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THESIS

**APPLYING NEW INSTITUTIONALISM TO THE NATIONAL
GUARD EMPOWERMENT ACT**

by

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December 2007

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EMPOWERMENT ACT**

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Submitted in partial fulfillment of the
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ABSTRACT

This thesis examines the actors and their interests behind the "National Guard Empowerment Act," initiated by Congress in 2006 to enhance Guard influence in Department of Defense (DoD) budget and strategy decisions concerning homeland defense and civil support. Despite the Guard's primary role as the military's first responder to domestic terrorist events and natural disasters, as a component of the Air Force and Army it has typically been at a disadvantage in the competition for resources. Senate and House sponsors initiated Empowerment Act legislation to strengthen the Guard's "bureaucratic muscle" in Pentagon budget debates to ensure domestic missions are given higher consideration and priority. Employing concepts from "new institutionalism," specifically the principal-agent frameworks developed by Peter Feaver and Deborah Avant, it can be argued that Congressional efforts to pass the Empowerment Act are not motivated solely by national security considerations, but also electoral incentives and to foster interservice rivalry as a monitoring mechanism on DoD decision-making. Finally, by giving the National Guard more autonomy in managing core domestic roles, the Empowerment Act may have long-term implications for "Total Force" integration, suggesting it is necessary to reconceptualize these longstanding policies.

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I. INTRODUCTION

A. IMPORTANCE

At a time when we are asking more of the National Guard both at home and abroad, its effectiveness is hampered by Cold War structures and a lack of institutional power within the Pentagon.¹

The National Guard's importance to U.S. national security has risen considerably since the end of the Cold War period but especially in the post 9/11 threat environment. In the immediate aftermath of the 9/11 terrorist attacks 11,000 Guardsmen were activated within hours to assist state and federal law enforcement in protecting critical infrastructure sites, securing 440 airports,² and supporting continental air defense missions.³ Between September 2001 and May 2007, 238,860 Guardsmen deployed to Iraq and Afghanistan,⁴ and during one period in 2005, Army National Guardsmen comprised 40 percent of the U.S. Army's presence in Iraq.⁵ Guard participation was equally crucial on the domestic front when 50,000 members were activated for Hurricane Katrina response in 2005 and another 6,000 deployed a year later to patrol the Southwest U.S. border in support of Operation Jump Start.⁶ Admiral Edmund

¹ Commission on the National Guard and Reserves, *Second Report to Congress*, March 1, 2007, iv, http://www.congr.gov/Worddocs/March_1_Report/CNGR_Second_Report_to_Congress_.pdf (accessed May 27, 2007).

² *Ibid.*, v.

³ General John Corley, AF Vice Chief of Staff in written testimony to the House Armed Services Committee indicated that "since 9/11, 44,000 fighter or refueling airborne early warning sorties had been flown in defense of the United States and nearly 80 percent of those were National Guard and Air Force Reserve forces" (prepared statement for the House Armed Services Committee on H.R. 5200, June 13, 2006).

⁴ Michael Waterhouse and JoAnne O'Bryant, *National Guard Personnel and Deployments: Fact Sheet*, CRS Report RS22451 (updated July 20, 2007), 5.

⁵ Steven Blum, "On the Cutting Edge at Home and Overseas in 2006 and Beyond," *The Officer* 81, 10 (December 2005): 48-52.

⁶ Admiral E.P. Giambastiani Jr, Vice Chairman of the Joint Chiefs of Staff, prepared statement to the House Armed Services Committee on the National Defense Enhancement and National Guard Empowerment Act of 2006, 109th Cong., 2nd sess., June 13, 2006.

Giambastiani, Vice Chairman of the Joint Chiefs of Staff (JCS) summarized the Guard's value as a force multiplier while testifying before the House Armed Services Committee in June 2006, "Simply stated, we could not execute our missions across the Department of Defense in this world today without the National Guard and Reserve."⁷

However, despite the Guard's demonstrated worth in domestic homeland defense and overseas combat operations, congressional leaders, governors and adjutants general are dissatisfied that the level of direct Guard participation in DoD strategic decision making and interagency coordination has not kept pace with the Guard's expanding roles and missions.⁸ Congress and state governors are also concerned that Guard effectiveness in traditional domestic missions, such as support to civil authorities and disaster response, is being systematically eroded due to a lack of influence within the Pentagon in budget and programming channels.

B. NATIONAL DEFENSE ENHANCEMENT AND NATIONAL GUARD EMPOWERMENT ACT OF 2006

Since 9/11, the U.S. government has struggled to adapt itself in addressing new threats associated with radical Islamism and transnational terrorism.⁹ The 2006 National Security Strategy highlighted the need for organizational change to meet new threats observing, "major institutions of

⁷ See Congressional transcripts from the House Armed Services Committee, Hearings on the National Defense Enhancement and National Guard Empowerment Act of 2006, 109th Cong., 2nd sess., June 13, 2006 <http://www.ngaus.org/ngaus/files/ccLibraryFiles/Filename/000000001587/HASC-NG%20ENHANCEMENT%20TRANSCRIPTS.pdf> (accessed 4 November 2007).

⁸ See prepared testimonies for House Armed Services Committee, June 13, 2006 for Major General Francis D. Vavala, Vice President AGAUS, and Brigadier General (ret) Stephen M. Koper, President NGAUS; see Congressional transcripts from House Armed Services Committee Hearings on National Guard Enhancement, 109th Cong., 2nd sess., June 13, 2006; Lieutenant General H. Steven Blum, Chief National Guard Bureau, testimony before the Commission on the National Guard and Reserves (CNGR), Hearing on Proposed Changes to the National Guard, January 31, 2007; Commission on the National Guard and Reserves *Second Report to Congress*, March 1, 2007.

