureau, which is enhanced even more by having Major General Fred Rees as our Chief of Staff and Brigadier General Ron Crowder as Deputy Director of Operations (Military Assistance to Civil Authorities and Land), both Army National Guardsmen. In addition, we are fortunate to have Major General Andy Love, an Air Guardsman, as General Eberhart's Special Assistant (National Guard Matters) and Liaison Officer for the Chief, National Guard Bureau. We believe that no force is better suited to help deter, prevent, and defeat many of the threats we face than today's National Guard. Through the National Guard Bureau, USNORTHCOM coordinates with state headquarters for planning purposes and maintains situational awareness of National Guard actions and commitments.

To support our missions of homeland defense and military assistance to civil authorities, we are looking at the feasibility of evolving the current mobilization process into something closer to the current air defense model used by the Air National Guard in support of NORAD's mission. Specifically, Air National Guard fighter units of 1st Air Force have been successfully employing instantaneous Title 10 USC orders for several years. These orders allow an individual to volunteer, with consent of the Governor, to be

federalized for specific missions prior to execution. We believe we can achieve a higher level of readiness if we apply the air defense mobilization model to the existing National Guard response forces, when needed in a federal capacity.

Coast Guard. Maritime Defense missions involve traditional military activities such as combat air patrols and naval operations within our area of responsibility. In these cases, we would take the lead and the Coast Guard would likely be called upon for support. It is important to note that the Coast Guard does not report to USNORTHCOM, although we do have several Coast Guardsmen on our staff, including Rear Admiral Jim Van Sice, who serves as Deputy Director of Operations (Maritime). The Coast Guard is in the Department of Homeland Security, and any requests for Coast Guard assistance to DoD would come from the Secretary of Defense to the Secretary of Homeland Security.

By contrast, the Coast Guard would be the lead federal agency for maritime homeland security. When directed, we would support Coast Guard homeland security missions through our naval component commander. This support might include maritime air surveillance, the use of naval surface combatants with Coast Guard Law Enforcement Detachments onboard, or the use of specialized DoD capabilities.

Interagency. We are leveraging the unique capabilities and expertise of federal, state and local agencies to protect our homeland. Our Joint Interagency Coordination Group is working to help synchronize interagency plans, exercises and operations. In addition, we have a growing number of liaison officers in our headquarters staff at Peterson AFB, to include the Federal Bureau of Investigation, Central Intelligence Agency, Department of Homeland Security's Directorate of Emergency Preparedness and Response, and the National Imagery and Mapping Administration.

POTENTIAL FUTURE CAPABILITIES AND MISSIONS FOR NORAD AND USNORTHCOM

We continue to address critical command and control challenges highlighted by the terrorist attacks on our homeland. We are committed to improving our situational awareness by developing a common operating picture for the air, land and maritime domains.

Combatant Commanders' Integrated Command and Control System. We are pursuing ways to leverage the Combatant Commanders' Integrated Command and Control System to modernize our aging 60's era air and missile warning systems and infrastructure. This will allow us to migrate to our next-generation Battle Control System and provide the foundation for a fully integrated NORAD-USNORTHCOM command and control capability.

Battle Control System. The upgraded Battle Control System will provide connectivity with a wide array of radars and sensors across North America, thereby giving our homeland a more integrated air defense capability. As future increments are fielded, we will be able to process air defense data faster, as well as improve our battlespace awareness.

High Altitude Airship (HAA) Advanced Concept Technology Demonstration. The Office of the Secretary of Defense, the Missile Defense Agency, the United States Army and NORAD are spearheading the effort to demonstrate the technical feasibility of an unmanned, untethered, long-duration HAA. The prototype airship will stay airborne for one month and carry a 4,000-pound payload. We expect the objective HAA to have the capability to stay airborne for up to a year and carry a payload greater than 4,000 pounds. A robust HAA capability would give warfighters persistent wide-area surveillance of the battlespace against a full spectrum of air, land and sea threats.

Homeland Security Command and Control Advanced Concept Technology Demonstration. USNORTHCOM is sponsoring this Advanced Concept Technology Demonstration to provide the DoD Homeland Security community with

operationally relevant command and control capabilities. This initiative will help us rapidly insert mission-enhancing technologies and promote information sharing, collaboration and decision-making in a trusted information exchange environment.

CONCLUSION

We are grateful for everything the members of this committee have done to ensure our ability to defend our homeland. We appreciate your continued support and commitment to our mission, as well as to our servicemen and women. With your help, our Nation will be safer tomorrow than it is today. I am honored to appear before you, and look forward to your questions.

Mr. TURNER. I want to thank each of our panelists and also acknowledge that Mr. Janklow and Mr. Ruppersberger have joined us. We will go then to a 5-minute round of questions. We will begin with our Chairman, Mr. Shays.

Mr. SHAYS. Thank you very much, Mr. Chairman.

I would like to just start out by trying to visualize USNORTHCOM. When I think of the other commands, it is easy for me to envision, obviously, special forces. It is easy for me to envision a heavy armament. It is easy for me to visualize the use of our Air Force and so on.

How is USNORTHCOM different? I mean, I kind of—in my own mind, am I to visualize military—our Army fighting alongside policemen? I mean, that is kind of where I am trying to set the stage for me here; and maybe, Lieutenant General, you could start us out.

General ANDERSON. OK, sir.

Sir, there are two distinct differences in our command as you look at the other combatants. One, as we mentioned earlier, is the area of responsibility; and specifically the difference there, of course, is the fact that our homeland is here. Now that sounds kind of superficial, but in fact it is fairly significant. An example of that is, when we talk about intelligence, one of the things that we need in terms of providing situational awareness is the ability to fuse intelligence and law enforcement information; and then, once we are able to fuse that, then it is the dissemination of that to a wide spectrum of users that consist of folks from first responders all of the way up to the President.

So that is one of the unique things that comes with having the homeland in your area of responsibility.

But another area that is different for us in comparison with our other combatant commanders is the fact that, as Secretary McHale pointed out in his opening remarks, we have as a mission military assistance to civil authorities, what we refer to as MACA, that no other command has within its mission statement. The implications of that extend quite a bit, but one of the key pieces to it, as you might expect, is the fact that then necessitates that we must work very, very closely with a number of folks in the interagency, whether they be other government agencies or nongovernment organizations, folks that we, probably, in the military have never had the opportunity to work with before, and vice versa.

Mr. SHAYS. Given that I only have 5 minutes this first round, and given the number of Members here, but—let me—maybe we are still sorting this out. I don't quite visualize how this process works in practice. For instance, it is unlikely that you would see a large number of people assault a community. They would be much smaller, it strikes me.

But are we going to have our military personnel train side-by-side with first responders and say we will work with the New York Police Department and determine how we coordinate activities? Will we train with them and so on? Maybe I could come to Secretary McHale as well on that issue. But maybe you could first respond.

General ANDERSON. OK. Yes.

The answer to your question is, yes, we will; and we do that through exercises. As we go through a variety of different scenarios that we may have, it includes local first responders from all of the way down from the police and fire all of the way up to include the National Guard and those kind of folks. It is necessary. We feel as though we have to do that.

But we will be—our forces will be provided in response to a request from a lead Federal agency. We will always, in the context of military assistance to civil authorities, will always be supporting a lead Federal agency.

And I will offer Secretary McHale a few moments.

Mr. MCHALE. Thank you, General.

Mr. Chairman, basically, USNORTHCOM's mission is divided into two component parts. First and foremost, General Eberhart is a warfighter. With regard to the physical defense of the United States of America, his protection of the U.S. air space and his defense against enemy threats within the maritime approaches to the United States is a mission that is comparable to any other combatant commander. He will fight in the air to protect us. He will defend against enemy threats on the high seas as those threats approach the coast of the United States.

As General Anderson indicated, because the NORTHCOM AOR includes within its geographic area the Constitutional framework of the civil government of the United States, it is really on land that the distinction is drawn between this combatant command and all other combatant commands. We have a Constitution. We have a representative republic. We have civilian institutions of government that make us the kind of country that we want to be, as opposed to a country in which the military would be disproportionately influential. We have a government based on civilian supremacy, and that does come into play in terms of the constraints on the land activity of NORTHCOM.

In addition, we have made a policy decision as a Nation that our border protection on land will be a civilian function, not a military function. Now we provide military assistance to civilian authorities as they defend our borders on land, but the protection of those land borders is not fundamentally a military mission.

As indicated by the General, we provide civil support to a lead Federal agency when a request is made. I know that we have at least one member of this committee who is a former Governor. If there is a disaster, the Governor in a given State can ask the President under the Stafford Act to declare a disaster or an emergency. If that declaration is made, the Department of Defense may then be instructed by the President and upon order of the Secretary of Defense will deploy military forces to support a lead Federal agency, typically the Federal Emergency Management Agency, now under the Department of Homeland Security.

So, basically, when it comes to NORTHCOM, we will protect our Nation in the air and on the seas just like any other combatant command. But subject to posse comitatus and the process that is described in the Stafford Act, our activity in terms of civil support is a supporting role on behalf of a lead Federal civilian agency.

Mr. SHAYS. Thank you, Mr. Chairman.

Mr. TURNER. Thank you.

Mr. Ruppersberger.

Mr. RUPPERSBERGER. First, Mr. Hall, the issue of the Reservists, as far as their pay, the gap between their military salary and civilian. In the past, it really hasn't been as much of a problem, because there haven't been the call-ups that you have right now. I would think down the road that is going to create an issue of lack of recruitment if somehow it isn't dealt with. Of course, cost is an issue, and we have to deal with the issue of cost, and we understand that.

Do you think that the recent shift in the activation policy with more reliance on Reservists will affect the recruiting and morale of where we are now; and, if so, what would you recommend that we do?

Mr. HALL. Let me address the first part of the pay and then the second on the recruiting and retention very quickly.

We have been concerned about it, and we have taken a hard look at the pay issue. We have done two surveys. We have gone twice, in 2000 and 2002, asked the families: Have you suffered a pay loss because of being mobilized? In fact, about 30 percent have. It has been a small amount. You read many of the cases where it might be a high-earning person, but the other 70 percent, in fact, have held even, and about one-third of them almost in some cases doubled their pay.

So it is a smaller amount. We are concerned about that. We are doing a pay and compensation study that we are going to complete in August. We are looking at that as one of the many issues. But right now we have not seen that as a large problem.

On the second part, I don't think we know. After the Gulf war, for about 2 or 3 years—at that time I was in command of the Naval Reserve. We looked at it. We had a dip in recruiting and retention. After about 3 to 4 years it came back. And I think the essential issue on recruiting and retention is going to be if we are mobilizing the same kinds of Reservists year after year.

Just sort of in closing, if you were in the Guard and Reserve over the past 13 years, we have had eight mobilizations. What was your opportunity to be mobilized once? It was about 56 percent. How about mobilized twice? It is about 4 percent. How about three times? About 1 percent.

But if you are in a specialty like civil affairs, mortuary affairs, force protection and those, you might have been mobilized much more than that. So I think we are going to have problems with employers and the Guardsmen and Reservists if we continue to mobilize the same group of people. So we have to look at how we are going to restructure that.

Mr. RUPPERSBERGER. I am not sure if I agree with your first answer, just based on my district and the complaints that I receive. Normally, State and local governments are making up the gap a lot of times, because you have police officers involved in the military police, or firefighters, but there are a lot that maybe work for smaller businesses. I think it is something—I know Congressman Lantos from California has a bill in to address this issue. But I am—I know the issue is cost, and you have to look at that.

Mr. HALL. We are looking at that bill and will comment on that.

Mr. RUPPERSBERGER. I know you have a Governor and a mayor—and I was a county executive—on this committee right now. The issue of cooperation between Federal, State and local—before I ask the question, I think that, from my experience in government and that we have had probably the best cooperation between Federal, State and local and military not only with respect to the war itself but also with intelligence—the cooperation has been unprecedented. I think that is one reason why we haven't had another September 11 incident on our shores.

But that doesn't mean that—the interdiction is one of the most important issues. I am still concerned a little bit about the cooperation and the ability between, let's say, NORTHCOM and then a Governor. That is easy for a Governor. You have a big snowstorm, you can bring—the Governor declares an emergency, you can deal with some issues.

But you have more with homeland security than meets the eye, I guess; and the cooperation is what is going to make a difference. A lot of leads—there is a lot of leads that might even be relevant because of an intelligence point of view, with NORTHCOM can come from local government, leads can come from the street. And where do you see the cooperation between those State, Federal and local and then——

First, where do you see that cooperation, and then in the event that something happens, how long will it take to implement some action when something occurs?

Mr. MCHALE. That is a very complex question and an important one.

Mr. RUPPERSBERGER. That is why I asked it.

Mr. MCHALE. Let me just create a brief scenario how we would envision forces and military and civilian responding to a given event.

I, too, come out of local government. First job I ever had was on the planning commission back in my hometown borough before I ever ended up here in the Congress of the United States. If there is a terrorist attack, my expectation is that the very first responders will likely be volunteers out of our hometown communities—the volunteer firemen, the EMTs, the paramedics, perhaps part time police officers in small communities, perhaps professionals in larger communities. But these civilians at the local level will be the ones who provide the immediate response. If it becomes clear that we have, let's say, a terrorist attack involving a weapon of mass destruction, I think it is likely at that point that the Governor will ask for the assistance of the National Guard, probably in State status, so you will have guardsmen flowing into that area as well.

If it does involve a chemical, biological or even radiological contaminant, it is likely that the civil support teams, the one in that State would likely be deployed to do an assessment of the nature of the contaminant.

Now I have described civilian capabilities at the local and State level. I will envision that the State emergency management personnel in that jurisdiction would also respond. You are going to go through a lot of layers of civilian and military personnel in State status before you get to the Department of Defense.

At that point, if the civilians are overwhelmed or if in fact the Guard in State status alone cannot handle the mission at hand, it is likely a disaster would be declared by the President and likely that the Secretary of Defense, in that extraordinary circumstance, would order DOD forces to respond.

That means that we would have civilians and military, local, State and Federal operating within the same area of responsibility. Coordination is absolutely essential, and one of our goals within the Office of the Assistant Secretary of Defense for Homeland Defense is to rigorously exercise, in a scenario-based setting, as we are doing, for instance, in Exercise Determined Promise in Clark County, Las Vegas, Nevada, in August, the colocation, communication and coordination of all of those capabilities.

Right now, for contingency planning, action officers within the Department of Defense communicate routinely, often daily, with civilian counterparts, including those at the Department of Homeland Security, to make sure that all of those pieces of the response, in as realistic peacetime training as we can have, prepare for an actual operational deployment if a terrorist attack would occur.

Mr. RUPPERSBERGER. The concern, though, in the event there is an event—you answered it as far as civilians getting involved, and they need help right away, having to go through the Governor at all times. When a local mayor or local county executive needs that help because they are the first responders, that is what I am really focusing on.

My time is up, so I can't ask any more questions, but you can answer.

Mr. TURNER. Mr. Murphy.

Mr. MURPHY. Thank you, Mr. Chairman.

With regard to the new role, being called upon for Reservists or really other bases scattered around the country, I represent an area in the Pittsburgh area where we have an air refueling wing, we have an Army Reserve base, we have an Air Guard area. Looking at some of these groups that will be employed in some homeland defense readiness in any place in the country, what input are you going to be having on some things as the BRAC decisions to close some bases, or are you looking at some input on what is needed around the country so you can put information on that?

Mr. HALL. I can talk on the Guard and Reserve. I went through BRAC 1991, 1993 and 1995 as Chief of Naval Reserve. It is absolutely critical with regard to the Guard and Reserve that they be considered in the BRAC process.

So when this one started out of my office, I asked that representatives be on each and every team, so that when we look at bases, both active and Reserve, around the country we think about the demographics of Guard members and Reservists who live there, and if we close a facility that is an active facility for which you might have Reserve personnel aboard, what is the effect of that.

So what I can tell you is we are members, part and parcel of all of teams looking at that, based on my experience.

Mr. MURPHY. So even going with the NORTHCOM, you will be looking at that and having some input on that as well, of what you need to have in certain regions of the country as well?

Mr. HALL. Yes. And I would turn to my colleagues for that. But within the Guard and Reserve context, yes.

Mr. MURPHY. Agreed?

Mr. MCHALE. Yes, sir.

The nature of warfare has changed. I think it is very clear, and certainly the Secretary of Defense has correctly stated on any number of occasions, we have excess infrastructure within the Department of Defense and that the resources we put into the maintenance of that infrastructure has a negative effect on our warfighting capabilities and Defense's capabilities, including homeland defense. We now recognize that the nature of warfare has changed. And so the fundamental principle remains true, that is, we have to decrease the amount of infrastructure we currently possess, because it is more than we need.

In light of the global war on terrorism and the homeland defense requirements that have emerged since September 11th, 2001, we have to choose wisely in terms of which portions of that infrastructure should be privatized, which portions we should retain. Clearly, the homeland defense mission is seriously considered when we look at that infrastructure and determine what to let go and what to keep.

Mr. MURPHY. Let me give you a scenario, General. Let's say there is word that a train has been commandeered by unknown elements. We believe it is hijacked by some unfriendlies and they are in a rural area headed toward a city at a high speed, has several cars on that train that may have various gases which can be poisonous if they erupt into a populated area. Walk me through in terms of what happens from the local police up to where you might be involved in this and noting that it might only be about 15 minutes to half an hour to take action.

General ANDERSON. Well, sir, as you correctly point out, the local responders will be the ones who will be first informed of this; and, to be perfectly honest with you, our first information may come to us over CNN or some such means as that. But as soon as we see that happen and happening, the first thing we are going to do is call the TAG in your State and say, what is going on and what is it that—support that you may need?

At the same time, we will be alerting our Joint Task Force Civil Support that there is the possibility of this kind of an event that is going to occur, which may require WMD consequence management's assistance and the expertise that we have there, if requested, though.

Mr. MURPHY. Let's go through this request, because there may not be a lot of time. Let's say options are derailing this train, stopping the engine through other manners, which local police and firemen don't have the opportunity to do. Would you see yourself in some situation where you have to start taking some action or be ready—helicopters in the air, I don't know what that might be—or will it be set up that you have to follow this chain each time, because you will have only minutes?

Mr. HALL. There is an exception that does not require verbal approval from the Secretary of Defense, and that is an immediate response action by a local commander. So if there is a local base in the area or something such as that, he or she, they do have the

authority to be able to respond. If life or limb is at risk or the safety of DOD or there is a large calamity that is going to occur, they can respond immediately under the conditions that are laid out to provide some level of support now. Whether or not it would be a helicopter to shoot at a train or something like that more than likely would not fall into that category.

Mr. MURPHY. I think that is essential, that, as you know, that part of dealing with hijackers is making sure they may not meet their target and their involvement in secrecy, not letting people know. It is important to know that you have enough options in your tool belt that can you take action to be preemptive when needed to or be prepared to defend at that particular moment.

Mr. MCHALE. Congressman, what you are describing is a domestic counterterrorism responsibility, where the local police are unable to defeat the threat as it is emerging.

This goes back to the comments that I made to Congressman Shays a little bit earlier. Because NORTHCOM's land responsibility is colocated with the civilian government of the United States of America, the policy decision under the Constitution has been made that the responsibility to defeat that threat will rest primarily on the shoulders of a lead Federal law enforcement agency.

If the local police cannot deal with that train, it will become clear pretty quickly; and at that point the FBI, not the Department of Defense, will take on the domestic counterterrorism role of physically interdicting and defeating that threat. Consistent with our Constitutional form of government and the Posse Comitatus Act, we can provide assistance to the FBI.

But, as you speak today, looking for an assurance that an enemy threat will be defeated under that circumstance, the lead in that effort will be taken by the FBI. And I can tell you, just from personal awareness, the FBI's exceptional capabilities—the FBI does train to that mission and does have a rapid response capability that we would support, but they would lead.

Mr. MURPHY. Thank you, Mr. Chairman.

Mr. TURNER. Mr. McHale, looking at your written statement, on page 10 you talk about six operational goals that U.S. forces must have in addressing the issue of terrorism; and one of them interests me. It states, "Deny enemies sanctuary by developing capabilities for persistent surveillance, tracking and rapid engagement."

Previous to September 11, if we had looked at our military forces and looked at surveillance, rapid engagement, we might have looked at things that were traditionally military targets and—for example, is there a submarine off the coast of the United States. Now that our potential threats have shifted and the form in which they may come, in reading a statement like that you have the issue of balance both of our Constitutional rights and also making certain that we are not doing the wrong things, such as searching 85-year-old grandmothers traveling with their grandchildren about ready to get on a plane.

Can you elaborate some on—I mean, obviously, there has been some analysis as to what the need is for their capabilities—what type of surveillance tracking and engagement is being undertaken in context to what the potential threat is. Can you give us some background on that?

Mr. MCHALE. Yes, sir. Surveillance really falls into two categories, from both a military and a Constitutional perspective. The defining line is whether that surveillance is external to the United States or is internal to the United States.

I don't have a copy of my formal statement in front of me, but just very briefly let me tell you that the Department of Defense would take the lead role in terms of continuing surveillance when that surveillance is external to the United States and designed to identify, deter, and defeat an act of foreign aggression or a national security threat. So we are developing, as rapidly as we can, the capability to establish platforms for surveillance that, with significant loitering time, will enable us to literally see threats that are approaching the United States either on the sea or within the air.

With regard to surveillance as it may take place lawfully within the United States, that type of surveillance is subject to both Constitutional and statutory constraints. The Department of Defense is subject to the Posse Comitatus Act. So in terms of surveillance the Department of Defense role, if any, would be to—lawfully to support a lead Federal law enforcement agency. Where, for instance, we might make available to a lead Federal law enforcement agency for the proper and lawful use of that equipment, DOD property that would give to, for instance, the FBI, an air platform that would allow the FBI or perhaps the border patrol to maintain aerial surveillance for civilian law enforcement purposes of a particular piece of terrain.

But the Department of Defense would not be engaged in surveillance of that type in a direct way. We do not have that authority. We are prohibited from domestic law enforcement by the Posse Comitatus Act. So once you come ashore, our only relationship to surveillance is to provide assistance to a lead Federal law enforcement agency in its lawful activities.

Mr. TURNER. General, in your comments on page 6, talking about intelligence with USNORTHCOM's challenges, you state that, "Another shared challenge is to overcome cultural and procedural differences among the DOD and other Departments for information that is collected, categorized, classified, analyzed and disseminated." Could you elaborate—because you don't in your comments—as to what some of these cultural and procedural differences are?

General ANDERSON. Well, sir, as I mentioned in my opening remarks also, the fact is that we are now faced with a situation where we have to fuse law enforcement information with intelligence. In the past when we have been associated with EUCOM or SOCOM or something such as that, we were not faced with the law enforcement information issue, if you will; and so, to protect the privacy of citizens and all of that kind of thing, we have got to make sure that all of our processes are in place to accommodate that.

What we have done to do that is we do, for example, have a representative from the FBI on our staff who assists us in working with the FBI and with the Joint Terrorism Task Force that they have established there at the FBI. And then we have an intelligence oversight committee that is embedded within our intelligence center who is constantly reviewing the information that we

are receiving to make sure that we are not exceeding any of the laws or regulations that we must abide by.

Mr. TURNER. Thank you.

Mr. Janklow.

Mr. JANKLOW. Thank you very much, Mr. Chairman.

If I could, I would like to preface my question with a comment. Let's get back on this train that is headed toward the town. The reality of the situation is, but for someone who just assumes command on their own, the train is going to go into town and be blown up. Because people are going to be debating, is this the sheriff's issue, or is it the police chief's issue? Is it the highway patrol issue, or is it the State DCI issue? Is it an FBI question, or is it an ATF question? Do we call the homeland security? Do we call FEMA? Do we call the White House? Who in the world do we call?

Meanwhile, the train is rolling down the tracks; and it is, frankly, not going to be stopped by anybody unless someone—and I think the reality is there is no base commander in America that on their own is going to decide this is a military situation and I am going to rush out there with all of the people in uniform to deal with it.

Fortunately, we have never had to deal with terrorism in this country before, and we don't know how to do it, and we are learning. We can learn from people like the Israelis who have been subjected to it for a great deal of time. There are other countries where it has taken place, to lesser extents, on a continuous basis. But we don't know how to deal with it yet.

The military works because there is one commander in chief. There was a chain of command all of the way down to me when I was a private in the Marine Corps. I knew all of the way up and down the ladder how it worked.

So does everybody in the military. There are 18,000 law enforcement units in America. It doesn't work. You don't even have the ability to communicate with them. Some of you are on high band, some are on low band; some are on UHF. Correct? Some are on VHF. Some are on 150, some are on 450, some are on 700, some are on 800, some are on 900, and unless you want to talk Simplex in most places, you don't even have the ability to talk to each other because you don't have trunk systems. This is unbelievable. We don't have homeland security; we have conversation going on in America. And look, I love you people. I mean it. You are doing a heck of a job. But what is it that we can do to facilitate really getting something done to protect—am I wrong with my scenario? As this train goes down the track who is in charge? We can't just say civilian authorities. Who is it? Is it the police chief? Is it the sheriff? Is it the fire chief? Is it the mayor? Is it the chairman of the county commissioners? Is it the Governor? Who is it? Who is it? And we don't know. Do any of you know?

Mr. MCHALE. Yes, sir, I think we do.

Mr. JANKLOW. OK. Good. Now, the train's moving, so we've got to have an answer.

Mr. MCHALE. Call the FBI.

Mr. JANKLOW. Pardon?

Mr. MCHALE. Call the FBI.

Mr. JANKLOW. And it's 7 o'clock at night in North Dakota and you get a recording and then someone answers in Minneapolis. Now what do you do? And they are going to activate a team from where?

Mr. MCHALE. And that goes to the heart of your question, we know who is responsible. The question is, are they operationally capable to respond; and I'm not prepared to answer on behalf of the FBI. But I can tell you——

Mr. JANKLOW. But the train is moving, sir. What do they do right now, today?

Mr. MCHALE. Today the response would be provided by the lead Federal law enforcement agency. That's the FBI. The Department of Defense would be standing by to provide whatever support that lead Federal law enforcement agency required to accomplish its mission. What you describe is a very difficult circumstance involving a remote area, a rural area that may tax significantly the operational capabilities of the lead Federal law enforcement agency. But we have made a decision within our Nation that law enforcement, including domestic counterterrorism, is a civilian responsibility.

Mr. JANKLOW. In light of the existing world today?

Mr. MCHALE. Yes, sir.

Mr. JANKLOW. Is that a good decision?

Mr. MCHALE. Yes, sir, it is.

Mr. JANKLOW. Do we need to sort out the jurisdiction better?

Mr. MCHALE. I think we need to make sure the operational capabilities match in a proper way the assignment of responsibilities. We are the kind of nation we are because civilian law enforcement is carried out by a law enforcement agency. Our military works extremely well, but we train primarily to deter and defeat enemy attacks overseas or those that are approaching the United States.

Just as a quick aside, when I left the Congress for 2 years I taught the Federalist Papers, and one of the concerns of our founders, and contrary to my expectation, there was always a concern about a large standing army.

Mr. JANKLOW. Agree.

Mr. McHale. I was worried that might be a fear that military values would be imposed at the point of a bayonet. That in fact was not the principal concern. The principal concern was that along the frontier, if the military took the lead, it would become indispensable to the physical security of society and that by the embrace of the civilian population the military as the savior of the civilian population would become too powerful and that military values would be imposed upon our Constitutional system of government.

That remains a legitimate concern if we back away from the founding principle, which is civilian supremacy and civilian law enforcement.

Mr. TURNER. Mr. McHale, we're going to go for a second round of questions for 5 minutes. We will begin that with our chairman, Mr. Shays.

Mr. SHAYS. Thank you, Mr. Chairman.

There is so much we could focus in on. I don't know if I want to spend time having this be a hearing on the overutilization of your service, but I want to state what I'm sensing, that I really

never really focused on, but it's logical to me. I mean, we've basically had law since 1878 that said the military are prohibited from direct involvement in law enforcement activities, arrests, searches and seizures, and so on. We have put exceptions in that in the cases of say drug interdiction and so on. We are all pretty much united that's the way we want to continue.

What I'm first trying to get a handle on is, is this command of USNORTHCOM. Should I view it the same as I would view any other command in terms of how we train our troops? Not yet on its mission, but how we train our troops. If you are stationed at USNORTHCOM, do you still fly a plane the same way? Do you still—are you still onboard a ship doing the same things? But then, is it different when it's land based, for Army in particular, I gather? And then, is the training different? And then, if someone leaves USNORTHCOM, have they basically been put down a path that makes them not all that useful if we need to bring them into Iraq?

So, General, maybe you could start me out.

General ANDERSON. OK, sir. A couple of things I guess is to look at it from an operational and a tactical level, if I may. And if I can start down at the tactical level, boots on ground kind of a point there. Some of the missions that we have within USNORTHCOM, and to be more specific the civil disturbance mission is an example, where we have forces which are earmarked to perform a civil disturbance mission. Those folks—but that's not their only mission. They have that mission as well as other missions. They are on alert to be deployed within a specified time to any location at the direction of the President. And they do undergo some specific training associated with that mission. The same thing with our Quick Reaction Forces and our Rapid Reaction Forces. But they are basically extensions of their military skills for the most part. So it's very what we refer to as situationally dependent, depending upon where it is they are going. For example, if they have to go to protect some critical infrastructure, then they have to have the knowledge of the location and the situation and that kind of thing, but they are employing basic military skills under a command and control architecture.

