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THE RELATIONSHIP BETWEEN HOMELAND DEFENSE
AND HOMELAND SECURITY: U.S. NORTHERN
COMMAND'S RUBIK'S CUBE

by

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Contents

DISCLAIMER	ii
ILLUSTRATIONS	iv
TABLES	v
ACKNOWLEDGEMENTS	vi
ABSTRACT	vii
THE RESURGENCE OF NATIONAL SECURITY	1
Introduction	1
What is homeland security and homeland defense?	4
Understanding the threats to national security	6
Defining the response	8
HISTORY AND ORGANIZATIONAL STRUCTURE	10
DHS Creation	10
DHS Limitations	12
DoD Background	13
Creation of U.S. Northern Command	14
U.S. Code limits on military role within the U.S.	18
Uniqueness of the Coast Guard role	22
REDEFINING NATIONAL SECURITY WITH HOMELAND DEFENSE AND HOMELAND SECURITY	25
Organizing for future threats	30
Foreign National Security Struggles	37
UK and Northern Ireland	38
Israel and Palestine	41
India and Pakistan	43
REVISING THE SECURITY/DEFENSE RELATIONSHIP – A RECAP	46
BIBLIOGRAPHY	53

Illustrations

	<i>Page</i>
Figure 1 National Defense roles	3
Figure 2 U.S. Northern Command structure	18
Figure 3 Threat Capability Lines	32
Figure 4 Example of risk analysis with planning threshold.....	33
Figure 5 Example of risk assessment model and planning threshold	33
Figure 6 Example of gap analysis with risk assessment	36

Tables

Page

Table 1 - Deaths due to the Security Situation in Northern Ireland 1969 – 200452

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Abstract

Since September 11, 2001, America has conducted sweeping executive branch changes and funneled vast economic and military resources toward lessening the opportunity for terrorists to strike within the borders of the United States.

Two new bulwarks were added to the ramparts for securing and defending our nation; they were the Department of Homeland Security (DHS) and U.S. Northern Command of the Department of Defense (DoD). With these additions, the spectrum between security and defense needs a new lens through which to focus the individual actions of each of these new Federal entities. The Departments of Homeland Security and Defense have the opportunity, the responsibility, and the challenge to confront the vulnerabilities and strengths that will assure the protection, prosperity, sovereignty, and freedom for which America stands. While there is no perfect national defense prescription, six modest proposals are presented for improving homeland defense and homeland security.

The relationship between homeland defense and security requires some detailed understanding of each component. The author explains the conceptual background of each component, along with the functional Federal entities of DHS and DoD. The author also examines some of the legal limitations designed to insure civil control over military activities. These limitations are imposed upon the military when conducting operations within the U.S. By reviewing current threat analysis techniques used by the DoD, and

examining three historical examples of foreign national struggles with terrorism and insurgency, the author proposes six ideas to enhance the DHS and the DoD relationship.

The common defense of America has never been stronger with the military capability that exists today. But when defending against the threat of terrorism within the United States, the DoD role is fairly limited to organizing, planning, and war-gaming possible scenarios. The DHS provides the primary contribution to the fight against terrorism within the U.S. and the DoD must use its unique capabilities to operate side-by-side with the DHS.

Chapter 1

The Resurgence of National Security

We confide in our strength, without boasting of it; we respect that of others, without fearing it.

– Thomas Jefferson

Introduction

America has awakened to the security challenges of the 21st century. Terrorism has emerged as the asymmetric threat that has crossed the oceans on our east and west, those once impenetrable boundaries with other countries of the world that struggled with violence, insurgency, and terrorism.

“War has been waged against us by stealth and deceit and murder. This Nation is peaceful, but fierce when stirred to anger. This conflict was begun on the timing and terms of others. It will end in a way, and at an hour, of our choosing,” declared President Bush three days after the September 11th terrorist attack on the World Trade Center and Pentagon.¹ Since that day America has conducted sweeping executive branch changes and funneled vast economic and military resources toward denying terrorists the opportunity to strike again within the borders of the United States. Two new bulwarks were added to the ramparts for securing and defending our nation; they were the Department of Homeland Security (DHS) and U.S. Northern Command of the

Department of Defense (DoD). With these additions, the spectrum between security and defense needs a new lens through which to focus the individual actions of each of these new Federal entities. The Departments of Homeland Security and Defense have the opportunity, the responsibility, and the challenge to confront the vulnerabilities and strengths that will assure the protection, prosperity, sovereignty, and freedom for which America stands.

This paper was borne of a request from U.S. Northern Command's (NORTHCOM) J5 Strategy and Policy division. The request was to examine and define the relationship between homeland defense and homeland security by taking into account all existing directives and expectations of the interagency process. Further, NORTHCOM J5 desired a definition of the most effective relationship between NORTHCOM and Department of Homeland Security to include roles, missions, and responsibilities. This paper explains the relationship between the DHS and the DoD, examines the role of NORTHCOM in that relationship, and provides observations aimed at enhancing the DHS and the DoD relationship for a seamless front toward homeland defense and homeland security. Using historical case studies to chart our course for improved security, this paper examines recent security threats within the United Kingdom, Israel, and India, and the means in which these nations have dealt with the issues. Certainly no two situations are identical, but each comparative case illuminates some lessons that may affect the choices the U.S. makes regarding its defense and security posture.

The National Security Strategy issued by President George W. Bush in 2002 reflects all aspects of American might in world affairs but the author has limited the scope of national security to the relevant issues surrounding national defense. National defense

issues addressed in this paper are not intended to go beyond the borders of the U.S. except where specifically mentioned. In the author's view of national defense, the spectrum from homeland security to homeland defense comprehensively represents the DHS's and the DoD's roles.

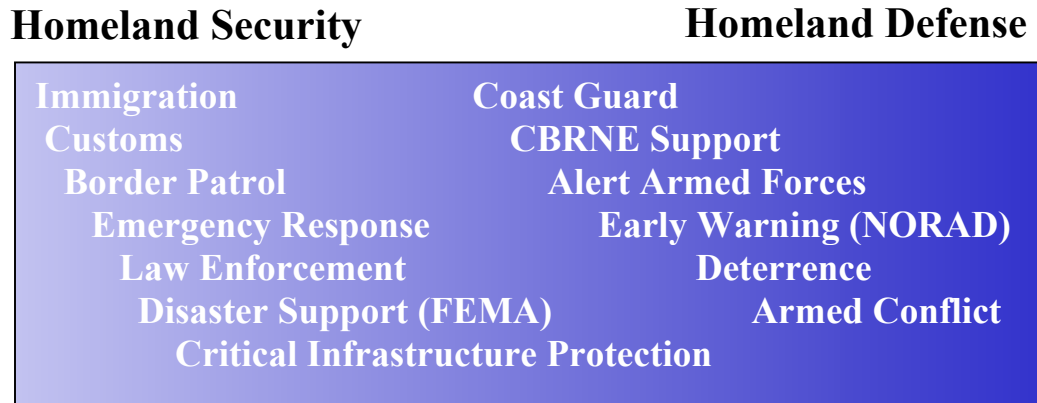


Figure 1 National Defense roles

While there is no perfect national defense prescription, six modest proposals are presented for improving homeland defense and homeland security. Each proposal below is explained in further detail within the body of the paper, and is highlighted within the text to remind the reader of the author's intended significance.

1. *Joint Threat Assessment*: a coordinated, joint effort by the DHS and the DoD is necessary to improve threat assessment methodology.
2. *Integrated North American Force (INAF)*: establishing a unified tri-national defense force to improve North American security.
 - a. Improving the relationship with Mexico by advancing military relations is essential to protect our borders.
 - b. Integrating NORAD into NORTHCOM will improve unity of command and unity of effort.
3. *NSA Contribution*: using outside agencies, such as the National Security Agency (NSA), is advantageous to improving the analysis of a successful force structure.

4. *DHS International Agreements*: the expanding role of the DHS to negotiate international agreements between States and Canada or Mexico is desirable.
5. *Timely Military Assistance*: emphasizing the relative strength that the DoD forces can bring to a crisis within the first 72 hours.
6. *Infrastructure Security*: the DHS should consider establishing a national infrastructure security force to enhance internal security at the nation's most critical sites.

What is homeland security and homeland defense?

Since the terrorist attacks of September 11, 2001, the Federal government has instituted sweeping security and defense transformations, and energized the defense-industrial complex with the infusion of billions of dollars. There are numerous and various efforts from every angle to capture a portion of the liberal spending in areas of *homeland security* and *homeland defense*. These terms are distinct and it is important to understand them as they are used in context today. In rudimentary terms, homeland defense may be most easily related to the military arm of national defense, and homeland security may be differentiated as the civil arm of national defense.

Homeland defense characterizes the efforts, predominantly by the DoD, to deter, prevent, defeat and mitigate symmetric and asymmetric threats to our nation and provide assistance to civil authorities in times of crises, natural or manmade. Symmetric threats are those posed by an adversary that attempts to overmatch his opponent strength for strength. Asymmetric threats are those posed by an adversary that attempts to use some means to which the enemy cannot effectively respond in kind.² The DoD's defense is cloaked in the might of the uniformed services, combined and synergized under the direction of U.S. Northern Command, the most recent addition to the Unified Command Plan.

Homeland security refers to the combined efforts of a predominantly non-military national team comprised of local, State and Federal entities, focused on preventing, preempting, deterring, and defeating aggression against the United States. (Note: this is a broader definition than that used by DHS because it does not focus exclusively on terrorism. Also, there are cases of military assistance to civil authorities where DoD forces are a planned composite of the DHS response.) Homeland security is also the proper name of the newest cabinet position, the Department of Homeland Security. In an effort to centralize the command of our national efforts to thwart terrorism against our nation, 22 government services were combined into five directorates under the Department of Homeland Security. The intended effect of this amalgamation was to streamline their processes, pool resources, and enhance lateral communication, a key failure in uncovering the terrorist plans for 9/11. The directorates are Border and Transportation Security, Emergency Preparedness and Response, Science and Technology, Information Analysis and Infrastructure Protection, and Management.³ In addition, the Coast Guard's peacetime authority was transferred from the Department of Transportation to the Department of Homeland Security. Throughout this paper there's been selective use of the terms national security, national defense, homeland security and homeland defense. For common terminology purposes, national security refers to the aggregate of security issues facing America. National defense refers to the spectrum of roles and responsibilities between homeland security and homeland defense. Homeland security refers to the predominant civil side of national security. Homeland defense refers to the predominant military side of national security.