⁹ Max Boot, "Send the State Department to War," *The New York Times*, November 14, 2007, A23.

American national security were designed in a different era to meet different requirements. All of them must be transformed.”¹⁰ In the momentum for “transformation,” Congress and state officials have also called for institutional reforms in the Guard to ensure it fully participates in Pentagon decisions impacting homeland defense and civil support missions. Reform advocates argue the Pentagon has not given adequate attention to domestic security issues and that stronger Guard influence is needed to balance the Pentagon's predominant focus on the "away game" of overseas campaigns, such as Iraq and Afghanistan.¹¹ Advocates point to declining Guard equipment inventories as one consequence of overwhelming demands of overseas operations, with approximately “88 percent of the non-deployed Army National Guard units reporting ‘not operationally ready’ due to equipment shortfalls.”¹² Declining inventories have a further cascading effect on unit readiness levels since non-deployed personnel cannot adequately train or support domestic response while equipment remains overseas. A recent report from a Defense Science Board Task Force also examined concurrent strains on Guard personnel readiness resulting from increased overseas rotations and concluded that current manning levels could not sustain projected deployment schedules,

...today's Army active, National Guard and Reserve force structure will not support DoD's dwell time policy of one year...mobilized and five years not mobilized (1:5) for the reserve components. End strength increases currently authorized will not be sufficient to meet the established goals.¹³

Documented reports of Guard equipment shortages and higher operational tempo, a confused state and federal response to Hurricane Katrina,

¹⁰ The White House, *The National Security Strategy*, March 2006, 29.

¹¹ Christine E. Wormuth. *The Future of the National Guard and Reserves: The Beyond Goldwater-Nichols Phase III Report*. Washington, DC: Center for Strategic and International Studies, July 2006, 64.

¹² Defense Science Board Task Force. *Deployment of Members of the National Guard and Reserve in the Global War on Terrorism*. Washington, DC: Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics, September 2007, 19.

¹³ *Ibid.*, vii.

controversial Base Realignment and Closure (BRAC) process, and lack of confidence in DoD's commitment to providing military assistance to civil authorities has pressed Congress to take action.¹⁴ Senators Patrick Leahy and Kit Bond introduced the "National Defense Enhancement and National Guard Empowerment Act" in April 2006 as one aspect of a broader mandate to review and recommend improvements to Reserve Component "organization, training, equipment, compensation and support to best meet the national security requirements of the United States."¹⁵ Empowerment legislation was originally intended to address Guard "missions to authorities gap" in three key areas: by promoting the Chief, National Guard Bureau (NGB) to the rank of full general and placing this position on the Joint Chiefs of Staff (JCS); giving the National Guard "more budget authority...to research, develop and procure equipment" to support homeland security and other domestic roles; and designating a Guard general as Deputy Commander of U.S. Northern Command (NORTHCOM) to ensure the Command has the "requisite expertise" for coordinating military responses to domestic emergencies.¹⁶ The Senators also explained that formalizing National Guard interaction with the JCS and Secretary of Defense ensures state governors have a more direct channel of communication to the Pentagon. Senators Leahy and Bond's purpose in introducing the legislation is to "give the National Guard the institutional muscle commensurate with the Guard's missions" based on its increasing importance in domestic response.¹⁷ Representative Tom Davis along with five other members of the House Armed Service Committee introduced identical legislation in the House stating,

¹⁴ Senators Kit Bond and Patrick Leahy, "Statements on Introduced Bills and Joint Resolutions," Introduction of S.2658, April 26, 2006 <http://www.ngaus.org/ngaus/files/ccLibraryFiles/Filename/000000001465/STATEMENTS%20ON%20INTRODUCED%20BILLS%20AND%20JOINT%20RESOLUTIONS.pdf> (accessed November 26, 2007).

¹⁵ *Second Report to Congress*, March 1, 2007, iii.

¹⁶ Statement of Senator Patrick Leahy, 109th Cong., 2nd sess., Congressional Record 152, 47 (April 26, 2006): S3593–S3597.

¹⁷ *Ibid.*

...as Members come to realize how much we rely on the Guard, I believe they will see the reforms in this legislation as not only necessary but beneficial to the workings of the entire military. There's no denying that the Guard has earned this enhanced stature.¹⁸

Aside from homeland security and civil support considerations, Congress has significant electoral incentives in empowering the National Guard. Since the Guard is represented in 3,000 communities across 54 states and territories, legislators can tap into built-in political networks supported by influential lobbying groups such as the National Guard Association (NGAUS), the Adjutants General Association of the US (AGAUS), and National Governor's Association (NGA).¹⁹ Military historian Charles Gross characterized the Guard as one of the "most effective pressure groups in American politics," with governor appointed adjutants general and units in almost every congressional district, who effectively cultivated ties with "political parties...governors and congressmen."²⁰ In addition, the National Guard Bureau (NGB) and adjutants general rely on the NGAUS as an independent source of information to keep Congress abreast of reserve matters, and Gross observes, "Congress prized this independent expertise."²¹ The political connections between Congress and the National Guard are mutually beneficial. Maj Gen Francis Vavala, Delaware's Adjutant General and President of the AGAUS related how these close ties help the Guard,

Congress probably knows us much better than they know the active component...There's rarely a day that goes by that I'm not talking to Senator [Joe] Biden, Senator [Tom] Carper, Congressman [Michael] Castle's office relative to military issues and military

¹⁸ Committee on Government Reform, "Davis Legislation to Strengthen National Guard: Bipartisan Bill Puts Guard Chief on Joint Chiefs of Staff," news release, April 26, 2006 <http://www.ngaus.org/ngaus/files/ccLibraryFiles/Filename/000000001460/Davisguardbill.pdf> (accessed November 27, 2007).