Now, from an operational point of view, at our headquarters, for example, what we use is we use the same military planning principles that are used in EUCOM and CENTCOM and every other command headquarters, because it's proven to be successful and it has application to the homeland defense mission area as well.

So if an officer leaves Northern Command and moves to EUCOM or moves to the Joint Staff in the Pentagon or whatever, there is no retraining that is going to be necessary for that individual.

I hope that answers your question, sir.

Mr. SHAYS. But the enemy is both what we would view conventional as well as nonconventional. What makes it a little bit more unique here is the mission that then also, given the standing practice since 1878, you do have to call the FBI first. And I would think the answer to your question is, right now it's not going to be satisfactory; and if you are in a rural area and you call them, you are not going to get the kind of response and so on.

Mr. MCHALE. Mr. Chairman, I would hesitate to say that because I really don't know how robust the FBI's capabilities are, and

I would not want to assume nor communicate to our enemies that the FBI might be limited in terms of its reach and response time because it may well be that the FBI is fully prepared to respond throughout the United States in a timely and effective manner.

Mr. SHAYS. It just sounded, though, if I could, that when the Governor was asking this question he speaks with some authority that you might get a recording. And so——

Mr. MCHALE. Obviously, I'm not in a position to respond to that. But I do want to be cautious that we not say anything today that would imply a deficiency in terms of the FBI's ability to respond.

Mr. SHAYS. Is this your part of the equation—is this what you have to verify? Is this what you have to—in your capacity? So while you don't want to convey that, you can't tell me candidly with all certainty that we have it all together yet?

Mr. MCHALE. I can't with regard to crisis management. It's separated in two parts. The scenario you described is what's called crisis management, before the device or the explosion takes place, how fast can we get there to stop it. If it's domestic counterterrorism, that's the FBI. And I really don't know enough about the FBI's capabilities nor would it be appropriate for me to comment on those capabilities. But if, God forbid, the enemy attack were tactically successful—we would ultimately defeat that terrorist threat. But if in a given instance the attack were to be successful, we within the Department of Defense and NORTHCOM in particular through its Joint Task Force for Civil Support have substantial robust capabilities to respond to multiple simultaneous WMD attacks throughout the entire Nation. And so if it does explode and if the contaminant is released, we do have the capability within the military, we train to it, we concentrate the right kinds of specialties in those units, and we are prepared to respond nationwide in consequence management, as opposed to crisis management, which is a civilian law enforcement function.

Mr. SHAYS. I just would conclude by saying to you that—and put on the record, this committee is somewhat unique as well as your command, because while we don't appropriate and we don't authorize legislative language, we do look at programs and operations and so on of the Department of Defense, the State Department, and the Department of Homeland Security. And we are really the only committee I think of in Congress that has that jurisdiction, which is a very important jurisdiction because it is a unified, that we all need to get all of those parts working together.

So we look forward to working with you, and maybe some of this will be done off the record or behind closed doors. But I do think the crisis management is one that we obviously are concerned with, too.

Mr. MCHALE. Yes, sir.

Mr. SHAYS. Thank you, Mr. Chairman.

Mr. TURNER. Mr. Ruppersberger.

Mr. RUPPERSBERGER. You know, this is an evolving progress and, again, the purpose of the committee to raise the issues. And hopefully we can recommend or have influence on where we are going to be. And I want to get back on that train to an extent, because basically you answered the question about who is in charge, and you call the FBI. But what really happens in this crisis situation

is that you always need to be prepared. Well, if you are going to be prepared, you need resources, you need training, and you need money really to be able to do the things that we need to do in the event that there is a crisis like is explained and using the train as an example. So, but from a local level when this occurs, it can occur at 3 a.m., urban, rural, suburban, whatever. The process I think and the teamwork for all levels—because we are all here as one country, and we want to make it happen as quickly as we can, and we don't want to go through the bureaucracy of having the mayor having to call the Governor and the Governor gets whatever. And that's where I think the training resources need to be there, and it really begs the issue. We give resources to our military to go to war; we need the resources here.

Now, the one area that I'm a little concerned about is the area of the Coast Guard. And the Coast Guard, who has a lot of responsibilities, drug interdiction, the inspections and our waterways, but now they have a larger role in homeland security. And I'm wondering, what do you feel that the Coast Guard might need—if you can answer that question—and where do you see their role, increasing or decreasing in some areas, in order to be able to fulfill their mission of homeland security? Who wants to get that one?

Mr. HALL. I can chat a little bit about the Coast Guard Reserve. I have talked to the Commandant of the Coast Guard, and as you know, the Coast Guard Reserve was about 12,000, it was reduced to around 8,000. And with the increased demands they have on port security units, cargo, boarding ships, it has been his position that they need to grow. And I think the current figure is 10,000, and he's been looking at about 1,000 a year or so. It was a view that they needed more end strength, which they are programming, because they have an increased role in trying to board and look at the cargo containers, port security, integrate properly with the Navy and the harbor defense.

So from my lane, the Coast Guard Reserve portion, that's what they are growing to, and I think it's currently up from 8 to 10 and possibly growing more.

Mr. RUPPERSBERGER. OK. You're talking manpower now. But how about their role as far as—and working with I assume in the event that there is some issues, that they would be dealing a lot more closely with you?

Mr. MCHALE. Congressman, I think I can address that. The first thing we should recognize is that in the absence of a wartime footing the Coast Guard is an agency that falls under the Department of Homeland Security, not the Department of Defense. The traditional relationship——

Mr. RUPPERSBERGER. That might be better off now; they might get more resources that way.

Mr. MCHALE. Well, obviously they were never under the Department of Defense. They went from one civilian agency to another. However, your basic point is absolutely valid, and that is in an age of terrorism during an ongoing global war against terrorism it is vitally important that the Coast Guard and the Department of Defense be fully integrated to provide an in-depth, integrated maritime defense for the United States of America. The Coast Guard is under the Department of Homeland Security and has police power

out to 12 nautical miles. Beyond 12 nautical miles, out to about 24 nautical miles, they have lesser thwart but still authority that allows them to establish a maritime homeland security defense in depth. I am convinced, however, that there is a very significant role for the Navy Reserve and the Navy to play in defeating the approaching enemy threat, including an asymmetric terrorist inspired weapon of mass destruction, well beyond the blue water in which the Coast Guard traditionally defends the United States. And so the key is to make sure that the Coast Guard defenses that go out approximately 12 nautical miles are integrated into a Navy defense that goes out much further.

Mr. RUPPERSBERGER. There is one other issue, and that's the issue of intelligence, too.

Mr. MCHALE. Yes, sir.

Mr. RUPPERSBERGER. I think one of the biggest responsibilities for the Coast Guard is the ports and the cargo that's coming in. Now, there's technology out there where you can inspect, and yet you don't want to slow down the ships or the ships won't come in with the cargo.

Mr. MCHALE. Yes, sir.

Mr. RUPPERSBERGER. So there's a lot of issues there. But it's that sharing of the intelligence at the port where the cargo starts to come into our country and then the technology that's needed once it comes into the port.

Mr. MCHALE. Yes, sir.

Mr. RUPPERSBERGER. How do you see that and sharing of intelligence?

Mr. MCHALE. That is vitally important. It is our first line of defense. And I've had the opportunity to attend General Eberhart's intelligence briefings out of Colorado Springs, and I've expressed to the General and to others my belief that General Eberhart's area of interest in terms of intel is worldwide. He needs to look out well beyond his own AOR to pick up information and analysis of raw intel so that he can anticipate the enemy threat long before it approaches his AOR. And that intel requirement, as you correctly point out, extends back into his AOR, not only to the port and the Coast Guard, but beyond that in terms of the sharing of information with civilian law enforcement authorities.

Looking at the pipeline from the opposite end, if a weapon of mass destruction is to be brought by the enemy into the United States, I think a terrorist organization is likely to bring to the United States in advance of the weapon itself a receiving party, a cell, to—to use Marine Corps terminology, to prep the DLZ. They are not going to bring in a weapon of mass destruction cold; they are going to have a team of terrorists in the United States ready to receive that weapon and operationally deploy it. Therefore, it's entirely possible that our first indication of a threat from overseas will be gathered by a civil law enforcement agency in the United States which becomes aware of that embedded terrorist cell.

And so from an overseas collection analysis to a sharing of information lawfully with civilian law enforcement agencies, we have to have a transparency that allows everyone who has an interest in homeland defense to have legitimate access to the information they need. And the President's proposed Terrorist Threat Integration

Center [TTIC], as proposed in his State of the Union Address, will ultimately achieve that purpose.

General ANDERSON. Sir, I prefer that we don't leave here with you having the idea that the Navy and the Coast Guard are not cooperating, because that is not true. The Coast Guard, as you know, has the lead for port security and if they need assistance then they come to the Department of Defense and ask for assistance, as they did for support of Operation Iraq Freedom. And although I cannot in this venue give you the operational technicalities of what it was that the Navy provided them, the Navy provided them support in order to be able to assist them to do their mission.

At the same time there is currently a Maritime Homeland Defense Working Group that has been meeting for several months which is addressing courses of action to be able to develop a command and control scheme, if you will, to be able to address that seam that was talked to between the Coast Guard and the Navy.

Four courses of action have been developed. They are being war gamed and will be recommended. And then there is also right at this moment a jointly manned Navy-Coast Guard Maritime Surveillance Center down in the Norfolk area which is looking at those things that are coming in and out of here.

Mr. RUPPERSBERGER. I think that cooperation is good. I didn't mean to say that at all. It is very good. It's just that the resources aren't there to do as much as we need in the homeland.

General ANDERSON. They would like to do more, no question about it.

Mr. TURNER. We will return to our train engineer, Mr. Murphy.

Mr. MURPHY. I'm going to switch to a different mode here.

First, let me ask again about Reservists. As people are being deployed overseas, tell me how you work now into the mix of decisions about who remains home, about what kind of decisions are made. I know when I talk to our local Reservists and Guard they geared up for Iraq or Kuwait, but not necessarily for what jobs were needed to do at home. I'm assuming this is an evolving process, and I wonder if you could just elaborate on that for a moment, on what evolution is taking place on their homeland duties for those decisions made of who goes, who stays.

Mr. HALL. Well, I can talk a bit about the demobilization. I participated in the mobilization of all of our Reservists for Iraq, and it was based upon requirements. And when the combatant commander came in with the requirements for the forces, those flowed through, and the decision of whether it would be active or reserve was made and then within the reserve capabilities that existed which particular type of units. So the decisions were based upon the capabilities. We also looked at things like the BIDS group which had particular capabilities and, should all of those be deployed, what would that leave for the United States.

So there was a conscious decision throughout to take a look at both the active and the reserve and the requirements, and, when you made that decision, what residual amount of capability did you have left. And, of course, we only touched about 20 percent of our entire guard and reserve in this mobilization. So there was resident still 80 percent in the United States. And so we looked at not from

each State we took them out of, but the capability. And that's how we went about in a very methodical way of that process and each time asked what capability did that leave us, what have we deployed, and, in the overall posture, what does that mean.

Mr. MURPHY. OK. Good. Now let me turn back to an issue, and it has particular concern to me because on September 11 the county executive for Allegheny County in the Pittsburgh region received a call from the flight tower at Pittsburgh International Airport, and the conversation went something like this: We are going to abandon the tower at Pittsburgh Airport. We have—are radar tracking a plane that's flying erratically. We don't know what it was. It turned out to be United Flight 93. It is headed this way. You have to make some decisions on what you need to do to evacuate this county and city facilities. We will call back if something new develops. That was the call.

Now, we all know we have come a long way since then. But it hits us particularly—because I know this plane flew over my district. And when I hear the conversations that took place between the emergency responders and others on this, that the people on board that plane were making conscious decisions not to do anything yet while it was still over the populated area in southwestern Pennsylvania. And so the policemen, the firemen, the EMS, the hospitals in my district oftentimes ask me, what would we do if something happened again. And I wonder if you can give me some information whatever can be shared now, but certainly along the lines of, if not then, perhaps another time, of helping the local emergency responders to understand about the communications network and the action network, but particularly communications. I'm sure you've replayed this scenario at other times: What would we do if it happened again? And I wonder if you can give some reassurance to those emergency responders of the kind of changes that you've made and what they can anticipate in terms of other training and facilities in the future.

General ANDERSON. Sir, if I could, I would like to address that from a NORAD perspective, because I think that's probably appropriate. As you might imagine, back on September 11 it was a different story, but since then certainly it has changed considerably. And one of the things that has changed has been our linkage with the FAA. The FAA would immediately be aware of what that situation is, I would expect, in the tower because of the communication between those folks and probably even the President of FAA. They immediately go to Cheyenne Mountain where we have our command and control apparatus there for air warning and so on and so forth. And then it goes from there into the national authorities. And if there is a CAP, a Combat Air Patrol, that's in the vicinity, we may very well hit—point him in that direction to wherever that plane is. If there is not a CAP and it appears as though this aircraft is a hostile activity or a takeover of some sort, then we will scramble an aircraft. Whether or not it will be able to get there in time is a time-distance problem obviously. But to hopefully give some folks some comfort we exercise this constantly. As a matter of fact, as recently as last Thursday I was involved where we actually had aircraft up, simulating hijacked aircraft, where we actually scrambled fighters, where we were actually talking to the peo-

ple on the ground, to the people in the State Department, so on and so forth. And it was a multiple scenario issue—in other words, multiple events going on at the same time—one of which was a hijack. We do this frequently to make sure that all of the communications, all of the procedures, and all of that are in place to be able to address the problem and not let us have a repeat of September 11.

Mr. MURPHY. I would hope that those things in the future could also include—and again I'd like to talk to you about some things so the local emergency responders are aware, at what levels they can be made aware. I understand there's other security issues that are involved here, too. But these are the folks who come to me frequently who really have a lot of questions, and I hope you will be able to meet with them sometime. Thank you.

Thank you, Mr. Chairman.

Mr. TURNER. Mr. McHale, I want to return back to your six operational goals for the Department of Defense that you have identified with the U.S. forces and to this Congress: Deny enemy sanctuary by developing capabilities for persistent surveillance, tracking, and rapid engagement.

You did an excellent job of describing the differentiation between external and internal to the United States, and the limitations and the Constitutional limitations of the Department of Defense taking any actions internal to the United States and also making a distinction between foreign aggression and issues of national security.

And I want to get back to that distinction, because that's the one that I find really interesting. As we discussed the issue that, previous to September 11, what we would have looked at for surveillance and tracking would have been traditionally military type targets. Now, when you talk about the broader issue of national security, I would like some additional discussion as to what you mean by denying enemy sanctuary by developing capabilities for persistence surveillance, tracking, and rapid engagement. And focus, if you will, because it seems to be an area that you are more comfortable with, on the issue of external to United States because that will have less Constitutional restrictions.

Mr. MCHALE. Yes, sir. I'm limited somewhat in terms of the detail that I can provide in open setting. But with the extraordinary global tracking capabilities that we now have, it is possible for the United States to, first, identify a potential threat, let's say in terms of an aircraft or a ship, and then maintain real-time continuous surveillance of that enemy platform over an extended period of time. And so when I talk about tying enemy sanctuary by developing capabilities for persistent surveillance, tracking, and rapid engagement, I think it's entirely within the reach of evolving technology that we could identify a ship associated with a terrorist organization and maintain worldwide surveillance of that ship in order to guarantee that it would not pose an immediate threat to the United States of America.

Additionally, if we were to identify let's say a ship that might be a threat to the United States, and if through evolving technology we were to maintain situational awareness of where it was located all the time, and should it pass into an area that posed a serious threat to the United States, again, utilizing foreseeable technology,

it might be possible to deploy and operationally use remote sensing capabilities that would enable us to determine with a high degree of probability whether or not that ship had aboard a weapon of mass destruction. I think there is great potential for the further development of remote sensing capabilities related to weapons of mass destruction so that we could in the first instance be aware of a threat and in the second instance confirm whether or not that threat involved the likely use of weapons of mass destruction. I frankly would hope that in the not too distant future we would be able to deploy sensor rays that would allow us to detect from varying distances of standoff whether or not a particular ship approached our coastline with a weapon of mass destruction.

And so we have to maintain the ability to defeat hostile nation states and traditional maritime threats, but I think one of the primary traffics now assigned to NORTHCOM and to my office in conjunction with many others is to develop the technology and operationally employ the technology that will allow us to defeat not only hostile nation states but terrorist organizations and asymmetric WMD threats.

Mr. TURNER. Thank you.

Mr. Janklow.

Mr. JANKLOW. Thank you very much.

If I could, let's talk about communication for a minute, the technology itself. The reality of the situation is, is that given the way spectrums have been allocated in this country, the existing authorities of the FCC, and some statutes, we have an incredible hodgepodge. The military used to have that problem. If I'm remembering the Grenada invasion, there was actually a captain or major who received an award because he tried to call in an air strike and couldn't, so he used his AT&T credit card from a pay telephone, called the 82nd Airborne, who patched him through to the Pentagon, and put him through to an AWACS, and he called in a strike.

In Iraq the first time or Kuwait, and this time, all your military—all our military can talk to each other real-time all the time. Our civilians don't have this capability. In the States, the feds are on different frequencies and can't even always talk to each other, be they the Interior Department authorities, the Bureau of Indian Affairs, the FBI, the Forest Service, the State authorities can't talk to each other, and very few of them can communicate real-time all the time with the feds. What will it take for—is it—what should we do to fix it? Because, you know, when you talk about after the fact and crisis management I don't question after the fact we have phenomenal ability in this country, and you are all going to do a great job. I mean, because we can bring a lot of resources together very quickly to fix things. It's the crisis management I'm worried about. And we can't stop everything. But to the extent that we can, we have to, or at least have to try to do it. And communication is a key to this, and it's a big key in crisis management. I mean, I've been involved in it with a community that was totally destroyed, and we had to actually go out and buy a radio system and fly it in and just hand them out to people so we could all get on the same frequency between the feds, the States, the locals, and the others so we could communicate with each other.

The same is true when a forest is on fire. All the Federal firefighters that fly in can't talk to the State firefighters because they are on different frequencies.

How do we fix—what is it—I think only Congress can fix this. What should we do to fix it? Or will it fix itself, or can you guys fix it without us? And I'm looking at you, Secretary McHale, but I will ask you all, from you, General, to all three of you. How do we fix the problem? There can't be a bigger—I mean, when we were looking for a sniper in America, or snipers, we didn't know if these were foreign terrorists or locals. And look at the problems there were with all of those law enforcement agencies and all the different jurisdictions and States over who was boss. And the fact that they get together to collocate, coordinate, and communicate is not really the way to run a crisis.

Mr. MCHALE. Sir, I think when you were in the Marine Corps, and I know when I was in the Marine Corps——

Mr. JANKLOW. It was so long ago.

Mr. MCHALE. Within the dim recesses of our memory.

Mr. SHAYS. A little bonding going on here?

Mr. MCHALE. A little bit. Semper fi.

You train as you are going to fight, and I believe that we have to make the training for homeland defense missions as close to operational reality, as intense, as demanding, as difficult as we can make it in a training environment. That's——

Mr. JANKLOW. And you're great at that. I mean, when Payne Stewart's airplane took off from Florida it crashed in my State. We knew real-time all the time from the FAA, from the Defense Department, from the Air Traffic Control, all of them were in sync on it literally as it followed it through the sky. The Kentucky National Guard, the Iowa National Guard, the North Dakota National Guard, the Air Force were all with that airplane all the time trying to determine where it was going to come down. And, that's great. But what I'm talking about is the communication side. How do we fix the ability to grab a radio and talk to each other?

General ANDERSON. Sir, if I could. I mean, if you look at the military and where we are today, and you alluded to what it was in Grenada and now what it is today, and we look to see how was it that we were able to achieve that, it was through standards. It was interoperability standards. We didn't go out and buy everybody the same radio. We took the radios that existed and made sure that they were compatible and as technologically available to be done. And I think you will find in the panel that's after this one General Reimer will talk to you about that.

Mr. JANKLOW. General, should we mandate that by law?

General ANDERSON. Sir, that's an option.

Mr. JANKLOW. Will that fix the problem?

General ANDERSON. It may, but it will take time. We're going to have to be patient. And it will take money.

Mr. MCHALE. And I would encourage you—4 or 5 years ago I would have been as deeply concerned as you are. I just met recently with the Virginia CST, their Civil Support Team, Title 32 status National Guard, and I peppered them with the same questions that you're presenting to us. Technology now does empower interoperability of communications. And I said to the CST, look,

when you roll in on a site, and the police and the firefighters and EMTs and the paramedics and the HAZMAT folks are already there, are you going to be able to talk to them? And as best they could explain it to a government major, they took me into their comm center, and they showed me how they would be able to communicate with all of those diverse entities that 5 years ago I would have been very doubtful that they would be able to do that.

Mr. JANKLOW. And if they didn't have a comm center, they couldn't do it?

Mr. MCHALE. Yes, sir. That's correct.

Mr. TURNER. Thank you. For closing comments, we will turn to our ranking member, Mr. Ruppersberger, and Chairman Shays. We'll start with Mr. Ruppersberger.

Mr. RUPPERSBERGER. Just I would like to introduce for the record a written statement. I'm not going to read it.

Mr. TURNER. We'll make certain that it's part of the record.

[The prepared statement of Hon. C.A. Dutch Ruppersberger follows:]

Statement of Congressman C.A. Dutch Ruppersberger
National Security Subcommittee Hearing on Homeland Defense: Old Force Structures for New Missions
April 29, 2003
1:00PM 2247 RHOB

Mr. Chairman, thank you for taking the time to call this hearing on Homeland Security and the role DOD personnel play in securing our borders and protecting our citizens from terrorist threats.

As the war begins to enter the latter stages, we have to be more vigilant of our domestic security. Protecting our hometown security is more important than ever. Hometown security involves everyone, the local elected officials, our police and firefighters, and our military. Since 9-11 we have seen air patrols of our cities, we have seen national guardsmen patrolling our airports and securing our critical infrastructures. The military has stepped up their efforts and we need to applaud all of our service men and women.

The question before us today is about the role of Department of Defense personnel are assigned during times of threat to our homeland. We are also here to

discuss the affect of this constant state of alert on the readiness of our forces in terms of an international threat. I am also interested in hearing more about the communications between the various levels of government. Specifically, I would like to know if there is communication between North COM and local governments, or how the intelligence community and North COM are interacting. We have to remember that homeland security is not controlled by one entity. It is a balancing act between various entities and coordination is the key to this success.

We have to remember that North COM's area of responsibility includes the continental United States. We have to make sure that their mission is not compromised or that their personnel are not stretched too thin. We have to remember that fulfilling missions should not degrade current capabilities. The question is how do we do this? Do we look to an increase in military personnel? Does the Reserves mission drastically alter and shift to homeland security and what affect will that have on their support function in major theaters of war? Operation Iraqi Freedom may be able to shed light on how we did and where our weaknesses and strengths lie.

As we go through this hearing I hope we will all focus on the fact that homeland security is provided by all levels of government and that coordination is the key to better security. Again, Mr. Chairman thank you for calling this hearing.

Mr. TURNER. Mr. Chairman.

Mr. SHAYS. Thank you. I don't want to get into in any great depth; I just want to have a sense of it. A chemical or biological attack—excuse me, a chemical or a nuclear attack, do the personnel that know how to neutralize these weapons of mass destruction, do they come out of—General, out of your operation? Is this a USNORTHCOM operation, or is this something totally separate that you kind of hire?

General ANDERSON. Sir, Render Safe is a very, very classified subject that I would rather talk to you off line on, if I may, please.

Mr. SHAYS. Fair enough.

Mr. MCHALE. Mr. Chairman, I would simply note very quickly for the record that there are exceptions to the Posse Comitatus Act with regard to weapons of mass destruction.

Mr. SHAYS. Fair enough. OK. Thanks.

Mr. TURNER. Thank you, Mr. Chairman.

We want to thank the panelists, and ask if there are any of them that have any additional statements or any additional response to a question that you would like to add to the record at this time. If not, we thank you very much. And we will turn to our second panel, which includes General Reimer, the director, Oklahoma City National Memorial Institute for the Prevention of Terrorism; Mr. Raymond Decker, Director, Defense Capabilities Management Team, U.S. General Accounting Office; and Dr. James Jay Carafano, senior fellow, Center for Strategic and Budgetary Assessments; Mr. Michael Wermuth, senior policy analyst, RAND Corp. If you would all come forward.

[Witnesses sworn.]

Mr. TURNER. Let the record reflect that you all responded in the affirmative.

We are going to begin by asking each of you to make a 5-minute statement. And we will begin with Mr. Decker.

STATEMENTS OF RAYMOND DECKER, DIRECTOR, DEFENSE CAPABILITIES MANAGING TEAM, U.S. GENERAL ACCOUNTING OFFICE; GENERAL DENNIS J. REIMER, DIRECTOR, OKLAHOMA CITY NATIONAL MEMORIAL INSTITUTE FOR THE PREVENTION OF TERRORISM; DR. JAMES JAY CARAFANO, SENIOR FELLOW, CENTER FOR STRATEGIC AND BUDGETARY ASSESSMENTS; AND MICHAEL WERMUTH, SENIOR POLICY ANALYST, RAND CORP.

Mr. DECKER. Mr. Chairman and members of the subcommittee, I appreciate the opportunity to discuss with you today the demands being placed on the Department of Defense in a post-September 11, 2001 environment.

The Department's primary mission is to deter or prevent aggression abroad and fight to win if these measures fail. This has been accomplished through military presence and power projection overseas, and, as we have witnessed recently in Iraq and Afghanistan, our military forces have conducted major sustained and successful combat operation. However, since the events of September 11, 2001, our Federal Government's view of the defense of the U.S. territory has dramatically changed. This special emphasis has required the Department of Defense to adjust its strategic and oper-

ational focus to encompass not only the traditional military concerns posed by hostile states overseas, but also the asymmetric threats directed at our homeland by terrorist groups.

Last year at the request of this subcommittee we initiated a review of the domestic military missions performed by the Department and their impact on the Department's ability to meet all of its mission requirements.

We will issue our report to you later this spring. However, my testimony today is based on our preliminary observations from this review. I will briefly comment on three key areas: The primary differences between military and nonmilitary, or civil, support missions conducted by the Department; whether current defense organizational structure, plans, and forces are adequate to support DOD's domestic missions; and the impact of domestic missions on military personnel tempo.

First, I will cover the military and nonmilitary missions. In general terms—and I think this was elaborated by Congressman McHale and General Anderson—the military missions are those primary warfighting functions DOD performs in defense of the Nation and at the direction of the Commander in Chief, the President. Recent combat operations in Iraq are a good example of the military's primary purpose. Conversely, in nonmilitary missions or support missions to civil authorities, DOD provides military forces or capabilities in support of another agency. For instance, the recovery assistance provided by the Pentagon at the request of FEMA after a natural crisis such as a hurricane or flood is a support mission to civil authorities.

DOD evaluates all requests by U.S. civil authorities for military assistance against six established criteria, including legality, lethality, cost, and impact on readiness to base its decision. During fiscal years 2001 and 2002, the Department supported over 230 missions requested by civil authorities such as fighting wildfires in the West, providing post-September 11 recovery assistance to New York and Virginia, and supporting the last Presidential inauguration.

Although established DOD guidance with a formal decision-making process exists for military support to civil authorities, the use of military combat forces such as U.S. fighter aircraft patrolling the skies of America after the attacks of September 11 leads into my comments on whether DOD has the organizational structure, plans, and forces to support the heightened domestic military missions.

As you are aware, DOD has taken two positive steps to organize its efforts in the homeland defense role within the larger domain of homeland security. First, the Office of the Assistant Secretary of Defense for Homeland Defense, Mr. McHale's office, was recently created to provide leadership and supervision of all DOD's domestic missions. Second, the U.S. Northern Command located in Colorado Springs was recently established to provide long-term planning and execution for domestic air, sea, and land missions. It will be fully operational the first of October this year. During our official visit to U.S. Northern Command last week, it was clear that General Eberhart and his battle staff are dedicated and committed as they tackle their new duties in homeland defense.

Although these two organizational initiatives are important, it is premature to evaluate the effectiveness of these organizations to address their new missions at this time. We have noted that the U.S. Northern Command completed its campaign plan in October 2002 for domestic military missions that will guide the forces performing these missions. However, the plan was developed prior to the January 2003 issuance of a Federal Bureau of Investigation national terrorism threat assessment and may need to be reviewed to ensure all threat aspects are appropriately considered.

Additionally, there are indications that the U.S. military forces may not be adequately structured for some current domestic missions and military readiness may become eroded as a result. For example, following the September 11, 2001 attacks, the President deployed fighter aircraft to protect U.S. cities as well as military police units to enhance installation security across the Nation under Operation Noble Eagle. While all units and personnel have performed their homeland defense duties superbly, in some cases the assigned tasks were not the primary mission of these affected units or personnel; therefore, this condition highlights a potential imbalance between current force structure mix and future requirements. Although these specifically focused missions were deemed necessary, the military readiness of the assigned forces over time may decline due to the limited training value derived from these missions and the reduced opportunities to conduct other required combat-oriented training during the period.

My final comments are directed at personnel tempo or the amount of time a service member spends away from home while deployed. Clearly, the current overseas and domestic missions are stressing U.S. military personnel in this area. For example, from September 2001 through December 2002, the number of Air Force personnel exceeding the personnel tempo threshold of 182 days—which is approximately one half a year—away from home rose from 2,100 to about 8,300. The number of personnel exceeding the personnel tempo threshold of 220 days away—which is 60 percent of a year—rose from 1,600 to 22,000. Army data also revealed a similar serious trend during the same period. Exceeding the threshold on a sustained basis may indicate inadequacy in the force structure or mix of forces for the current level of operations and could lead to retention problems later if military members leave the service because personnel tempo was too high. To prevent significant near-term attrition from the military force DOD has used stop loss authority to prohibit service members affected by the order from leaving the service. All four services have stop loss orders that are currently being used.