Understanding the threats to national security

The National Strategy for Homeland Security, July 2002, defines homeland security as a “concentrated national effort to prevent terrorist attacks within the U.S., reduce our vulnerability to terrorism and minimize the damage, and to recover from attacks that do occur.”⁴ The National Strategy for Homeland Security is terrorist-centric. The purpose of the strategy is to mobilize and organize our nation to secure the U.S. homeland from terrorist attacks. Certainly terrorism is the most recent threat to U.S. security and well-being, but it is not the sole threat to our national security.

The roles and responsibilities of the DoD and the DHS must be clearly articulated to best serve our national interests and unite the seam between the two departments. It is the shrewdness of the enemy that tugs at the smallest tear in the fabric of national defense. While terrorism is a major focus of U.S. national security for the foreseeable future, the DoD’s interpretation of security threats includes a broader array of threats and the means by which they may be employed. As stated in NORTHCOM’s vision statement, these threats include traditional threats such as aircraft, kinetic weapons, ballistic and cruise missiles, as well as asymmetric threats such as information and economic attacks, and weapons of mass destruction.⁵

The creation of U.S. Northern Command thrust to the forefront the military’s core responsibility, that of defending the nation. It also reinvigorated its secondary responsibility to support civil authorities. The President highlighted the military’s role in defense in his statement on the evening of September 11, 2001. In it he said, “Immediately following the first attack, I implemented our government's emergency response plans. Our military is powerful, and it's prepared. Our emergency teams are working in New York City and Washington, D.C. to help with local rescue efforts.”⁶

Using terrorism as the central focus of current policy decision making, declaring a global war on terror, attacking Iraq, and establishing the Department of Homeland Security, were all means to describe and gain broad support from both the public and Congress to create robust security policy changes. But the nation has a tendency to again become quiescent when the perception is that the threat has diminished and has become unlikely. As we get farther from 9/11 we must remember the need to sustain our national vigilance to protect our homeland for the long haul. We must prioritize our efforts now, as limited resources will constrain the scope of choices in the future; until now resources have been practically unlimited.

It is time to regain our composure and create a workable, long-term, sustainable solution for national defense. Unfortunately, the amount of acceptable risk to this mission is difficult and politically challenging to define. It is critical for those tasked with the execution of homeland defense and security to have clearly articulated requirements regarding their capabilities. These form the premise from which planners design concepts of operation and contingency plans to handle a full range of scenarios. Those scenarios must be based upon a joint framework shared across the Departments in order to insure our national unity of effort, regardless of whether we wear a flight suit, battle dress uniform, or a coat and tie.

It is not possible in any society, and less so in a free society, to reduce the risk of an act of aggression or terrorism to zero. Therefore using a risk matrix allows commanders and senior leaders to guide planning, organizing, equipping and training. The risk matrix examines the relationship between chance and magnitude; that is the chance of an event occurring and the magnitude of devastation that might be associated with a successful

attack. From this common framework we can better determine force structure and budgets, but until we are able to ascertain the level to which we will put our efforts, planning becomes an exercise in futility.

Defining the response

In the quest for acceptable risk, there is a fine counterbalance between national security and personal freedom. Internal national efforts to detect potential threats are compounded by our own competing desire for a free and liberal democracy. There is little national will to subject the country to the tyrannical oppression of a police state in order to virtually eliminate any chance of terrorism, insurgency, or aggression. But as an interim step toward enhanced security, national resolve might tolerate drastically reduced immigration levels and the removal of illegal aliens as a measure to reduce the opportunity of terrorism. The criterion for success is not whether we're able to prevent all terrorist attacks – we will not. Rather, whether we will be able to continue living in an open, democratic society despite these attacks.⁷

The military has demonstrated over time to be an institution that remains largely unchanged as political landscape shifts with each administration. Therefore, while homeland security initiatives currently have the ear and purse of the Congress, their prominence may wane as political party leadership alternates in the years ahead. Hence it may be quite likely that it will be the military that will advance the evolution of national security. Aside from terrorism, which one may suggest has become a catchall to label any threat acting outside the international norms for states⁸, what sort of specific threat categories should concern the DoD and which specific threat categories should fall within the realm of responsibility for the DHS without raising the interest of the ACLU in the

process? The DHS has the responsibility to ensure the relative freedom of the daily and ordinary activities of the nation. By this expectation, the DHS's policies and procedures must scrutinize the free movement and commerce of individuals and businesses within the range of acceptable privacy invasion. It is the deterrence effect at this first level of protection, through Coast Guard, Border, Transportation, Customs and Immigrations security, that may make terrorism more difficult to conduct and simultaneously reduce its probability of occurring.

The DoD's defensive responsibility toward state actors is quite clear – military response to military aggression. The attack on Pearl Harbor can clearly be seen as such a scenario requiring a DoD response. But against non-state actors, DHS's prevention and preemption efforts must knowingly fail before the DoD becomes involved domestically. The DoD must aim to be prepared and ready to engage when the DHS is no longer able to deter or defeat the threat with its own tools of trade. Chapter 3 examines the role of the military in support of homeland security, by examining the struggles of other nations against acts of terrorism and insurgency. As you will see, a strong and well-trained local police force is the recurring characteristic of an effective organization necessary to prevent and defeat insurgents and terrorists.

Chapter 2

History and Organizational Structure

Out of intense complexities intense simplicities emerge.

– Winston Churchill

DHS Creation

Since 9/11 the Congress and the President's administration have taken dramatic steps to assure the nation that they are doing all that is humanly possible to reduce the threat of terrorism and protect the nation. Prior to the Homeland Security Act of 2002, the disparate functions of today's DHS were divided among 100 government organizations under at least 8 different Departments.⁹ Examples of the pre-DHS organization include the National Infrastructure Protection under the FBI, Critical Infrastructure Office under the Department of Commerce, and the Customs Service under the Department of Treasury. President Bush argued in his establishment of the DHS that this was the most significant transformation of the government in over 50 years. The transformation and alignment of the previous patchwork of government activities into a single department serves to enhance the efficiency and effectiveness of our national security. Taken from the Homeland Security Act of 2002, the primary missions of the DHS are to:

- (A) Prevent terrorist attacks within the U.S.
- (B) Reduce the vulnerability of the U.S. to terrorism.

- (C) Minimize the damage, and assist in the recovery, from terrorist attacks that do occur within the U.S.
- (D) Carry out all functions of entities transferred to the Department, including act as a focal point regarding natural and manmade crises and emergency planning.
- (E) Ensure that the functions of the agencies and subdivisions within the Department that are not related directly to securing the homeland are not diminished or neglected except by a specific explicit Act of Congress.
- (F) Ensure that the overall economic security of the U.S. is not diminished by efforts, activities, and programs aimed at securing the homeland.
- (G) Monitor connections between illegal drug trafficking and terrorism, coordinate efforts to sever such connections, and otherwise contribute to efforts to interdict illegal drug trafficking.¹⁰

The DHS touted their first year accomplishments as significant progress toward a more secure nation. These accomplishments included identifying 107 individuals wanted for U.S. crimes through the U.S. Visitor and Immigrant Status Indicator Technology program; combining immigration, customs, and agriculture functions at the borders; beefing up port security with fiscal initiatives of \$482 million and expanding the Container Security Initiative to 17 ports; improving threat protection by matching threat information with potential targets; and, standing up the Homeland Security Operations Center, a 24/7 warning system incorporating 26 federal and local law enforcement agencies and intelligence community members into the same system.¹¹

DHS Limitations

The investigation and prosecution of terrorism was not vested solely within the DHS because the U.S. is comprised of over 87,000 local and Native American tribal jurisdictions. Rather Federal, State, and local law enforcement agencies conduct investigations and prosecutions of acts in question within their jurisdiction. The Homeland Security Act was also very explicit about the DHS's authority limitations with respect to warfighting, military defense, and other military activities.¹² However, U.S. Code Title 49 "Transportation" gave the DHS the authority to provide for participation of members of the armed forces in carrying out duties related to the regulation and protection of air traffic and other duties and powers of the Secretary of Homeland Security.¹³

The DHS is limited by its inability to create compacts of agreement between states. This limitation, however, does not warrant much concern because states have enacted compacts between themselves when economies of force exists and it's advantageous to both states to agree. But international compacts pose another challenge. The DHS should have authority to

DHS International Agreements: the expanding role of DHS to negotiate international agreements between States and Canada or Mexico is desirable.

oversee limited international agreements for the purposes of emergency assistance and relief since seventeen states border either Canada or Mexico. It has always been the Federal government's role to enact agreements with other countries, not a role of individual states within the Union. The U.S. Constitution explicitly states in Section 10 of Article 1, that no state shall enter into any treaty, alliance, or confederation, with another state or foreign power, unless actually invaded or in such imminent danger as will not

admit of delay.¹⁴ Therefore, expanding the DHS's role to negotiate international agreements in behalf of affected bordering states may improve the overall security response within North America. This treaty-making role might be designed similarly to that of the U.S. Trade Representative. States then would be entrusted to refine the details of the agreement between the localities. As is the case of one Washington State community, an uncommon support agreement has been signed between Vancouver, British Columbia and the state of Washington. In this agreement, the Washington National Guard and Canadian troops have reciprocal response arrangements for natural disasters, such as earthquakes, along the border area without regard for the line of demarcation.¹⁵

DoD Background

Prior to the establishment of U.S. Northern Command, homeland defense activities fell on the U.S. Strategic Command. Engrained in its cold war beginnings, Strategic Command controlled the nuclear arsenal of the U.S. and was the nucleus of U.S. deterrence. Strategic Command emerged from the U.S. Air Force's Strategic Air Command following the fall of the Warsaw Pact. The new post-Soviet world marked a defining defense period when most military leaders held that the organization and forces had to be different, not simply smaller, to meet the new security challenge. In 1991 President George H. W. Bush approved the creation of U.S. Strategic Command, combining the Navy's submarine piece of the strategic deterrent with the Air Force bomber and land-based elements. This joining of command and control for efficiency was the culmination of a process initiated by the Defense Reorganization Act of 1986 (Goldwater-Nichols Act).¹⁶

During the same time as U.S. nuclear deterrent forces expanded in the 1950's, an agreement and treaty was signed between Canada and the U.S. for the purpose of monitoring and defending the North American continental airspace. North American Aerospace Defense Command (NORAD) played the vital bi-national role of aerospace warning for the North American borders from man-made objects in space and the detection, validation and warning of attack by aircraft, missiles or space vehicles.¹⁷ As had been by its design in 1957, NORAD's focus was toward external threats approaching the U.S. and Canadian borders, particularly along the potential attack routes via Arctic airspace. In light of today's asymmetric threats, which do not rely upon over-the-pole aerial tactics, the southern approaches to North America are as critical as ever to national security.