¹⁹ Jim Drinkard, "National Guard has formidable lobbying power," *USA Today.com*, December 17, 2001 <http://www.usatoday.com/news/nation/2001/12/17/guard-politics.htm>, (accessed October 24, 2007); Richard Green, "NGAUS Legislative Strengths," *National Guard* 60, 7 (July 2006): 10.

²⁰ Charles J. Gross, "The birth of the Air National Guard: 1943-1946," *National Guard* 51, 4 (April 1997): 30.

²¹ *Ibid.*

legislation [in] Congress. So, I think they understand the guard much better than maybe we give them credit for. And I think they also understand that our frustrations have always been with our inability to procure the needed resourcing from our service component, be it the Army and the Air Force. They understand that they're really our power base. We have always gone to them, with them uniquely understanding our diversity...And they've been the ones that have gotten us the necessary resourcing to sustain the National Guard.²²

In addition to the political benefits the Empowerment Act offers, this legislation could arguably be considered Congress's attempt to leverage interservice rivalry, in this case between Regular and National Guard components, to maintain effective control over the military. Civil-military scholars Deborah Avant and Peter Feaver build upon "principal-agent" concepts of "new institutionalism" theory to examine the ways civilian "principals" ensure military "agents" are efficiently carrying out national security strategy through monitoring, reward and punishment structures. To mitigate the information asymmetries that occur in any principal-agent relationship, both Avant and Feaver propose that interservice rivalry, which encourages armed services to monitor and report on each other, is a source of information Congress can use to evaluate military performance. Avant observed that Congressional "access to military advice...furthered a process in which Congress relied on military dissenters for information about alternatives to the plans of the administration."²³ Feaver described interservice rivalry as a "fire alarm" that could "alert the principal when the agent misbehaves."²⁴ Applying Avant's and Feaver's insights to the current Empowerment Act, elevating Guard leadership in Pentagon and NORTHCOM

²² "A Conversation with Maj. Gen. Francis D. Vavala, *National Guard* 61, 9 (September 2007): 29.
<http://www.ngaus.org/ngaus/files/ccLibraryFiles/Filename/000000003005/vavalamag.pdf>
(accessed November 15, 2007).

²³ Deborah Avant, "Political Institutions and Military Effectiveness: Contemporary United States and United Kingdom," in *Creating Military Power, The Sources of Military Effectiveness*, ed. Risa A. Brooks and Elizabeth A. Stanley. (Stanford, CA: Stanford University Press, 2007), 88.

²⁴ Peter D. Feaver, *Armed Servants: Agency, Oversight, and Civil-Military Relations*. (Cambridge, MA: Harvard University Press, 2003), 80-82.

organizational hierarchies, enables Congress to use the Guard as a form of oversight on DoD activities. Empowerment Act provisions designating a Guard general officer as NORTHCOM's Deputy Commander and classifying the NGB a "joint activity" of the DoD further support Feaver's theory of "fire alarms" since both insert National Guard leaders directly into key strategy, budget and decision-making channels. Other provisions that assign the Chief, NGB responsibilities for reporting to Congress on the gaps between state and federal emergency response capabilities discloses Pentagon priorities for civil support requirements.

Finally, increasing National Guard influence in DoD and NORTHCOM organizations has potential implications for the Pentagon's long-standing "Total Force" policies. Total Force philosophy emerged in the post-Vietnam period when a culmination of events including President Nixon's decision to end the draft, the military's transition to an "all volunteer force," and substantial cuts in defense budgets drastically reduced the size of the active armed forces. Defense Secretary Melvin Laird and Army Chief of Staff Creighton Abrams devised new force structures like the "Roundout Brigades" that relied heavily on National Guard and Reserve components to augment diminishing active duty populations. In addition, scholars suggest General Abrams' decision to transfer necessary combat skills into the reserve components was designed to ensure U.S. policymakers could not engage in future conflicts without substantial Guard and Reserve mobilization.²⁵ Although DoD implemented Total Force programs to augment military effort in the midst of declining budgets and personnel, these policies failed to fully include National Guard leadership as partners in strategy and resourcing decisions. Rather, the Pentagon preferred to keep the Guard

²⁵ Eliot A. Cohen, "Civil-Military Relations: Causes of Concern," in *The Domestic Sources of American Foreign Policy*, ed. Eugene R. Witkopf and James M. McCormick, (Lanham, MD: Rowman & Littlefield Publishers, Inc., 1999), 197; Jerry Cooper, *The Militia and the National Guard in America Since Colonial Times: A Research Guide*. (Westport, CT: Greenwood Press, 1993), 129-130; Janine Davidson, "A Citizen Check on War," *Brookings Institution*, November, 16, 2003, http://www.brookings.edu/opinions/2003/1116usmilitary_davidson.aspx (accessed October 20, 2007); Michael Doubler, *I am the Guard: A History of the Army National Guard, 1636-2000*, 233-243 <http://www.arng.army.mil/Publications/guardhistorybook.pdf> (accessed October 12, 2007).

subordinate to its parent services, an uncontroversial decision during the Cold War period when it was strictly a “strategic reserve” only to be called upon in the later stages of a major regional conflict. Deputy Secretary of Defense Gordon England acknowledged this delayed approach often kept the Guard on the sidelines of important budget and personnel discussions,

In the past, the Guard was not always fully resourced. Limited procurement in the 1990’s had an impact on all the Nation’s military forces, including the National Guard. The Guard has not always been fully included in decision-making that affected their organization and membership.²⁶

By initiating “empowerment” legislation to give the Guard more influence in homeland defense and civil support missions, Congress is, to a certain extent, altering the hierarchical relationship between the DoD, National Guard and its parent services as originally envisioned by Total Force initiatives.