Officials from the four services who manage the implementation of these orders caution that these are for short-term use and designed to maintain unit level military readiness for overseas combat and domestic missions. Moreover, the officials added that the orders are not intended as a long-term solution to address mismatches or shortfalls in capabilities or requirements or as a substitute for the routine recruiting, induction, and training of new members.

In closing, Department of Defense has initiated several important measures to accomplish its homeland defense mission, but

needs to address concerns over the impact of this emerging issue on force structure and personnel tempo. Like a baseball team that is used to playing games at home and then away, the Pentagon must now balance its ability to play both at home and away simultaneously, and review its approach to continue fielding the best team for years to come.

Mr. Chairman, that completes my statement.

[The prepared statement of Mr. Decker follows:]

United States General Accounting Office

GAO

Testimony

Before the Subcommittee on National Security, Emerging Threats, and International Relations, Committee on Government Reform, House of Representatives

For Release on Delivery
Expected at 1:00 p.m.. EDT
Tuesday, April 29, 2003

HOMELAND DEFENSE

Preliminary Observations on How Overseas and Domestic Missions Impact DOD Forces

Statement of Raymond J. Decker, Director
Defense Capabilities and Management

GAO-03-677T

April 29, 2003

GAO
Accountability • Integrity • Reliability

Highlights

Highlights of GAO-03-677T, a testimony before the Subcommittee on National Security, Emerging Threats, and International Relations, Committee on Government Reform, House of Representatives

HOMELAND DEFENSE

Preliminary Observations on How Overseas and Domestic Missions Impact DOD Forces

Why GAO Did This Study

The way in which the federal government views the defense of the United States has dramatically changed since September 11, 2001. Consequently, the Department of Defense (DOD) is adjusting its Cold War strategic focus (of defending against massed combat forces) to better encompass defense against the asymmetric threats that small terrorist cells represent to U.S. territory.

GAO was asked to review DOD's participation in domestic missions. This testimony represents our preliminary work in response to the request. It addresses (1) the primary differences in military and nonmilitary missions; (2) how DOD evaluates nonmilitary mission requests; (3) how the 1878 Posse Comitatus Act impacts on DOD's nonmilitary missions; (4) whether current management organizations, plans, and forces are adequate to support DOD's domestic missions; and (5) the impact of overseas and domestic missions on military personnel tempo.

GAO is making no recommendations in this testimony.

www.gao.gov/cgi-bin/getrpt?GAO-03-677T.

To view the full report, including the scope and methodology, click on the link above. For more information, contact Raymond J. Decker, (202) 512-6020, deckerr@gao.gov.

What GAO Found

DOD's military and nonmilitary missions differ in terms of roles, duration, discretion to accept or reject, and capabilities normally employed.

DOD evaluates nonmilitary mission requests on the basis of legality, lethality, risk to DOD forces, the cost, the appropriateness of the mission, and the impact on military readiness.

The 1878 Posse Comitatus Act prohibits the direct use of federal military troops in domestic civilian law enforcement, except where authorized by the Constitution or Acts of Congress. Congress has expressly authorized the use of the military in certain situations such as to assist with drug interdiction or assist with terrorist incidents involving weapons of mass destruction.

It is too early to assess the adequacy of DOD's new management organizations or plans but some forces may not be tailored for their domestic missions. DOD established an Office of the Assistant Secretary of Defense for Homeland Defense and U.S. Northern Command to plan and execute domestic missions. U.S. Northern Command's plan for domestic military missions was developed before DOD officials had agreed on the nature of the threat. Forces are not adequately tailored for some domestic missions and readiness could erode because of it. For example, Air Force fighter units deployed since September 11, 2001 to perform combat air patrols are unable to also perform required combat training.

Overseas and domestic missions are stressing U.S. forces as measured in personnel tempo data. In September 2001, about 1,600 Air Force personnel had spent 220 to 365 days away from their homes over the previous year, but by December 2002 almost 22,100 Air Force personnel had been away that long. The Army reported similar increases. To prevent erosion in combat capabilities, DOD issued orders, known as stop loss, to involuntarily retain critical personnel.

F16 Fighter Aircraft Conduct a Combat Air Patrol Over Washington, D.C.

Source: U.S. Air Force.

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to discuss with you today the demands being placed on the Department of Defense (DOD) in the post September 11, 2001, environment. DOD's primary mission is to deter aggression abroad and fight to win if deterrence fails. It does this by undertaking major combat operations on a global basis. However, the federal government view of the defense of U.S. territory has dramatically changed since September 11, 2001. In this regard, DOD is adjusting its Cold War strategic focus of defending against massed combat forces attacking allied nations or U.S. territory to encompass the asymmetric threats that small terrorist cells represent.

You asked us to review DOD's participation in domestic military missions. We will issue a final report on this issue later this spring. My testimony today is based on the preliminary work that we have completed to date on your request. I will address (1) the primary differences in military and nonmilitary missions; (2) how DOD evaluates requests for nonmilitary missions; (3) how the 1878 Posse Comitatus Act impacts DOD's nonmilitary missions; (4) whether current management organizations, plans, and forces are adequate to support DOD's domestic missions; and (5) the impact of overseas and domestic missions on military personnel tempo.[1] To determine the differences in DOD's missions and how DOD evaluates mission requests, we reviewed appropriate guidance and directives specifying mission types, and discussed these issues with knowledgeable officials. To identify legal constraints on DOD's nonmilitary missions, we reviewed the 1878 Posse Comitatus Act and related laws. To determine the adequacy of organizations, plans, and forces, we reviewed DOD reorganizations, visited the new U.S. Northern Command, reviewed campaign plans and related documents, and compared the types of missions performed by forces with their primary missions. Finally, to determine the impact of domestic or overseas missions on personnel tempo, we obtained personnel tempo databases from DOD for the period October 2000 through December 2002 (the most recent data available) and analyzed the data. We conducted this work from July 2002 through April 2003 in accordance with generally accepted government auditing standards.

[1] Personnel tempo is the amount of time that a member of the armed forces is engaged in their official duties at a location that makes it infeasible to spend off duty time at the member's home, homeport (for Navy service members), or in the members' civilian residence (for reserve components' personnel).

Summary

Military missions differ from nonmilitary missions in terms of roles, duration, discretion to accept or reject, and capabilities normally employed. In military missions, DOD is the lead federal agency, operates without a predefined end date, cannot reject the planned mission, and uses combat power and combat support capabilities for their intended purposes. Conversely, in nonmilitary missions, another agency is generally the lead, the mission has a predefined end date, and DOD has some discretion to reject the requested mission and uses military capabilities in a noncombat manner to augment U.S. civil authorities' capabilities.

DOD evaluates all requests by U.S. civil authorities for military assistance against six established criteria, including legality, safety, funding, and impact on readiness. DOD has provided a variety of requested nonmilitary assistance, including over 230 missions in fiscal years 2001 and 2002, such as assisting in fighting wildfires; recovering from tropical storms; providing post-September 11, 2001, assistance to New York City and Virginia; and providing support for the presidential inauguration.

The 1878 Posse Comitatus Act[2] prohibits the direct use of federal military troops in domestic civilian law enforcement, except where authorized by the Constitution or Act of Congress. Congress has expressly authorized the use of the military in certain situations. For example, DOD can use its personnel and equipment in response to requests from civilian law enforcement to assist with drug interdiction efforts and terrorist incidents involving weapons of mass destruction.[3] The Commander of U.S. Northern Command has stated "We believe the [Posse Comitatus] Act, as amended, provides the authority we need to do our job, and no modification is needed at this time."[4]

It is too early to assess the adequacy of DOD's new management organizations or their plans for their domestic missions, since the organizations only recently began operations and the campaign plan was

[2] 18 U.S.C. §1385 (2002). The Act expressly prohibits the use of the Army or the Air Force to execute the laws. It applies to the Navy and Marine Corps through DOD Directive 5525.5, *DOD Cooperation with Civilian Law Enforcement Officials* and Navy Instruction (SECNAVISNT) 5820.7B, Mar. 28, 1988, *Cooperation with Civilian Law Enforcement Officials*.

[3] 10 U.S.C. §§371-378 (excluding §375) (2002), and 10 U.S.C. §382 (2002).

[4] Statement of General Ralph E. Eberhart, U.S. Air Force, Commander, U.S. Northern Command and North American Aerospace Defense Command, before the House Committee on Armed Services, March 13, 2003.

only recently written, although some forces may not be fully tailored to the missions. First, DOD has established (1) the Office of the Assistant Secretary of Defense for Homeland Defense and (2) U.S. Northern Command to provide long-term planning and execution capability for domestic missions. The new Assistant Secretary is to provide overall supervision of DOD's domestic missions. U.S. Northern Command is to provide unity of command for U.S. military actions to counter threats to U.S. territory and is to provide military assistance to U.S. civil authorities when directed by the President or the Secretary of Defense. Neither organization was fully functional at the time of our review, so we could not yet evaluate the adequacy of these organizations for their new missions. Second, U.S. Northern Command recently completed its campaign plan for domestic military missions, making it unlikely that the services have yet trained or equipped their forces for these missions. In addition, the plan was developed prior to issuance of a Federal Bureau of Investigation counterterrorism threat assessment and before DOD officials had agreed amongst themselves on the nature of the threat and thus may not take into account the current range of identified threats. Finally, forces are not adequately structured for some current domestic missions, and military readiness may erode. For example, following the September 11, 2001, terrorist attacks, the President deployed fighter aircraft to protect U.S. cities under Operation Noble Eagle. In addition, DOD needed to enhance installation security and deployed military police units. While the missions are legitimate, these forces' military readiness may erode because they get limited training benefit from the missions and do not have the opportunity to conduct required combat training while performing the missions.

Current overseas and domestic missions are impacting U.S. forces as measured by personnel tempo. DOD measures personnel tempo based on three thresholds: 182 days, 220 days, and 401 days deployed[5] away from home. DOD believes that if servicemembers spend too much time away from home, a risk exists that they will eventually leave the service and military readiness may suffer. From September 2001 through December 2002, the number of Air Force personnel exceeding the personnel tempo threshold of 182 days away from home rose from about 2,100 to about 8,300; the number exceeding the personnel tempo threshold of 220 days away from home rose even higher, from about 1,600 to about 22,100. Army

[5] We used the thresholds to measure days away from home, which includes deployments and activities such as individual training.

data also revealed that personnel tempo had increased during the period. To prevent significant near-term attrition from the force, DOD has used its stop loss authority[6] to prohibit servicemembers affected by the order from leaving the service. DOD has acknowledged that stop loss should only be used for a short period of time and is not to be used as a long-term force management practice.

DOD's Military and Nonmilitary Missions Differ

Military missions differ from nonmilitary missions on a variety of factors, as shown in table 1.

Table 1: Differences between DOD Military and Nonmilitary Missions

Military missions	Nonmilitary missions
Acts as the lead federal agency and follows orders issued by the President, as Commander-in-Chief.	Supports a lead federal agency.
Performs missions under extraordinary circumstances that do not necessarily have defined end dates.	Provides support on a temporary or emergency basis with agreed upon end dates.
Generally cannot reject these missions.	Has some discretion to accept or reject these missions based on six established criteria and uses an approval process guided by DOD Directive 3025.15[a] to determine whether to provide the requested support.
Applies military combat capabilities that only DOD possesses.	Augments U.S. civil authorities' capabilities with DOD's own military assets or capabilities from its existing force, which are applied in a non-combat manner.

Source: GAO analysis.

[a] *Military Assistance to Civil Authorities*, Feb. 18, 1997.

Military missions involve coordinated military actions, such as campaigns, engagements, or strikes, by one or more of the services' combat forces. Operations Desert Storm in 1991 and Iraqi Freedom in 2003 are examples of overseas military missions, and Operation Noble Eagle is a domestic military mission started on September 11, 2001, and continuing today. In

[6] Stop Loss authority is provided by 10 U.S.C. §12305 (2002). It authorizes the President to suspend any provision of law relating to the promotion, retirement, or separation of any member of the armed forces when members of a reserve component are called to active duty and the President determines the forces are essential to the national security of the United States.

the latter mission, the President directed the Commander, North American Aerospace Defense Command, to order combat air patrols to identify and intercept suspect aircraft operating in the United States. Since these are military missions, DOD is the lead federal agency and is prepared to apply its combat power if needed.

DOD Evaluates Requests for Assistance from Civil Authorities Against Established Criteria

Requests for nonmilitary missions are evaluated against criteria contained in DOD's Directive, *Military Assistance to Civil Authorities*.[7] These requests generally seek DOD support to help alleviate suffering, recover from disasters or assist indirectly with law enforcement.[8] DOD's directive specifies that requests for nonmilitary support be evaluated against the following criteria:

- legality (compliance with laws),
- lethality (potential use of lethal force by or against DOD forces),
- risk (safety of DOD forces),
- cost (who pays, impact on the DOD budget),
- appropriateness (whether the requested mission is in the interest of DOD to conduct), and
- readiness (impact on DOD's ability to perform its primary mission).

According to DOD, in fiscal years 2001 and 2002, it supported over 230 nonmilitary missions in a variety of settings, such as assisting in fighting wildfires, recovering from tropical storms, providing post-September 11, 2001, assistance to New York City and Virginia, providing support for the presidential inauguration, and for other purposes. According to DOD, during this same period, the Department rejected a handful of missions based on the above criteria.

[7] DOD Directive 3025.15, Feb. 18, 1997, which establishes DOD policy and assigns responsibility for providing military assistance to civil authorities.

[8] DOD Directive 5525.5 provides specific guidance on requests for law enforcement assistance.

The Posse Comitatus Act Restricts DOD's Role in Civilian Law Enforcement

The 1878 Posse Comitatus Act[9] prohibits the use of the Army and Air Force "to execute the laws" of the United States except where authorized by the Constitution or Acts of Congress. Federal courts have interpreted "to execute the laws" to mean the Posse Comitatus Act prohibits the use of federal military troops in an active role of direct civilian law enforcement.[10] Direct involvement in law enforcement includes search, seizure, and arrest.[11] The act does not apply to military operations at home or abroad. Further, it does not apply to National Guard personnel when under the direct command of states' governors.

Congress has expressly authorized the use of the military in certain situations. For example, DOD can use its personnel and equipment to:

- assist with drug interdiction and other law enforcement functions, protect civil rights or property, or suppress insurrection (the Civil Disturbance Statutes; 10 U.S.C. §§331-334);[12]
- assist the U.S. Secret Service (18 U.S.C. §3056 Notes);
- protect nuclear materials and assist with solving crimes involving nuclear materials (18 U.S.C. §831);
- assist with terrorist incidents involving weapons of mass destruction (10 U.S.C. §382); and
- assist with the execution of quarantine and certain health laws (42 U.S.C. §§97-98).

In March, 2003, the Commander of U.S. Northern Command has stated, "We believe the [Posse Comitatus] Act, as amended, provides the authority we need to do our job, and no modification is needed at this time."[13] The President identified as a major homeland security initiative a review of the legal authority for military assistance in domestic security, which would include the Posse Comitatus Act. The President maintained that the

[9] 18 U.S.C. §1385 (2002).

[10] See, for example, *United States v. Red Feather*, 392 F. Supp. 916 (D.S.D. 1975).

[11] DOD Directive 5525.5, *DOD Cooperation with Civilian Law Enforcement Officials* provides other examples of prohibited direct involvement.

[12] DOD Directive 3025.12, Feb. 4, 1994, *Military Assistance for Civil Disturbances*, which identifies policy and responsibilities governing the planning and response by DOD for its assistance to civil authorities, including law enforcement.

[13] Statement of General Ralph E. Eberhart, U.S. Air Force, Commander, U.S. Northern Command and North Aerospace Defense Command, before the House Committee on Armed Services, March 13, 2003.

"threat of catastrophic terrorism requires a thorough review of the laws permitting the military to act within the United States in order to determine whether domestic preparedness and response efforts would benefit from greater involvement of military personnel and, if so, how." [14] In addition to this review, the Congress directed DOD to review and report on the legal implications of members of the Armed Forces operating on United States territory and the potential legal impediments affecting DOD's role in supporting homeland security.[15] At the time of our review, neither the President's nor the congressionally directed legal reviews had been completed.

The Adequacy of New Management Organizations, Plans, and Forces for Domestic Missions

It is too early to assess the adequacy of DOD's new management organizations or its plans, although forces may not be fully tailored to the current domestic missions. DOD has established new organizations for domestic missions at the policy and operational levels, and written a new campaign plan for the defense of the United States. At the same time, DOD has used existing forces for these missions since September 11, 2001. However, at the time of our review, the organizations were not yet fully operational; plans had been developed before issuance of a counterterrorism threat assessment and before DOD officials had reached agreement on the nature of the threat; and force capabilities were not well matched to their domestic missions, potentially leading to an erosion of military readiness.

New DOD Organizations to Address Military Domestic Missions Are Not Yet Fully Operational

Two new organizations—the Office of the Assistant Secretary of Defense for Homeland Defense and U.S. Northern Command—together provide long-term policy direction, planning, and execution capability but are not yet fully operational, because they have only recently been established and are not fully staffed. Because these organizations had only recently been activated and were still being staffed and structured, we did not evaluate the adequacy of these organizations for their missions.

[14] *National Strategy for Homeland Security*, Office of Homeland Security, July 2002.

[15] The Bob Stump National Defense Authorization Act for Fiscal Year 2003, P.L. 107-314, (Dec. 2, 2002), Sec. 921(7) Report on Establishment of the United States Northern Command and Sec. 1404(11) Report on the Role of the Department of Defense in Supporting Homeland Security.

The Senate confirmed the President's nominee to be Assistant Secretary of Defense for Homeland Defense in February 2003, but this office was not fully operational at the time of our review, with approximately one-third of the staff positions filled. The new Assistant Secretary is to provide overall supervision for domestic missions.

U.S. Northern Command was established by the President in an April 2002 revision to the Unified Command Plan[16] and was activated in October 2002. However, the command is not planned to be fully operational until October 2003. As of last week, only about 46 percent of the command's positions had been filled. During our trip to U.S. Northern Command, we found that a key challenge that the command is grappling with is the need to conduct its ongoing missions while staffing the command's positions. The activation of the command marks the first time that there has been a unity of command for military activities within the continental United States. Prior to U.S. Northern Command's activation, U.S. Joint Forces Command provided for military actions to defend U.S. territory from land- and sea-based threats. The North American Aerospace Defense Command defended the United States from airborne threats (and still does). The Commander of U.S. Northern Command is also the Commander of the North American Aerospace Defense Command providing the new unity of command for the three missions.

The Nature of the Threat Was Still Under Discussion When the Campaign Plan Was Written

DOD's planning process requires the Department and the services to staff, train, and equip forces for their military missions as outlined in campaign plans and deliberate plans[17] developed by the combatant commanders, including the Commander of U.S. Northern Command. U.S. Northern Command's campaign plan was completed in October 2002 and is classified. However, I can note, that although it may reflect current intelligence from DOD and other intelligence community sources, it was completed before the January 2003 issuance of the Federal Bureau of Investigation's counterterrorism threat assessment, so it may not take all threats into account. Moreover, an official in the Office of the Secretary of

[16] Unified Command Plans provide guidance to the combatant commanders and establish their missions, responsibilities, force structure, and geographic areas of responsibility, among other things.

[17] Campaign plans represent the combatant commander's vision of the arrangement of operations to attain strategic objectives. Deliberate plans are designed to use forces and apportion resources for potential contingencies.

Defense acknowledged that DOD officials continue to debate the nature of the threat to U.S. territory, thus DOD itself has not yet reached internal agreement on the nature of the threat facing the United States.

DOD's Forces Are Not Tailored to Conduct Long-Term Military Missions Domestically

Based on our review, DOD's forces are not tailored for some of the missions that they have been performing since September 11, 2001, and the result could be eventual erosion of military readiness. To respond to the terrorist attacks of that day, the President identified the need to protect U.S. cities from air attack, and in response, DOD deployed 338 Air force and about 20 Navy aircraft within 24 hours of the attacks. Air Force fighter aircraft flew continuously from September 11, 2001, through March 2002, and intermittently thereafter. These combat patrols continue today. While these forces may obtain some training benefit from actually conducting the mission, the benefit is limited by the narrow scope of maneuvers performed during these missions. Specifically, Air Force and Air National Guard fighter units performing domestic combat air patrols are inhibited from executing the full range of difficult, tactical maneuvers with the frequency that the Air Force requires to prepare for their combat missions. In one Air National Guard wing that we reviewed, the average pilot could not meet their training requirements in 9 out of 13 months between September 2001 and September 2002. Consequently, such units may need to resume training after domestic combat air patrols end or they are reassigned, to ensure their readiness for combat operations, their primary missions. Similarly, DOD identified the need to enhance installation security, and it subsequently deployed active, reserve, and National Guard military police units for the mission. However, these units were designed for a different mission, and received limited training benefit from the domestic mission. For example, officials at a military police internment and resettlement battalion told us that while the battalion can provide installation security, its primary mission is to operate enemy prisoner of war camps. Instead, for nearly a year, the battalion carried out a domestic installation security mission, which while important, prevented the battalion from completing required training for its primary overseas combat mission. As a result, the battalion's military readiness may become eroded, which could mean accepting an increased risk to the battalion if it deploys or resuming training before it deploys again.

Increased Overseas and Domestic Missions Add to High Army and Air Force Personnel Tempo

Current overseas and domestic missions are stressing U.S. forces as measured in personnel tempo data. DOD believes that if servicemembers spend too much time away from home, a risk exists that they will leave the service and military readiness may ultimately suffer.

The National Defense Authorization Act for Fiscal Year 2000[18] requires that DOD formally track and manage for the number of days that each member of the armed forces is deployed and established two thresholds—servicemembers deployed more than 182 or 220 days away from home out of the preceding 365 days. The National Defense Authorization Act for Fiscal Year 2001[19] established a third threshold, which requires that servicemembers who are deployed for 401 or more days out of the preceding 730-day (2-year) period receive a $100 high deployment per diem allowance.[20] Between September 2001 and December 2002, personnel tempo increased dramatically for Army and Air Force personnel due to ongoing missions or commitments around the world and their increasing support of Operations Noble Eagle and Enduring Freedom.[21]

DOD data that we obtained indicated tempo is high and increasing. For example, as shown in figure 1, in September 2001, over 6,600 Army personnel (including active, reserve, and National Guard personnel) had exceeded a desired threshold, spending 182 to 219 days away from home during the previous 365 days. By December 2002, that number had risen to over 13,000. During the same period, the number spending 220 to 365 days away, had risen from about 800 to over 18,000.

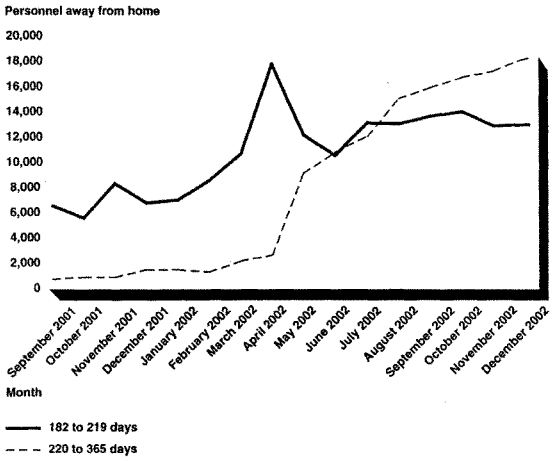
[18] P.L. 106-65 (Oct. 5, 1999), §586(a) (codified at 10 U.S.C. §991).

[19] P.L. 106-398 (Oct. 30, 2000), §574(c) (codified at 37 U.S.C. §436).

[20] On October 8, 2001, DOD suspended the counting of deployed days for payment purposes as permitted by law. Moreover, the statutory requirement for general and flag officers to personally manage the deployments of servicemembers exceeding the 182- and 220-day thresholds was also suspended at the same time.

[21] The data does not include the impact on personnel tempo stemming from participation in Operation Iraqi Freedom, which is not yet fully available. Operation Enduring Freedom is the ongoing military mission in Afghanistan. While the Navy and Marine Corps did not experience high levels of personnel tempo during the October 2000 to December 2002 time frame, their tempo may have increased due in part to deployments for Operation Iraqi Freedom.

Figure 1: Army Personnel Exceeding the Desired Personnel Tempo Thresholds

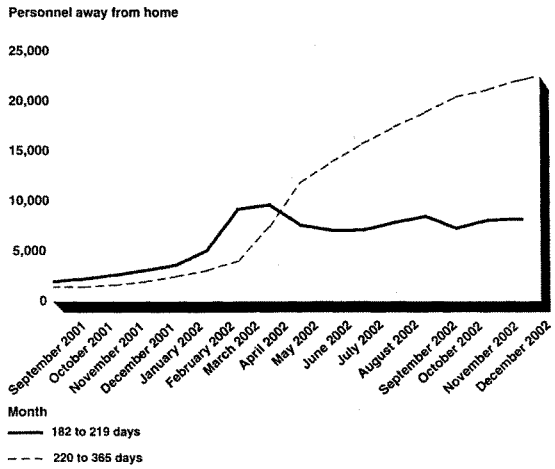


Source: GAO analysis of Department of the Army data.

Note: Each data point represents the total number of servicemembers away from home in the preceding 365 days from the last day of the month indicated.

The Air Force reported similar trends. As shown in figure 2, in September 2001, about 2,100 Air Force servicemembers were away from home for 182 to 219 days, but that had risen to about 8,300 by December 2002. Also, as with the Army, Air Force servicemembers away 220 to 365 days had risen from about 1,600 to over 22,100.

Figure 2: Air Force Personnel Exceeding the Desired Personnel Tempo Thresholds



Source: GAO analysis of Defense Manpower Data Center data.

Note: Each data point represents the total number of servicemembers away from home in the preceding 365 days from the last day of the month indicated.

The number of Air Force active, Air Force reserve, and Air National Guard Air Force personnel exceeding the third personnel tempo threshold of 401 or more days away from home in the preceding 730-day period also increased during the latter period of 2002, starting at about 3,700 personnel in September 2002 and rising to more than 8,100 servicemembers in December 2002. Of those, about one-half of these personnel were Air National Guard personnel, some of whom were tasked with conducting air sovereignty alert missions in the continental United States.[22] In September 2002, 1,900 had spent more than 401 days away from

[22] These servicemembers are deployed from their home to another installation in the United States.

home over a 2-year period. By December 2002, the number of Air National Guard personnel spending more than 401 days away from home had increased to about 3,900. Exceeding the threshold on a sustained basis can indicate an inadequacy in the force structure or the mix of forces.

DOD has recognized the potential for retention problems stemming from the current high personnel tempo but has balanced that against immediate critical skill needs to support ongoing operations. Therefore, to prevent servicemembers with key skills from leaving the services, DOD issued orders to prevent degradation in combat capabilities, an action known as stop loss authority. DOD took these actions because it recognized that individuals with certain key skills—such as personnel in Army military police and Air Force fighter units—were needed, in some cases, to perform the increasing number of military domestic missions. These orders affected personnel with designated individual job skills or in some cases all of the individuals in specific types of units that were critical for overseas combat and military domestic missions.

Officials from the four services who manage the implementation of these orders cautioned that they are short-term tools designed to maintain unit-level military readiness for overseas combat and military domestic missions. Moreover, the officials added that the orders are not to be used as a long-term solution to address mismatches or shortfalls in capabilities and requirements, or as a substitute for the routine recruiting, induction, and training of new servicemembers.

Mr. Chairman, this concludes my prepared statement. I would be happy to answer any questions that you or members of the subcommittee may have.

Contacts and Staff Acknowledgments

For future questions about this statement, please contact Raymond J. Decker at (202) 512-6020. Individuals making key contributions to this statement include Brian J. Lepore, Deborah Colantonio, Richard K. Geiger, Kevin L. O'Neill, William J. Rigazio, Susan K. Woodward, and Michael C. Zola.

Related GAO Products

Combating Terrorism: Observations on National Strategies Related to Terrorism. GAO-03-519T. Washington, D.C.: March 3, 2003.

Major Management Challenges and Program Risks: Department of Homeland Security. GAO-03-102. Washington, D.C.: January 2003.

Homeland Security: Management Challenges Facing Federal Leadership. GAO-03-260. Washington, D.C.: December 20, 2002.

Homeland Security: Effective Intergovernmental Coordination Is Key to Success. GAO-02-1013T. Washington, D.C.: August 23, 2002.

Reserve Forces: DOD Actions Needed to Better Manage Relations between Reservists and Their Employers. GAO-02-608. Washington, D.C.: June 13, 2002.

Homeland Security: Key Elements to Unify Efforts Are Underway but Uncertainty Remains. GAO-02-610. Washington, D.C.: June 7, 2002.

Homeland Security: A Risk Management Approach Can Guide Preparedness Efforts. GAO-02-208T. Washington, D.C.: October 31, 2001.

Combating Terrorism: Selected Challenges and Related Recommendations. GAO-01-822. Washington, D.C.: September 20, 2001.

Combating Terrorism: Observations on Options to Improve the Federal Response. GAO-01-660T. Washington, D.C.: April 24, 2001.

Combating Terrorism: Comments on Counterterrorism Leadership and National Strategy. GAO-01-556T. Washington, D.C.: March 27, 2001.