Creation of U.S. Northern Command

The U.S. has had a robust national defense throughout the latter part of the 20th century. During the years marking the 'cold war', U.S. conventional and nuclear forces stood guard around the clock to ensure that U.S. deterrence and sovereignty were intact. Following the collapse of the USSR, the U.S. reduced its force structure to reflect the perceived changes in the strategic military environment. At the other end of the spectrum, military assistance to civil authority activities actually was becoming more centralized and organized during the 90's, primarily as a result of the Defense Reorganization Act of 1986. Some Pentagon officials started circulating the idea of a new unified command strictly aimed at the homeland in order to organize a better military assistance response. The idea of a combatant command for the continental U.S. was not new. Previous Defense Secretary William Cohen suggested such an idea in 1998. Instead, Cohen had to

be satisfied with establishing the Joint Task Force-Civil Support and Joint Task Force Headquarters-Homeland Security.¹⁸ These two agencies tasked with supporting civil authorities formalized the DoD unique role and ability to coordinate land and maritime forces, and provide leading assistance with a chemical, biological, radiological, nuclear, and high-yield explosives (CBRNE) incident.

Defense Secretary Donald Rumsfeld created U.S. Northern Command in 2002 as a change to the Unified Command Plan. The attacks of 9/11 swung the pendulum in favor of establishing U.S. Northern Command. The idea of homeland defense changed from meeting threats on foreign battlefields and defending interests abroad, to literally defending the air, sea and land approaches to the continental U.S.¹⁹ Yet NORTHCOM sees its role even broader, as a defense in depth that includes the homeland, the approaches, and the overseas missions of other regional combatant commanders. The Chairman of the Joint Chiefs of Staff conducts a biannual unified command plan review and evaluates his commander's areas of responsibility.

NORTHCOM is a regional unified command under the Department of Defense. A unified command has a broad continuing mission under a single commander, is composed from two or more military departments necessitating a single strategic direction and coordination of operations to be effective, and is established by the President through the Secretary of Defense.²⁰ One of the primary responsibilities of the commander of a unified command is the development and production of joint operation plans. These crisis response plans are in the form of OPLANS (Operation Plan), CONPLANS (Concept Plan), and functional plans,²¹ and enable combatant commanders

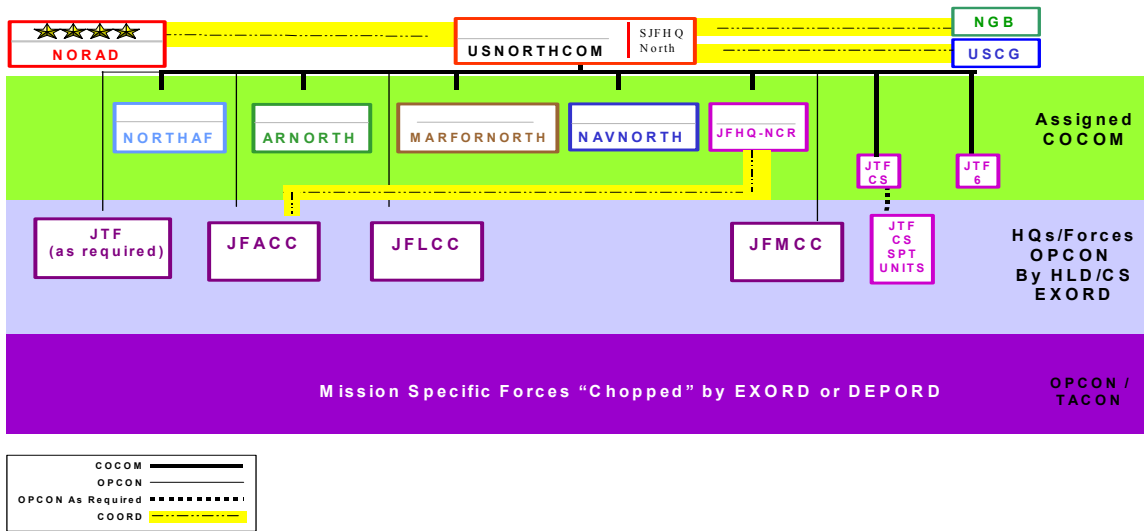
to anticipate force levels and type of equipment required to accomplish a specific mission or goal.

NORTHCOM's mission is homeland defense and civil support. It plans, organizes, and executes defense and support missions, but has few permanently assigned forces. Forces are assigned to the command only when required to execute missions ordered by the President.²² As the lead agent for defense, Northern Command conducts armed military defense of the nation using both lethal and non-lethal tactics to detect, deter, prevent and defeat threats and aggression aimed at the U.S., its territories, and interests within the assigned area of responsibility (AOR). Military defense covers the array of federal responses that could be employed to defend the safety and security of the nation, and include air, land and sea defenses engaged in defeating a direct attack upon our borders by a state or non-state actor. By design, NORTHCOM's AOR includes the sovereignties of Canada, Mexico, Cuba, British Turks and Caicos and Bermuda, as well as Clipperton Island off the coast of Mexico, possessed by France. With a permanent staff of about 500 at Peterson AFB in Colorado Springs, it conducts planning for numerous scenarios requiring a military response. Detection is the one operation that NORTHCOM does not do within the U.S. boundary of its area of responsibility. Detection implies surveillance and using reconnaissance resources to gather data on an activity, but this is prohibited within the U.S. without a specific legal warrant. NORTHCOM does conduct some authorized levels of detection and information collection to create a common operating picture within the U.S., but it also relies heavily upon the synergistic effects of other regional commands to provide intelligence and warning regarding a potential attack.

As a supporting agency for civil assistance, NORTHCOM also stands ready to provide military assistance to civil authorities including consequence management operations when directed by the President or the Secretary of Defense. Since NORTHCOM does not have the operational command and control of permanently assigned tactical forces, it performs its role in defense by planning and organizing forces, and engaging in exercises to improve the procedures of communication and control. For instance, in 2003 and early 2004 there were at least two exercises aimed at exposing the strengths and deficiencies that currently exist in the military assistance mission. Both United Defense '04 and Determined Promise '03 evaluated the integration of military and civil resources in a crisis scenario. Determined Promise '03, was NORTHCOM's last major exercise before becoming an operational command, which involved local, State and Federal agencies in a Las Vegas, Nevada scenario, while United Defense '04 included a five state integration of 50 different local, state and federal agencies.

NORTHCOM's organizational structure is designed to handle a spectrum of issues, from armed intervention of external aggressors, to responding CBRNE (chemical, biological, radiological, nuclear, and high-yield explosive) catastrophes, to fighting forest fires. It currently has three standing joint forces tailored to handle the spectrum of homeland security crises as they arise. They are Standing Joint Force Headquarters North, Joint Task Force-Civil Support, and Joint Task Force-6. Standing Joint Force Headquarters North is the component of U.S. Northern Command that coordinates the land and maritime defense of the continental U.S. It plans, integrates, and coordinates homeland defense and civil support to lead federal agencies, such as the Federal Emergency Management Agency (FEMA). Joint Task Force-Civil Support (JTF-CS) is

under the operational control of NORTHCOM. The mission of JTF-CS is to provide command and control for the DoD forces deployed in support of the lead federal agency managing the consequences of a CBRNE incident. Joint Task Force-6 is a multi-service command comprised of approximately 160 Soldiers, Sailors, Marines, Airmen and the DoD civilian specialists. The task force provides counter-drug support to Federal, regional, State and local law enforcement agencies.



- | | |
|---|---|
| ARNORTH – NORTHCOM Army Component Commander | JFMCC – Joint Force Maritime Component Commander |
| COCOM – Combatant Command (command authority) | MARFORNORTH – NORTHCOM Marine Component Commander |
| DEPORD – Deploy Order | NAVNORTH – NORTHCOM Naval Component Commander |
| EXORD – Execute Order | NGB – National Guard Bureau |
| JFACC – Joint Force Air Component Commander | NORTHAF – NORTHCOM Air Component Commander |
| JFHQ-NCR – Joint Force Headquarters-National Command Region | OPCON –Operational Control |
| JFLCC – Joint Force Land Component Commander | SJFHQ – Standing Joint Force Headquarters |
| | USCG – US Coast Guard |

Figure 2 U.S. Northern Command structure²³

U.S. Code limits on military role within the U.S.

In keeping with the long-standing policy of civilian control over the military, U.S. Code defines the limitations of use of military units in homeland defense and homeland security by prescribing operating limits on U.S. soil. The Posse Comitatus Act and Titles

10, 32 and 50 specify those limitations. The current U.S. national defense policy and associated legal code are designed within the constraints of the Posse Comitatus Act. The Posse Comitatus Act is not much different today than it was when enacted in 1878, except for the inclusion of the Air Force:

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.²⁴

Over the years courts have declared that the Posse Comitatus Act did not apply to indirect military involvement in civil law enforcement; the National Guard when used in non-federal status; or extraordinary cases where the President employed his Constitutional authority to maintain order. The principles behind the Posse Comitatus Act were designed to both prevent U.S. Marshals from calling on the Army on their own initiative for assistance in enforcing federal law, and to prevent military forces from becoming a national police force or *guardia civil*.²⁵ As long as the military force acts as a supporting agent during crises, or receives specific relief from the President or Congress, the ideals espoused by the Posse Comitatus Act should not be violated.