C. APPLYING NEW INSTITUTIONALISM THEORY TO EMPOWERMENT ACT LEGISLATION

“New Institutionalism” theory examines the relationship between institutions and their effect on political behavior as well as the process by which “institutions originate or change.”²⁷ In his assessment of new institutionalism, civil-military relations scholar Thomas Bruneau emphasizes the fundamental role that institutions play in shaping national security policy and civilian control of the military. Developing new institutionalism’s key premise that “institutions are all about power,” Bruneau observes that institutions are integral to “structuring relationships of power,” since the “the conditions under which an institution forms will have a strong impact on who determines the rules of the game and how

²⁶ Gordon R. England, Deputy Secretary of Defense, Statement for the Record to the House Armed Services Committee, Hearing on National Guard Enhancement, 109th Cong., 2nd sess., June 13, 2006.

²⁷ Peter A. Hall and Rosemary C.R. Taylor, “Political Science and the Three New Institutionalisms,” *Political Studies* (1996) XLIV, 937.

those rules are implemented.”²⁸ One strand of new institutionalism that has particular relevance for the discussion on Empowerment Act legislation is “rational choice” which takes a “calculus approach” in its basic assumption that political actors will behave strategically to attain individual goals or improve their position within an organization.²⁹ In this strategic environment, institutions emerge to resolve “collective action dilemmas” and “information asymmetries” that develop when actors maneuver for their individual preferences but collectively end up with “suboptimal outcomes.”³⁰ To manage the inherent uncertainties in anticipating the behavior of other actors, institutions use procedural rules, committee systems, and “enforcement devices” to control agendas, limit available options and influence actors’ behavior.³¹ Borrowing from principal-agent constructs of “new economics of organization” theory, rational choice institutionalists consider monitoring mechanisms essential for gathering the information that determines “power relations and political outcomes.”³² Deborah Avant, Peter Feaver and Amy Zegart offer different perspectives on the links between new institutionalism, principal-agent frameworks and policy outcomes. All start from a similar premise that lawmakers are motivated by election considerations, the political environment is a series of strategic interactions, and institutions are necessary to stabilize this system for efficient policy outcomes. Avant and Feaver study the institutional setting in terms of civil-military relations, while Zegart analyzes the role and influence of bureaucratic agents in shaping national security policies. The following sections briefly summarize their theoretical frameworks.

²⁸ Thomas C. Bruneau, introduction to *Who Guards the Guardians and How: Democratic Civil-Military Relations*, ed. Thomas C. Bruneau and Scott D. Tollefson. (Austin, TX: University of Texas Press, 2006), 7.

²⁹ *Ibid.*, 939.

³⁰ Hall and Taylor, 943.

³¹ *Ibid.*, 945.

³² *Ibid.*, 951.

1. Avant's "Principal-Agent" Model

Deborah Avant builds on new institutionalism's model of strategic interaction with her "principal-agent" variation, which also expects policymakers' decisions to be driven by reelection considerations. In her construct, Avant suggests that "when civilian leaders delegate authority over portions of security policy to military organizations...they create new political actors and the problem of agency."³³ Based on this delegated authority, Avant observes that military leaders can influence the policy agenda and diverge from civilian preferences to pursue their own objectives. To ensure the military aligns its doctrine and training to support civilians' national security priorities, policymakers must design oversight mechanisms to oversee its performance and compliance with legislators' priorities. Avant suggests that interservice rivalry is one example of an oversight mechanism, in that it offers Congress valuable insights on "military policy" through "dissenters" who provide "information about potential alternatives to the plans of the administration or other services."³⁴

2. Feaver's "Agency Theory"

Peter Feaver develops a similar hypothesis that relations between the military and civilian bureaucracy is a "game of strategic interaction" in which actors' choices are shaped by uncertain expectations of how others will react.³⁵ Like Avant's principal-agent model, Feaver suggests in his "agency theory" that Congress and the executive branch must devise monitoring mechanisms to detect whether the military is "working" or "shirking" in fulfilling assigned roles and missions.³⁶ Feaver defines "institutional checks" and "fire alarms"³⁷ such as

³³ Deborah D. Avant, *Political Institutions and Military Change: Lessons from Peripheral Wars*. (Ithaca, NY: Cornell University Press, 1994), 6.

³⁴ Avant, "Political Institutions and Military Effectiveness," 88.

³⁵ Peter D. Feaver, *Armed Servants: Agency, Oversight, and Civil-Military Relations*. (Cambridge, MA: Harvard University Press, 2003), 58.