Military Personnel: Full Extent of Support to Civil Authorities Unknown but Unlikely to Adversely Impact Retention. GAO-01-9. Washington, D.C.: January 26, 2001.

Combating Terrorism: Federal Response Teams Provide Varied Capabilities: Opportunities Remain to Improve Coordination. GAO-01-14. Washington, D.C.: November 30, 2000.

Combating Terrorism: Linking Threats to Strategies and Resources. GAO/T-NSIAD-00-218. Washington, D.C.: July 26, 2000.

Combating Terrorism: Observations on the Threat of Chemical and Biological Terrorism. GAO/T-NSIAD-00-50. Washington, D.C.: October 20, 1999.

Combating Terrorism: Need for Comprehensive Threat and Risk Assessments of Chemical and Biological Attacks. GAO/NSIAD-99-163. Washington, D.C.: September 7, 1999.

Combating Terrorism: Issues to Be Resolved to Improve Counterterrorism Operations. GAO/NSIAD-99-135. Washington, D.C.: May 13, 1999.

Combating Terrorism: Observations on Federal Spending to Combat Terrorism. GAO/T-NSIAD/GGD-99-107. Washington, D.C.: March 11, 1999.

Combating Terrorism: Observations on Crosscutting Issues. GAO/T-NSIAD-98-164. Washington, D.C.: April 23, 1998.

Combating Terrorism: Threat and Risk Assessments Can Help Prioritize and Target Program Investments. GAO/NSIAD-98-74. Washington, D.C.: April 9, 1998.

Combating Terrorism: Spending on Governmentwide Programs Requires Better Management and Coordination. GAO/NSIAD-98-39. Washington, D.C.: December 1, 1997.

Combating Terrorism: Federal Agencies' Efforts to Implement National Policy and Strategy. GAO/NSIAD-97-254. Washington, D.C.: September 26, 1997.

GAO's Mission

The General Accounting Office, the audit, evaluation and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through the Internet. GAO's Web site (www.gao.gov) contains abstracts and full-text files of current reports and testimony and an expanding archive of older products. The Web site features a search engine to help you locate documents using key words and phrases. You can print these documents in their entirety, including charts and other graphics.

Each day, GAO issues a list of newly released reports, testimony, and correspondence. GAO posts this list, known as "Today's Reports," on its Web site daily. The list contains links to the full-text document files. To have GAO e-mail this list to you every afternoon, go to www.gao.gov and select "Subscribe to daily E-mail alert for newly released products" under the GAO Reports heading.

Order by Mail or Phone

The first copy of each printed report is free. Additional copies are $2 each. A check or money order should be made out to the Superintendent of Documents. GAO also accepts VISA and Mastercard. Orders for 100 or more copies mailed to a single address are discounted 25 percent. Orders should be sent to:

U.S. General Accounting Office
441 G Street NW, Room LM
Washington, D.C. 20548

To order by Phone:	Voice:	(202) 512-6000
	TDD:	(202) 512-2537
	Fax:	(202) 512-6061

To Report Fraud, Waste, and Abuse in Federal Programs

Contact:

Web site: www.gao.gov/fraudnet/fraudnet.htm
E-mail: fraudnet@gao.gov
Automated answering system: (800) 424-5454 or (202) 512-7470

Public Affairs

Jeff Nelligan, managing director, NelliganJ@gao.gov (202) 512-4800
U.S. General Accounting Office, 441 G Street NW, Room 7149
Washington, D.C. 20548

PRINTED ON RECYCLED PAPER

Mr. TURNER. Thank you, Mr. Decker.

General Reimer.

General REIMER. Mr. Chairman, thank you. Mr. Chairman and distinguished members of the subcommittee. I have submitted a statement for the record, and would ask that be accepted. I would just like to summarize that statement if I could.

I am the director of the Memorial Institute for the Prevention of Terrorism and have been that since April 2000. Prior to that, I served 37 years in the U.S. Army and retired in 1999 as Chief of Staff of the U.S. Army.

I would like to talk just a little bit about MIPT in terms of what we do and then broaden it a little it bit. MIPT is the third component of the National Memorial in Oklahoma City. And the family members and survivors felt very strongly about having an organization that looked to the future to try to prevent what happened on April 19, 1995 from happening again. And that is our charter and that is what we do.

Because of that charter, our focus is on the first responder community. We have been supported by Congress through four different appropriations, which we deeply appreciate. Primarily, we concentrate on five different areas. First is a research program to provide the emergency responders the technology they need to do their job better. One of our projects, Project Responder, is very enthusiastically supported by the Department of Homeland Security and I think has the potential to be the cornerstone for a research development test and evaluation program that needs to be established for the emergency responder community.

We have also been involved in training exercises, have supported Dark Winter, one of the co-sponsors of Dark Winter. We took Dark Winter and did a state exercise in Oklahoma called Sooner Spring, which we distributed to all 50 States under Governor Keating's signature and we will look at the runaway train scenario because I think that type of scenario is the thing policymakers need to think about.

We have an outreach program primarily focused on a library and a Web page to try and inform the American people of the complex issues involved with domestic terrorism. We, unfortunately, in Oklahoma have too many people who have felt the direct effects of domestic terrorism, but fortunately they are willing to share their experiences and they were very helpful in reaching out to the victims in September 11, and I think that association still remains very strong.

Oklahoma City is a great place for a conference. It's a neutral forum area. We are located somewhat in the middle of the United States. But more importantly, as we bring people together in Oklahoma City and talk about the issues involved with domestic terrorism, everyone leaves a little stronger, more committed, more convinced about the importance of the job they are doing because of the National Memorial.

And then last is what I call flagship program, it's basically to tie the first responders through the use of the Internet share best practices and lessons learned. There are a lot of good best practices that exist out there, but they are not shared with others, and so information sharing becomes very important. And the idea, if you

can share this best practice with others, then everybody gets a little bit better.

We can also share lessons learned. We produced a volume called Oklahoma City: Seven Years Later, which captures the lessons learned from Oklahoma City many of you have talked about already, and we will make that available to everybody; in fact, we have already sent that out to every mayor in the United States and it has been downloaded 17,000 times from our Web site, so it is very much available. But we think that by sharing these lessons learned that everybody will get better, and I maintain that's the best way for the Nation to get the best return on our investment.

The issue we are dealing with today is a complex issue. And just as Secretary McHale said, President Lincoln indicated we need to do some fresh thinking. The sentence before that, he said: There are—the occasion is filled with great difficulty, and we must rise to the occasion. He was absolutely right on both of those accounts. I think the key to this problem is partnership. It's a partnership amongst the Federal, State, and the local levels of government; it's a partnership amongst the private and the public sector; and it's a partnership between the military and civilian responder community. And since the purpose of this committee is looking at the latter, I will confine most of my remaining remarks to that.

I believe the National Guard is the key in terms of military support. I think the military does a great job in terms of military support to civilian authority, but I think in this particular area we need "to think anew and act anew" in solving this problem. The reason I believe the National Guard is key is there is a historical precedent. If you go back to the very beginning in the 1600's, the National Guard was established to protect the settlers in the communities. They have had this historical mission of protecting the United States. They have the flexibility, the flexibility to operate under Title X in a Federal control status or in a Title 32, under State controls which gives them an awful lot of flexibility on issues such as posse comitatus. They also have a Guard Net 21, which basically ties together through fiberoptics capabilities most of the United States. And somebody told me and I believe this to be true, at least probably in the high 90 percentile, every person in the United States lives within 50 miles of an armory. So an armory could become the center of the activity.

It was already mentioned by Chairman Shays in his opening remarks we need to train the way we are going to fight. We have to fight differently in this war against terrorism, and we need to train differently or else we are not going to be able to operate effectively when the time comes. So it's very important we figure out how we are going to provide military support to civilian authorities when we have a terrorist act. And we know that any terrorist attack will require military support.

Finally, I would say that there is a group of people outside of the Beltway that I call the community of the willing, who are working on this problem. And I think part of what we need to do is to leverage those efforts, tie them together in a meaningful way, and see

if we can't pick some low-hanging fruit here which I think can jumpstart this effort in a very meaningful way.

I thank the committee for the opportunity to testify in front of you, and I appreciate your interest in this particular area.

[The prepared statement of General Reimer follows:]

STATEMENT BY
GEN. DENNIS J. REIMER (RET.)
DIRECTOR
NATIONAL MEMORIAL INSTITUTE FOR THE
PREVENTION OF TERRORISM

BEFORE THE SUBCOMMITEE ON NATIONAL
SECURITY, EMERGENCY THREATS AND
INTERNATIONAL RELATIONS

APRIL 29, 2003

INTRODUCTION

Mr. Chairman, members of the Subcommittee on National Security, Emerging Threats, and International Relations. My name is Dennis Reimer and I am the Director of the National Memorial Institute for the Prevention of Terrorism (MIPT) in Oklahoma City. I assumed this position on April 1, 2000. Prior to that I was a soldier for 37 years, retiring as the 33rd Chief of Staff of the United States Army. I welcome the opportunity to appear before you and share my views on this important subject.

NATIONAL MEMORIAL INSTITUTE FOR THE PREVENTION OF TERRORISM

MIPT is the third component of the National Memorial in Oklahoma City. Our roots are buried deep in the rubble of the Murrah Building and our charter – to prevent or mitigate the results of terrorism – came at a high cost. The family members and survivors of the Murrah Building bombing felt very strongly about having an organization that looked to the future to try to prevent what happened on April 19, 1995 in Oklahoma City from happening again. The events of 9/11 underscored both the importance and the difficulty of this mission.

MIPT is a non-profit 501(c) 3 organization that Congress has supported through four separate appropriation processes. This year, MIPT received an $18 million appropriation in H. J. Res. 2 (Pub. L. No. 108-7). MIPT also received appropriations in the two preceding years, $4 million in FY02 (H. R. 2500, Pub. L. No. 107-77) and $18 million in FY01 (H. R. 4942, Pub. L. No. 106-553).

Appropriations from FY 00 through FY 02 were administered through the National Institute of Justice (NIJ) under NIJ Award #2000-DT-CX-K002. All appropriations through NIJ were administered under the Catalog of Federal Domestic Assistance program number 16.560.

Upon signing of Public Law Number 108-7 for the FY 03 Appropriation, MIPT's appropriations will be administered through the Office for Domestic Preparedness (ODP) in the Department of Homeland Security (DHS). MIPT's prior awards have also been transferred to ODP. The appropriations are administered under the same Catalog of Federal Domestic Assistance program number 16.560.

The focus of MIPT's efforts has been on the first responder community, which includes firemen, policemen, emergency medical personnel, emergency managers, public health workers, etc. We made a conscious decision to keep our staff small in order to provide as much product as possible to this community. We believe we are both a cost effective and cost efficient organization.

Approximately 75% of our resources currently go towards developing technology that first responders need to do their job better. We are sponsoring research in many areas such as programs on improved sensors that more efficiently and quickly detect and identify chemical, biological and high explosive weapons; the development of a battery-cooled protective ensemble to allow firemen to spend more time in the "heat of the

battle"; a system to protect our national telephone network from attack; a protective filtration system to filter and clean the air in buildings and protect occupants from the effects of chemical and biological attack and a project (Project Responder) designed to give first responders the ability to identify those technologies they most need in order to do their job.

Our training and exercise program has centered on the need to help decision-makers identify the tough issues involved in defending our homeland from terrorist attacks. We were one of the sponsors of DARK WINTER, an exercise that contributed to the decision by the administration to increase the smallpox vaccine supply available so that there would be enough for every man, woman and child in the United States. This exercise led to a state exercise in Oklahoma, SOONER SPRING, where MIPT partnered with the Oklahoma Department of Health and the Oklahoma National Guard to enable policy-makers from the Governor on down to gain greater clarity on some of the tough issues surfaced during DARK WINTER, such as how to enforce a quarantine and how to distribute the National Pharmaceutical Stockpile at the local level. We continued our efforts to examine policy by helping sponsor an energy-sector exercise, SILENT VECTOR, where the pitfalls of overreaction became obvious. We look forward to even a greater role in the exercise program in the future.

The citizens of Oklahoma have willingly shared the painful lessons learned from the Murrah Building bombing. With the benefit of seven years of hindsight, MIPT updated those lessons learned and published a booklet **Oklahoma City 7 Years Later**, which captured the holistic experience of the community and how it dealt with the effects of terrorism. That booklet was distributed by us at no cost to mayors and other city and state leaders in the United States in the hopes that they would never have to use it, but if they did, it would serve as a handy reference document for planning, training and execution. It has proved very popular with over 17,000 copies downloaded from our website. We are currently involved with developing a best practice/lessons learned capability for the entire first responder community. Patterned after the Center for Army Lessons Learned, this capability will tie together all first responders and allow them the opportunity to share critical information. There are many pockets of excellence across the United States that have developed innovative ways of dealing with the tough issues associated with protecting the homeland. We believe that by sharing these best practices, everybody's preparedness will improve. Similarly, while the real life lessons learned from Oklahoma City, New York City and the Pentagon serve as the cornerstone of our lessons learned program, we plan to incorporate training lessons learned from the various exercise conducted at all levels across the country. The cost of meeting all the training requirements across the nation is probably prohibitive, but this system provides the most cost effective means of getting the maximum return on whatever resources the nation can afford. In putting together this capability, we are being guided by an Advisory Panel made up of national representatives from major first responder associations.

Located near the center of our nation and at the site of the largest domestic terrorist attack in the United States, Oklahoma City is an ideal place to hold conferences and workshops on terrorism. Each time we have done this attendees have left the sessions more strongly

committed to doing everything possible to combat terrorism on U. S. soil. One of our first conferences dealt with the requirements of the first responder community. We brought representatives of this community to Oklahoma City and asked them to identify specific needs, particularly in the area of technology, so that we could focus our research program to address those requirements. Project Responder, which I mentioned earlier, was a direct result of this conference and has received strong support from the new Department of Homeland Security and the Interagency Board for Equipment Standardization and Interoperability (IAB). Our hope is that Project Responder will provide the foundation for a first responder research, development, test and evaluation program.

A significant portion of our charter has always dealt with outreach. MIPT continues to help educate the American people on the effects of terrorism. Our webpage, www.mipt.org, has received numerous favorable comments concerning content and ease of use, and we continue to reach out to a wide variety of audiences concerning terrorism issues. Family members and survivors in Oklahoma were some of the first to reach out to victims and families in New York City. Having already experienced the emotions associated with these tragedies, these family members have forged a tight bond with many of those affected during 9/11 and continue to provide invaluable assistance.

ROLE OF U. S. MILITARY IN HOMELAND SECURITY

Having served in a number of key positions in the United States Army, I have some experience with the effects of this mission on the U. S. military. I have testified, while still on active duty, in front of Congress on my concern about the threat of terrorism. Having been involved with the reshaping of the U. S. Army after the Cold War, I also have some perspective of the effects of operational tempo (OP-TEMPO) on our soldiers and their families.

I have been involved throughout my military career with the total Army concept and understand how much we depend upon the National Guard and our reserve components. I hasten to point out that my first-hand experience with the military is four years dated and certainly my views may not necessarily reflect those of the Department of Defense.

THINKING AND ACTING ANEW

The issue this Committee is addressing is a complex one. The words of President Abraham Lincoln spoken at a different time and addressing a different problem, seem appropriate – "The occasion is filled with great difficulty and we must rise to the occasion. Just as our situation is new, so must we think anew and act anew." I believe we really do need fresh thinking if we are going to solve this challenge in a timely fashion and provide the American people the protection they deserve. I also believe this is a solvable problem.

At the heart of the solution set is partnership - partnership amongst the federal, state and local levels of government; partnership between the public and private sector and partnership between the first responder community and the military. This hearing primarily addresses the latter and I will confine my remarks to that area.

In general, the first responder community needs are great. They generally fall in three baskets: training, equipment and communications. I have come to know the first responders as wonderful, hard working Americans who really want to do what has to be done. I take a backseat to no one in my respect for the American soldiers I have served with during my career, but these first responders are equally good and they are the soldiers on the frontlines of the new battle to protect America's homeland. We must find a way, with finite resources, to meet their needs and assist them in their efforts.

In addressing the partnership between first responders and the military, one must acknowledge the difficult task the military faces. One of the fundamental lessons to come out of Oklahoma City was that terrorism can affect any city or town in the United States. Any disaster of any size will most likely require federal assistance and the Federal Response Plan addresses many of the mechanics associated with that assistance. However, with over 85,000 local jurisdictions for the military to support, there is a need for doctrine and a degree of standardization that do not currently exist. At Oklahoma City, New York City and the Pentagon the incident commander in each case was a fire chief and the military was in support of that fire chief. That will also most likely be the model for the future. While a standardized incident command system is a step in the right direction, there is still more that needs to be done in order to efficiently mitigate the damages that come from a terrorist attack. A doctrine that is universally understood is paramount. The early stages of any disaster are extremely critical and during those stages, similar to combat, training often has to trump natural reactions. There is a need for a standardized interdepartmental training program that focuses on the mission essential tasks associated with responding to a terrorist attack. A compatible communications system for all is essential for effective control of an incident, but is currently beyond our new term resource reach. The front end planning and system engineering of the communication architecture necessary for effective control must be done as a matter of priority. In general, it is important to build upon a thorough threat assessment at all levels and prioritize requirements based upon the most likely threat so as to achieve the greatest return on investment.

KEY ROLE OF NATIONAL GUARD

In my mind, the National Guard is a key military element in both homeland defense and homeland security. Their rich and proud tradition going back to the 17th Century has always stressed protecting our citizens. The close support they provide the governors and their close association with state emergency responder personnel, coupled with their added flexibility when employed in a Title 32 status, make them a natural candidate for an enhanced role in this area.

The downsizing of our military has placed increased reliance on the National Guard – particularly in the Army – for the full spectrum of military operations. OP-TEMPO for them is becoming an increasingly heavy burden and there is a need to re-examine and probably fine tune the structural alignment between the active and reserve component forces. At the very minimum, the issue of mobilizing first responders and taking them away from their duties of protecting the homeland in order to deploy overseas with their

military units should be addressed. It is my understanding that such an effort is currently ongoing in the Department of Defense.

Many of the piece parts are in place. Procedures for Military Support to Civilian Authorities (MSCA) are codified in the Federal Response Plan. They have been developed over years, are solid and are generally well understood. They work best when advance warning concerning the pending disaster is provided. We have considerable experience in responding to hurricanes and tornadoes and other natural disasters across the nation. While the exact point of impact for some of these natural disasters cannot be predicted, a general warning can be provided to a large area and advance precautions taken. No notice disasters such as earthquakes or terrorist attacks are more problematic. Generally, the element of surprise results in greater damage, more casualties, and requires a thoroughly coordinated response in support of local responders. Without a common doctrine, a commonly understood operational framework and standardization of terminology, the risk of wasting precious minutes at the front end of this process is increased. This risk can be mitigated through a program of cooperation between the military and the first responders. The creation of Northern Command with its mission to deter aggression and defend the homeland is certainly, in my opinion, the right decision. The focus now should be on the implementing actions necessary to allow Northern Command to accomplish its mission.

The decision to place National Guard officers in key leadership positions within Northern Command is praiseworthy. In my opinion, the current alignment between active and reserve component personnel and the manning of Northern Command is at the bare minimum. However, before one can determine the proper force structure necessary to properly accomplish that mission, the policy issue concerning the role of the Department of Defense in homeland security vice homeland defense has to be addressed. This is a policy issue best addressed by Congress and those in leadership positions in the administration, but the American public has an expectation that the homeland will be secured. If attacked again, I doubt that any of us will be satisfied with another study to fix responsibility. We know enough from previous experience to know that our nation is threatened and we need to think anew and provide the American people the best protection we can afford for the resources available.

CONNECTING THE DOTS

In many ways this is an exercise in connecting the dots. The current debate about the greater use of the National Guard in homeland security revolves around the mission of the Guard. During the Cold War their mission was clear in that we were a threat-based force. The Capstone Alignment Program gave focus to our wartime efforts and peacetime training programs for the Total Force. There is no doubt that the military, and particularly the National Guard, benefited greatly from this alignment. We have now changed from a threat-based force to a capabilities-based force and the mission is less predictable. Essentially, during the Cold War we knew the enemies capabilities but not their intentions. With the War on Terrorism, we know the enemies intentions but not their capabilities. A set of military capabilities that gives the President maximum flexibility is required.

Generally, the discussion concerning force structure for the National Guard centers around whether the Guard should be a mirror image of the active component and available for worldwide deployment or whether it should be primarily oriented to the defense of our homeland. There is, in my opinion, some middle ground that should require minimum force restructuring and allow additional flexibility. Currently over 30 states have Civil Support Teams for Weapons of Mass Destruction (CST-WMD). These teams are invaluable and provide complementary capabilities to meet the needs of the first responder. We need to ensure their missions are precise, they are properly equipped and manned to discharge these missions and their alert status is correlated with our national terrorism warning system. Consideration based upon threat assessment should be given to increasing the number of these teams. Whatever level of manning is required for them to provide a 24-hour capability should be resourced. Above the CST-WMD level each state has a National Guard State Area Command (STARC). This headquarters, if desired, could be expanded to provide the governor of each state greater visibility of his overall effort in homeland security, command and control of those military units earmarked for a primary mission of homeland security and for providing training assistance to first responders as required. Above the state level are two Continental United States Armies that could provide an operational link to Northern Command and help with identifying specific needs in the defense of our homeland and the security of our citizens. The elements of an effective coordination system for planning and a command and control system for execution are in place.

TRAIN THE WAY WE FIGHT

One of the fundamental truths we learned in the military was that you must train the way you fight. The force we observed in Iraq is proof positive of that. Army units have trained hard in the desert for more than a decade and the confidence gained from that training is invaluable. The same principle applies to homeland security. Our exercise program must train all levels, from policy-makers to individual first responders, civilian and military. If this is done, just as in the military, a degree of standardization will result as we find the best way of doing things, and that is good.

COMMUNITY OF THE WILLING

Finally, let me say that I think there is a lot that can be done if we leverage ongoing efforts. There are many organizations like MIPT – that form a community of the willing – and if we build on their ongoing efforts, we can make considerable progress much faster than some people think. The key to this is introducing a culture of knowledge sharing, doing what's right and not worrying about who gets the credit. This will require some new thinking.

CONCLUSION

Mr. Chairman and members of the Subcommittee, I thank you for conducting this hearing. I think it is important and timely. The events of the past decade have demonstrated that we are vulnerable to attack by terrorists and that time is not necessarily on our side. This is not a simple challenge because essentially we are trying to determine the right balance between the security of our citizens and the protection of the individual

rights that have made our country great. We need fresh and clear thinking because the solution we come up with will determine a lot about the character of our nation.

Mr. TURNER. Thank you, General.

Dr. Carafano.

Dr. CARAFANO. I would like to thank you, Mr. Chairman, and members of the committee for inviting me here to speak today. I have submitted a statement for the record, and I would just like to summarize if I may just three points from that. The first deals from my own experience. I'm trained as a historian, and I thought it was of great interest when the debate over the establishment of the Homeland Security Department came up and the references that were made to the National Security Act of 1947 that created the Defense Department, and I think indeed that analogy is indeed apt.

But what I think people tend to forget is that the national security architecture that we used to fight the cold war was not cut from whole cloth. It really took a decade. I mean, if you look at between the years 1947 to 1957, the experimentation, trial and error, get it right, get it wrong, to really figure out how we were going to fight the cold war. I mean, that's when all the principle instruments were really invented, deterrence, NATO, security assistance, and the things we weren't going to do, like robust civil defense. And so I think there is a real lesson there, is that we are really at the beginning of the process. And now is not just the right time to hold this hearing, but it's the key time because it's—this is going to be an evolving architecture and now is exactly the time to get it right, because the architecture that we set up today will be the one that will exist for generations to come.

The second point I would like to make is that the questions that you asked and a lot of the discussions about organization and force structures and methods, and I think all that is very important, but what I think is equally important if not more important is strategy and strategic guidance, because I really do think that strategy and strategic guidance guide the Department of Defense, and they're what's required for turning the ship. In my analysis of this current strategic direction, it is fine if you think the status quo is adequate. But if you think the status quo for DOD's current direction is inadequate, then I think we also need to think in terms of the strategy and strategic guidance that's required to turn the ship in a different direction.

The last point I want to make and I think is really the most important, is that as you look at DOD's role in Homeland Security, I really think what's most efficient and effective is if that role is considered and given new direction in a very holistic way, and in two respects. One is as part of the overall national response—and I just don't mean Federal response, because Homeland Security really requires a national response network that includes the State, local, and Federal Governments. So the DOD's role needs to be always—when we're looking forward, needs to be placed in context of what we are expecting from the rest of the national response system and also in terms of DOD's overall missions, both offense and defense. So as we change one part, as we decide what our future role of the National Guard is going to be in Homeland Security, we really need to think of that in the context of what do we

want the National Guard to do in all aspects of security as we think over the long term.

And with those comments, I look forward to your questions, and again I thank you for inviting me.

[The prepared statement of Dr. Carafano follows:]

CSBA CENTER FOR STRATEGIC AND BUDGETARY ASSESSMENTS

TESTIMONY

Statement of Dr. James Jay Carafano, Senior Fellow, Center for Strategic and Budgetary Assessments, before the Subcommittee on National Security, Emerging Threats, and International Relations, House of Representatives Committee on Government Reform, April 29, 2003

Mr. Chairman,

Thank you for the opportunity to appear before you and speak on this important subject. This committee hearing raises a vital, and I believe not yet satisfactorily addressed issue, the sufficiency of the Department of Defense's organization and force structure for protecting the US homeland. While the armed forces have served the nation extremely well in responding to security concerns in the wake of the September 11 attacks and prosecuting the global war against terrorism, the debate over the department's future roles and capabilities has been shallow and inadequate.

Now is not just the right time to assess the future place of the Defense Department in protecting the homeland, it is the essential moment. Many have compared this administration's current initiatives to the period coinciding to the passage of the National Security Act of 1947. This comparison is indeed apt. The National Security Act of 1947 marked the beginning of the effort that created a new organization and national security structure that protected the nation throughout the course of the Cold War and into the present. The administration's current efforts to draft a different strategic direction could yield a new security architecture that may also stand for generations. It is worth remembering, however, that the national security instruments used to fight the Cold War were not cut from whole cloth. It took over a decade of experimentation, trial and error, and innovation to create the national security system that we know today. Thus, it is worthwhile at the onset of this process to take stock of where we are and ensure the "first order" questions, the determination of the ends, ways, and means, are being properly addressed.

Current Guidance, Organization, and Practices

The Department of Defense's efforts to define its future role in protecting the homeland appears tentative at best. For example, the 2002 Defense Authorization Act required the Secretary of Defense to submit a report within six months on the department's efforts in counterterrorism and homeland security.[1] As far as I am aware, this report is still in draft. Two institutional factors may, in part, account for the hesitant steps in addressing present and future tasks. First, the means of evaluating and providing guidance on new roles and missions are only somewhat changed from the system that was used at the end of the Cold War. Second, the new organizations the department has created in the wake of the 9/11 attacks to address issues regarding protection of the homeland are still in their infancy. It is far too soon to judge how effective they will be in articulating new requirements, obtaining resources, and managing forces and programs.

[1] Public Law 107-107 §1511.

1730 Rhode Island Avenue, NW, Suite 912, Washington, DC 20036 Tel: 202-331-7990 Fax: 202-331-8019 http//:www.csbaonline.org

Any discussion of how the department evaluates proposed domestic security missions must begin with a consideration of strategy. The purpose of strategy is to make sure the appropriate linkage of ends, ways, and means, ensuring effort is focused on securing key objectives while efficiently and effectively utilizing the instruments at hand. Equally important, strategy can be a powerful catalyst for change. For example, "Shape, Respond, Prepare," the US military strategy presented in the 1997 *Quadrennial Defense Review* was intended not just to describe how the armed forces would be employed but also to make the case for building a wedge to invest in new operational concepts and advanced technologies.[2] This approach worked. Some of these new capabilities recently saw extensive service during Operation Iraqi Freedom. In short, strategy can and has been an effective tool for turning institutional and operational practices in a new direction.

Within the Pentagon there is an important nexus between strategy and the operations of the Department of Defense. Strategy serves to inform the formulation of the Defense Planning Guidance (DPG) which imparts the Defense Secretary's programming and fiscal priorities to the military departments. The DPG provides the major link between the Joint Strategic Planning System and the Defense budgeting system. Thus, any assessment of the department evaluates and determines its mission needs for protecting the homeland over the long term must begin with these keystone documents, the DPG and the administration's national strategies.

Strategic planning documents prior to the September 11 attacks were virtually devoid of any reference to homeland missions. It is, therefore, not surprising that these issues received scant attention within the defense community. For example, in 1999 the Defense Department conducted *Reserve Component Employment 2005 Study* (RCE-05), to that point its most detailed, wide-ranging analysis of the Reserves' potential future organization, structure, and missions. RCE-05 made four major recommendations with respect to homeland security. In large part, however, these conclusions were not translated over to the Defense Planning Guidance and the report's conclusions in the area of domestic security were virtually ignored. Out of over a million Reserve Component troops, less than an additional thousand personnel were dedicated to the task of protecting the homeland.[3]

In September 2001, shortly after the 9/11 attacks the Department of Defense published its most recent *Quadrennial Defense Review*. This review also included elements of a new military strategy. The challenge of protecting the homeland was addressed, but only to repeat the military's traditional responsibilities in defending the nation and supporting civil authorities.[4] Likewise, the new *National Strategy for Homeland Security* and *National Security Strategy* simply stated that the Defense Department contributes to homeland security through its military mission overseas, traditional defense missions, and support for civil authority.[5] The *National Strategy to Combat Weapons of Mass Destruction*, published in December 2002, offers no specific guidance on the use of defense assets for domestic missions. Only the *National Strategy for the Physical Protection of Critical Infrastructure and*

---

[2] The National Defense Panel, *Assessment of the 1997 Quadrennial Defense Review*, np, http://www.defenselink.mil/topstory/ndp_assess.html].