In certain cases of national emergency or crisis, the U.S. military, under direction of the President, can be ordered to action under Title 10. Title 10 “Armed Forces”, defines the federalized status of troops, paid by the Federal government, led by a military commander, in support of a national objective. It outlines specific restrictions and authorizations for conducting U.S. operations. Under the section called Military Support for Civil Law Enforcement Agencies, direct participation by military personnel is prohibited in search, seizure, arrest, or other similar activity, unless otherwise authorized

by law.²⁶ However, the Secretary of Defense may make the DoD personnel available for the maintenance and operation of equipment for Federal, State, and local civilian law enforcement officials, to the extent that operating the equipment does not involve direct participation in the law enforcement operation.²⁷ Also contained in Title 10 is a provision on insurrection that allows the President to call into federal service the militia of any State, and use the armed forces to enforce laws.²⁸

Title 50 “War and National Defense”, reiterates the limitation on active duty (Title 10) troops from direct participation in an arrest or similar activity. It states that Department of Defense forces may not include the direct participation of a member of the Army, Navy, Air Force, or Marine Corps in an arrest or similar activity.²⁹ This Title specifically omits reference to National Guard troops that have separate state rules for Governor-directed missions and separate federal rules for federal-directed missions.

Title 32 “National Guard”, defines the use of state militias in support of federal objectives. This title contains deferments to individual state statutes, which provide the overall legal authority for National Guard troops acting within state affairs. However, when Congress determines that more units or organizations are needed for national security than are in the regular components of the ground and air forces, the Army National Guard and the Air National Guard, or parts of them as are needed, shall be ordered to active Federal duty and retained as long as so needed.³⁰ Once activated, Title 10 regulates the activity of these troops. In general, active duty and active reserve operate within the Title 10 constraints, while National Guard and Inactive Reserve forces operate within Title 32 constraints.

Title 32 mentions that nothing should be construed as a federal limitation on the authority of any unit of the National Guard of a state to perform law enforcement functions authorized by the state concerned when such unit is not in federal service.³¹ As such, states individually define the law enforcement role of the National Guard troops. In the case of North Carolina statutes, members of the National Guard and state defense militia called on by the Governor have the power of arrest to reasonably accomplish their mission. Further, while acting in aid of civil authorities, engaged in disaster relief, or suppressing or preventing actual or threatened riot or insurrection, national guard or state defense militia have the immunities of a law-enforcement officer.³² In Virginia, the statutes call for the activation of state militia in several instances. These include times when the Governor determines that a state agency having law-enforcement responsibilities is in need of assistance to perform particular law-enforcement functions.³³ It is this segment of the Virginia National Guard that is designated as a state law-enforcement agency.

At times, the proximity of cross-border National Guard units has led to compacts or agreements between states. In the case of North Carolina and Virginia, a compact provides for the mutual aid to cope with emergencies, thereby increasing the efficiency and effectiveness of the available National Guard forces.³⁴ As in the case of the agreement between Washington State and Vancouver, British Columbia, Title 32 doesn't explicitly authorize soldiers to cross the international border. But in light of 9/11 where suffering and property damage might be limited by rapid response of the nearest available responder, it may be conceivable to expand localized cross border international

agreements where potential disaster crisis scenarios indicate a probable overwhelming of national capabilities with significant lag times for relieving responders.

Uniqueness of the Coast Guard role

The Coast Guard's daily duties were governed by the Department of Transportation prior to 9/11. Afterward the Coast Guard's peacetime command and control moved to the DHS although provisions still exist for transfer of Coast Guard activities to the Secretary of the Navy in times of conflict.³⁵ The move to the DHS did not significantly change their daily role in guarding our nation's ports and waterways. In the role of law enforcement, the Coast Guard has the authority to examine, search, seize, and arrest while in performance of its duties on the high seas and waters within U.S. jurisdiction, which was extended by the Maritime Security Transportation Act of 2002 from 3 to 12 nautical miles off shore.³⁶ This increased range had the effect of pushing defenses further from our shores and indirectly supporting the NORTHCOM Commander's goal engaging the enemy further from our borders.

The threat of weapons of mass destruction (WMD) entering the U.S. via container ships has sparked debate over ways and means of controlling inspections prior to entering U.S. ports. WMD refers to the potential use of nuclear, biological, and chemical threats that would have devastating results. While technical scanning solutions, such as the potential use of a muon beam at sea,³⁷ may reduce the Coast Guard's need to physically search all container vessels in the future, the near-term desire to inspect more container vessels at sea has increased. This increase poses a significant strain on the DHS budget for Coast Guard operations, even with a 51% increase in fiscal year 2005 budgetary requests compared to the pre-9/11 budget. Increasing the number of at sea searches with

the same number of Coast Guard members and boats slows the flow of commerce significantly and is not a realistic long-term solution. Therefore, it's only by increasing the Coast Guard capacity through manpower, equipment, or future technological advances, that we will manage to improve upon the current inspection capacity of 2 per cent of all container shipments.

During a seminar in January 2004 at Stanford University's Institute for International Studies, Asia/Pacific Research Center, Dr. Sheldon Simon discussed Southeast Asia, Australia, and the future of America's military alliances in the Pacific. He intimated that the Coast Guard's departmental change from the Department of Transportation to the DHS might have been the catalyst for reducing its direct assistance for Singapore's coast guard and port security improvements. At issue was pulling U.S. Coast Guard assets back to the U.S. waters rather than pursuing maritime security in alternative fashion at foreign ports of embarkation. This idea of pulling back our defenses ran counter to the statement by the Commander of Northern Command in which he stressed the desire to push engagement and security efforts out away from the U.S. homeland, minimizing the opportunity of threats to reach U.S. shores. After contacting the Coast Guard's Office of Plans and Policy, it appears that current Coast Guard strategy under the DHS dovetails precisely with NORTHCOM's stated goals. According to Cdr. Kevin Quigley, there was no immediate retreat following Coast Guard's move to the DHS. Currently the Coast Guard has out-of-hemisphere port security teams and cutters deployed to locations such as the Persian Gulf, Rotterdam, and Singapore. Current operations in the Persian Gulf for example include over 400 people and 4 patrol boats operating out of Bahrain in support

of Operation Iraqi Freedom.³⁸ These forwardly deployed personnel are instrumental in monitoring maritime safety issues such as ship inspections and regulation compliance.

The major finding in this section is that the focus of the DHS is preventing terrorist attacks and managing the consequences after a crisis. The DHS has several limitations that might hinder its effectiveness, but these limitations might be mitigated through training and exercises. The establishment of DoD's NORTHCOM was not necessarily tied to the creation of DHS, but rather it was borne from a perceived need for a full-time combatant command perspective on the area of responsibility of the U.S. proper. NORTHCOM's primary role is the military defense of the U.S., and its support role is providing military assistance to civil authorities for crisis management. There are statute restrictions that pertain to the operating limits of certain types of military forces on home soil. These restrictions are aimed at minimizing the authority of the military chain of command and maximizing the civilian oversight in most situations. This civil-military balance has served the nation well and will continue to in the future.

Chapter 3

Redefining National Security with Homeland Defense and Homeland Security

Our task now is not to fix the blame for the past, but to fix the course for the future.

-John F. Kennedy

The Constitution's preamble sets the stage for delineating between homeland defense and homeland security responsibilities.

We the people of the United States, in order to form a more perfect union, establish justice, *insure domestic tranquility, provide for the common defense,* promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.”³⁹

The italicized phrases in the text provide a distinct framework for both the DHS and the DoD. The principles mentioned, other than insuring domestic tranquility, are ensconced in existing departments of the Federal government, such as Defense providing for the common defense, Justice establishing justice, and Education, and Health and Human Services promoting the general welfare. Domestic tranquility is perhaps the least understood of the great principles of the Preamble. Domestic tranquility may be described as an aspect that relates to the quality of life and of the human environment,

and may be epitomized by the Declaration of Independence that, “all men are created equal and endowed by their Creator with certain unalienable rights among which are life, liberty and the pursuit of happiness.”⁴⁰ Domestic tranquility may also be interpreted as one of the goals of the Constitutional Convention to ensure the federal government had powers to squash rebellion and to smooth tension between states. These concerns had stemmed from the federal government’s inability to settle Shay’s Rebellion in Massachusetts as well as other state rivalries for territory.⁴¹

The DHS plays a role in all citizens’ daily lives and this role has much to do with insuring domestic tranquility. Although the DHS’s primary focus is on terrorist related activities, its application to the general security apparatus of our nation makes it ideal for handling overall security concerns to the nation. Even though State or Federal military forces may be called upon to handle rebellions or smooth tensions between states, the DHS should be the lead agent engaged in the security matters prior to the DoD’s involvement.

The DoD’s ownership of the common defense role seems clear and unobjectionable. There is a need for military might to secure our borders, interests and the protection of our allies. But when discussion turns to supporting the maintenance of domestic tranquility, the role of the DoD is not readily apparent. The cornerstone of America’s uniqueness is the intended strength and weakness of the civil-military union. Civil leadership must maintain the overall command and control in matters that occur within the borders of the nation. By giving the DHS the lead federal role in domestic tranquility and the DoD the lead federal role in common defense, we have the workings of a framework to articulate the areas of concern for the DHS’s homeland security mission

and the DoD's homeland defense mission. It also provides a jumping off point for categorizing individual events and crises.

The creation of Northern Command may be the first step in solving the dilemma of unity of command that K.P.S. Gill, author of Terror and Containment Perspectives of India's Internal Security, refers to as the necessity for fighting insurgency and terrorism. The Commander of NORTHCOM resides over two separate entities, that being NORTHCOM and NORAD. NORTHCOM's mission is a U.S.-only mission to defend the sovereignty and soil of the U.S. It includes all air, sea, land and space approaches to the entire continent of North America, not just the continental U.S. Unlike other unified command AORs, NORTHCOM's homeland defense initiatives must include coordination with those countries that coexist within the area of operation. The only state-entities that possess a formidable ability to deter, prevent and defeat threats within the NORTHCOM AOR are Mexico and Canada. Since 1958 Canada and the U.S. have maintained vigilance over the air and space approaches to North America through a NORAD agreement. The NORAD 2020 Vision document currently envisions an expanded role that addresses all domains, not just air sovereignty, along with the possibility of becoming multi-national by including Mexico. This structure might be similar to the relationship between European Command (EUCOM) and North Atlantic Treaty Organization (NATO)/Supreme Headquarters Allied Powers Europe (SHAPE).

Integrating NORAD into NORTHCOM will improve unity of command and unity of effort.