³⁶ *Ibid.*, 75-76.

interservice rivalries, a separate militia, an independent media and Congressional research staffs as devices to oversee and mitigate information asymmetries, which tend to favor the military in the advanced technological aspects of modern warfare.³⁸

3. Zegart's "National Security Agency" Model

Finally, Amy Zegart outlines her "National Security Agency" model, another variant of new institutionalism to explain the difficulties in reforming national security agencies.³⁹ She departs from "new institutionalist" theory which has "the right idea but the wrong actors" in that it "overemphasizes the role of Congress and interest groups" in shaping government agencies while "underplaying the role of bureaucrats and Presidents."⁴⁰ Tailoring her model to examine state instruments of foreign policy and national security, she concludes that the U.S. divided system of government favors bureaucratic "agents" who protect political "turf" by compromise and competition at the expense of Presidential efforts to craft effective policy. Zegart argues that Congress sees few electoral advantages in monitoring national security agencies due to the lack of interest group participation, a traditional deference to the executive branch on foreign policy issues and substantial information gaps from the classified nature of the work. Consequently, Congress exercises negligible oversight, allowing bureaucrats to "hobble" agency performance. In her final assessment, presidents must find ways around bureaucrats to develop their preferred policies by resorting to "informal strategies to overcome principal-agent problems, such

³⁷ Feaver describes institutional checks as a type of third party agent with "veto power over the actions of another agent"; Fire alarms on the other hand are actors with "vested interest in the actions of the agent...[and] can set off an 'alarm' to alert the principal whenever the agent misbehaves." Feaver, 80 – 86.

³⁸ Ibid., 80-86.

³⁹ Amy B. Zegart, *Flawed by Design*. (Stanford, CA: Stanford University Press, 1999), 9-11.

⁴⁰ Ibid., 13.

as centralizing decision-making in the White House staff and granting varying levels of access to the Office of the President.”⁴¹

D. CONCLUSION

Zegart’s proposition suggests bureaucratic agents can thwart principals’ control by exploiting divisions in the “checks and balance” system of U.S. government with minimal Congressional involvement. However, Avant’s and Feaver’s principal-agent concepts offer a useful model to examine the context and dynamics of proposed Congressional legislation empowering the National Guard. Applying Avant’s and Feaver’s theoretical assumptions, this thesis will argue that Congress, supported by state governors is driving current organizational changes in the National Guard based on three main considerations: national security concerns to build a robust homeland defense and civil support infrastructure utilizing the Guard’s inherent expertise; electoral incentives supported by an influential network of domestic political actors with vested interests in strengthening the Guard’s political clout; and to employ the Guard as a “fire alarm” on DoD and JCS processes to ensure domestic missions such as homeland defense, civil support and emergency response are priorities in budget and planning cycles.

Finally, this thesis proposes that Empowerment Act legislation reflects a shift in policymakers’ approach to Total Force policies by giving the Guard more influence in policy and budget decisions concerning its core domestic missions. DoD’s traditional interpretations of Total Force integration built around “unity of effort,” “seamlessness,” and “interdependence” among all service components has fostered a resistance to change and overemphasized “centralization” as its predominant organizational concept. A series of exogenous events, however, initiated the government’s larger efforts to rethink status quo policies, procedures and organization. Recent restructuring of the intelligence community, expanding authorities for law enforcement agencies through Foreign Intelligence

⁴¹ Amy B. Zegart, *Flawed by Design*. (Stanford, CA: Stanford University Press, 1999), 48-49.

Surveillance and U.S. Patriot Acts, and establishing new bureaucracies like the Department of Homeland Security and U.S. Northern Command (NORTHCOM) are manifestations of administration's strategy to transform national security apparatus to be more responsive to evolving security threats. However, DoD's bureaucratic inertia and tendency towards unilateral decision-making with respect to Guard matters has fueled congressional reform efforts.

Chapter II explores the actors and debates surrounding National Guard empowerment legislation, including the recommendations from the independent Commission on National Guard and Reserves and the Secretary of Defense's response. Congress however, was not satisfied with Commission's and Defense Secretary's solutions, and reintroduced the legislation to be incorporated in this years defense authorization bill. Similarities in both House and Senate versions indicate general agreement over the need to enhance the stature and authority of National Guard leadership in the Pentagon.

Chapter III examines new institutionalism theory and principal-agent concepts to better understand Congressional incentives for introducing the Empowerment Act, and how Congress benefits from stronger National Guard influence in DoD.

Chapter IV proposes that Empowerment legislation has potential impacts on DoD's long standing Total Force policies that have centered on "unity of effort" and "integration" between its services and reserve components. DoD's traditional notions of Total Force are fueling its resistance to redrawing lines of authority between the National Guard and its parent services concerning domestic support to civilian authorities.

Chapter V draws some general conclusions regarding the motives and incentives behind Empowerment Act legislation. DoD's interpretation of Total Force integration has kept it from recognizing the Guard's comparative advantages in taking the lead for domestic response missions. DoD's bureaucratic inertia and its tendency to act unilaterally on Guard issues without consulting other key stakeholders has fueled efforts for reform. Security and

defense experts have argued that overly hierarchical, centralized bureaucracies, like the DoD's may have been sufficient for Cold War planning but are at a distinct disadvantage in the new asymmetrical threat environment which demands speed and adaptation. Empowerment Act legislation is arguably a manifestation of the recognition that status quo organizations and lines of authority must be revisited. But debates surrounding the Empowerment Act also illustrate that "all military problems are ultimately political," as Congress and the DoD wrestle with reform initiatives.⁴²

⁴² Thomas S. Szayna, et al., *The Civil-Military Gap in the United States: Does It Exist, Why, and Does It Matter?* (Santa Monica, CA: RAND Corporation, DAPRRW008, 2007), 22-23.