[3] James Jay Carafano, "The Reserves and Homeland Security: Proposals, Progress, Problems Ahead," *CSBA Backgrounder* (June 19 2002), p. 8.

[4] Department of Defense, *Quadrennial Defense Review Report* (Washington, DC: September 30, 2000), pp. 18-19. The elements of military strategy highlighted in the document also briefly discussed the importance of defending critical infrastructure and mentioned the potential requirement for new force structures or organization to support homeland security.

[5] See, for example, Office of Homeland Security, *National Strategy for Homeland Security* (Washington, DC: 2002), p. 13.

Key Assets addressed the Department of Defense's domestic role in any substantive way, though even here the strategy largely reemphasizes traditional responsibilities.[6] In general, the current national strategies do little more than describe the military's present role. They are more doctrine than strategy. They are not a catalyst for change or innovation.

Additionally, the status quo approach to the role of defense in domestic security appeared to be largely reflected in the DPG. In some areas, the guidance seems to have been very specific. For example, the secretary has directed particular attention to enhancing the preparedness of military installations, with increased funding for chemical, biological, radiological, nuclear, and conventional explosive detection equipment and emergency response capabilities.[7] This year the Defense Department plans to spend about a $1 billion to enhance security at military installations.[8] For the most part, however, the department has given little focused direction to the Services.

The absence of a decisive course appears to be reflected in the organization of the joint staff and the Services. Each has adopted a different method for organizing and addressing domestic security issues. The Joint Staff established a Homeland Security Directorate within its Strategy and Policy Directorate (J5). The Air Force formed a Homeland Security Directorate under the Deputy Chief of Staff for Air and Space Operations, but also maintains a separate Air Staff section for civil support. The Army created a homeland security integrated concept team, led not by the Army Staff but by a Director of Homeland Security at the Army Training and Doctrine Command at Fort Monroe, Virginia. In addition, the Army has a Consequence Management Integration Office serving under its Director of Military Support on the Army staff. The Marine Corps also created an integrated concept team and established a homeland security section at its Warfighting Lab at Quantico, Virginia.[9] It is not clear that the Navy has created any unique command structure to deal with domestic security issues. A survey of this plethora of organizations raises the question of whether the military can forge an effective joint approach to homeland missions, as they do with other military operations, if the joint staff does not have suitable counterparts in the Services with which to interact.

In addition, until recently the organization of the Defense Department has lacked any center of gravity that could serve as a focal point for assessing the adequacy of force structure, missions, and requirements. The wake of the September 11 attacks, however, has introduced two potential candidates: the recently established Assistant Secretary for Homeland Defense and a new combatant command, US Northern Command (NORTHCOM). It is, quite frankly, too soon to tell if these organizations will have a significant impact on how the department determines missions and requirements. There are a number of issues that need to be addressed.

It does not appear that the Assistant Secretary for Homeland Defense has a clear mandate. The department's homeland agenda could well cut across issues of policy, acquisition and technology, and

---

[6] Office of the President, *The National Strategy for the Physical Protection of Critical Infrastructure and Key Assets* (Washington, DC: February 2003), pp. 45-46.

[7] Department of Defense, memorandum, subject: Preparedness of U.S. Military Installations and Facilities Worldwide Against Chemical, Biological, Radiological, Nuclear, and High-Yield Explosive (CBRNE) Attack, September 5, 2002.

[8] "Pentagon Launching New Program to Protect 200 Installations," *Homeland Defense Watch*, April 21, 2003, p. 5.

[9] Steven Metz, "Military Support to Homeland Security," paper presented to the Lexington Institute, February 27, 2003, pp. 13-14.

force management. There is some question of whether the placement of the office or its relationship to other elements of the secretariat will allow the new assistant secretary to play an appropriate role. Assistant Secretary Paul McHale recently described his responsibilities as "recommending to the Secretary [of Defense] the roadmap for the Defense Department's role in securing our nation." It is not completely clear, however, what portfolio his office will have to manage and implement this roadmap.[10]

One seemingly still unresolved issue is the how the functions of military support to civilian authorities will be managed. In the past, support to state and local governments for natural and technological (manmade) disasters was coordinated by the Secretary of the Army acting as the executive agent for the Defense Department. With the establishment of the Assistant Secretary for Homeland Defense, this organization is being rethought. The support function could well be added to the portfolio of the assistant secretary, coordinated by a new Office of the Deputy Assistant Secretary of Defense for Civil Support.[11] If the Assistant Secretary for Homeland Defense, however, is intended to serve primarily a policy function managing operational missions might be a significant distraction. In addition, any organizational structure that assigns elements of the secretariat with operational responsibilities will likely also require the Joint Staff to take on additional responsibilities in this area, like promulgating deployment orders. Such an approach could create as many problems it is intended to solve. An organizational design that plunges high level staffs into operational missions diverts important resources from the staff's primary tasks. This issue bears watching. How the department elects to handle the executive functions of performing military support to civilian authorities could be an important bellwether for gauging the effectiveness of the Pentagon organization for support of homeland missions.

Also key to the success of the department will be its relationship between the new assistant secretary and NORTHCOM. If history is any guide, the department would do well to clearly sort out functions and responsibilities now. By many accounts, since its establishment in 1987 the US Special Operations Command (SOCOM) and the Assistant Secretary for Special Operations and Low Intensity Conflict have always had an uneasy relationship. Over time, the command's statutory authority over special operations budgets and the gravitas of being a combatant command gave SOCOM a dominant position in driving the agenda for determining the future of special operations forces, largely marginalizing the role of the assistant secretariat.

A final concern driving the agenda for the future will be the place homeland missions are assigned in the military's transformation effort. Transformation reflects innovation on a grand scale, undertaken to exploit major changes in the character of conflict.[12] The Secretary of Defense has created an Office of Force Transformation to serve as an incubator for innovation in warfighting, acquisition, and business practices, but the Pentagon has no equivalent for domestic security missions.[13] The department's latest transformation planning guidance does not even address homeland security issues.[14] As a result, it is

---

[10] Statement by Mr. Paul McHale, Assistant Secretary of Defense for Homeland Defense before the Senate Armed Services Committee, April 8, 2003, p. 6.

[11] Jim Garamone, "Homeland Defense Chief Speaks of New Responsibilities," *American Forces Press Service*, March 19, 2003, np, [http://www.defenselink.mil].

[12] Testimony of Andrew F. Krepinevich before the Senate Armed Services Committee, April 9, 2002, [http://www.csbaonline.org/4Publications/Archive/T.20020409.Defense_Transforma/T.20020409.Defense_Transforma.htm].

[13] Metz, "Military Support to Homeland Security," p. 14.

[14] The only reference related to the homeland is a restatement of the objective in the *Quadrennial Defense* Review to protect critical base structures against attack. Department of Defense, *Transformation Planning Guidance* (April 2003), p. 10.

hardly surprising that the Services have given the problem scant attention. For example, the Army's current 108 page transformation roadmap devotes less than a page to the topic.[15] Excluding domestic security from the main axis of the transformation effort may well hamstring the military effort. If the challenge is not an integral component of the Pentagon's transformation plan, it is doubtful that it will ever get the resources, let alone the intellectual capital required to foster new initiatives and appropriate programs.

Looking Forward

The current strategic guidance, organization of the Defense Department, and military force structure would be adequate if the status quo were acceptable. This may not be the case. Current strategies rely heavily on the notion that the best defense is a good offense, placing a premium on preempting or interdicting threats before they reach US shores. But the almost infinite links with the rest of the globe, which carry the people, goods, services, and ideas that define America's place in the world, belay the idea that every attack can be stopped at the source. In addition, adequate defense is part of a good offense. Knowing the homeland is secure, allows the United States greater freedom of action abroad.

There is some question whether the US military currently provides the best mix of offense and defense to ensure the security of the homeland over the long term. There are major strategic issues that do not appear to have been adequately addressed. These include the adequacy of the nation to respond to multiple, catastrophic terrorist attacks, assuring the safety of critical infrastructure, and preparing for new threats that may emerge in the future. Some degree of new strategic thinking, organizational change, and force structure innovation could well be required to meet these needs.

Addressing outstanding security concerns might begin with a fresh appreciation of the strategic guidance given to the department. This could start with scrapping the distinctions between "homeland defense" and "homeland security" that the department has put forward to prescribe and limit its own role in the domestic realm. The department sees its responsibilities as largely homeland defense, protecting US borders and waters against traditional military threats. Homeland security, as defined in the national homeland security strategy is "detecting, preparing for, preventing, protecting against, responding to, and recovering from terrorist threats or attacks within the United States."[16] The distinctions between homeland "defense" and "security" seem to have little practical or legal utility. Also, it is not clear that America's enemies will clearly recognize these boundaries and limit their methods and operations so that they can be countered either by the military or other federal agencies as appropriate. In fact, they may seek to use these artificial distinctions to find gaps and seams in US security that can be easily exploited. Second, in practice, many federal agencies will play a role in countering both conventional and terrorist military threats.

The nation would be better served if specific strategic goals for the Defense Department, as with the other federal agencies, were outlined using the six critical mission areas established in the homeland

---

[15] Department of the Army, *Army Transformation Roadmap* (2002), p. A-4.

[16] Office of the Press Secretary, *The White House Executive Order Establishing Office of Homeland Security and the Homeland Security Council*, October 8, 2001, [http://www.whitehouse.gov/news/releases/2001/10/20011008-2.html].

security strategy[17] and modifying the strategy to make it more holistic, accounting for the full range of conventional and unconventional threats to the homeland. The US Coast Guard's *Maritime Strategy for Homeland Security* might provide an appropriate model for what a more holistic DoD homeland security strategy might look like.[18]

Options for the Future

Within the six critical mission areas there are several concerns where more specific strategic guidance, particularly in the area of force structure initiatives might well be called for. These might not only help better meet domestic security needs, but could assist in addressing future military operations and personnel tempo challenges.[19] Such initiatives might, for example, include the following.

The Department of Defense should take another hard look at whether it has forces adequately prepared to deal with catastrophic disaster. One challenge that should be more carefully scrutinized is the potential proliferation of nuclear or virulent biological weapons that might be smuggled to a target by ground, sea, or air transport or carried by short-range ballistic missiles, cruise missiles, or unmanned aerial or undersea vehicles launched from a covert maritime platform disguised as a commercial or private vessel. These weapons could inflict catastrophic casualties, killing tens of thousands of people and causing hundreds of billions of dollars in damage, destruction on a scale that might well overwhelm civilian response capabilities and require robust military support.[20]

If there is a need for national weapons of mass destruction (WMD) response forces, these units could be formed by reorganizing existing National Guard units. Such organizations might resemble the US Marine Corps Chemical Biological Incident Response Force, but be organized on a much larger scale with organic detection, treatment, decontamination, evacuation, mortuary, veterinary, environmental monitoring, mental health, and security assets capable of addressing multiple large-scale disasters simultaneously in different parts of the country. These forces might then be assigned to NORTHCOM, where they could participate in a robust training program with state and local responders. Fielding these units might also help relieve the pressure on state and local governments now struggling to equip and pay first responders to meet what are essentially national security needs.

An assessment of force requirements also needs to consider the future demand for "homeland security" overseas as well as at home. Many areas where US forces might deploy may face the danger of nuclear, chemical, or biological strikes. Host countries could well lack the robust infrastructure required to respond to these attacks. In addition, international non-governmental organizations are not well prepared to deal with the consequences of a WMD attack. American homeland security forces could be needed to provide consequence management for civil populations areas where US forces are deployed. In fact, all the regional combatant commands might have a use for WMD-response forces provided by

---

[17] *National Strategy for Homeland Security*, p. viii. The mission areas include intelligence and early warning, border and transportation security, domestic counterterrorism, protecting critical infrastructure and key assets, defending against catastrophic threats, and emergency preparedness and response.

[18] US Coast Guard Headquarters, *Maritime Strategy for Homeland Security* (Washington, DC: December, 2002).

[19] See, for example, James Jay Carafano, "Shaping the Future of Northern Command," *CSBA Backgrounder* (April 25, 2003), p. 5-13.

[20] For a notional list of requirements for responding to a catastrophic attack see, Eric V. Larson and John E. Peters, *Preparing the U.S. Army for Homeland Security: Concepts, Issues, and Options* (Santa Monica, CA: RAND, 2001), p. 60.

NORTHCOM. This arrangement would be in keeping with the guidance established in the last Unified Command Plan revision directing NORTHCOM to provide technical advice and assistance to support other combatant commands in consequence management operations outside the United States.

In addition, given their medical, security, logistic, engineer, and transport capabilities these forces could also substitute for other conventional units when such assets are in short supply and there is little threat of WMD attacks. It would be better to have WMD-response forces that are well prepared to deal with catastrophic attacks and save thousands of lives, but could also do other military missions, rather than continue with the current force structure which maintains National Guard forces marginally prepared and resourced to do warfighting tasks that would have to be reorganized in an ad hoc manner to respond to a major terrorist strike.

Critical infrastructure protection is another area that deserves a second look by the Defense Department. The challenge of providing force protection for military infrastructure and the defense industrial base, as well as other elements of critical national infrastructure, has grown significantly since the September 11 attacks. For example, in January 2003 some 9,000 Army National Guard troops were called up nationwide to augment security at 163 Air Force installations around the nation. In many cases, these troops were replacing Air Force security units who had been overstrained by the increased demands of guarding bases in the wake of 9/11. It is likely such requirements will reappear in the future and that the military will require a flexible, well-orchestrated, and responsive system to both ramp-up and reduce security to meet the current state of terrorist threats. To begin to address this problem, it would make sense to start by assigning overall responsibility for setting general force protection levels, balancing competing needs, assessing compliance, and testing preparedness to NORTHCOM. There also seems adequate rationale to give the Defense Department greater flexibility in contracting for assets such as security guards and other emergency services

In addition, the Defense Department should assess the requirement for a military force structure primarily designed for critical infrastructure protection. Critical infrastructure forces might also have utility for overseas missions as well. As was seen during Operation Iraqi Freedom, for example, US forces were required to protect and in some cases assist in the reconstitution of critical infrastructure. In the future, these operations might be accomplished by specially skilled units that, as with WMD-response forces, might also be able of performing a wide-range of other more conventional tasks as a secondary mission.

If creating such units is desirable there are a few factors to consider. Setting up these organizations could be done without violating legal prohibitions against employing federal military forces for domestic law enforcement.[21] By tradition and knowledge of state and local requirements, Reserve Component forces

[21]Posse Comitatus prohibits federal forces from performing law enforcement activities without the permission of Congress.. The act has never been a serious obstacle to the use of federal forces for domestic operations, nor does it preclude the military from providing logistical support, loaning equipment, and offering technical advice, facilities, and training to civil authorities. Though there is much confusion in this area that might be addressed by more clearly stated and publicized policies, there is strong precedence to support using military forces for homeland security activities. The Posse Comitatus law and other strictures are not significant legal impediments to creating home defense forces. For more on this issue see, Mathew Carlton Hammond, "The Posse Comitatus Act: A Principle in Need of Renewal," *Washington University Law* Quarterly, Summer 1997, p. 3, [http://www.wulaw.wuslt.edu/75-2/752-10.html]; Jeffrey D. Brake, "Terrorism and the Military's Role in Domestic Crisis Management: Background and Issues for Congress," Congressional Research Service, RL30938, April 19, 2001, p. 11-18; Craig T. Trebilcock, "Posse Comitatus—Has the Posse Outlived Its Purpose?" Center for Strategic and International Studies Working Group, 2000, pp. 1-5.

could be well suited to supporting both critical infrastructure and consequence management missions. To facilitate their use, however, it probably makes sense to give the Department of Defense more latitude in organizing, managing, and training Reserve Component Forces. On the other hand, ensuring adequate resources to sustain them could be an issue. NORTHCOM might be given authority similar to that granted to SOCOM to develop and manage its own budget in order to facilitate rapidly developing new capabilities. In addition, the means of funding drug-interdiction support to state and local governments could well serve as model for managing many military homeland security activities.[22] Finally, the issue of how best to employ members of the Reserve Components who are civilian emergency responders and who might also be mobilized to respond to military missions both at home and abroad needs to be addressed. This should, however, be seen as a personnel management issue not a strategic impediment to creating new organizations.

It should also be remembered that unlike operations in other theaters military activities will likely not be the centerpiece of homeland security efforts. The Defense Department needs to ensure that whatever forces and command network that does evolve is well designed to support state and local governments and the work of other federal agencies. Efforts should be coordinated closely with the Department of Homeland Security's objectives for managing the federal response plan which governs how national assets support state and local governments. The Homeland Security Department's Office of State and Local Coordination could well serve as the focal point for integrating initiatives at all levels into a cohesive national response.

If these units are thoughtfully organized, resourced, and balanced with other national response assets they may prove to be the most effective and efficient contribution the federal government could field in providing back-up capabilities for state and regional needs. In addition, they could provide resources to efficiently ramp-up security during periods of heightened alert without state and local governments incurring expensive overtime costs.

In terms of its operational practices, the Defense Department might well be directed to make homeland security more central to its transformation efforts. A case in point is network-centric operations, linking diverse systems together so that warfighters can take full advantage of available information and bring assets to bear in a rapid and flexible manner. Network-centric capabilities may well be one of the centerpieces of defense transformation.[23] In many respects, homeland defense missions could benefit from employing network-centric operations. For example, dealing with covert maritime threats may require tracking thousands of ships and hundreds of ports, integrating the information available to naval forces, the Coast Guard, the Department of Homeland Security's Border and Transportation Security Directorate, national law enforcement and intelligence services, local port authority administrators, private-sector shippers, and others.

Rather than viewing domestic security missions as competitors for resources with other military missions worldwide, efforts to protect the homeland should be viewed as a full partner in the transformation effort. Operational practices, concepts, and implementing technologies and force structures designed to serve one combatant command could well be applied to others. There are several

---

[22] James Jay Carafano, "The Reserves and Homeland Security: Proposals, Progress, Problems Ahead," *CSBA Backgrounder* (June 19, 2002), p. 9. The proposed National Guard Act of 2003 (S. 215) adopts this strategy, modeling funding programs for homeland security on the current National Guard counterdrug program.

[23] Department of Defense, *Network Centric Warfare: Report to Congress* (July 27, 2001), p. 1.

areas, in fact, where NORTHCOM could serve as the lead in the transformation effort. Intelligence sharing, interagency coordination, maritime surveillance, air and missile defense, force protection, WMD-defense, critical infrastructure reconstitution, and consequence management are just a few missions where NORTHCOM could develop the blueprint for other commands on implementing network-centric concepts.

The Defense Department might also be directed to undertake some organizational initiatives, particularly ones that would enhance the effectiveness of both NORTHCOM and the newly established Assistant Secretary for Homeland Defense and provide a stronger focus for domestic security missions within the Pentagon. For example, one means for strengthening NORTHCOM's ability to work more closely with the Department of Homeland Security and other federal agencies would be to provide the command a more prominent presence in Washington. Currently, NORTHCOM maintains only a small liaison office in the Pentagon. The command would benefit from the creation of a senior deputy commander and a requisite staff in place at the nation's capital. To ensure close coordination between NORTHCOM operations and the policymaking in the Office of the Secretary of Defense, the department might establish a unique command arrangement, such as appointing a deputy NORTHCOM commander simultaneously as a deputy assistant to the Assistant Secretary for Homeland Defense within the Pentagon.

As the Defense Department reorganizes the civil support mission, it should consider carving out a significant role for NORTHCOM in the planning, training, and day-to-day management of operations. This would allow the assistant secretary to focus more of his primary effort on policy issues, a more appropriate role for the secretariat than managing field operations. In addition, placing NORTHCOM in the routine business of coordinating these missions, even when a large federal military presence is not required, will allow the command to establish solid working relationships with the other federal agencies and state and local governments with which it will have to work intimately in responding to a large-scale disaster or terrorist attack. Having NORTHCOM in the civil support chain of command will help its staff develop the trust and confidence it will need to operate under the stressful demands and pressing time-constraints of a major national response. In particular, expanding NORTHCOM's responsibilities for planning support for a range of operations, such as preparation for the annual forest fire season where military forces support state fire fighting missions, might provide important dividends in preparing for more dramatic future tasks.

Finally, it would be worthwhile to pursue means to harmonize the Homeland Security and Defense Department's research and development and acquisition efforts. A case in point is the Navy's Littoral Combat Ship program and the Coast Guard's Integrated Deepwater Project where there are significant efficiencies to be gained from synchronizing these efforts. The Army's tactical high energy laser is another example of a defense program that could have a number of homeland security applications for protecting critical infrastructure and transportation assets. There are many other initiatives where synergies could be gained as well.[24] Lessons should be learned, however, from the successful and unsuccessful attempts to encourage joint defense acquisition programs. The two departments need to be encouraged and enabled to form partnerships that logically provide mutual benefits. One possible model might be establishing an organization similar to the National Security Space Architect which is

[24] See, for example, *Science and Technology for Army Homeland Security: Report 1* (Washington, DC: The National Academies Press, 2003).

responsible for developing and integrating the efforts of DoD and the intelligence community by creating a shared-architecture that will serve both their needs over the medium- and far-term.

Conclusion

While great strides have been made in shifting the nation's national security structure to meet the realities of the post-Cold War world, this is not the time for complacency. The issues raised here are not meant to be comprehensive. They are intended to highlight the institutional obstacles that may be limiting a more thorough and appropriate appreciation of the Defense Department's future strategic requirements, as well as illustrate what might be achieved if we elect to move beyond the status quo.

A combination of new strategic guidance, organizational change, force structure innovation, and legislative support could well be required to set a better course. Such an approach should include important caveats. Efforts to rethink the military's role in homeland security should not be taken in isolation. They should be balanced with a transformation that accounts for all the Department of Defense's missions at home and abroad, make the most effective use of active and reserve forces, and promote the synergistic and efficient use of military capabilities in coordination with other federal, state, and local assets.

Mr. Chairman and members of the subcommittee I thank you again for holding this hearing and inviting my comments on this important subject.

Mr. TURNER. Thank you.

Mr. Wermuth.

Mr. WERMUTH. Thank you, Mr. Chairman and distinguished members.

I am going to focus my remarks today primarily on my work as the executive project director of the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction.

Mr. TURNER. All in one breath.

Mr. WERMUTH. All in one breath. Also known as the Gilmore Commission, a creation of the Congress now in its 5th year, having submitted four reports to the President and the Congress, with some major policy recommendations; it will submit its fifth and presumably final report in December of this year.

In my testimony, I go into considerable detail about the catalog of statutory authority for the use of the military domestically, but it really is important and the previous panel noted the distinctions between the two principal areas of the military mission with respect to the homeland, the homeland defense mission, which really is principally a Department of Defense responsibility to protect the homeland against invasion, and the military support to civil authorities. Those statutes, the authorities that provide that ability of the military to do that, really are based in the Constitution, as I've noted in my testimony. Certainly the Stafford Act's already been mentioned, but of course the insurrection statutes, the expansion of authorities that were originally designed for counterdrug activities have now been expended to include terrorist operations. There is some very special authority in a couple of statutes that I mentioned in my testimony, particularly 10 U.S. Code 382, and 18 U.S. Code 831, that allow the military to be used in some very nontraditional ways even inside the homeland.

So the issue here is not whether there is sufficient authority. One of the big issues of course is that authority is not very well understood generally throughout the country in what the military can legally do and how posse comitatus still provides perhaps some measure of a constraint. But the simple fact is the exceptions that have been provided to posse comitatus for use of the military inside the homeland have not made posse comitatus meaningless, as the Congress acknowledged in the Homeland Security Act last year, but there is certainly plenty of authority there for using the military in a number of ways, both for the homeland defense mission, purely military mission, and for providing military support to civil authorities.

In that regard, I won't use my time in my opening remarks, but I would hope to get on Congressman Murphy's train in the question and answer session and maybe give you a couple of additional insights or clarifications on that scenario.

Certainly we need to do a better job of educating people throughout the country on what the military can and can't do, and particularly how you get to the military. It's important for all of us to understand that a mayor or a Governor can't just walk down to the local Title X military installation and ask the military to do things. There is an appropriate process to do that. That process is now up through a Governor to the Secretary of Homeland Security and

then over to the Department of Defense when we are talking about military support to civil authorities. That process is not necessary in the homeland defense mission, but there are issues involving structures and plans and training and exercises that I've talked about at some length in my written testimony.

Let me echo what others have said before about the National Guard. The Gilmore Commission in several reports culminating with recapitulation of those and an expansion of those in its fourth report has suggested that we really can and should do more with the National Guard. And you heard the three different areas for use of the National Guard in its purely State status; that means no Federal funds, that it is under the authority of the Governor to do things with the Guard in its State militia hat, if you will. The Title 32 piece, which is Federal funding, and those have manifested themselves a couple of times recently, certainly right after September 11 with security at the airports and more recently under Liberty Shield for protection of critical infrastructure for the Federal Government piece, and then of course bringing them in to a Title X status to do things under the national command authority, normal Title X responsibilities.

But the fact is there may very well be some additional authority. Certainly under Title 32 there are adjutant generals out there who believe that they don't even have the authority to use Federal funds to train for certain Homeland Security missions because they don't see them, or their lawyers don't see them as being directly related to their potential Title 10 missions for which Title 32 funds are normally provided. So there certainly ought to be clarification to allow them to do that.

The Gilmore Commission, as you will see from my testimony, has proposed perhaps some additional structures and formalizing relationships that would allow the National Guard to be used not in the purely command and control sense but in a new coordination regime that would allow the National Guard to respond to requests from the Department of Defense through U.S. Northern Command maybe even on a multi-state basis to provide assistance when Title X forces may not be indicated or where, as Dennie Reimer said, the Guard provides some additional flexibility that the Title 10 component might not provide.

So I've gone through a lot of those in my written testimony, and would be happy to answer any questions related to those and other parts of my testimony in the followup question and answer period.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Wermuth follows:]

T E S T I M O N Y

RAND

Use of the Nation's Military Capability in Homeland Security

Michael A. Wermuth

April 29, 2003

Testimony before the Subcommittee on National Security, Emerging Threats, and International Relations of the Committee on Government Reform

U.S. House of Representatives

This statement is based on a variety of sources, including research conducted at RAND. However, the opinions and conclusions expressed are those of the author and should not be interpreted as representing those of RAND or any of the agencies or others sponsoring its research.

RAND is a nonprofit institution that helps improve policy and decisionmaking through research and analysis.

Testimony of
MICHAEL A. WERMUTH

Before the

Subcommittee On National Security, Emerging Threats, and International Relations of the Committee on Government Reform

U.S. House of Representatives

April 29, 2003

Mr. Chairman and subcommittee Members, thank you for giving me the opportunity to appear before you today, to address the important issue of the appropriate use of the Nation's military capability in Homeland Security.

My remarks today will be focused primarily on the my relevant research dedicated to, and the resulting, related recommendations of the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction (also known as the "Gilmore Commission") (established by Section 1405 of the National Defense Authorization Act for Fiscal Year 1999, Public Law 105–261 (H.R. 3616, 105th Congress, 2nd Session) (October 17, 1998)). I will, nevertheless, base some testimony on other research on projects involving various components of the Department of Defense, the White House Office of Homeland Security, and the Department of Homeland Security.

You have asked that I address five principal areas:

- How do legal constraints restrict DoD deployments in the United States?
- How does DoD evaluate proposed homeland defense and civil support missions?

- What types of missions have been accepted and rejected, and what were the reasons for rejection?
- Are current force structures, plans and management organizations adequate to support the DoD homeland defense and civil support missions?
- To what extent do homeland defense and civil support missions affect military operations and personnel tempo?

I can certainly address the first and fourth of those areas comprehensively and in a current context. Although I cannot fully address the issue in the third area currently—that information will, I assume, come from Department of Defense witnesses—I can address that area, as well as the second and fifth areas generally and based on my prior experience inside the Department.

General Background

The Advisory Panel has addressed a number of issues related to the use of the military in the homeland in each of its four Annual Reports to the President and the Congress (December 15 of the years 1999 through 2002). It will continue to do so in its fifth and final report this December. Other important contemporaneous documents have also addressed those issues, including the *National Strategy for Homeland Security,* issued by the President in July of last year; the Homeland Security Act of 2002, Public Law 107–296 (H.R. 5005, 107th Congress, 2nd Session) (November 25, 2002); and *Homeland Security Presidential Directive-5*, Subject: Management of Domestic Incidents, issued by the President in February of this year. I will note the relevant provisions of each in the appropriate sections of my testimony, below.

How do legal constraints restrict DoD deployments in the United States?

The National Strategy for Homeland Security identifies appropriate homeland missions categories for the Department of Defense:

> There are three circumstances under which the Department would be involved in improving security at home. In extraordinary circumstances, the Department would conduct military missions such as combat air patrols or maritime defense operations. The Department would take the lead in defending the people and the territory of our country, supported by other agencies. Plans for such contingencies will continue to be coordinated, as appropriate, with the National Security Council, Homeland Security Council, and other federal departments and agencies. Second, the Department of Defense would be involved during emergencies such as responding to an attack or to forest fires, floods, tornadoes, or other catastrophes. In these circumstances, the Department may be asked to act quickly to provide capabilities that other agencies do not have. Finally, the Department of Defense would also take part in "limited scope" missions where other agencies have the lead—for example, security at a special event like the recent Olympics. (*National Strategy*, p.13.)