Now may be time to enhance the bi-national agreements of NORAD and create a tri-national agreement that incorporates the contributions that Mexico will play in the

defense and security of North America. Similarly, with NORTHCOM's comprehensive role in the defense of all approaches to North America, the missions and agreements of NORAD might best fit within the operating construct of NORTHCOM. As the air and space mission of NORAD is blended into the organizational structure of NORTHCOM, the qualities and synergistic effects of unity of command and unity of effort are realized.

Clearly there could be no better time than the present to embrace the potential contributions that Mexico brings to North American security. It can be argued, without much difficulty, that Mexico's military forces are not of the same caliber as U.S. or Canadian forces, and it is this imbalance that strikes at the heart of the southern border security issue. Therefore, the U.S. and Canada must develop a long-term vision as to the role of Mexico in North America's security realm, and commit resources to enhancing Mexico's capabilities. As part of an Integrated North American Force (INAF), Canada, Mexico and the U.S. have the potential to create homogenized armed and civil forces that will seamlessly integrate cross border duties and

Improving the relationship with Mexico by advancing military relations is essential to protect our borders.

security obligations. Already NORTHCOM has begun preliminary military-to-military contacts with Mexico, but increased combined training and exercises are the best ingredients for successful defense. Mexico's air and land forces need to operate seamlessly with U.S. and Canadian forces, and to make this a reality, we need a long-term, fully-funded, incremental plan that enhances the collective strength of North American defense through the individual strengths of the member-nations. Not unlike the role of NATO in raising the overall readiness and security of disparate European nations,

North America needs a similar organization, whether it is NORAD, NORTHCOM or a future variant, such as an Integrated North American Force, to improve our overall security.

The preparation, reaction, and counteraction by local, State and Federal entities to national security threats are the direct result of the efforts at the local government level. Threats to national security may be in the form of natural or manmade disasters, popular unrest, insurgency, or direct attack. The more coordination and cooperation at the local level, the greater chance that crisis actions will swiftly allay suffer and loss. In the DoD role of military assistance to civil authorities, it was discussed during the CONPLAN 2002 planning conference at U.S. Northern Command in December 2003 that the critical need for the military's unique capability is typically within the first 72 hours following a disaster. After the first 72 hours

Timely Military Assistance: emphasizing the relative strength that DoD forces can bring to a crisis within the first 72 hours.

FEMA is able to establish contracts with civil entities that have the ability to carry out the required operations. The crucial first step is the request for assistance at the local or state level, which makes military forces available to assist lead agencies, such as the local law enforcement. Unfortunately, the requesting process is fraught with delays that tend to reduce the full potential of a DoD contribution.⁴² Communication connectivity between the incident site, the DHS's Operations Center, and NORTHCOM's Operations Center, is the vital link to bringing swift, decisive and overwhelming capability to any national crisis. However, another critical issue is that many local entities do not truly understand the capabilities and limitations of some of the DoD's systems; thus they begin

the request process by asking for a specific platform (e.g. Predator Unmanned Aerial Vehicle) instead of requesting a capability to which the NORTHCOM can respond with the best available solution. Homeland security authorities at the local level need a systematic process by which they can pragmatically assess an incident and rapidly determine the need for homeland defense capabilities so that the DoD option is not delayed beyond its time of most beneficial integration.

Organizing for future threats

Perceived future threats are the catalyst behind national security preparation. Within the DoD, the Secretary of Defense has asserted that capability-based assessments are the techniques used to develop future force structure and determine future policy. Capabilities-based approaches to homeland defensive strategy make it possible to focus on requirements and assess options that would improve flexibility and responsiveness to uncertain challenges posed by adversaries. This technique requires identifying capabilities that U.S. military forces will need to deter and defeat adversaries that do not have a traditional enemy order of battle.⁴³

Joint Threat Assessment: a coordinated, joint effort by DHS and DoD is necessary to improve threat assessment methodology.

The DHS must adopt a similar approach to capabilities-based threat assessment in order to achieve its homeland security goals. Two of the DHS's seven goals are awareness – identifying and understanding threats, assessing vulnerabilities and determining potential impacts -- and prevention – detecting, deterring and mitigating threats.⁴⁴ By applying proven DoD techniques for studying and identifying threat capabilities, a more robust homeland security force structure can develop that doesn't

become myopic or too narrow-minded by focusing on terrorism. Further, systematic and periodic information sharing sessions between the DHS planners and the DoD planners is paramount. This lateral communication must openly and candidly review, at classified levels, the most recent developments that emerged from ‘war gaming’ activities within each Department. The use of war-gaming think tanks within both Departments, such as the Air Force’s Checkmate Division in the DoD, is essential to assessing future capabilities, both of the adversary and within our own ranks, as well as uncovering areas of deficiency previously unidentified.

NSA Contribution: using outside agencies, such as the National Security Agency (NSA), is advantageous to improving the analysis of a successful force structure.

It is most important for NORTHCOM planners, when devising contingency plans for defense and civil support, to utilize agencies outside the traditional military confines. In a conversation with the author on January 20, 2004, Mark Unkenholz explained that the National Security Agency has the resources and expertise available to conduct a method of sensitivity analysis. Using utility theory to relate the benefits (enhanced freedom to operate without worry) and costs (degradation of performance due to malicious attacks) of security measures, security can be viewed as an enabler of performance in a hostile environment rather than a degrader of performance in a benign environment. The goal is to maximize operational performance and mission accomplishment of homeland defense within a hostile and malicious operating environment.⁴⁵ By availing itself to all available resources, NORTHCOM can develop an enhanced homeland defense posture.

NORTHCOM employs a methodology of capabilities-based assessment to evaluate the homeland defense missions and military assistance to civil authorities. NORTHCOM

has customarily employed a process that independently evaluated the enemy’s probability of action, not as much the specific severity of the resultant activity, through a linear model of threat capability lines. NORTHCOM tried to evaluate both the capability and the intent of the various threats, but the “threat capability lines” (Figure 3) did not specifically rank the threat according to severity. An attempt was made to measure the cumulative threat and group these threats according to the medium through which they would transit, such as maritime threat. By

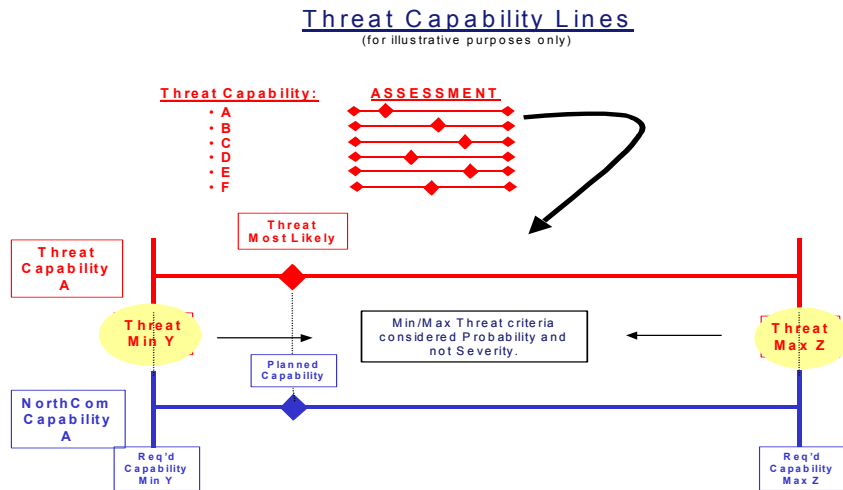


Figure 3 Threat Capability Lines⁴⁶

combining the threat lines from separate mediums, Figure 4 attempted to compare the risks between mediums. However, this risk analysis only painted part of the overall scenario since it did not systematically evaluate probability and

		Threat Probability <u>or</u> Severity
Approach / Ground / Used as a Delivery System	Single Vehicle – Dual use products with warning	Highly likely
Approach / Air / Used as a Weapon	Single Large Commercial with warning	Highly likely
	•	
Homeland / Ground / Used as a Weapon	Coordinated suicide bomber with warning (NCR)	Likely
	•	
	•	
Homeland / Ground / Used as a Delivery System	Transportation / Single Vehicle – Dual use products	Almost zero

Figure 4 Example of risk analysis with planning threshold⁴⁷

severity together. This type of risk analysis is an example of one way to rank threats and is similar to the U.S. Army’s methodology of examining an enemy’s most likely and most dangerous courses of action. Arguably, a better assessment methodology would include an examination of both probability and severity simultaneously. The risk evaluation matrix in Figure 5, borrowed from the Marine Corps Operations Risk Management Program, is a means to capture both probability and severity.

	THREAT PROBABILITY			
THREAT SEVERITY	Highly Likely	Likely	Less Likely	Almost Zero
Catastrophic	<i>Extremely High</i>	<i>High</i>	<i>High</i>	<i>Medium</i>
Critical	<i>High</i>	<i>High</i>	<i>Medium</i>	<i>Low</i>
Marginal	<i>Medium</i>	<i>Medium</i>	<i>Low</i>	<i>Low</i>
Negligible	<i>Low</i>	<i>Low</i>	<i>Low</i>	<i>Low</i>

(Definitions modified from 2003 USAF Force Protection Workshop, draft to be incorporated AFPD 10-24, A.F. Critical Infrastructure Protection.)

CATASTROPHIC – An event or act that undermines U.S. fundamental sense of security/confidence, or destroys/degrades assets which could result in the war fighter suffering strategic mission failure.

CRITICAL – An event or act that seriously damages a source of U.S. national power (diplomatic, information, military, or economic); or destroys/degrades assets which could result in a sector or element suffering a strategic functional failure, but the war fighter strategic mission is accomplished.

MODERATE – An event or act that significantly damages a source of U.S. national power (diplomatic, information, military, or economic); or destroys/degrades assets which could result in individual element failures, but no debilitating strategic mission or core function impact.

NEGLIGIBLE – An event or act that not included in other categories.

Figure 5 Example of risk assessment model and planning threshold⁴⁸

In the risk assessment model, NORTHCOM planners should devote substantial U.S. capabilities/resources to defeat the threat that is deemed to have an extremely high or high risk level, those areas shaded in red. Planners should consider, after conducting a cost/benefit analysis, devoting a moderate amount resources to defeat the threat that is deemed to have a medium risk level, those areas shaded in yellow. To those events that have a low risk level, minimal resources should be devoted.⁴⁹ Using 9/11 as an example, where would this event fall within the model? Arguably 9/11's severity was catastrophic, although a case could be made that it was only critical. As far as probability of occurring, most would agree that there was almost a zero chance of it happening. Therefore, it would have been given a medium or low risk level, which would have relegated it to moderate or minimal resource allocation, unless inter-agency threat/risk matrix reviews elected to increase its resource allocation at the expense of other events.