II. DEBATES SURROUNDING NATIONAL GUARD EMPOWERMENT ACT

A. PROPONENTS SEE LEGISLATION AS NECESSARY FOR NATIONAL SECURITY

Although senior military and civilian policymakers have reached general consensus that the Guard has transitioned from a “strategic reserve” to an “operational force,”⁴³ considerable debate has surfaced on how to “fundamentally change the way the Guard fits into national and homeland defense architecture.”⁴⁴ Congress is addressing perceived inequities in National Guard authority with Pentagon and U.S. Northern Command structures, giving the Guard a larger voice to coordinate employment, equipment, and training for its domestic missions. Senators Patrick Leahy and Kit Bond also highlighted Pentagon failures to include governors and Guard leaders in key force structure and budget planning channels, as well as the “last-minute ad-hoc” relations between the National Guard Bureau (NGB) and the Office of Secretary of Defense (OSD) during disaster responses as supporting rationale for the legislation.⁴⁵ However, when the House and Senate failed to reach consensus on Empowerment Act legislation in the fall of 2006, the bill was passed to the

⁴³ See Unedited Transcript before the CNGR, Hearing on National Guard and Reserve Roles and Missions, March 8 and 9, 2006 <http://www.cngr.gov/pdf/0308cngr.pdf> and <http://www.cngr.gov/pdf/0309cngr.pdf> (accessed November 26, 2007); see prepared witness statements before the CNGR, Hearing on Roles and Missions, March 8, 2006, of David S. C. Chu, Under Secretary of Defense for Personnel and Readiness and Lieutenant General Raymond T. Odierno, Assistant to the Chairman, Joint Chiefs of Staff; see congressional transcripts from House Armed Services Committee Hearings on National Guard Enhancement, 109th Cong., 2nd sess., June 13, 2006 <http://www.ngaus.org/ngaus/files/ccLibraryFiles/Filename/000000001587/HASC-NG%20ENHANCEMENT%20TRANSCRIPTS.pdf> (accessed 4 November 2007); General Richard Cody, Vice Chief of Staff, Army, prepared statement to the House Armed Services Committee, 109th Cong., 2nd sess., June 13, 2006.

⁴⁴ Senator Ike Skelton testimony before the House Armed Services Committee Hearings on National Guard Enhancement, 109th Cong., 2nd sess., June 13, 2006 <http://www.ngaus.org/ngaus/files/ccLibraryFiles/Filename/000000001587/HASC-NG%20ENHANCEMENT%20TRANSCRIPTS.pdf> (accessed November 4, 2007).

⁴⁵ Senator Patrick Leahy, Bill Introduction, The National Defense Enhancement and National Guard Empowerment Act of 2006, April 26, 2006.

Commission on the National Guard and Reserves⁴⁶ for further study, to conduct public testimony and report to Congress with recommendations. As federal, state and military leaders testified during Commission hearings in 2006 and early 2007, two camps emerged on the efficacy of the legislation to strengthen Guard influence in DoD decision making.

Empowerment Act proponents, led by state governors, the Chief of the National Guard Bureau (NGB), Adjutants General Association of the United States (AGAUS) and National Guard Association of the United States (NGAUS) pointed to declining levels in overall manning, training and equipment levels as proof that DoD's "status quo" approach towards Guard readiness issues is untenable. Reform advocates supported the Act's measures to expand Guard authority in the Pentagon and NORTHCOM headquarters as recognition for its predominant role in providing homeland defense and civil support.⁴⁷ Adjutants general feared that the continued decline of "dual use" equipment inventories, partly the result of outdated budget planning processes, has jeopardized the Guard's ability to support emergency response as well as provide critical training for overseas combat operations.

Representative Gene Taylor, a House co-sponsor of empowerment legislation, described the Guard's "home grown" strengths as working members of local communities in providing emergency response, in contrast to the regular military's focus on conventional tactics,

Absolutely no offense to the 82nd Airborne. They are phenomenal soldiers. But I think you will find that in a disaster recovery mode, your National Guardsman who might be a hometown mechanic or

⁴⁶ "The Commission on the National Guard and Reserves was established by the Ronald Reagan National Defense Authorization Act of 2005. Congress chartered the 13-member body to conduct a comprehensive, independent assessment of the reserve components of the United States." (Commission on the National Guard and Reserves, *Second Report to Congress*, iii).

⁴⁷ Major General Raymond F. Rees, Adjutant General for the State of Oregon, combined testimony before the CNGR, Hearing on Proposed Changes to the National Guard, December 14, 2006; Lieutenant General H. Steven Blum, Chief National Guard Bureau, testimony before the CNGR, Hearing on Proposed Changes to the National Guard, January 31, 2007.

electrician has probably got the skills we need a little better than a guy for kicking down doors and shooting people.⁴⁸

Lieutenant General H. Steven Blum, Chief, NGB emphasized the Guard's inherent expertise and nation-wide networks with state and local responders which makes the Guard ideally suited for civil support and emergency response. He believed these qualifications were missing in Pentagon and NORTHCOM organizations, suggesting there are,

...things unique about the National Guard that they have absolutely no experience and deep basis of knowledge about, and that my input as the chief brings the collective experience and positions of the 54 adjutants general and governors...to them in a way that they can't get from, frankly, the chief of staff of the Army or the Secretary of the Army.⁴⁹

Governors reasserted their "Commander in Chief" prerogatives over state forces and expressed concerns about the Guard's ability to meet domestic homeland security and disaster response expectations. Delaware Governor Ruth Minner also articulated for many state officials her frustration with being overlooked in the DoD's 2005 Base Realignment and Closure (BRAC) process. In a prepared statement to the Commission on the National Guard and Reserves, Governor Minner recounted Air Force plans to terminate the "only Air National Guard flying unit" in the state without notifying her, "If the Air Force would have consulted with me, they would have learned the key role the Air National Guard plays in all of Delaware's homeland security plans."⁵⁰ Other state governors and adjutants general expressed similar irritation at being left out of key Pentagon

⁴⁸ Representative Gene Taylor, House Reserve Component Caucus, testimony before the CNGR Hearings on National Guard Roles and Missions, March 8, 2006, 67-68.