The first of those three mission areas is what has commonly been referred to as the "homeland defense" mission. The second and third are missions for "military support to civil authorities" or more generically "civil support"—the terms are often used synonymously.

There continues to be considerable misunderstanding about the legal bases for military activities inside the United States. Some believe that the provisions of the Posse Comitatus Act[1] create a significant bar to many potential activities for which the Armed Forces could be employed inside our borders for civil support generally and to combat terrorism specifically. There is, however, ample authority for using the military inside our borders for responding to a variety of emergencies, many of which are explicit exceptions to the strictures of the Posse Comitatus Act.

Starting with its Second Report, the Gilmore Commission has made specific policy recommendations on the use of the military domestically—addressing the issue head on. Referring to the military's civil support mission, the commission said:

---

[1] 18 U. S. Code, Section 1385 — "Use of Army and Air Force as a posse comitatus. Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined under this title or imprisoned not more than two years, or both."

> Clear Constitutional and statutory authority exists for using the U.S. Armed Forces in a support role to provide significant assistance to civilian agencies. The American people must be assured that civilian leaders will always direct and oversee the employment of military capability and will limit it to restoration of order, mitigation of consequences, and apprehension or interdiction of the perpetrators.

It therefore made the following recommendation:

> We recommend that the President always designate a Federal civilian agency other than the Department of Defense (DoD) as the Lead Federal Agency.

There are several constitutional bases for the use of the military domestically in support of civil authorities. Article One gives Congress the power to create military forces, and provide for their regulation, and contains explicit language for "calling forth the militia" to enforce laws, and suppress rebellions and insurrections.

Article Two designates the President as commander in chief not only of regular Federal forces, but also of the state militias, when in Federal service—"militia" in each of these cases being what we now know as the National Guard of the various States.

Article Four says that the United States shall protect each of the states not only against invasion, but also against "domestic violence." Note the use of the word obligatory "shall" and not the permissive "may."

In the first century of the Republic, there were a number of instances in which the military was used to enforce laws, which gave rise to some criticism of those activities, most particularly, military actions in the reconstruction and post-reconstruction periods in the South. It was the latter circumstances that caused Congress, in June of 1878, to pass what has come to be called the "Posse Comitatus Act." (Posse Comitatus translated from Latin means "the power or force of the county.")

It is particularly interesting to note that the Congress did not proscribe the use of the military in Title 10—the code title for military activities generally, it made it a crime under Title 18 to do so. Moreover, the statute does not refer to the laws "of the United States," it refers to "the laws" generally, which can include the laws of the various States.

But the Congress created an exception for those cases authorized in the Constitution or other Acts of Congress. As noted above, there is at least one specific and preexisting Constitutional mandate.

In the years since the enactment of the Posse Comitatus Act, the Congress has created a number of statutory exceptions to that Act, which fall into four major categories:

- Insurrections/Civil Disturbances
- Counterdrug Operations
- Disaster Relief
- Counter-terrorism/Weapons of Mass Destruction

In 1956, Congress created broad authority for use of the military to suppress insurrections, rebellions, and unlawful combinations and conspiracies in the various states – an extension of the Constitutional mandate to protect the states against domestic violence.[2] Provisions of those statutes have been used as the basis for engaging the military to integrate schools and to respond to riots in major U.S. cities. Those statutes also form a legal basis for using the military to respond to certain acts of terrorism.

Beginning in 1981, and as amended in the intervening years, Congress has created a number of authorized activities for use of the military in counterdrug operations, both inside the United States, and extraterritorially.[3] Those activities include intelligence and information sharing; the use of military equipment and facilities; training and advice to law enforcement agencies; the maintenance and operations of a vast array of equipment—owned at the Federal,

[2] 10 U.S. Code, Section 331, et seq.
[3] 10 U.S. Code, Section 124, and Sections 371, et seq.

state and local level. There is also specific authority in these provisions for air, sea, and ground detection and monitoring of the illegal transit of drugs into the United States—which includes some authority for "hot pursuit" inside U.S. borders, as well as some interception authority for vessels and aircraft detected outside of our borders for purposes of identifying and communicating with the vessel or aircraft, and directing them to a location specified by civilian law enforcement. That authority also includes the transportation of domestic and foreign law enforcement and military personnel engaged in counterdrug operations; the operation of bases of operation inside the U.S. and extraterritorially; aerial and ground reconnaissance—but not surveillance—operations inside and outside the U.S.; and the implementation of procedures for civilian law enforcement agencies to procure certain military equipment for counterdrug activities. In 1988, the Congress added to this series of provisions the authority to operate equipment in the conduct of counter-terrorism operations both foreign and domestically, including transporting suspected terrorists to the U.S. for trial.[4]

The military, may also be used for disaster relief operations, both domestically, pursuant to provisions of the Stafford Act in Title 42;[5] and internationally, under the provisions of section 404 of Title 10. The Stafford Act provides broad authority and has been invoked frequently for using the military domestically for responses to floods, earthquakes, hurricanes, wildfires, and other natural disasters. Provisions of the Stafford Act also apply to intentional acts, such as terrorism.

Most significantly in the terrorism context, the Congress has also provided the authority for use of the military domestically to assist in combating biological and chemical terrorist incidents, which may, under certain exceptional circumstances, include direct involvement in

[4] 10 U.S. Code, Section 374. See statutory text at Tab 2.
[5] 42 U.S. Code 5121, et seq.

arrests, searches, seizures, and the collection of specific intelligence[6]; and authority to provide assistance in nuclear terrorism cases, which may also include participation in arrest, search, and seizure activities.[7] Under each of these statutes, it only requires an agreement between the Attorney General and the Secretary of Defense to engage the military.

Some of the specific authority, and the conduct of activities pursuant to that authority, have not of course been without their detractors. From both within and outside of military circles, there have been concerns about the use of the military in this fashion, as being outside of the scope of normal military operations. And military leaders have often expressed concern about the effect of such activities on military preparedness for war and other contingencies.

Some in the Congress and elsewhere also express concern that, in times of reduced force structure and other limitations on defense spending, the military should focus on preparing for and participating in purely military operations. Others, including the Gilmore Commission, have expressed concern about the potential for the abuse of civil liberties through use of the military domestically.

There are, however, a number of protections against abuse that are built directly into some of the statutes and contained in a number of Federal regulations and policy documents. In several statutes, there are conditions precedent, which must occur or exist, for the use of the military. Examples include:

- A Presidential Declaration of Disaster for support under the Stafford Act[8]
- A proclamation to persons engaged in civil disorders to disperse and retire, contained in the Insurrections Statutes[9]
- A specific order from the President in cases of suppressing insurrections and other civil disobedience;[10]

---

[6] 10 U.S. Code, Section 382.
[7] 18 U.S. Code, Section 831.
[8] See 42 U.S. Code, Section 5170, 5170b, and 5191.
[9] 10 U.S. Code, Section 374.
[10] 10 U.S. Code, Sections 331 and 334.

- Either a specific request from a State governor or legislature for assistance to suppress an insurrection,[11] or a determination that others have refused, failed, or are not capable of enforcing the laws to suppress insurrection and other civil disorder.[12]

In a number of cases, senior Federal officials must request or approve, either individually or jointly with others, the use of military support:

- For several activities in the counterdrug arena, a specific support request must come from the head of a Federal law enforcement agency—the Drug Enforcement Administration, U.S. Customs Service, U.S Coast Guard, U.S. Marshals, U.S. Border Patrol, Federal Bureau of Investigation—even if the support is ultimately intended for a State or local government.[13]
- The Secretary of Defense and the Attorney General (and for foreign operations, the Secretary of State as well) must approve the transportation of law enforcement and military personnel, and the operation of bases of operation for counterdrug activities.[14]
- For response to biological, chemical, and nuclear terrorist incidents, as well as for many of the minor statutes, the Secretary of Defense and the Attorney General must approve the specific activity.[15]

There are also numerous statutory, regulatory, and other policy limitations on military activities in support of civil authorities:

- There are provisions in several sections that require a determination that the activity will not have an adverse impact on military preparedness.[16]
- Several sections also require reimbursement from the supported agency under provisions of the Economy Act, although there is an exception where the activity is conducted in the course of training or provides equivalent training.[17]
- Although the Legal Counsel at the Department of Justice at one point opined that many of these statutes do not, unless stated explicitly, apply outside of the border of the United States, the Department of Defense has consistently done so, and the key DoD Directive for such support states that exceptions to such extraterritorial application will be considered on a case-by-case basis, and then only in "compelling and extraordinary circumstances."[18]
- There is an overarching provision in the counterdrug statutes that prohibits military involvement in search, seizure, arrest or similar activity[19] (but *cf* 10 U.S. Code, Section 382, and 18 U.S. Code, Section 831).

---

[11] 10 U.S. Code, Section 331.
[12] 10 U.S. Code, Section 334.
[13] 10 U.S. Code, Section 374.
[14] 10 U.S. Code, Section 374.
[15] 10 U.S. Code, Section 382, and 18 U.S. Code, Section 831.
[16] E.g., 10 U.S. Code, Sections 376 and 382; and 18 U.S. Code, Section 831.
[17] See 10 U.S. Code, Sections 374 and 381.
[18] DoD Directive 5525.5.
[19] 10 U.S. Code, Section 375.

- Although the specific provisions of the Posse Comitatus Act do not apply to the U.S. Navy and the U.S. Marines, they have been included in the provisions of the counterdrug statute that prevents direct involvement in law enforcement; the Navy and Marines are also covered under Posse Comitatus Act provisions by regulation;[20] and other provisions require the presence on naval vessels of U.S. Coast Guard law enforcement personnel during counterdrug operations.[21]

The rulings and interpretations of the Federal courts, in construing the specific statutory language and the legal implications of domestic activities conducted by the military, are relatively few and they have been remarkably consistent. Two are notable:

In *Laird v. Tatum*,[22] the U.S. Supreme Court very succinctly noted that the Constitutionality of the Insurrection Statutes was not an issue; nor was the Posse Comitatus Act a limiting factor. In *Gilligan*, the Supreme Court noted both Constitutional and Federal statutory authority for the use of the National Guard for executing the Insurrection Statutes (although the Guard was actually not Federalized at Kent State).[23]

While the terrorism-specific statutes have not yet been tested in Federal court, there is no reason to believe that courts would find a *prima facie* Constitutional deficiency in them.

The National Guard, when serving under the control of a State governor, is generally thought to be exempt from the Posse Comitatus Act. Statutes and regulations in certain States, however, prohibit the use of the Guard for law enforcement activities. Guard units currently providing security at many of the nation's airports remain in their "State" or Title 32 status, perhaps in the belief that Posse Comitatus will universally not apply to their activities. But many States, including some that do not generally prohibit the Guard from performing a law

---

[20] 10 U.S. Code, Section 375; 32 CFR 213.2.
[21] 10 U.S. Code, Section 379.
[22] *Laird v. Tatum*, 408 U.S. 1 (1971) (1967 Detroit riots), ruling on 10 U.S. Code, Section 333, citing Art. IV, Sec. 4 of the Constitution.
[23] *Gilligan v. Morgan*, 413 U.S. 1(1972) (1970 Kent State shootings), citing Congressional authority under Art. I, Sec. 8, and Presidential authority under the Constitution, and the use of the National Guard (10 U.S. Code, Section 331, et seq.) to assist in controlling civil disorders.

enforcement role, have specifically prohibited them from performing those functions in their current airport missions.

Given all of the foregoing discussion, it is fairly straightforward to suggest that both ample authority as well as sufficient protections exist for using the military domestically for a variety of purposes. Yet, it is interesting to note that the Congress, in the Homeland Security Act of 2002, while acknowledging that the *Posse Comitatus Act* "is not a complete barrier to the use of the Armed Forces for a range of domestic purposes, including law enforcement functions" under certain circumstances (citing several of the statutes noted above), nevertheless felt compelled to express the Sense of the Congress of the "continued importance" of that statute.[24]

Notwithstanding the diversity of Constitutional underpinnings and statutory provisions that are exceptions to *Posse Comitatus,* there is no broad recognition of this body of law—even among military personnel themselves. It is important that these authorities and the limitations on their use are well understood by Federal, State, and local entities that may be involved in

---

[24] SEC. 886. SENSE OF CONGRESS REAFFIRMING THE CONTINUED IMPORTANCE AND APPLICABILITY OF THE POSSE COMITATUS ACT.
(a) FINDINGS.—Congress finds the following:
(1) Section 1385 of title 18, United States Code (commonly known as the "Posse Comitatus Act"), prohibits the use of the Armed Forces as a posse comitatus to execute the laws except in cases and under circumstances expressly authorized by the Constitution or Act of Congress.
(2) Enacted in 1878, the Posse Comitatus Act was expressly intended to prevent United States Marshals, on their own initiative, from calling on the Army for assistance in enforcing Federal law.
(3) The Posse Comitatus Act has served the Nation well in limiting the use of the Armed Forces to enforce the law.
(4) Nevertheless, by its express terms, the Posse Comitatus Act is not a complete barrier to the use of the Armed Forces for a range of domestic purposes, including law enforcement functions, when the use of the Armed Forces is authorized by Act of Congress or the President determines that the use of the Armed Forces is required to fulfill the President's obligations under the Constitution to respond promptly in time of war, insurrection, or other serious emergency.
(5) Existing laws, including chapter 15 of title 10, United States Code (commonly known as the "Insurrection Act"), and the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), grant the President broad powers that may be invoked in the event of domestic emergencies, including an attack against the Nation using weapons of mass destruction, and these laws specifically authorize the President to use the Armed Forces to help restore public order.
(b) SENSE OF CONGRESS.—Congress reaffirms the continued importance of section 1385 of title 18, United States Code, and it is the sense of Congress that nothing in this Act should be construed to alter the applicability of such section to any use of the Armed Forces as a posse comitatus to execute the laws.

combating terrorism, and by the uniformed military as well. For this reason, the Gilmore Commission, its Third Report (December 2001), recommended

> (T)hat the Secretary of Defense publish a compendium, in layman's terms, of the statutory authorities for using the military domestically to combat terrorism, with detailed explanations about the procedures for implementing those authorities.

Currently, there continues to be much debate within the country on the authorities granted to use the military domestically and the restrictions under the *Posse Comitatus Act*. Some believe the laws governing the domestic use of the military should be modified to tighten restrictions on military law enforcement activities. But in the last year, the military has been used in new ways to support homeland security missions. For example, in October 2002 military reconnaissance aircraft were used in an attempt to locate the sniper terrorizing the Washington, DC area. Some leading members of the Congress believe the time has come to re-examine the 1878 law in light of the new security environment the Nation faces.[25]

The President's homeland security strategy calls for a "thorough review of the laws permitting the military to act within the United States in order to determine whether domestic preparedness and response efforts would benefit from greater involvement of military personnel and, if so, how." The Gilmore Commission, in its Fourth Report (December 2002), supports the review proposed by the Administration in the *National Strategy* as a means to bring clarity to this important issue.

To achieve that clarity, the laws governing domestic use of the military should, in the commission's view, be consolidated and (in a recapitulation of its earlier recommendation) the

[25] These positions are detailed in Pat Towell, "Northern Command Stirs Issue of Military's Role in Security," *Congressional Quarterly Weekly*, 2 November 2002, p. 2867; and Harry Levins, "Loopholes in Law Give Military Ability to Play Role in U.S.," *St. Louis Post-Dispatch*, 21 April 2002.

Federal government should publish a document that clearly explains these laws.[26] In consolidating the laws, the legislation should clarify ambiguities about the authority to use the military to respond to terrorist acts involving chemical, biological, radiological and/or nuclear weapons as well as conventional or cyber attacks. The commission explicitly recommended

> That the President and the Congress amend existing statutes to ensure that sufficient authorities and safeguards exist for use of the military across the entire spectrum of potential terrorist attacks (including conventional, chemical, biological, radiological, and nuclear threats as well as cyber); that the authorities be consolidated in a single chapter of Title 10; and that DoD prepare a legal "handbook" to ensure that military and civilian authorities better understand the legal authorities governing the use of the military domestically in support of civilian authorities for all hazards—natural and manmade.

How does DoD evaluate proposed homeland defense and civil support missions?

The DoD Directive covering "military assistance to civil authorities" requires that each such request be evaluated against the six criteria, most of which are a regulatory expression of statutory requirements, as are many other provisions in regulatory and policy guidance:

- Legality (compliance with laws);
- Lethality (potential use of lethal force by or against DoD forces);
- Risk (safety of DoD forces);
- Cost (who pays, impact on DoD budget);
- Appropriateness (whether the requested mission is in the interest of the Department to conduct); and
- Readiness (impact on the DoD's ability to perform its primary mission).[27]

I am not in a position to address the process by which DoD evaluates homeland defense missions.

---

[26] In April 2001 the Department of the Army's Center for Law and Military Operations published an "advisory" guide entitled *Domestic Operational Law Handbook for Judge Advocates*. Although its contents do not represent official DoD legal positions, the Army guide could serve as the basis for an official DoD handbook of the type recommend by the commission. The Army's guide is available at on the Internet at https://www.jagcnet.army.mil/clamo/publications.

[27] DoD Directive 3025.15.

What types of missions have been accepted and rejected, and what were the reasons for rejection?

The military regularly is called on to provide assistance to civil authorities to deal with natural disasters (e.g., hurricanes, floods, and fires), as well as manmade incidents (e.g., riots and drug trafficking).

The military is called on to perform these missions because it moves and organizes large numbers of trained personnel to provide a coordinated response to incidents at home and because the military has developed specialized capabilities (particularly medical, engineering, and chemical, biological, radiological, nuclear, and high-yield explosive (CBRNE) weapon response capabilities) that either do not exist at the State and local level or do not exist in sufficient quantities.

DoD defines civil support as mutual support activities it undertakes with any civil government agency for planning or responding to the "consequences of civil emergencies or attacks, including national security emergencies." Civil emergencies include "any natural or manmade disaster or emergency that causes or could cause substantial harm to the population or infrastructure."[28] The 2002 deployment of military forces to assist Federal border security agencies is a recent example of a civil support operation.

There is a logical sequence of commitment for the appropriate place for employment of military forces domestically. In this regard, response to a variety of natural or manmade events will be led by first responders—those who serve the communities in which the incident has occurred. Responding second are those organizations mobilized under the leadership and authority of the State governors (including the National Guard of the several States), and which

[28] Department of Defense, Directive 3025.15 (Washington, DC: Department of Defense, Office of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict, 18 February 1997), sections E2.1.3 and E2.1.9.

may include requests from neighboring states. Within this context, a governor could, for example, request assistance from National Guard units from adjoining States under voluntary State compacts. At the point when response requirements exceed the State's capacity, a governor could request Federal assistance from the President. That assistance might include the deployment of Federal military forces.

The military has a long history of providing support to civil authorities to deal with natural and manmade disasters. This assistance is now common: between 1998 and 2000, the military supported an average of 73 events per year.[29] Large-scale incidents can create significant demand for military forces. Notable examples of such incidents in the last decade, beyond the post – September 11 activities, include the Los Angeles Riots and Hurricane Andrew in 1992, the 1995 bombing of the Murrah Federal Office Building in Oklahoma City, Hurricane Floyd in 1999, the Western forest fires of 2000, and the 2002 Olympics in Salt Lake City.

Each homeland security incident that requires military support to civil authorities will involve a unique size and mix of forces. Specialized military capabilities are deployed as required and responding forces also typically include general-purpose units and military police; air transportation; engineers; signal operators with communication equipment; medical experts; and a command element with expertise in the law, public affairs, and intergovernmental coordination.

Are current force structures, plans and management organizations adequate to support the DoD homeland defense and civil support missions?

New homeland security missions warrant dedicated civilian and military organizational structures. Since the terrorist attacks of September 2001, the Department of Defense has

[29] LTC James Rice, United States Army, Deputy Special Assistant for Military Support, Office of the Secretary of the Army, remarks before the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction, September 30, 2002, Arlington, Virginia.

restructured both the civilian oversight roles and the military organizations that deal with homeland security.

Decisions to deploy military forces for homeland security activities are not made by the uniformed military; the Secretary of Defense, or his designated agent makes such decisions. The Department of Defense is reorganizing both the military command structure and the civilian oversight structure dedicated to homeland security.

Section 901 of the National Defense Authorization Act for Fiscal Year 2001 (NDAA FY01),[30] required the Secretary of Defense to designate an Assistant Secretary of Defense as the senior civilian with responsibility for "the overall supervision of the Department's combating terrorism activities." That designation was made in a directive issued on March 29, 2001—the Assistant Secretary of Defense for Special Operations/Low Intensity Conflict (ASD-SO/LIC).[31] Nevertheless, in its Third Report, the Gilmore Commission recommended

> that the Secretary of Defense seek and that the Congress approve the authority to establish a new under secretary position for homeland security.

It argued that that the issues are so important that an under secretary position was justified and would foster stronger relations with the White House Office of Homeland Security and strengthen coordination with the military departments and the Joint Chiefs of Staff.

In November 2002, the Congress approved the request from the Secretary of Defense to create a new Assistant Secretary position within the Office of the Secretary of Defense to oversee the support that the military provides for homeland security. The new Assistant Secretary for Homeland Security will formulate DoD homeland security policy and oversee the approval of military contributions to the national homeland security effort. In situations

[30] HR 4205, Pub. L. 106-398. See discussion in Conference Report to accompany NDAA FY01, p. 833.
[31] Memorandum of the Deputy Secretary of Defense, Subject: Combating Terrorism, March 29, 2001.

where the lead Federal agency (most likely either the Department of Homeland Security or the Department of Justice) determines it needs military assistance, it would direct a request to the Secretary of Defense. To expedite the process, decisional authority is anticipated to be delegated to the new Assistant Secretary for Homeland Defense; however, the Secretary of Defense will retain approval authority for responses to acts of terrorism, deployment of assets to deal with CBRNE, and military assistance for civil disturbances. The Assistant Secretary of Defense would review the request and, if it were determined that DoD can meet the request, would direct the Joint Staff to select the military assets that will be used and issue deployment orders.

In this arrangement, the Assistant Secretary of Defense for Homeland Defense will assume the role that the Secretary of the Army (i.e., as the Secretary of Defense's Executive Agent for civil support) and his Director of Military Support (DOMS) filled in the past. The ASD Homeland Defense will apparently have a much broader portfolio than DOMS had, because he will be responsible for all DoD homeland security support to Federal, State, and local authorities as well. In most cases DoD would play a supporting role in homeland security; however, there are some cases when the President might order the military to take the lead to thwart a terrorist attack. Oversight of preparations for such activities to combat terrorism is vested by the Secretary of Defense in the Under Secretary for Policy and the Assistant Secretary for Special Operations-Low Intensity Conflict (SOLIC).

These are important developments in DoD's organization. Command and control relationships must be very clear and practiced. Responsibilities and authorities must be clearly prescribed and exercised. However, it is also important for DoD to articulate the many changes it is making so that the American people understand how their government is moving to protect them from new threats. The Congress has, therefore, logically directed the Secretary of Defense to submit

a detailed report describing DoD's homeland security responsibilities and how it is preparing to discharge them.[32]

In its *Third Report*, the Gilmore Commission recommended "that the National Command Authority establish a single, unified command and control structure to execute all functions for providing military support or assistance to civil authorities." A new geographic combatant command, U.S. Northern Command (NORTHCOM), has been established in the Unified Command Plan, effective October 1, 2002. Based at Petersen Air Force Base in Colorado, the new command has been assigned the mission of defending the continental United States, Alaska, Puerto Rico, and the U.S. Virgin Islands and for providing military support to civil authorities.[33] The Command describes its mission, inclusive of both its homeland defense and civil support responsibilities, as follows:

The command's mission is homeland defense and civil support, specifically:

- *Conduct operations to deter, prevent, and defeat threats and aggression aimed at the United States, its territories, and interests within the assigned area of responsibility; and*
- *As directed by the President or Secretary of Defense, provide military assistance to civil authorities including consequence management operations.*[34]

NORTHCOM is in a transition between initial operational capability and full operational capability. In its initial structure, NORTHCOM has few permanently assigned forces, and most of them serve as part of its homeland security command structure. NORTHCOM's commander will exercise combatant command authority over his own headquarters in Colorado Springs, the Joint Force Headquarters Homeland Security (JFHQ- HLS), the Joint Task Force 6 (JTF-6) counterdrug headquarters, and the Joint Task Force Civil Support (JTF-CS), which provides

[32] U.S. House, 107th Congress, 2nd Session, Conference Report on H.R. 4546, *Bob Stump National Defense Authorization Act for Fiscal Year 2003*, November 12, 2002, section 1404.
[33] U.S. Pacific Command has responsibility for Hawaii.
[34] NORTHCOM Mission Statement, available at http://www.northcom.mil/index.cfm?fuseaction=s.whoweare&section=3, accessed on December 5, 2002.

command and control for all Federal military forces operating in support of a lead Federal Agency to manage the consequences of CBRNE incidents.

Joint Forces Command established the JFHQ-HLS, located in Norfolk, Virginia, immediately after September 11, 2001 to coordinate the land and maritime defense of the continental U.S. as well as military assistance to civil authorities for "all hazards." At NORTHCOM's initial operational capability, combatant command over JFHQ-HLS was transferred to NORTHCOM. The ultimate role and status of this headquarters is pending design determination of NORTHCOM at full operational capability. The Commander of NORTHCOM also serves as Commander, U.S. Element NORAD, and currently as commander of NORAD, the U.S.-Canadian Aerospace Defense Command. In these, roles he conducts and coordinates North American air defense. NORTHCOM, at least initially, does not have control of any other operating units, only headquarters elements of dual-hatted component commanders. As is the case with other regional combatant commanders, Joint Forces Command (JFCOM) will act as NORTHCOM's primary "force provider" if additional units or personnel are needed for any planned or contingency operations and for exercises. As such, NORTHCOM will only be given control of air, land, sea, and maritime forces when required to perform an assigned task.

Although NORTHCOM's mission statement implies that the Command could be directed to execute *counterterrorism* operations in support of civil authorities.[35] Conceivable events (e.g., multiple, geographically dispersed terrorist operations within U.S. territory) might exhaust civil and other limited military resources envisioned for use in existing national plans. Moreover, scenarios exists within which NORTHCOM might then be directed to provide additional support

[35] DoD defines counterterrorism as "offensive measures taken to prevent, deter, and respond to terrorism." It defines antiterrorism as, "Defensive measures used to reduce the vulnerability of individuals and property to terrorist acts, to include limited response and containment by local military forces." See Department of Defense, *DoD Dictionary of Military and Associated Terms*, Joint Publication 1-02, as amended through August 14, 2002, available at on the Internet at http://www.dtic.mil/doctrine/jel/doddict/index.html.

to civil authorities *regardless* of its pre-incident focus on planning and training for the so-called "consequence management" mission. As a result, the Gilmore Commission recently recommended

> That the Secretary of Defense clarify the NORTHCOM mission to ensure that the Command is developing plans across the full spectrum of potential activities to provide military support to civil authorities, including circumstances when other national assets are fully engaged or otherwise unable to respond, or the mission requires additional or different military support. NORTHCOM should plan and train for such missions accordingly

The creation of NORTHCOM is an important step toward enhanced civil-military integration for homeland security planning and operations and could result in an enhancement of homeland security response capabilities. NORTHCOM has the responsibility to plan for a number of critical military homeland security activities. NORTHCOM will need to train and exercise with civil authorities at all levels of government—Federal, State, and local. Given its command relationships, Commander, NORTHCOM will be well positioned to ensure unity of command and effort when military units are employed for homeland missions under Federal authority.

In our Third Report, the Gilmore Commission recommended that a unified command be created "to execute all functions for providing military support or assistance to civil authorities"—an all-hazards approach. In its Fourth Report, it added the following recommendation:

> That the NORTHCOM combatant commander have, at a minimum, operational control of all Federal military forces engaged in missions within the command's area of responsibility for support to civil authorities

The Administration and the Congress have improved the Federal government's structure for the delivery of military support to civil authorities. However, the panel believes additional enhancements are possible and necessary. In addition to clarifying legal authorities for military activities within U.S. territory, training for civil support operations should be increased across the armed forces. The President should initiate a rigorous assessment of national preparedness

requirements. That assessment should be used to evaluate further enhancements to the military's ability to deliver needed capabilities as part of the national homeland security effort. Importantly, the National Guard's homeland roles and missions must be reevaluated in light of the new security environment facing the Nation.

Northern Command and supporting service and Joint Staff structures have the capability to identify purely military homeland defense requirements for land, maritime, and air combat missions. The problem, however, is that no process is clearly in place to identify among the full scope of participants the requirements for support to civil authorities. It is critical that States, cities, and municipalities define requirements beyond their current capabilities that should be met by Federal augmentation. As a result, the Gilmore Commission, in its most recent report recommended

> That the President direct the Department of Homeland Security to coordinate a comprehensive effort among DoD (including NORTHCOM) and Federal, State, and local authorities to identify the types and levels of Federal support, including military support, that may be required to assist civil authorities in homeland security efforts and to articulate those requirements in the National Incident Response Plan

The DHS should evaluate shortfalls and allocate augmentation responsibilities to other Federal agencies, including DoD. The Defense Department, supported by NORTHCOM, should give DHS full cooperation in completing this effort.