The probability versus severity risk model of enemy capabilities provides an improved breakdown of each threat component. This enemy capabilities-based assessment matrix enables quantifying and prioritizing risks. Creating this matrix is the most difficult and critical step in the analysis process because it provides the foundation for the strategy-to-task evaluation later. The details in this matrix should be at the center of continual dialog between the DoD and the DHS agency planners.

Planning thresholds define the level or risk that the commander or senior leader is willing to accept. In the case of NORTHCOM, as one becomes more risk averse, one must plan to counter a greater number of threats. Contingency planners require specific guidance on the planning threshold because it becomes the origin for identifying shortfalls in equipment, training, or manpower. NORTHCOM planners often struggle to

provide solid estimates for leadership to defend budget and manpower requests. This is in part due to the fact that the planning threshold for missions defending U.S. sovereignty is one that will not settle for less than absolute success. NORTHCOM's mission does not allow the option of retreat, reevaluation, and reinforcement. The DoD, the DHS, Congress, and Presidential administrations are less willing to accept risk in homeland defense, which has the effect of setting the planning thresholds higher. Therefore, the default logic is to plan for the worst-case scenario utilizing the maximum capability at all times. However, if the worst-case scenario were used every time to define planning thresholds, NORTHCOM's force posture and budget requirements would be astronomical and unrealistic. It is essential for contingency planners to have unambiguous guidance for the level of acceptable risk to enable them to conduct detailed force structure and composition analysis to manage the remaining identified risk.

Once the planning threshold has been set, the strategy-to-task methodology is used to develop U.S. capabilities required to counter the threat. Strategy-to-task analysis helps planners produce a more robust capabilities-based assessment and is applied by the Pentagon's Checkmate Division (HQ USAF/XOOC). While it is primarily used to develop air campaigns in today's Air Operations Centers, strategy-to-task analysis also helps operationalize capabilities-based planning. Strategy-to-task analysis, a derivative of the Secretary of Defense's capabilities-based threat assessment technique, emphasizes a joint response to any event and forces planners to consider non-DOD capability providers.⁵⁰ The aim of this process is identifying enablers to integrate, control, and direct U.S. capabilities against a desired planning threshold for threat scenarios. These capabilities should be thought of in terms of desired effects, rather than the unique

abilities of current platforms. The process should avoid generating a laundry list of military service assets and capabilities, and rather evaluate all U.S. capabilities as a potential solution to the problem.⁵¹

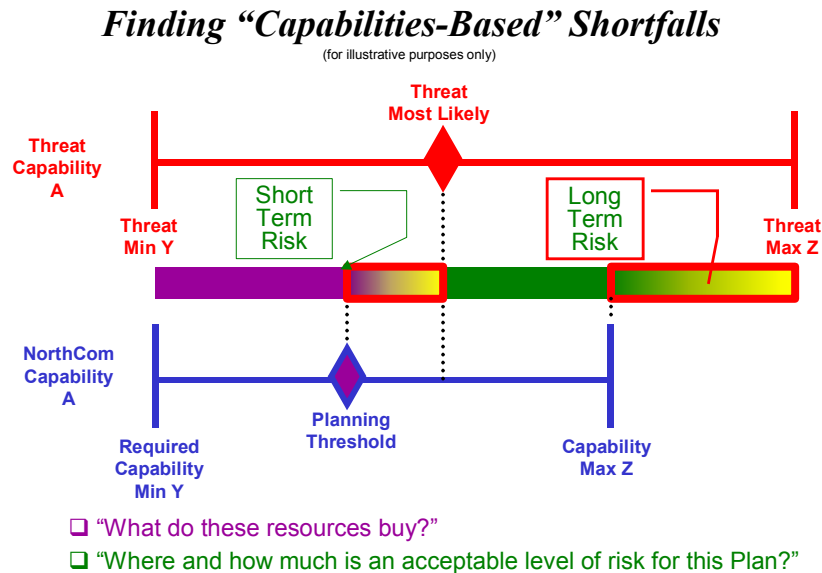


Figure 6 Example of gap analysis with risk assessment⁵²

The required capabilities based on the planning threshold developed by this process must then be compared to the currently available capabilities, otherwise known as gap analysis. Those requirements that are matched with availability form the basis for contingency planning. In Figure 6, both short- and long-term risks are evaluated compelling senior leaders to make value choices as to where to direct resources. If insufficiencies are noted, then ways to mitigate the risks must be evaluated and considered. Finally, if these insufficiencies cannot be rectified, then those risks must be identified to the senior leaders who are empowered to take appropriate action to fund the

shortfalls, increase manning or training, or generate the necessary research and development to bridge the technological gap. As NORTHCOM continues to prepare and evaluate contingency plans for response operations to particular events, these plans influence the combatant commander's force posture and requirements in terms of manning, funding, exercise and training.

Foreign National Security Struggles

As the 21st century approached, U.S. military defense posture had diminished with reductions in air wings, naval vessels, army divisions, and overall manpower. But military assistance to civil authorities actually became more organized and refined with the establishment of the Standing Joint Force Headquarter North and the Joint Task Force-Civil Support mission. Terrorists worldwide began targeting U.S. overseas interests such as the Khobar Towers and USS Cole bombings. The bombing of the World Trade Center in February of 1993, raised concern that Islamic terrorist forces were able to operate within the boundaries of the U.S. Five years later, Osama bin Laden, along with the leaders of radical militant Islamic groups in Egypt, Pakistan and Bangladesh, pledged more terrorist activities against the U.S. with their 1998 decree, "Declaration of the World Islamic Front for Jihad against the Jews and the Crusaders". In this declaration they called on every Muslim to kill Americans and plunder their possessions wherever and whenever found.⁵³ Bin Laden continues to send a consistent message, for on February 12, 2003 he said, "We stress the importance of the martyrdom operations against the enemy – operations that inflicted harm on the United States and Israel that have been unprecedented in their history ... whoever supported the United States ... by fighting with them or providing bases and administrative support, or any form of support,

even by words ...should know that they are apostates and outside the community of Muslims. It is permissible to spill their blood and take their property.”⁵⁴ The U.S.-declared Global War on Terror is global; al Qaeda has declared its intent and objective calling all Moslems to support its “fatwa” and inflict harm on anyone that does not agree with al Qaeda’s imperative. This may have been recently portrayed in the near-simultaneous bombings of the commuter rail system in Madrid in March 2004, which has the earmarks of al Qaeda.

Predicting specific future terrorist scenarios and their timing is quite difficult, but being ready to rapidly and systematically handle a wide range of general scenarios is more conceivable. Conducting capabilities-based assessments and reviewing examples of other nation’s struggles with internal and external security issues might provide some insight as to the success of our progress, as well as where we may improve our national security posture. The United Kingdom’s role in Northern Ireland, Israel’s conflict with the Palestinians, and India’s attempts to deal with aggression in Jammu & Kashmir, each have lessons from which we might extrapolate security and defense policies. It must be stressed that these situations and the involved countries are significantly different from the U.S. America has proven its ability to meld disparate societies within its borders, which has been a struggle for the countries in the following examination. By exploring these three cases, one uncovers some interesting findings regarding the concerns and issues surrounding the threats to national security and defense.

UK and Northern Ireland

For almost 30 years the United Kingdom conducted an armed struggle to maintain the security of Northern Ireland. In 1969, the divide between the Catholics and the British

escalated from a civil rights protest to conflict in the “Battle of the Bogside.”⁵⁵ The Northern Ireland police force, the Royal Ulster Constabulary (RUC), required and requested additional support to handle the increased security concerns and military troops were dispatched from England. They were deployed under the General Officer Commanding and assumed responsibilities for all security operations, including those carried out by the police in March 1972 when the government of Northern Ireland resigned. Military forces rose to peak levels of 17,000 in 1972. The RUC police force, known today as the Police Service of Northern Ireland, captured the lessons during the period of military intervention and reorganized to enhance their paramilitary capability. They resumed the lead role for security matters in 1977.⁵⁶

During the time of 1969 to 1977, deaths as a result of the security situation in Northern Ireland increased dramatically after military forces began handling all security matters. Of most significance was the increase in civilian casualties and that this elevated casualty level perpetuated. From 1971 to 1972, when the military security control reached the crescendo, civilian deaths increased 280% from 115 to 322, and total deaths, which included the RUC, the Army, and civilian populations, increased 270% from 174 to 470. During the height of Army security control of 1972 to 1977, civilian deaths averaged 225 per year and total deaths averaged 297 per year. The increase in the number of dead could be contributed in part to increased popular nationalism and separatism, but the dramatic reduction in deaths after the military returned security control back to the police in 1977, and the fact that the death-level never returned to the level that existed when the military was in command, seems to indicate another conclusion. From 1976 to 1977, the civilian deaths dropped 72%, from 245 to 69, and total deaths dropped 62% from 197 to 112.

Between 1978 and 2003 the average deaths as a result of the security situation for civilians was 42 and total deaths was 61.⁵⁷ One may conclude that the civil security force was more effective at reducing casualties while maintaining security than the military intervention force.

The lessons learned from their urban warfare experience in Northern Ireland has taught the British Army that they need a soft touch to win over the local population. In Iraq, low-key tactics that involved them with local Iraqi communities led to reduced local hostilities while increased information gathering about subversive activities.⁵⁸ From a U.S. perspective, the Northern Ireland lesson is that the role of the military in effecting a lasting and prevailing security situation may not produce ideal results. Instead, equipping and training a civilian police force to handle paramilitary activities, which is what occurred in the RUC between 1972 and 1977, may improve and sustain security with less resistance and less reluctance from the local population.