⁴⁹ Lieutenant General H. Steven Blum, Chief National Guard Bureau, testimony before the CNGR, Hearing on Proposed Changes to the National Guard, January 31, 2007.

⁵⁰ Governor Ruth Ann Minner, prepared witness statement before the Commission on the National Guard and Reserves, Hearing on National Guard and Reserves Issues, June 15, 2006.

decisions impacting Guard force structures and missions.⁵¹ Brigadier General (ret) Stephen Koper, President of the NGAUS spoke of the enormous political capital the Guard has had to expend in reversing DoD decisions where “senior Guard leadership has only been involved as an afterthought.”⁵²

The Center for Strategic and International Studies (CSIS) offered additional justification for reassessing the Guard's authority in U.S. Northern Command (NORTHCOM). In her testimony⁵³ and a formal report, CSIS analyst Christine Wormuth concluded that problems in coordinating federal and military response during Hurricane Katrina, especially with command and control issues indicated "just how far the U.S. government and military have to go in terms of being prepared to provide civil support."⁵⁴ Improving the military's support to civil authorities required a significant change in DoD's mentality from an overriding emphasis on the “away game...taking the war to the enemy” to “recogniz(ing) civil support, particularly in response to a catastrophic event, as a central mission for which it must plan, program and budget.”⁵⁵ CSIS recommended assigning a National Guard general as NORTHCOM's Deputy Commander, to strengthen partnerships with state and local agencies that become vital in disaster responses.⁵⁶ Wormuth further suggested that "cultural bias and tensions" between active duty military and National Guard units often act as barriers to building these civil support networks.⁵⁷ Adding a Guard general to the

⁵¹ See Congressional transcript – House Armed Services Committee, June 13, 2006; Major General Vavala prepared statement to House Armed Services Committee, June 13, 2006; Prepared testimonies to the CNGR, June 15, 2006 for Governor Michael F. Easley and Governor George E. Pataki.

⁵² Brig Gen (ret) Stephen Koper, President, NGAUS, prepared testimony for House Armed Services Committee, 109th Cong., 2nd sess., June 13, 2006.

⁵³ Christine Wormuth, Senior Fellow, Center for Strategic & International Studies, testimony before the CNGR, Hearing on National Guard and Reserve Issues, June 15, 2006.

⁵⁴ Christine E. Wormuth. *The Future of the National Guard and Reserves: The Beyond Goldwater-Nichols Phase III Report*. (Washington, DC: Center for Strategic and International Studies, July 2006), 66.

⁵⁵ *Ibid.*, 64-69.

⁵⁶ *Ibid.*, 84.

⁵⁷ *Ibid.*, 82.

NORTHCOM chain of command would send a positive signal to state and Guard officials the command is committed to making domestic response a priority.

B. OPPONENTS CONTEND LEGISLATION IS A “STEP BACKWARDS”

Opponents of the Empowerment Act, in a coalition led by civilian and military leaders from OSD, Army, Air Force, the Joint Chiefs of Staff and NORTHCOM contend that Empowerment Act reforms are unnecessary and potentially detrimental to the efficiency of existing organizational processes and lines of authority. DoD leadership affirmed they were actively addressing Guard deficiencies through substantial increases in equipment budgets; personnel policies to stabilize deployment schedules; rebalancing skills and capabilities across active duty and Guard components to ease demands on critical specialties; and implementing new force structures to integrate Guard, reserve and active duty units. Francis J. Harvey, Secretary of the Army testified that empowerment legislation is simply a "solution looking for a problem that doesn't exist."⁵⁸

General Peter Schoomaker, Army Chief of Staff testified before the Commission that equipment shortages were not unique to the Guard. In fact, the Army entered the war in Iraq with a \$56 billion shortfall, which contributed to “cross-leveling” equipment across Guard units to supply deploying forces.⁵⁹ However, General Schoomaker asserted the Army has made great strides towards reequipping and resetting reserve components by “fenc[ing] more than \$21 billion for ground systems procurement and \$1.9 billion in the aviation equipment for fiscal years 2005 through 2011.”⁶⁰ He also discussed initiatives like “Army Force Generation” (ARFORGEN) and “modular brigades” to restructure the force and ease operational demands on the Guard as proof that

⁵⁸ Francis J. Harvey, Secretary of the Army, testimony before the CNGR, Hearing on Proposed Changes to the National Guard, January 31, 2007.

⁵⁹ General Peter Schoomaker, Army Chief of Staff, testimony before the CNGR, Hearing on Proposed Changes to the National Guard, December 14, 2006.