Military personnel in the United States have long adhered to this principle: "train as you fight and fight as you train." This principle is certainly valid for homeland defense and civil support operations. The panel is reasonably confident that NORTHCOM will develop adequate plans for its homeland defense, military-led mission and that most combat training and exercises for military units will have some application in that mission. Nevertheless, there will be special considerations for conducting military operations inside or over the United States and in adjacent waters—proximity to the civilian population, coordination with other governmental entities, and air or sea traffic issues, as examples—that will need significant attention in training and exercises. Moreover, States and

localities should be provided information and definitive guidance on what to expect in the event of future homeland defense, military-led operations.

In addition, there is concern that there is no assurance that specially trained forces will be available to NORTHCOM prior to a crisis, and that current civil support training across the armed forces in general is insufficient.

Although the military trains extensively for combat operations, training for homeland activities differs in essential ways. Compared to coordination within a purely military command structure, coordinating homeland operations with other Federal, State, and local authorities will require comparable skills but different applications. Liaison activities among the elements involved in planning, training, and exercising will take on greater importance. For response operations, command and control processes may be different. Requirements for joint training will take on a new meaning, as joint exercises with State and local responders will be very important. Finally, certain homeland missions will require support to civil law enforcement and the execution of law enforcement tasks. Military personnel will require specific training to support local law enforcement agencies in performing law enforcement missions.

The *problem* has been that insufficient attention has been paid to and resources made available for civil support training. We now know the pervasiveness of the threat, the increased probabilities of terrorist acts, and the need for enhanced preparation for effective response. Therefore, there should be a significant increase in the emphasis on civil support missions for all hazards incidents, with special emphasis on response to acts of terror. Specifically, the Department of Defense should increase the planning, training, and exercising of Active, Guard, and Reserve forces to execute civil support missions. In its December 2002 report, the Gilmore Commission recommended

> That the Secretary of Defense direct that all military personnel and units under NORTHCOM, or designated for NORTHCOM use in any contingency, receive

> special training for domestic missions. Furthermore, in those cases where military personnel support civil law enforcement, special training programs should be established and executed.

As noted above, NORTHCOM's initial force structure will include few permanently assigned forces. The problem with this initial force structure is that it leaves unanswered questions about the scope and level of training and exercising of units and personnel that might be used for civil support missions. It is not clear that Commander NORTHCOM's pre-incident authorities have been aligned with the civil support responsibilities that he has been assigned. Indeed, there are no assurances that civil support training will be conducted unless NORTHCOM is given command of specific units, some other pre-incident authority over units, or specific units commanded by others are designated and trained for civil support missions.

The latest plan for NORTHCOM command authorities is that its commander will have a "combatant command"(COCOM) relationship with the various service component commands (i.e., ARNORTH, NAVNORTH, NORTHAF, MARNORTH). Its full implications are not yet clear. There is a question about this whether command relationship is only for the purpose of unity of *homeland defense* authority and responsibility or applies more broadly to all *homeland security* missions, including NORTHCOM's civil support mission. Thus, the extent to which the new command will be able to direct new and expanded civil support training and exercises at the operational unit level remains unclear. For those reasons, the Gilmore Commission has recommended

> That the Secretary of Defense clarify NORTHCOM's combatant command authority to ensure that Commander NORTHCOM can direct subordinate commands to conduct pre-incident planning, training, and exercising of forces required to conduct civil support missions

The U.S. military is rightly focused on warfighting. However, the concerns related to pre-incident planning, training, and exercises could be rectified if NORTHCOM were assigned forces for civil support missions. Indeed, the possibility of a major attack on U.S. soil of a size that would

overwhelm even the best-prepared cities and States warrants consideration of dedicating a small number of specialized, "rapid reaction" forces to NORTHCOM for civil support. The advantages of dedicated forces are that they can respond quickly and can be well trained to operate effectively at the scene.

Currently, DoD has several small, specialized units that are prepared to deploy quickly to support civil authorities in dealing with a terrorist attack. The Department has, for example, units that, under certain circumstances, could respond to ongoing terrorist or hostage situations that exceed the capability of law enforcement agencies. The employment of these units within the United States is reserved for only the most severe circumstances. The National Guard has a dedicated but limited CBRNE response capability for homeland operations: the Weapons of Mass Destruction Civil Support Teams.[36] Several small active duty response teams have been specially designed to deal with CBRNE events. However, other than the WMDCSTs, those additional existing CBRNE response teams are deployable to theaters abroad. In addition, existing CBRNE response teams, including the WMDCSTs, are designed to provide a command capability, or specialized capability (e.g., chemical or biological agent decontamination), or technical advice and a communications channel to follow-on forces. They could not by themselves handle medium- or large-size events.

The Army has brigade-size elements (e.g., comprising roughly 3,500 airborne troops[37]) standing by for rapid deployment to trouble spots throughout the world. Similar capabilities for rapid deployment exist in the Air Force, Navy, and Marine Corps. Analogous rapid response-type

[36] In the Fiscal Year 2003 Defense Authorization Act, Congress directed the Secretary of Defense to establish WMDCSTs in each of the remaining States and territories; thus, a total of 55 teams have been authorized, with two stationed in California. Each team has 22 personnel. U.S. House, 107th Congress, 2nd Session, Conference Report on H.R. 4546, *Bob Stump National Defense Authorization Act for Fiscal Year 2003*, November 12, 2002, section 1403.

[37] Army light infantry, airborne, and air assault brigades typically have between approximately 3,200 and 3,500 soldiers. For details, see Federation of American Scientists, Military Analysis Network, "U.S. Army Table of Organization and Equipment," available at: http://www.fas.org/man/dod-101/army/unit/toe/index.html.

capabilities should arguably be tailored to deal with homeland terrorist events that overwhelm State and local capabilities.

Although fully understanding the principle and the importance of forward defense, the Gilmore Commission believes that military organizations should be established, trained, and dedicated to homeland defense *and* civil support missions if the *National Security Strategy of the United States of America* is to be meaningful—that "our military's highest priority is to defend the United States." Its belief is premised upon the fact that the territory of the United States is now a battlefield in the war on terrorism. It has, therefore, recently recommended

> That the Combatant Commander, NORTHCOM, have dedicated, rapid-reaction units with a wide range of response capabilities such as an ability to support implementation of a quarantine, support crowd control activities, provide CBRNE detection and decontamination, provide emergency medical response, perform engineering, and provide communication support to and among the leadership of civil authorities in the event of a terrorist attack

If NORTHCOM's Combatant Commander establishes the requirement, force "designers" and force providers should consider, in coordination with the States and local organizations, a mix of existing or specifically tailored rapid-reaction forces to meet civil support missions. Once designated, these rapid reaction forces should be under NORTHCOM's operational command. They could include forces (Active, National Guard, and Reserve) representing a full range of joint capabilities, such as military police, command and control, medical, engineering, CBRNE detection/decontamination, and liaison elements.

Improving the National Guard's Role

The National Guard's future role in homeland security activities has moved to the forefront of the debate on military support options. The Guard's history of service within the United States extends to its founding as a colonial militia during the Revolutionary War era. More recently its role in supporting the active force increased continuously during the Cold War and today is manifested in

increasing numbers of deployments throughout the world, including long-term commitments in Bosnia and Kosovo.

In preparing to confront terrorists, the United States and its individual States must resolve difficult issues about the role of the States and the Federal government in protecting citizens. The National Guard's potential contribution to combating terrorism is an important dimension of the assessment of appropriate State and Federal roles because the National Guard is "dual missioned": it can serve directly both the State governor and the citizens of the State, as well as the President.

In the event of a natural or manmade disaster, demand for National Guard support can escalate along a continuum that begins with a governor's call up of Guard personnel in *state active duty* (SAD) status and moves through a call to Federal service. Guard personnel in SAD status are controlled by their governor, typically compensated by their State, and perform their tasks—including assistance to law enforcement—in accordance with State statutes. If a governor believes the Guard is performing missions in support of Federal agencies, he can request moving Guard personnel to U. S. Code Title 32 status, which provides for continued State control but with Federal funding for the mission. National Guard forces in Title 32 duty status can, in accordance with State statutes, support civil law enforcement in operations to deter terrorist activities and prevent attacks.[38] The National Guard can operate in a third status when the President decides it is necessary to assume control of military support activities and activates the Guard in any State for Federal active duty under USC Title 10. Such a move extends to Guard personnel Federal pay and benefits, permits Title 10 officers to command mobilized National Guard forces, and permits the President to order federalized guard units to move between States (or out of the country) as part of any national response effort.

[38] As we note in our *Third Report*, "statutes and regulation in certain states . . . prohibit the use of the Guard for law enforcement activities." States can restrict the law enforcement activities of National Guard forces operating in state active duty or Title 32 status. See *Third Report*, p. 52.

Each of these legal authorities has strengths and weaknesses in relation to homeland security operations. States may have difficulty funding homeland security training and operations of the Guard in SAD status, especially if their missions are conducted for extended periods. Commanders are not clearly authorized under Title 32 to expend Federal funds for training for civil support tasks.[39] Guard personnel deployed in Title 32 status for national missions (e.g., to assist in border security operations) may therefore have varying levels of training and proficiency in their assigned tasks. Under Title 32, moreover, individual States can establish procedures and rules of engagement for Guard missions, potentially resulting in no comprehensive standards covering the activities of Guard personnel supporting a national mission. Military officers in Title 32 status cannot command Title 10 forces, which limits their ability to direct available Federal resources. For those and other reasons, the Gilmore Commission recently recommended

> That the Congress expressly authorize the Secretary of Defense to provide funds to the governor of a State when such funds are requested for civil support planning, training, exercising and operations by National Guard personnel acting in Title 32 duty status and that the Secretary of Defense collaborate with State governors to develop agreed lists of National Guard civil support activities for which the Defense Department will provide funds

As the United States grapples with the role of the National Guard in homeland security missions, a fundamental issue that must be addressed is the degree to which past practices and informal and formal relationships (such as State emergency assistance compacts) will be effective in an environment in which our Nation, our cities, and our communities will potentially become the

[39] Several National Guard officers interviewed by RAND staff expressed the opinion that Title 32 was developed primarily for Guardsmen to train for warfighting missions and that Title 32 does not clearly authorize National Guard military support to civil authorities. The Adjutant General of Washington State, Maj. Gen. Timothy Lowenberg, expressed the view that this lack of clarity acts as a deterrent to commanders who wish to train their Guardsmen for civil support operations. Commanders might face criminal penalties under the 1906 Anti-Deficiency Act (31 USC, Section 1341) if they expend on civil support training funds appropriated by Congress to support training for warfighting missions. Indeed, the Congress had to expressly authorize the Guard's conduct of counterdrug missions while in Title 32 duty status to assure commanders that such missions would not risk a violation of the Anti-Deficiency Act. To review the legislation on National Guard counterdrug activities, see U.S. House of Representatives, Committee on Armed Services, 104th Congress, 2nd Session, *National Defense Authorization Act for Fiscal Year 1996,* House Conference Report, H. Rpt. 104-450, available at ftp://ftp.loc.gov/pub/thomas/cp104/hr450.txt.

battlefield. Can effective response to the war on terrorism and major CBRNE incidents within our borders be met within the current structure, practices, and command and control arrangements? What is the appropriate balance between the responsibilities of State governors and Federal authorities? What is the most appropriate and acceptable concept to support unity of effort in local, State, and Federal response to such incidents as well as extremely grave national disasters? And, what is the appropriate relationship between NORTHCOM and the National Guard?

The National Guard's experience in responding to the September 2001 terrorist attacks illustrates some of the challenges associated with its dual State-Federal mission. The magnitude of the attacks compelled an immediate national response. New border and airport security measures were required. The President wanted a coordinated national effort; the National Guard offered organized military forces that could perform these missions.

For airport security augmentation, the President requested that governors stand up the Guard in the several States to perform the mission. The President could have mobilized the Guard for this national mission under his Title 10 authorities. Instead, he called them to duty under Title 32. Maintaining the Guard in this status allowed State units to deploy to airports within roughly one week of the order. States maintained control of their Guard resources and had greater flexibility to meet airport and other security requirements. The governors also had greater flexibility to rotate Guard personnel in and out of duty status to deal with family, business, or employment issues. Governors and Guard commanders had greater flexibility in tailoring missions, drawing from multiple units within a State rather than having total units activated under Title 10, thus placing all personnel in such units on full time duty status. Importantly, the 9,100 National Guard personnel manning airports performed their duties in accordance with State laws, policies, and rules of engagement. This led to significant variation in the Guards' activities in airports across the Nation.[40]

---

[40] George Cahlink, "Identity Crisis: The National Guard Is Torn Between Two Missions," *Government Executive*, September 2002.

Indeed, the varied approach among the States suggests that other processes may be required and surely would be more effective.

Deploying the Guard for border security operations posed different challenges. In this case, President Bush approved 1,600 National Guard for duty in Title 10 status. The governors initially opposed the President's decision to federalize the Guard,[41] but it was decided that the border security operation was a Federal not a State mission and the Guard had no law enforcement duties to perform. Even so, the Posse Comitatus Act undermined the Guard's utility as a Title 10 force in this mission. The Defense Department determined that Guard personnel carrying weapons within U.S. territory could only use them in self defense.[42] Most personnel went unarmed and carried out their tasks under the protection of armed Customs and INS agents. Finally, in a complex intergovernmental and Federal interagency policy and decisionmaking process involving the States, the Defense Department, INS, Customs, and the Border Patrol, it took approximately six months to complete deployment of Title 10 Guard personnel for border security.[43]

The examples cited with the Federal, State, and city response to the September 11 terrorist operations in New York and at the Pentagon suggest the challenges all entities had in responding effectively to both the incidents as well as the pending threats. Since then, we have all learned of the pervasive and growing threat we face and, as the President states, the long-term nature of the war on terrorism. The *problem* we face is to determine the optimum way to employ all assets to protect the people of the United States and to respond effectively, efficiently, and decisively for consequence management in those cases when deterrence fails. Should the United States establish more formal association among the States so that the National Guard, and other committed assets, can be optimally trained, exercised, and sustained to meet future disasters in a national effort, covering

---

[41] The governors' concerns are cited in, Adjutants General Association of the United States, Letter to the Governors and Legislators of the Several States, Territories and the District of Columbia and to the Congress and the President of the United States, February 25, 2002, p. 4.
[42] Cahlink, "Identity Crisis."
[43] Cahlink, "Identity Crisis."

multi-State regions, but where National Guard assets remain under the control of State governors? As noted earlier, Guard units and personnel deployed in Title 32 status under the control of State governors offer great advantage to the Nation and to the Guard and its individual personnel.

An enhanced Federal-State partnership is required to support the National Guard operating in the homeland and assisting civil authorities. Experience indicates that State and Federal leaders must have options for Federal-State arrangements beyond those currently permitted in Title 32 and Title 10. Any new arrangement should permit federally-funded, multi-State activities by Title 32 Guard personnel operating under the control of State governors and with agreed Federal-State coordination mechanisms. In developing an enhanced partnership, a key objective must be to ensure that National Guard units can effectively respond to incidents of *national* significance and do so under *State* control, thus reducing the likelihood that such units will be federalized under Title 10, with all the associated disruptions and complexities such an action entails.

A Federal-State arrangement meeting these general requirements could be developed based on new Title 32 authorities and by building on the concept of existing multi-State assistance compacts that employ Guard resources. In this regard, the President should establish with the governors of the several States a process by which the States will deploy National Guard forces in Title 32 status to support national missions. This arrangement should include mechanisms for collaborative mission planning and execution in accordance with agreed-on standards. Such an arrangement will ensure an efficient deployment process and increased uniformity of operations by Title 32 Guard personnel.

Many States have participated in a long-standing mutual aid agreement: the Interstate Civil Defense and Disaster Compact. In addition, forty-eight States and two territories have joined a congressionally-approved Emergency Management Assistance Compact (EMAC)[44] and other

---

arrangements that permit them to provide State National Guard assets to neighboring States to deal with an emergency. However, existing compacts typically have certain limitations, which are important in the homeland security context. These compacts are designed primarily for responding to more localized events (e.g., natural disasters), as opposed to national, all-hazards incidents. States are responsible for providing funds to train their National Guard in civil support tasks. The compacts can require the State requesting assistance to fund any National Guard response effort, and they do not uniformly ensure that units from outside States will have specialized or equivalent training. Finally, Guard units deployed outside their States under the terms of the EMAC are not permitted to engage in law enforcement tasks[45] and require additional State or Federal authorization to use military force for any activity that is prohibited by the Federal Posse Comitatus Act.

Given the long-term threat environment, the States' existing National Guard military support arrangements must be enhanced to provide for more effective response capabilities in Title 32 duty status. A new construct must also include an improved Federal-State interface for military operations. To achieve these objectives a *regionally* organized system for providing National Guard military assistance to civil authorities should be developed. Such a system could be aligned with the 10 FEMA regions. If this were done, all assets within such regions could train, exercise, and coordinate response activities under the regional system's auspices, more broadly under NORTHCOM's leadership, or under both. A memorandum of understanding (MOU) providing key details on an improved National Guard response system could be developed by Federal and State participants. Through the MOU (or some other instrument) the governors in each region could, for instance, delegate operational control of their Guard forces—or any other agreed level of control—to a

---

[44] The EMAC is codified in Federal law. Participating States and territories duplicate the Federal law in their own implementing legislation. To review the public law, see U.S. House, 104th Congress, 2nd Session, Public Law 104-321, *Granting the Consent of Congress to the Emergency Management Assistance Compact,* available at: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=104_cong_public_laws&docid=f:publ321.104.pdf.

[45] This is the opinion of John G. Hathaway, Acting Deputy Assistant Secretary of Defense for Military Assistance to Civil Authorities. John G. Hathaway, email communication to Panelist William Reno, November 18, 2002.

gional Guard commander, or the Adjutant General of the affected State, for crisis response tivities.[46]

A regionally organized National Guard response system would, like most existing emergency sistance compacts, be voluntary. The arrangement would be a "coalition of the willing": the stem's founding MOU could stipulate that any governor may forgo participation in an individual sponse operation.

The States would have numerous incentives to participate in a regionally organized system National Guard military support. Increased Federal funding could be committed for a previously reed-on list of civil support missions and for regionally-organized training and exercises. The icient and effective delivery of Guard resources during an emergency could enable States to nage even large-scale incidents while maintaining control of their Guard personnel. Finally, to ing specialized or additional military resources to bear, coordination arrangements could be ablished between DoD and the leadership of the National Guard's regional response system. ese arrangements would also establish mechanisms for coordinated Federal-State-local planning, ining, exercises, and operations activities by participating organizations, including such other deral entities as the Federal Emergency Management Agency. For all of these reasons, the lmore Commission made several recommendations in its recent Fourth Report:

> That the President and governors of the several States establish a collaborative process for deploying National Guard forces in Title 32 duty status to support missions of national significance at the President's request
>
> That the Congress provide new authority under Title 32 to employ the National Guard (in non-Title 10 status) on a multi-State basis, and with governors' consent to conduct homeland security missions, and that the Secretary of Defense define clearly the appropriate command relationships between DoD and the National Guard

---

A Federal-State arrangement exhibiting many of the characteristics recommended here has already been ablished for bringing military resources to bear for fire fighting. Under this arrangement, 13 States have signed an OU with the Secretary of the Air Force to provide for a mixed force of Title 10 and Title 32 assets in support of ite fire-fighting operations. Brig Gen John E. Iffland, Commander, 146th Airlift Wing, Air National Guard, sentation 14 November 2002, at the RAND Corporation, Arlington, Virginia.

> That Congress and DoD promote and support the development of a system for National Guard civil support activities that can deploy forces regionally--in coordination with DoD--to respond to incidents that overwhelm the resources of an individual State

In its *Third Report*, the Gilmore Commission recommended

> That the Secretary of Defense direct specific mission areas for the use of the National Guard for providing support to civil authorities for combating terrorism.
>
> In coordination with State governors, assess National Guard force structure, define appropriate roles and missions, and establish units with specific capabilities for homeland security missions.
>
> Increase the percentage of full-time personnel in Guard units designated for homeland security missions and ensure that pay and benefits parallel those of active-duty service members.
>
> Direct which National Guard units will be assigned homeland security missions as their primary missions with combat missions outside the United States as secondary missions and provide resources consistent with the designated priority of their homeland missions.
>
> Direct that National Guard units with priority homeland security missions plan, train, and exercise with State and local agencies."

In its latest report, it reaffirmed those recommendations but with one exception. Given the lessons learned during and after September 2001 and considering all the current circumstances and requirements, it felt that further enhancement of the National Guard's civil support capability and responsibility is necessary. It therefore expanded the recommendation on roles and missions as follows:

> That the Secretary of Defense direct that certain National Guard units be trained for and assigned homeland security missions as their *exclusive* missions (rather than primary missions as stated in the *Third Report*) and provide resources consistent with the designated priority of their homeland missions

Some may suggest that organizing National Guard units with "exclusive" homeland security missions could mean that those units will be moved under the Department of Homeland Security. Such a move is not only unlikely, it would not be prudent or consistent with the Constitutional underpinnings or historical precedents for use of the military generally and for the National Guard

specifically. The Gilmore Commission recommended a structure for using the Guard for "national" missions in a Title 32 status and for establishing certain Guard units with exclusive homeland missions—mutual goals. Nevertheless, the President could find it necessary, because of the magnitude of an attack or other circumstances, to bring National Guard units into a Title 10 status to serve with other Title 10 active and reserve forces under Federal command. For such a contingency, all National Guard forces, including those with exclusive homeland security missions, will need to continue to be trained and equipped through the Department of Defense.

Moreover, the governors of the several States should be consulted on the best possible structure and method to implement all of these recommendations that pertain to the National Guard.

To what extent do homeland defense and civil support missions affect military operations and personnel tempo?

While the military participates in numerous missions to support civil authorities each year, the Department of Defense does not consider this support as its primary mission: Warfighting is the Department's primary mission and takes priority unless the Secretary of Defense directs otherwise.[47] Therefore, with the exception of a limited number of specially-trained units (e.g., the National Guard's Weapons of Mass Destruction Civil Support Teams (WMDCSTs), the forces DoD provides to support civil authorities are primarily trained to perform their warfighting missions. In addition, these forces may not always be available. While demand for military civil support operations may increase in the future, so might the military's warfighting commitments increase (e.g., for the global war on terrorism or the war in Iraq[48]).

---

[47] An analysis of the Defense Department's combating terrorism directives has determined that "the military's non-MSCA [military support to civil authorities] operations take priority, unless the Secretary of Defense determines otherwise." This guidance on civil support is provided in Department of Defense Directive 3025.1, at A.2.-6. The analysis is presented in Barry Kellman, *Managing Terrorism's Consequences: Legal Issues* (Oklahoma City: Oklahoma City National Memorial Institute for the Prevention of Terrorism, March 2002), chap. 2, p. 14.

[48] According to an official in the office of the Defense Department's Director of Military Support, a large-scale conflict abroad, like the recent Iraq example, could significantly reduce the military resources available for civil support operations in the U.S. homeland. COL Ricki L. Sullivan, Chief, Military Support Division, Department of the Army, RAND staff interview, the Pentagon, Arlington, Virginia, November 7, 2002.

Therefore, it is important to consider what homeland security capabilities we are counting on DoD to provide, whether it is the most appropriate provider of those capabilities, and how to handle simultaneous demand for overseas warfighting and homeland security missions.

Reviewing the historical support that the military has provided to civil authorities can provide guidance about the kinds of support and level of effort that the military may be called upon to provide in the future to respond to terror attacks. After the Oklahoma City bombing, the U.S. military deployed about 800 active and reserve personnel (Title 10), while the Oklahoma National Guard provided 465.[49] The military support provided included medical and rescue teams, structural experts, and air and ground transportation. After the September 11 attacks, DoD provided 657 active duty personnel to support response operations at the Pentagon and the World Trade Center. DoD support deployed to the Pentagon included a defense coordinating element, logistics support, and engineers. Most of the active duty military support at the World Trade Center came from the 387 personnel manning the hospital ship *Comfort*, but it also included a defense coordinating element, a medical mobilization center, logistics support (airlift), and subject matter experts on demolitions and remote sensing operations.[50] The National Guard provided the lion's share of the military forces responding to the crisis in New York City. At their peak, a total of 5,070 New York and 1,006 New Jersey National Guardsman were committed to the effort.[51]

Given its size, nationwide disposition, and inherent capabilities, the Army, including the Army National Guard, can be expected to provide most of the military support in the event of future attacks with CBRN weapons. The Army's potential level of effort for such incidents has

[49] "After Action Report for Oklahoma Bombing Incident of 19 Apr 95," completed by the Fifth U.S. Army and Fort Sam Houston, August 17, 1995.
[50] Department of the Army, Office of the Director of Military Support, information paper, "DOD Support to the Events of and Subsequent to Sept 11th 2001," Undated.
[51] Office of the Director of Military Support, information paper, "DOD Support."

been estimated by extrapolating from past support operations. Using this approach, RAND estimates that an Army response could range from approximately 4,000 soldiers for a small biological or radiological attack, to more than 20,000 to respond to a large-scale anthrax attack in which more than 15,000 people have been exposed.[52]

It is important to distinguish military support to civil authorities from certain responses to attacks on or inside the homeland that may be exclusively or at least primarily military missions—homeland defense. The attacks of September 11 of last year are instructive. After the two hijacked airliners crashed into the Trade Center towers and a third crashed into the Pentagon, it was quickly discovered that a fourth had also been hijacked and had turned toward the Nation's Capital. We now know that, but for the courageous and heroic intervention of some of our fellow citizens, United Airlines Flight 93 may have been shot down by Air Force fighters launched to intercept it. We should all now acknowledge that, for certain actions by terrorists that may rise to the level of an "invasion"—from the air, from the sea, and potentially even from land external to the United States—the military may have to take the lead in responding. In certain circumstances, no other agency of government, at any level, will likely have the capability to respond to such attacks. That concept is firmly embedded in the formation of the new U.S. Northern Command. It is also (as noted earlier) not only authorized by the Constitution and other statutory authority, it rises to the level of one of the most basic Constitutional obligations of the Federal government. Such missions, therefore, will *become* normal military operations and personnel tempo.

---

[52] Richard Brennan, "U.S. Army Finds Its Role at Home Up for Grabs," *Rand Review*, Vol. 26, No. 2, Summer 2002 (Santa Monica: RAND, 2002), p. 47; and Eric V. Larson and John E. Peters, *Preparing the U.S. Army for Homeland Security: Concepts, Issues, and Options* (Santa Monica: RAND, 2001), p. 167.

Conclusion

Mr. Chairman and Members, again my thanks for inviting me to participate in this important hearing.

Mr. TURNER. Thank you, Mr. Wermuth.

We will go then to a round of 5-minute questions, beginning with our chairman Mr. Shays.

Mr. SHAYS. Thank you, Mr. Chairman.

Looking, Mr. Decker, at your comments, does the panel all agree that when we look at this command, that it has the traditional military role and then the asymmetrical threat of Homeland Security defense by terrorist groups? Is this the only command in our government that has this asymmetrical responsibility?

Dr. CARAFANO. Congressman.

Mr. SHAYS. You have a loud voice, but I also want you to talk through the mic as well.

Dr. CARAFANO. Right. I actually would argue that is not a good framework to use. I think actually if you look at the combatant command responsibilities, we ought to look at the commonalities as opposed to the differences. Even in Operation Iraqi Freedom, for example, you saw a commander in a theater who had critical infrastructure issues, intelligence and early warning issues, could conceivably have had civilian consequence management issues. So in actuality I think in the future of warfare all the combatant commands are going to see similar—are going to have missions that cut across what we call the National Homeland Security Strategy, the six major mission areas. And so I think that we would be better off to move toward a framework that looked at the military's requirement to meet each of those mission areas. And, yes, it's going to be somewhat different for each of the combatant commands, but I actually think it's going to be a common thread throughout the regional combatant command.

Mr. SHAYS. Let me just followup. Does someone else want to respond to that as well?

General REIMER. Mr. Chairman, I think that it is a command that has asymmetric responsibilities. I think it is somewhat similar to SOCOM when we set that up in some ways. But SOCOM certainly doesn't have the asymmetrical responsibilities that Northern Command has, plus SOCOM has their own forces assigned. So there is very much a uniqueness as far as I am concerned about Northern Command and its mission and its structure.

Mr. WERMUTH. I am going to get on Congressman's Murphy's train here for a minute.

One of the two twists from the previous testimony—and it is related to this question, perhaps not in 15 minutes, perhaps not in 30 minutes—but there are some things that this committee should consider that can't be discussed in this session that have some asymmetry to them and that fall outside the purview of the U.S. Northern Command that this committee and others of the Congress would certainly know about but may want to consider in this particular context.

Mr. SHAYS. Mr. Decker, do you want to respond?

Mr. DECKER. Sir, I think the only thing unique about the other combatant commands is, as General Anderson said, the territory that they are protecting, which is the homeland. But the issue of traditional versus asymmetric threat, that is global.

Mr. SHAYS. OK. I am unclear as to whether there needs to be a distinction between homeland defense and homeland security. Tell me why there is a distinction. Is it important?

Mr. WERMUTH. The national strategy, in trying to describe homeland security in the military context, describes the military role in homeland security at large as two subcomponents, homeland defense. That is the distinction that we draw between those terms.

The homeland security term is a broader term. Homeland defense is a subset of it that is a military mission. Military support to civil authorities is the other piece of the military mission. Those two together tend to describe the military's role in the broader term, homeland security.

Mr. SHAYS. Someone else want to respond to that? Then I'm going to followup with a question.

General REIMER. Mr. Chairman, I am with you on this issue. I don't know that there is a distinction. The people that I talk to in Oklahoma don't understand the distinction between homeland security and homeland defense.