Currently the British military supports the Police Service of Northern Ireland in a very similar way to the U.S. Army National Guard's support role in the U.S. The Police Service of Northern Ireland may call upon the military to support operations that require specialized equipment and expertise. This is known as military aid to civil power. These requests are typically made from the Chief Officer of Police to the British Home Office, not unlike the U.S. methodology. The civil-military interface begins only at the ministerial level, as the Home Office seeks a formal agreement with the Ministry of Defense.⁵⁹ Within the U.S. and British bureaucracies, roles and responsibilities between civil and military authorities are extremely similar, although there appears to be no Ministry of Defense organization intended strictly for homeland defense.

Israel and Palestine

Israel and Palestine have become a grim display of the struggle between homeland defense and homeland security. Israel's creation in 1949 by the UN and subsequent displacement of indigenous Palestinians has sparked a generational conflict. Homeland security has never been taken for granted within Israel, so a concerted and grassroots effort has been key to the survival of the nation for 50 years. Israel's security forces include the Israeli Defense Forces (military) which combine conventional ground, air, and sea capabilities; the Mossad and Sin Bet (General Security Service), which gather and analyze information while operating under the cover of secrecy; the Border Guard, which is associated with the police but organized in a military fashion; and the civil police.⁶⁰

The Israeli Police consist of six departments at the national headquarters level, which are: Investigations; Operations and Patrol; Logistics; Personnel, Planning and Organization; the Border Guard; and the Civil Guard.⁶¹ The police commissioner serves under the Minister of Public Security.

The Border Guard is a special military unit in the Israeli Police. It maintains internal security, public order, and provides assistance, when necessary, to regular operational police units in the fight against crime. It also guards sensitive installations. The anti-terrorist combat unit of the Border Guard deals with terrorist activities within the borders of the country and operates in hostage-taking situations and serious public disturbances.⁶² The Border Guard is organized as a semi-military force in terms of training and weaponry, possessing police powers.⁶³

The Civil Guard is a volunteer force, similar to the U.S. militia, designed for the maintenance of security on the home front within the framework of the Israeli National

Police. It was established in 1974 following a series of terrorist incidents and today operates a network of neighborhood command centers, mobile and foot patrols, and rapid response teams for emergency duty. The Civil Guard has complete police law enforcement authority while on duty similar to U.S. Army National Guard when operating with the local police force.⁶⁴

Israel's police are combined under the Minister of Public Security, an agency most nearly related to the DHS. There are similarities between U.S. and Israeli police and military relationships, such as the tasks of patrolling population centers and imposing law and order, as well as curfews. The Israeli military delivers the means of defensive and offensive responses against state or non-state aggressors. But Israel has learned that the way to stop successfully the majority of terrorist activities within its cities and towns, especially those along the meandering border, lies in its deep-rooted understanding of, and interaction with, the local populace. Good human intelligence has been a key to their success, with enough detail known about the language and personalities of the Palestinians to enable the Israeli's to snatch or kill someone involved in violence.⁶⁵ The U.S. may need this level of privacy-invading policing to stop the next terror attack before it occurs. But trading reduced civil liberties for access to intimate knowledge will cause an outcry in the U.S. and is unlikely that this course of action could stand the legal challenges of the courts. Should another significant homeland security challenge strike the U.S., the reduction of civil liberties and the creation of a national police force might gain acceptance in order to maintain our national sovereignty.

U.S. and Israeli organizational structures are similar and the role of the military (Israeli Defense Force) in homeland security is limited. But Israel's enhanced intelligence

collection and use of the para-military Border Guard may shed some light on the role of NORTHCOM. NORTHCOM may advocate less restrictive detection policies that would allow more information collection within U.S. borders, as well as an increase in National Guard military police quotas for an improved terrorist response posture.

India and Pakistan

Finally, looking at India's dealings with terrorism and insurgency in Jammu & Kashmir may offer some lessons to consider. The land dispute between the predominant Moslem Pakistan and the predominant Hindu India began after British rule ended in 1947. In tackling their security dilemma, Major General Samay Ram described some of his observations from his years as an Indian Army officer. His assignments included Afghanistan, Jammu & Kashmir, and Sri Lanka, home to some of the most devastating and ongoing conflicts in south Asia. In his view, it is the government who fights the campaign to eradicate terror and insurgency on all fronts, political, economic, social, cultural, administrative, and military. But when tackling specific battles of insurgency and terrorism, the military should be universally employed as a supporting unit, not as the lead. In areas of unrest, a range of civic development activities contribute to improved intelligence collection, which in turn, enhances the success of operations. But the expense of these developmental activities can be quite high, which often causes political leaders to depend upon the military option all too frequently.⁶⁶ He reasons that the civic, rather than military approach, is more likely to win the hearts and minds of the people as they take on a concerted effort in their own defense as members of the local police force. General Ram suggests that the leading civic role and supporting military role in the fight against insurgents led to success in Punjab, whereas in Kashmir the failure to stop terrorist

incidents was because the military led the effort while the local police remaining in the background.⁶⁷ However, in Kashmir, the military has played a more commanding role because of the traditional military threat presented by Pakistani forces.

General Ram's conclusions are supported by K.P.S. Gill's assertion in Terror and Containment: Perspectives of India's Internal Security, that to defeat insurgency and terrorism, there is the need for reorganization and mobilization of the state's police force, backed by the army and paramilitary forces.⁶⁸ Although the Indian Army has been the primary force in counter-insurgency warfare since the country became independent, the growing successes from the development and use of India's para-military forces has supported the conclusion that non-military forces should lead the fight. According to General Ram, paramilitary forces backed by regular troops should be employed to guard the borders. Police should provide security to public installations, such as radio/television stations, banks, post offices, etc.⁶⁹

In the U.S., defending vulnerable points or critical infrastructure is a hot topic of debate and continues to consume state-level resources. The Army National Guard maintains around-the-clock surveillance of major national facilities and transportation infrastructure. At locations such as the Golden Gate Bridge in San Francisco, California, there are currently two M16- and radio-equipped soldiers at the approaches to the bridge. This runs counter to General Ram's opinion

Infrastructure Security: DHS should consider establishing a national infrastructure security force to enhance internal security at the nation's most critical sites

that it is more desirable to place civilian installations under civilian control and military installations under military control, not unlike Israel Border Guard's

responsibility to protect sensitive installations. As long as there is a desire to maintain constant surveillance on bridges, tunnels, and other functional aspects of the U.S. infrastructure, it may be time to consider replacing the National Guard troops with civilian counterparts. If it is discovered that local police jurisdictions have manpower shortages for these duties, then the DHS may consider establishing a national infrastructure security force similar to the Israeli Border Guard, paid by the federal government, but tailored to the local jurisdiction.

K.P.S. Gill notes that there are numerous complications that arise in the coordination of civil and military measures,⁷⁰ and so it is no simple task to define the relationship between NORTHCOM and the DHS. It is a complex process of integrating a civil force, which has consensual popular support and training to operate within the boundaries of the nation, with a military force, which has statutory operating limitations within its national borders and may not have specific police/security training. However there is a point when the military component of national security may possess unique qualities and training that the local police cannot afford to attain or maintain. By specializing in specific tasks, such as Joint Task Force-Civil Support for chemical, biological, radiological, nuclear and high-yield explosive (CBRNE) consequence management, increasing the military police allocations at the National Guard level, and adopting

a para-military template for a portion of the military police quotas, the DoD forces can better respond to the request for assistance from a lead federal agent.

Chapter 4

Revising the Security/Defense Relationship – a Recap

True individual freedom cannot exist without economic security and independence.

– Franklin D. Roosevelt

The relationship between homeland security and homeland defense is not so much complicated by the role each plays in national security, but rather by the division of response and responsibility each provides during crisis situations. The prescription for defense and security presented in this paper includes six areas where benefits will be gained from adjustments to the existing structure. These six proposals are in order of priority, suggesting that the more resources applied to the top recommendations will yield greater results upon implementation.

1. *Joint Threat Assessment:* Maximizing coordinated, joint efforts between the DoD and the DHS through threat working groups and other collaborative thought processes are necessary to improve threat assessment methodology. The effectiveness of subordinate organizations has the potential to increase by succinctly defining planning thresholds and assessing the overall capabilities required for aggregate national security requirements.

2. *Create an Integrated North American Force by:*

a. *Improving the Relationship with Mexico:* The role of the protection of the southern tier cannot be overemphasized. Mexico's concerns with U.S.

unilateralism in this hemisphere must be put to rest. Military-to-military training and collaborative exercises are the best means to advance security and the defense relationship with Mexico.

b. Integrating NORAD into NORTHCOM: NORTHCOM maintains a comprehensive role in the defense of all approaches to North America. NORAD's mission is one subset of this comprehensive role. It's time to create a tri-national agreement that incorporates the contributions of Mexico and operates under the unified command structure of NORTHCOM in the defense and security of North America.

3. NSA Contribution: Success in the national security arena will not be judged solely on the success of one department's contribution. Instead, fostering interagency strengths that improve the *jointness* of governmental departments and local jurisdictions will be the real measure of success. One such opportunity is the sensitivity analysis methodology available from the National Security Agency. By using readily available resources, NORTHCOM and the DHS can develop enhanced homeland defense and homeland security postures.

4. DHS International Agreements: Rapid disaster response is predicated on peacetime agreements between parties that can bring unique capabilities to bear in a relatively short time. In an effort to improve U.S. homeland security while advancing the overall security of North America, the DHS needs to have the ability to negotiate and put into effect international agreements between States bordering Canada and Mexico.

5. Timely Military Assistance: In cases of homeland security, the DoD forces are just one of many responses generated to handle a crisis aftermath. The DHS and the DoD

planners and operators should acknowledge the unique value of the DoD forces within the first 72 hours of an incident and insure that calls for military assistance to civil authorities are delayed as little as practical.

6. *Infrastructure Security*: Finally, after reviewing the security concerns and actions by three nations that have had traumatic dealings with terrorism and insurgency, the U.S. might consider establishing a national security force. This force, by having limited jurisdiction around points of national infrastructure, would not violate the intent of the Posse Comitatus Act, and has the potential to relieve National Guard units of this protracted responsibility in some cases.

The common defense of America has never been stronger with the military capability that exists today. But when defending against the threat of terrorism within the United States, the DoD role is fairly limited to organizing, planning, and war-gaming possible scenarios. The DHS provides the primary contribution to the fight against terrorism within the U.S. and the DoD must use its unique capabilities to operate side-by-side with the DHS.

Notes

¹ President, Proclamation, “National Day of Prayer and Remembrance for the Victims of the Terrorist Attacks on September 11, 2001”, *Code of Federal Regulations*, title 3, sec 7462.

² Marine Corps Doctrinal Publication 1-1, *Strategy*, page 66.

³ *Homeland Security Act of 2002*, Public Law 107-296, 107th Cong., 2d sess. (November 22, 2002), pp. 11, 29, 43, 78, 84.

⁴ Department of Homeland Security, “Securing Our Homeland: US Department of Homeland Security Strategic Plan 2004”.

⁵ US Northern Command, *US Northern Command’s Strategic Vision*, 11 September 2003, 7.

⁶ President, Proclamation, “Address to the Nation on the Terrorist Attacks on September 11, 2001”, *Weekly Compilation of Presidential Documents*, pd17se01_txt-15, pp.1301-1302.

⁷ Robert B. Satloff, *War on Terror: The Middle East Dimension*, p. 6.

Notes

⁸ Webster's Dictionary defines a state as a politically organized body of people usually occupying a definite territory, especially one that is sovereign. State actors are those bodies recognized internationally as governments. Non-state actors are groups that act autonomously from recognized government.

⁹ President, Proclamation, "The Department of Homeland Security June 2002", *Weekly Compilation of Presidential Documents*, pd24jn02_txt-12, pp. 1034-1038.

¹⁰ *Homeland Security Act of 2002*, Public Law 107-296, 107th Cong., 2d sess. (November 22, 2002), Sec 101, B1.

¹¹ Department of Homeland Security, "The U.S. Department of Homeland Security: Preserving Our Freedoms, Protecting Our Nation - Strategic Plan", Press release, <http://www.dhs.gov/dhspublic/display?content=3241> (accessed March 15, 2004).

¹² *Homeland Security Act of 2002*, Public Law 107-296, 107th Cong., 2d sess. (November 22, 2002), Sec 876.

¹³ US Code, Title 49, section 324.

¹⁴ US Constitution, art 1, sec 10.

¹⁵ Sally Higgins, LTC, J3 staff, NORAD, in discussions at US Northern Command Headquarters, Contingency Planning conference for CONPLAN 2002, December 9-11, 2003.

¹⁶ HQ USSTRATCOM, *History of the United States Strategic Command*, 14-15.

¹⁷ "North American Aerospace Defense Treaty," March 28, 1996, p. 4.

¹⁸ Jim Garamone, "Northern Command to Assume Defense Duties 1 Oct." *American Forces Information Services*, September 25, 2002. http://www.defenselink.mil/news/Sep2002/n09252002_200209254.html (accessed March 15, 2004).

¹⁹ Garamone, *American Forces Press Service*. September 25, 2002.

²⁰ Joint Publication 0-2, *Unified Action Armed Forces (UNAAF)*, July 10, 2001, p. V-5.

²¹ Joint Publication 1-02, *Department of Defense Dictionary of Military and Associated Terms*, April 12, 2001 (amended September 5, 2003), pp. 112, 388.

²² US Northern Command, *Mission*, http://www.northcom.mil/index.cfm?fuseaction=s.who_mission (accessed March 15, 2004)

²³ Current US Northern Command organizational diagram. Source: Lt Col Marc Dippold, J-5, e-mail message to author, March 16, 2004.

²⁴ US Code, Title 18, section 1385

²⁵ Donald J. Currier, "The Posse Comitatus Act: A Harmless Relic from the Post-reconstruction Era or a Legal Impediment to Transformation?" (Army War College Carlisle Paper), p. 1.

²⁶ US Code, Title 10, section 375

²⁷ US Code, Title 10, section 374

²⁸ US Code, Title 10, section 332

²⁹ US Code, Title 50, section 403-5A (b) (2)

³⁰ US Code, Title 32, section 102

³¹ US Code, Title 32, section 112 (h)

Notes

³² *North Carolina General Statutes*, sec. 127A-149.

³³ *Virginia Code*, Title 44, sec. 75.1.

³⁴ *North Carolina General Statutes*, sec. 127A-175.

³⁵ US Code, Title 50, section 191A

³⁶ US Code, Title 14, section 89 (a)

³⁷ George Chapline, "Detection of Clandestine Nuclear Materials on Container Ships" (lecture, Stanford University, Stanford, CA, October 28, 2003). It is not possible to shield cargo from muons; they pass through all matter such as a cargo ship and its containers. When muons pass through the target, they produce an unambiguous signature that can alert authorities to the presence of fissile material, which is the crux of the WMD concern.

³⁸ Kevin Quigley, Cdr., US Coast Guard Plans and Policy Division, conversation with author, March 9, 2004.

³⁹ U.S. Const. Preamble.

⁴⁰ Theodore W. Sudia, "To Insure the Domestic Tranquility," Papers for the Institute of Domestic Tranquility, <http://www.idt.org/papers1.htm> (accessed March 15, 2004).

⁴¹ The U.S. Constitution Online, "The Constitutional Dictionary," <http://www.usconstitution.net/glossary.html> (accessed March 15, 2004)

⁴² Biff Baker, Dr., Bi-National Planning Group, in discussions at US Northern Command Headquarters, Contingency Planning conference for CONPLAN 2002, December 9-11, 2003.

⁴³ U.S. Department of Defense, *Quadrennial Defense Review Report*, September 30, 2001, pp. 13-14.

⁴⁴ U.S. Department of Homeland Security, *Strategic Plan 2004*, p. 9, http://www.dhs.gov/interweb/assetlibrary/DHS_StratPlan_FINAL_spread.pdf (accessed March 15, 2004).

⁴⁵ Mark and Bill Unkenholz, e-mail message to author, January 20, 2004.

⁴⁶ Lawrence Spinetta, Maj, HAF/XOOC Checkmate, in discussions begun at US Northern Command Headquarters, Contingency Planning conference for CONPLAN 2002, December 9-11, 2003.

⁴⁷ See note 46 above.

⁴⁸ See note 46 above.

⁴⁹ See note 46 above.

⁵⁰ See note 46 above.

⁵¹ See note 46 above.

⁵² See note 46 above.

⁵³ Bernard Lewis, *The Crisis of Islam: Holy War and Unholy Terror*, p. xxvii.

⁵⁴ Counter Terrorism Powers: Reconciling Security and Liberty in an Open Society, Cmd 6147 (February 2004), 3.

⁵⁵ British Broadcasting Corporation Online, "Wars and Conflict: Origins, Battle of Bogside," BBCi, <http://www.bbc.co.uk/history/war/troubles/origins/bogside.shtml> (accessed March 14, 2004).

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⁵⁶ British Army Headquarters, Northern Ireland, "History," *History of Armed Forces in Northern Ireland.*, <http://www.army.mod.uk/aishqni/history/index.htm> (accessed March 15, 2004).

⁵⁷ Data included in table. Source: Police Service of Northern Ireland. "Statistics: Security Situation and Public Order." http://www.psn.police.uk/index/statistics_branch.htm (accessed March 15, 2004).

⁵⁸ Steve Baragona, "British Tactics Shaped by Past Urban Experiences," *Iraqi Crisis Bulletin*, April 4, 2003, http://www.iraqcrisisbulletin.com/archives/040403/html/british_tactics_shaped_by_past.html (accessed March 15, 2004).

⁵⁹ U.K. Home Office, "Terrorism: What government is doing: Departments and Agencies," <http://www.homeoffice.gov.uk/terrorism/govprotect/depts/index.html> (accessed March 15, 2004).

⁶⁰ Ira Sharkansky, *Coping with Terror*, p. 97.

⁶¹ Israel Ministry of Foreign Affairs, "Ministry of Public Security," <http://www.mfa.gov.il/mfa/go.asp?MFAH00i00> (accessed March 15, 2004).

⁶² See note 61 above.

⁶³ Israeli Police, "Organization: Districts: The Border Guard," http://www.police.gov.il/english/AboutUs/Structure/01_en_border.asp (accessed March 15, 2004).

⁶⁴ See note 61 above.

⁶⁵ Ira Sharkansky, *Coping with Terror*, p. 149.

⁶⁶ Samay Ram, *Tackling Insurgency and Terrorism*, p. 52-53.

⁶⁷ Samay Ram, *Tackling Insurgency and Terrorism*, p. 53.

⁶⁸ K. P. S. Gill and Ajay Sahni, *Terror and Containment Perspectives of India's Internal Security*. p. 212.

⁶⁹ Samay Ram, *Tackling Insurgency and Terrorism*, p. 64.

⁷⁰ K. P. S. Gill and Ajay Sahni, *Terror and Containment Perspectives of India's Internal Security*. p. 223.

Table 1 Deaths due to the Security Situation in Northern Ireland 1969 – 2004

	Police	Police Reserve	Army	UDR/RIR*	Civilian	Totals
1969	1	0	0	0	13	14
1970	2	0	0	0	23	25
1971	11	0	43	5	115	174
1972	14	3	105	26	322	470
1973	10	3	58	8	173	252
1974	12	3	30	7	168	220
1975	7	4	14	6	216	247
1976	13	10	14	15	245	297
1977	8	6	15	14	69	112
1978	4	6	14	7	50	81
1979	9	5	38	10	51	113
1980	3	6	8	9	50	76
1981	13	8	10	13	57	101
1982	8	4	21	7	57	97
1983	9	9	5	10	44	77
1984	7	2	9	10	36	64
1985	14	9	2	4	26	55
1986	10	2	4	8	37	61
1987	9	7	3	8	68	95
1988	4	2	21	12	55	94
1989	7	2	12	2	39	62
1990	7	5	7	8	49	76
1991	5	1	5	8	75	94
1992	2	1	4	2	76	85
1993	3	3	6	2	70	84
1994	3	0	1	2	56	62
1995	1	0	0	0	8	9
1996	0	0	1	0	14	15
1997	3	1	1	0	17	22
1998	1	0	1	0	53	55
1999	0	0	0	0	7	7
2000	0	0	0	0	18	18
2001	0	0	0	0	17	17
2002	0	0	0	0	13	13
2003	0	0	0	0	11	11
2003 (to 01/03/03)	0	0	0	0	4	4
2004 (to 29/02/04)	0	0	0	0	0	0

*Figures include Royal Irish Regiment (Home Service Battalions).

NOTE: 2003 and 2004 statistics are provisional at this stage and may be subject to minor amendment in the future.

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