Mr. DECKER. Mr. Chairman, I guess it was August 2001 Mr. Wermuth and myself and some others spoke to an audience at the Army War College—this is pre September 11. There was a debate at that time about the use of the term homeland security versus homeland defense. There was a perception that the American public may not like the use of the term homeland security when talking about Pentagon activities, and I sensed—and maybe, Mike, you can comment—that there was a sensitivity from the military of the perception if homeland security was part of their mission.

Mr. WERMUTH. I think that is exactly right, and Ray and I have had these exchanges in front of a number of other panels. Definitions are important. If we are going to make the distinction, we need to make it clearly; and I happen to think the national strategy went a long way in trying to draw the distinction between the two and making the homeland security term much more broad and encompassing State and local actions, the role of the private sector, the role of the Federal Government.

If the appropriate term for that purely military mission is homeland defense, it's as good a one as I know of. We need to start using those terms consistently and clearly and not intertwining them somehow or using them synonymously, because we are now very careful in the work that we do, and we are doing some work in this context for the Department of Homeland Security to keep those terms very, very distinguishable, one being the larger, one being more just the purely military mission.

Mr. SHAYS. I know my time has run out. Dr. Carafano, you made this in your statement, so maybe you can respond as well.

Dr. CARAFANO. Yes, Congressman. I do have the subject in my prepared statement, so I won't repeat what is in there, just to try to briefly summarize.

I struggle to find the utility of distinguishing between homeland security and homeland defense. When you will look at it at the end of the day, homeland defense is responsible for defending the United States against invasion. Well, what is the likelihood we are going to be invaded? I mean, other than missile defense, there is virtually no real threat today that falls into that category. So in a

sense when you look at the things we are asking the military to do, they are all essentially homeland security missions.

I don't think the distinction is useful or well understood, and I go back to my statement that I think that the six critical functions lined out in the national security strategy define requirements that need to be met. So I think that it is a much more constructive way to look at missions because then you ask the question of what capability does each Federal entity need to be to satisfy these six mission requirements, not a question of is this homeland defense or homeland security?

I think the legal qualifications are really quite clear, and there is no reason to add terms that essentially obfuscate the debate. I will agree with Mike that there is a serious education campaign that needs to be undertaken in the United States for people to clearly understand what the different legal issues are, but that is very different from needing to create a new word which doesn't help you understand them any better.

Mr. SHAYS. I wish you guys would agree a little more on this.

OK. Thank you, Mr. Chairman.

Mr. TURNER. Mr. Ruppersberger.

Mr. RUPPERSBERGER. Again, we are going through the exercise, and we just need to pull it all together. That is what we are here about.

Would you say that coordinating the exercise and training for the range of activities that really NORTHCOM is going to be responsible for is going to be the hardest challenge and then coordinating that with the State and local? We get right back to the same issue on every question almost. But that is—but what is the end game? What recommendations will you have, very simplistic term, to get to where we need to be?

General REIMER. What I would say, Congressman, is my first recommendation is that we have to go through those exercises. Those exercises have to be at all levels. They have to deal with the policy issues so the decisionmakers are exposed to the scenario you talked about in the first session.

Those are not easy issues. There are not easy answers to these issues. You have to go through that to learn from that experience and get a feel for the type of decisions the decisionmakers are going to have to make.

I remember watching Dark Winter—and we had a pretty good panel. Senator Nunn played the President. He kept saying, "tell me the worst case." The experts couldn't tell him the worst case because they didn't know where the smallpox started. Unless you can tell the point of origin, you can't determine who has been affected and how fast it is going to spread. So those are the issues that come out of those particular policy sessions.

I think the issue now in homeland security is how do we marry the training capabilities of the military, which I think are the best in the world, with what we need in the emergency responder community, which are basically run through the Office of Domestic Preparedness as a part of the Department of Homeland Security right now. I think there is a great opportunity there to use military expertise, primarily the National Guard, to establish the front-end analysis of this training program that just has to be.

Policemen are very well trained in being policemen. Firemen are very well trained in being firemen. But how do we bring them together and work together in terms of responding to a terrorist attack where we know that the first few minutes are going to save lives? That to me is where the military can bring this together and have an interdepartmental training program that allows them to do that. I think we have to be able to leverage what homeland security is going to do with what the Northern Command and Department of Defense is going to do in order to get this training program where it needs to be.

Mr. DECKER. Sir, if I can comment as well. I believe that the exercises and training are probably one of the most important issues that the Northern Command and Mr. McHale have to address. But I think the primary issue, which is one step above there, gets back to this issue that was not fully addressed earlier, and that is information sharing.

Information is the lifeblood of any organization and is the key element of all decisionmaking, and without that piece being better addressed through a lot of different approaches your exercises and your training will be of limited value. The exercises, as someone said—it should reflect reality. You should train as hard as you expect a real world situation to happen.

The information or intelligence that flows through that condition, that problem set, is key to successful outcomes with all parties that have to work together. My sense is—and I think Governor Ridge said it. He said the biggest challenge he has now as the Secretary of Department of Homeland Security is breaking this thing called information sharing, which I would challenge, and we are actually doing work for the committee on this.

It is really an interesting paradox. Information sharing versus information superiority and why organizations do not share is at the root cause of why information does not go across boundaries to help the common good.

Mr. RUPPERSBERGER. You are right. The need to know.

But terrorism is a different arena. I mean, you are not talking about corruption. You are not talking about a Mafia—well, al Qaeda in a worldwide type situation.

But the other issue, too—and I want your opinion on this. It is not only gaining that information and sharing it, but it is the analysis.

Mr. DECKER. I would say that analysis is probably the most important—assuming that you have the right data access, part of the entire process of information handling, processing and dissemination.

But here is a thought. Admiral Loy, when he was the Commandant of the Coast Guard, before he left, put out a paper which we have read and analyzed; and the Office of Naval Intelligence, in conjunction with the Coast Guard, is actually doing a test bed on this. It is called maritime domain awareness.

I would suggest to you that Northern Command, one of the most important elements that they need, which they do not have, is this situational awareness of the Federal, State, local, and perhaps the private sector, but data coming in from government and nongovernment sources, which gives the command and his staff a sense of

what is happening across the Nation in areas that perhaps might represent some threatening situations and at times key submissions from the intelligence and law enforcement community of known or heightened threat categories. Then from that quick analysis discerning what does it mean and doing some quick analysis, as compared to long-term analysis, which other parts of the government are going to be doing through the TTIC and the Homeland Security Department, the FBI's counterterrorism division and others.

So if I were, you know, General Eberhardt, I would recommend looking at information, situational awareness as being one of those fundamental enablers that he will use to make better decisions that then can support real world as well as exercise scenarios.

Mr. RUPPERSBERGER. Thank you.

Mr. TURNER. General Reimer, one of the things that I appreciate about your comments and your focus, specifically in raising the issue of Oklahoma, is that it really underscores your statements about homeland security being a process; and it is a process that we need to go through, regardless of issues of foreign threats, because they are the types of things that we ought to be doing anyway, because there will always be evil people. There will always be people that could be a threat. In looking at homeland security, there are some things that it would behoove us to undertake, regardless of whether or not we are currently under any specific threat from any foreign group.

Recognizing that we won't always think of everything and that we won't always be able to prevent everything, I would love for each of you—and, General Reimer, I am going to start with you—if you would give us your thought of what you think is the No. 1 issue of concern to you. What is the No. 1 thing that is bugging you or in your craw that you know right now we are not doing well, or that should be done? What is the No. 1 thing that is troubling you?

General REIMER. Well, that is a very good question, Mr. Chairman. I guess it is a difficult part to say the No. 1 thing. I am probably going to be a little bit all over the map sheet with my answer. But I think prior to September 11 the feeling of the average American was that terrorism is something that happens over there. We are protected by two big oceans and friendly borders with the north and south, and it is not going to affect us.

As we get further away from September 11, I am not sure we are not slipping back into that same mode; and I think really what we have to do is to change the culture here in American society to understand that we are under threat and that we are very vulnerable. The vulnerability is based upon the thing that makes our country great, the freedoms and the liberties that we all enjoy. We are a very open society. We have to be. That is our way of life. That is our economic engine.

So I guess the thing that I worry about most is how do we get the right balance between protecting the people of the United States and protecting the liberties and the rights that have made this country what it is today. If we go too far to one side, we are going to screw up the other, and it is not going to be the country

that you and I love. So we have to make sure that we get that right.

I think we have to adjust to the fact that terrorism is here. It is a long-term effect. It is not something that is going to be solved tomorrow, this year. It is going to take us a long time to eradicate terrorism. And I think eradication of terrorism is the right goal. We can't live with 50 percent, terrorism reduced by 50 percent, because it still affects the way of life. So I think we have to go at it and we have to stay for the long run.

Mr. TURNER. Thank you.

Mr. Decker.

Mr. DECKER. Sir, based on about 5 years of work that GAO has done—and a lot of it for this committee and for the House and Senate Armed Services and others—it is clear to me that perhaps the support to the first responder community, State and local level, is not happening the way that I probably would have thought it would play out after September 11.

I remember testifying before this committee pre-September 11 about the number of Federal agencies involved in combating terrorism. At that time, it was over 40. The budget was $13 billion. And we were asking, you know, are we better prepared today than we were a year ago? And this is pre-September 11. And no one really could tell us on the Executive side if we were.

Now I see a huge amount of funding going into combating terrorism, homeland security. And, again, I think there is concerns about some of the issues that were raised today: Are the State and local activities at the level of preparedness and with the commonality of command and control for incident response? Is the Nation, the populus aware of what their role and responsibility is should a smallpox Dark Winter scenario break out?

I mean, I have heard Governor Ridge talk about everyone should have a little first aid kit prepared, set up, and a communication, you know, thing within the family and so on. What I haven't heard happen within the State level organizations, if Scenario A happens in Richmond, VA, what will happen as a result of that so that every person within a 50-mile radius will know what their individual role and responsibility is and how do you do that responsibly?

This is the part that is missing. I am waiting for message two—the public announcement that Governor Ridge makes to the Nation about how to get prepared. I need the next step.

Mr. TURNER. Thank you.

Dr. CARAFANO. If I was a half-decent terrorist, I would realize by now that the only way I am going to get America's attention is to ratchet up the cost. And if I can't get a nuclear weapon, I can't get a deadly plague, so I would be thinking about what can I do to either inflict casualties or psychological damage. I would be looking at things—what I call weapons of mass destruction, in other words, combining different kinds of attack in one attack, like a critical infrastructure, and some other kind of things together, to kind of ratchet up, maybe doing some several of them simultaneously.

I would look at using new weapons that haven't been used before like SHORAD weapons, MANPADS, RPG7s and things like that, looking at threats I could launch off covert maritime platforms like UAVs or even potentially someday underwater UAVs. I mean,

things that we are not psychologically prepared for and things—and also critical infrastructure attacks, like going after chemical plants, things that can either get me a lot more casualties without having to have a nuke or a deadly virus or things that can get America's attention by attacking in some new way. So that is what I would be worried about.

Mr. WERMUTH. I would be hard pressed to state the No. 1 problem, but I would suggest that a fundamental problem here is communications, not communications equipment, but the way we communicate and what we communicate, how we communicate among Federal agencies, how we communicate Federal to State to local and back up that chain and, most importantly, how we communicate about all of this with the American people.

We are vulnerable. As Denny Reimer has noted, that is what makes us uniquely American. But we need to talk to the American people about those issues, that we can't protect them against everything, and talk as governments across the board about what we can and can't do.

Denny Reimer used the term "striking the appropriate balance." What is it we want to communicate to the American people about what they should be concerned about? You can go back and look at the anthrax attacks. We had done an abysmal job of talking to the American people before those attacks occurred about cause and effect. We really haven't done a good job of communicating the smallpox threat. All of that was based on a fear that we would cause panic in the American people if we did talk to them straightforwardly about what these threats are.

Some of us believe that is not true, that the American people can take information and process it and understand it, and if we talked straight to the American people and suggest that we will never be able to defend against everything, even if we spent the entire wealth of the Nation trying to do that, we probably wouldn't do it.

Look at the Israel example of how much effort and expense they have put into trying to defend, and it is just not perfect.

We need to come to that realization, tell the American people that, tell them what we are doing to try to prevent, prepare, respond and recover across these four major areas, but suggest that we can't do everything. But we can do things better in coordination. We can do things better with the resources, and it is not—the answer is not always just money, it really is resources across a broad spectrum.

But start to be straightforward about how we tell this story and not be reacting or responding to every time somebody has a fear about something that we go out and buy 350 million doses of the next vaccines.

Mr. TURNER. Thank you.

Mr. Chairman.

Mr. SHAYS. Thank you.

First, Mr. Wermuth, I think I totally agree with you. I know I totally agree with you, that you tell the American people the truth and they will have you do the right thing. I learned that with the Patriot Act. Because all of a sudden there was real opposition to it. And I thought there wasn't a sense of why we needed to do it. When I was able to explain why we needed to do it, I think there

was a recognition that there is logic then. We treat the American people like adults, we will get adult responses.

I am having a hard time understanding how USNORTHCOM integrates with the Department of Homeland Security. I would like you all to tell me what your perception is of how that happens.

Mr. WERMUTH. Again, there is some significant background to that in my written testimony. But I would suggest to you that NORTHCOM, in the first instance, does not coordinate directly with the Department of Homeland Security. You had the person at the table today as the designated representative of the Secretary of Defense that really is first and foremost the connection with the Department of Defense to the Department of Homeland Security. That is Paul McHale in his new Assistant Secretary of Defense hat.

As you get down into operational issues, certainly there will be some coordination and direct exchange of information and training and exercises and all of those other things. But if you look at how requests for military support to civil authorities flows, it is going to come from a locality up through a State to the Department of a Homeland Security, and then a request, not an order, comes over to the Department of Defense for the Secretary's consideration. And that will be evaluated against criteria that are reflected here in the written testimony and a determination made about what kind of support will be given. And then, through the normal process, those, you know, determinations would be made and orders go out the way they usually do through the mechanism of the joint staff to U.S. Northern Command for an execution of a mission.

But the nexus really has to be the direct coordination between DHS and the Office of the Secretary of Defense, primarily in the hat of Paul McHale.

Dr. CARAFANO. Congressman, I share your concern that—I am not sure what the answer to the question is. I do have some deep concerns. One is the area of training. There does need to be some kind of formal training relationship. Because what homeland security does in terms of multi-echelon training, NORTHCOM needs to be able to do in multi-echelon training. They need to be able to walk through that step by step.

In a broader area, I think the research and development efforts need to be harmonized on a much greater scale and the joint experimentation efforts, not just in terms of NORTHCOM requirements but in many areas. For example, the Deepwater Program and the Navy's Littoral Combat Ship Program. Those development efforts ought to be hand in hand.

So I think that is an issue that needs to be addressed. There needs to be some real synergy there, in a more formal way than there is now.

The one recommendation I have is I think NORTHCOM ought to be deeply involved in the command and control of the military support to civilian authority mission. I think logic training there is that—not necessarily that NORTHCOM needs to do that. I mean, the Department of the Army has been doing it forever and doing it just fine. But I think the great advantage to having NORTHCOM being involved on a day-to-day basis would be—is that on a day-to-day basis the people of NORTHCOM would work with the people that they—if something really big happened and

they had to work with the DCOs and State and Federal people, that they would know those people. They talk to them every day.

So if there was a way in which the kind of the day-to-day working relationship was there, that would serve them very well in a crisis thing. It wouldn't be the first time that they ever talked to the guy on the phone.

So it would make a lot of sense to get NORTHCOM involved in the military support to civilian authority business on a day-to-day basis, even though they are really there just to respond, you know, for the big one.

General REIMER. The formal coordination has already been discussed on. It really occurs between the Department of Defense and the Department of Homeland Security; and Northern Command does not deal directly, at least in my understanding, with the Department of Homeland Security.

They do participate in training exercises. For example, in the Top Off series of exercises that is run by the Office of Domestic Preparedness, NORTHCOM will have elements there as observers and get the benefit of that.

I know many of the leaders in Northern Command. They are smart folks; and they will use informal coordination methods to keep track of large cities—New York City, Washington, DC. Those that they think are must vulnerable—and establish some informal coordination methods so if they are called upon to support them they won't be starting with a blank sheet of paper.

I would hope that we can find a system, and I think it is easy to find such system, that would allow us to do a better coordination job than what I think is being done right now.

Mr. DECKER. Chairman, I think the briefing paper I have seen that the Northern Command uses, I thought was very useful. It divided the missions that they would respond to into three categories—I think it is in Mike's paper as well—extraordinary, emergency and temporary.

Temporary would be your civil support missions. You know, where they are helping with a forest fire perhaps or an inauguration. Forest fire maybe more into the emergency, and you are getting into maybe the support for counternarcotics missions. Then those really dramatic issues where you might have a maritime threat that is coming into a harbor, a missile perhaps, airplane, hostile aircraft would be in your extraordinary area.

I think the command, my sense, would have to be—they would have to look at those different types of scenarios and come up with a scheme because—for coordination. Some things are not going to bubble up from the local, State level. They are going to come across the transom from the Federal or national level or even the international level, yet they have impact on State and local activities, and vice versa. There are going to be issues that come within our borders that come up to their awareness through the Department of Homeland Security and through all of those pipes that are coming into the command.

Through exercises and training you can really refine the coordination process and the decision process that has to be almost second nature to deal with some of these situations.

When Representative Murphy brought up the train scenario, Mike and I were just kibitzing a little bit earlier; and he said, well, you know, the Governor could call out the National Guard, have them drive out an M–1 tank and put it on the track.

That might be a deterrent. It might stop that train if it is going into a built-up area and has a toxic cargo that could be very problematic.

I mean, these types of situations, I would submit to you, should be thought through, so that you could come up with a solution maybe in 10 minutes, as compared to trying to contact the FBI and work through a bureaucratic, you know, tree of phone calls. So perhaps that is part of the challenge Northern Command would have, is thinking outside of the box when they think about the full array of capabilities that are inherent in this country yet still do not violate the laws and the Constitution.

Mr. TURNER. Mr. Ruppersberger.

Mr. RUPPERSBERGER. Keep talking communication. We have a situation that I think that works right now in law enforcement. That is the strike force concept and the concept where you have—there may be different disciplines. You have narcotics strike forces, you have organized crime, white collar crime strike forces, different disciplines that are work together. They develop relationships, and they develop trust.

What is your opinion about that type of concept, about what we are talking about here? You know, a terrorism strike force? I like to call it hometown security, because that is what it is about—homeland, whatever, but hometown security. When you have the disciplines from the Federal, from NORTHCOM all of the way to the local level. So in the event that there is a crisis—and what we are talking about with terrorism is crisis, and how we are going to stop it, probably more than anything, is intelligence. And that is all part of the strike force concept, also.

What is your opinion about that? That works. That has worked.

General REIMER. I think that concept is a good concept, Congressman. I think in some States you have a Joint Terrorism Task Force. In many States I think you have a joint terrorism task force. I think the problem that you have—or the challenge that you have, anyway—is that you don't have a lot of extra policemen or extra firemen to put in that kind of joint task force. So if you take a cop off the beat and put him in there, you are paying a price somewhere else.

I think it is a matter of resources. When something happens, you are going to require many more, and that is the fundamental training that I am also talking about, is that to handle a September 11 experience or Murrah Building bombing experience, it takes the whole police force, the whole fire force. It takes a lot of outside help. How do we bring them together as smoothly and efficiently as we possible can?

But I think anything that you can do in terms of planning to work yourself through some of the tough issues that you have talked about this afternoon, I think that is something that we ought to be doing.

Mr. WERMUTH. We talked about it a while back, Congressman, in one of the earlier Gilmore Commission reports. But certainly the task force or strike force idea is a commendable one.

I would offer to you as a model, within what is now being referred to as the Los Angeles operational area, that they do in fact have a group that really is primarily State and local, but it brings the Feds in as well, the representatives of the joint terrorism task force. It is a multi-jurisdictional entity that would form the basis for even launching operations, but they are a planning and a preparedness and a training and an exercise group that also can provide the basis for a command structure and actually be that strike force, if you will, if there is an event. It is a good model for the rest of the Nation, and Secretary Ridge visited it last week because he thought it was important enough to see what they were doing.

Mr. DECKER. Sir, let me approach your question just slightly different. That is, if you look at a spectrum of threats that are affecting or could potentially affect this country from a homeland security perspective, that should be the genesis of, one, your information fusion that has to happen; and that would be an all-source type fusion. When we were out at Northern Command last week, we got a brief from the J2, the intelligence office department; and they showed us a diagram, an unclassified diagram, in which they are taking information about—this is part of their mission, the counternarcotics role that JTF6 down in El Paso is doing and that piece.

They are also looking at cyber when there is a lot of unusual activity that is affecting the country. They are looking at missile launches that may happen overseas that have impact here. They are looking at a wide range of threats. So that is going to be accepted universally, that if you are a Governor, you are a mayor, you are the President, you have to look at the totality of all of those things that could impact you.

Now what I do see happening with these joint terrorism strike forces is that there is a preoccupation with criminality. They are focused on people that are breaking the law, narcotics people that are committing crimes that are maybe involving components of weapons of mass destruction, not terrorists. There are terrorists and others. There are cyber people that are doing pernicious things. In that group you should have your health expert who can perhaps see something that may have a biological element that is going to be important.

And what about someone who understands chemical plants and those issues which you might have an improvised situation, where it could be either an accident or a man-made, but you have a detonation at a chemical facility, you don't care really who did it and how it happened initially, but you have to respond? I don't see that type of synergism happening across the government in all of the different areas and layers to then have a better response capability.

Mr. RUPPERSBERGER. Thank you.

Mr. TURNER. I don't have an additional question, but I did want to make a comment about something that Dr. Carafano said. You were talking about that once these agencies begin to communicate and have relationships with each other and a known, if you will,

hierarchy as to how to address these issues that will also have an additional benefit.

Well, Mr. Ruppersberger had indicated that he was a county administrator and that we had a mayor and a Governor who were also serving on this committee.

I was the mayor for the city of Dayton, and we are one of the few cities that actually had weapons of mass destruction terrorist attack exercises prior to September 11. Attorney General John Ashcroft came where we did a mock exercise, as if a chemical attack had occurred at our basketball arena, shutting down portions of a major interstate, working together with the Federal agencies, the county, the State and the city, including representatives from Wright-Patterson Air Force Base, which obviously is a significant interest in the community.

When September 11 happened, it was so important that we had those exercises because we didn't run around as a community saying to ourselves, who is in charge, or what agency should we get in touch with. People knew already who was at various agencies, who was in charge, who was going to be in charge of what activities, all of the way down to what streets were going to be closed, what buildings were going to be protected, so that emergency equipment knew what ways they could or could not go.

It had a tremendous impact on our community, because it lowered the stress for everyone as they went about trying to think what types of responses that we would have to do, as they also went about the issue that the whole country faced, which was, what is next. People were able to go about their jobs. Wright-Patterson Air Force Base and all of the Federal and local agencies were coordinating.

So, Dr. Carafano, I think you are obviously correct that getting people to work together on these topics, it is not just that they might know what they are facing more, but they will get to know each other and get to know how the agencies work together.

Dr. CARAFANO. If I can just comment on that. I think the biggest bang for the buck—I mean, the real center of gravity to really making huge steps forward is integrated multi-echelon training, where local, State and Federal agencies train together; and it has to be a system which is relatively turnkey, in other words, that, you know, a mayor can walk out of his office, do this training and go back.

It is not something that requires a long lead time, a lot of external stuff. It is something you can roll in, these guys can plug in, they can do this training. It is something that has to have a very robust lessons learned and best practices system, which just doesn't feed back into the communities but feeds into the research and development and the requirements process, both in—at the—in some respects with the community and State level but also at the Federal level, both through the homeland defense and the Defense Department, so we are buying the right things and we are fielding the right forces to meet the gaps that local and State communities have in providing national security to the people.

So that is where I think the—I mean, if we learned any lessons from the training renaissance at the military—or the renaissance of military capabilities that we gained in the 1980's, a lot of that

was gained through a multi-echelon training system, that you not just trained these people but gave us insights into what our shortfalls were. In some cases, smart guys came up with patches to make it work in the short term; in some cases, some scientists went out and created the widget that solved the problem.

That is why when we went to war in 1991 we were a much better Army than we were in 1980, because the lessons learned from that training system were plowed back in to make the military better to respond to the requirements that we foresaw down the road.

Mr. TURNER. Very good.

Any other comments? Mr. Chairman.

Mr. SHAYS. When I look back over the last 4 years one of the most valuable events and even committee hearings that we had was the tabletop done in Stratford, where we brought in 200 people. I am absolutely convinced, and I think this committee is going to want to weigh in a bit more, that I think those tabletops are essential. I know they are not inexpensive, but you bring 200 people together and they figure out how to interact with each other.

I guess the one area—I am not going to ask for an answer to the question, but I don't know how feasible it is for USNORTHCOM to be training with all of the different levels of government and all of the different States and all of the different communities, yet I know that they have to do it.

I guess maybe the tabletop is one of the ways that they can at least know how they interact. But, you know, visualizing the Army fighting alongside the police to get into a building, I am just not sure is—you know, I just don't know. It is going to be interesting for us to try to sort that out.

General REIMER. Can I comment on that?

Because I think you are absolutely right. I think the tabletop is the best return on investment that we can get right now, and giving decisionmakers experience at going through some of these complex issues and knowing what is involved and the tradeoffs that are involved is invaluable. I think that they are relatively inexpensive compared to what we are going to put into this program. You can run one for less than $100,000, I think——

Mr. SHAYS. I think the one in Connecticut was $25,000. It was tremendous.

General REIMER. And we know how to do that.

I think, as far as NORTHCOM is concerned, one of the things I would suggest that we look at and why I keep pushing the National Guard is because I think you can really run an advisory or coordination system, starting with Northern Command, through the two CANUSA armies, the Continental U.S. armies that still exist in the U.S. Army, one on the west, one on the east. Then they have tentacles down to all 50 States through the State area command which could then tie this whole program together where it is not all Northern Command supervising 50 States as such but you are using a chain of command that already exists.

That is not entirely clean, because Northern Command does not have control over the National Guard unless they are in Title 10, so why I say we have to think anew. We have to think our way through some of that.

There is also this issue of you have local first responders who are part of the National Guard units. But at the very minimum we ought to figure out how not to deploy first responders to Guard and air bases in Germany when we got a mission back here in the United States.

So I think there is some fresh thinking that can be done. There is a little bit of restructuring that probably needs to be done. But I don't think it is a massive overhaul.

The big issue is a policy issue. What is homeland defense? What does homeland security really mean? What is the role of the Department of Defense? That is the tough problem that you all and others in Washington are going to have to wrestle with. But that has got to be solved.

Mr. SHAYS. Is there anyone in the audience still here from USNORTHCOM? Anyone?

That is too bad.

Mr. DECKER. Mr. Chairman, can I make one comment on that? I think there is one issue that Northern Command could use to its benefit to help them on this outreach in doing tabletop exercises; technology.

There are so many interactive capabilities now that with a module and with certain and very simple technology at these different States you could do tabletops focussed on command and control, the decisionmaking part, and replicate it every month across the Nation and do that with tremendous efficiency and cost savings.

Kids are playing games in countries now, playing the same game in different countries at the same time, and I can't imagine that we as a Nation couldn't figure out how to do that with 50 States and a couple of territories in a way that would make sense.

Mr. SHAYS. Let me ask you this. Right now, would it be more the responsibility of someone from USNORTHCOM to initiate the tabletop or someone from the Department of Homeland Security? Who should be taking the initiative?

I am also beginning to think like we have two different groups and we have two—you don't have ownership.

General REIMER. For the emergnecy responders, it is the Department of Homeland Security that has to initiate that; and Northern Command would be an observer.

Mr. SHAYS. That makes sense.

Thank you, Mr. Chairman. Appreciate it.

Mr. TURNER. We want to thank our panelists and ask if they have any additional comments or any responses that they want to provide to questions.

Mr. WERMUTH. I have one that might be a suggestion for next steps for your subcommittee. It was first recognized in the National Strategy for Homeland Security. It was legislated in the Homeland Security Act of 2002 by the Congress. It has now been directed, by virtue of Homeland Security Presidential Directive No. 5, the creation of a national response plan, in the execution piece of that, the National Incident Management System. The Department of Homeland Security has the responsibility to do that, to develop that plan and its related incident management system—national, not Federal like the old Federal response plan that FEMA had.

It is going to be much broader. It needs to be all inclusive. It needs to address some of these issues like training and exercises and how all of that fits together and how the States and localities and the private sector and, yes, even perhaps the media and the American people have a role in all of that.

That process is unfolding. But in just a few short weeks, perhaps a couple of months, there will be more clarity about what the national response plan looks like and what the framework is for the National Incident Management System.

Mr. SHAYS. Could the chairman just—are you suggesting that maybe they are not working as quickly as they should or are you trying to make the committee aware that this is a work in process?

Mr. WERMUTH. I think they are working fast and furious to develop both of those pieces. So there is—but it would be—I would think it would be useful to this committee to bring representatives of the Department up here perhaps, if not in the summer certainly in the early fall, and get the full laydown on how that plan is and the national management incident system is unfolding.

Mr. SHAYS. That is a helpful suggestion. Thank you.

Mr. TURNER. Any other comments from members of the panel? I want to thank you for participating in this and also thank Chairman Shays for his leadership on this topic. Thank you.

We are adjourned.

[Whereupon, at 3:40 p.m., the subcommittee was adjourned.]

○