⁶⁰ Ibid.

the Army is being responsive to its concerns. General Richard Cody, Army Vice Chief of Staff stressed that the Army is committed to restructuring the force to ensure the Guard is well postured for domestic missions under its state role and for the global war on terror, but needs time to realize success with its ongoing initiatives,

As we rebalance the combat support and combat service support, we said...we need to rebalance the combat service support so it is usable for the governors for homeland security and homeland defense and consequence management, but also had the requisite depth to be able to sustain an all-volunteer force based upon what we see as the Global War on Terrorism rotation. It is going to take us a while to do what. That is 120,000 spaces in the United States Army, active, guard and reserve, that we have to restructure...we have already done about 50,000 while we have been fighting this Global War on Terrorism.⁶¹

Dr David Chu, Undersecretary of Defense for Personnel and Readiness representing the Office of the Secretary of Defense (OSD), argued against convoluting organizational responsibilities by adding too many participants,

...this is ultimately about what are going to be the lines of authority in the Department...Do you want three military departments to be in charge of organizing, training, equipping the military forces of the United States?⁶²

He concluded that elevating the role of the Chief of the National Guard Bureau in the JCS and DoD as principal advisor on Guard matters would simply confuse command channels and undermine the Air Force and Army as managing parent services. Dr Chu strongly advocated maintaining status quo in command relationships between the National Guard Bureau and OSD, observing that the

⁶¹ General Richard Cody, Vice Chief of Staff, Army, remarks to the CNGR, Hearing on National Guard and Reserve Roles and Missions, March 9, 2006, 18.

⁶² David S. C. Chu, Under Secretary of Defense for Personnel and Readiness, testimony before the CNGR, Hearing on Proposed Changes to the National Guard, December 13, 2006.

United States has found a very successful solution in the six decades that we have been a world power. We think that's still the solution for the future. We think these proposals undercut that success if they were enacted.⁶³

Finally, Dr Chu reminded the Commission that homeland security and disaster response are not solely Guard responsibilities, but must be divided among local, state and federal agencies. He recommended building the capabilities of other local and federal response assets concurrently so that "early recourse to military forces [isn't] the only option the country possesses."⁶⁴

Senior Air Force leaders cautioned that adopting the legislation would weaken DoD's long standing Total Force policies which have endeavored over the last 30 years to create a "seamless Army, Air Force, Navy, Marine Corps." ⁶⁵ General Raymond Odierno, former Assistant to the Chairman, Joint Chiefs of Staff, was concerned a perception might develop that the Guard is a separate branch, when in fact they are integrated throughout the military,

...the National Guard and the Reserve component are a part of the total force. They are part of the Army. They are part of the Air Force. They are part of the Marine Corps. They are part of the Navy. And we don't want to move away from that concept.⁶⁶

General Odierno repeated the JCS position that the current force structure is "properly organized" and adequate to plan for and support service branches and their reserve components.⁶⁷ Army Vice Chief of Staff, General Cody, echoed Odierno's concern with preserving Total Force concepts and emphasized the

⁶³ David S. C. Chu, Under Secretary of Defense for Personnel and Readiness, testimony before the CNGR, Hearing on Proposed Changes to the National Guard, December 13, 2006.

⁶⁴ Ibid.

⁶⁵ See combined testimonies before the CNGR on Proposed Changes to the National Guard, December 13, 2006 for Michael W. Wynne, Secretary of the Air Force and General T. Michael Moseley, Chief of Staff of the Air Force.

⁶⁶ General Raymond Odierno, Testimony before the CNGR on National Guard and Reserve Operations and Roles, March 8, 2006, 120.

⁶⁷ Ibid.

Chief, National Guard Bureau and Director, Army National Guard have full access to the Secretary of the Army and Army Chief of Staff to discuss policy and requirements.⁶⁸

Finally, Admiral Timothy Keating, Commander of NORTHCOM has opposed the draft provision assigning a Guard general as NORTHCOM Deputy Commander since he didn't consider the problem to be a lack of Guard leadership in NORTHCOM. Rather, Admiral Keating believed it was a lack of "integration" between active duty and Guard communities. Referring specifically to the combined military response during Katrina, Admiral Keating suggested that discussions over "who has command and control misses the point."⁶⁹ He concluded that federal and military responses to catastrophic events could be significantly improved through integrated planning and training between Guard, active duty and Department of Homeland Security personnel.⁷⁰ The solution according to Admiral Keating lies in "unity of effort and results" not necessarily unity of command.

C. COMMISSION ON THE NATIONAL GUARD AND RESERVES REPORTS ITS FINDINGS AND RECOMMENDATIONS

After conducting its initial round of public hearings, the Commission released its interim report in March 2007. The findings validated many of the legislators' and governors' convictions that the National Guard needed additional authority and more formal interagency relationships. Chairman Arnold Punaro concluded that "significant reforms are necessary to update and improve the status, structure, and activities of the National Guard Bureau and its leadership."⁷¹

⁶⁸ General Richard Cody, Vice Chief of Staff, Army testimony before the House Armed Services Committee Hearings on National Guard Enhancement, 109th Cong., 2nd sess., June 13, 2006 <http://www.ngaus.org/ngaus/files/ccLibraryFiles/Filename/00000001587/HASC-NG%20ENHANCEMENT%20TRANSCRIPTS.pdf> (accessed 4 November 2007).

⁶⁹ Gordon Lubold, "NorthCom boss: Ending crises requires 'unity of effort,'" *Air Force Times*, November 15, 2006, 1.

⁷⁰ *Ibid.*

⁷¹ *Second Report to Congress*, March 1, 2007, Transmittal letter.

The Commission's specific proposals⁷² were targeted to bolster Guard participation in DoD and NORTHCOM decisions on employment and resources and included designating the National Guard Bureau as a "joint activity" of the DoD instead of a joint bureau of the Army and Air Force.⁷³ The Commission also proposed: assigning the Chief, NGB a principal role in identifying gaps in federal and state emergency response capabilities and reporting those shortfalls to Congress⁷⁴; elevating the Chief, NGB position to the rank of full general and designating the position as principal advisor to the Secretary of Defense through the Chairman, JCS on non-federal Guard matters⁷⁵; permanently assigning a Guard or Reserve officer as Commander or Deputy Commander of NORTHCOM⁷⁶; and better managing promotion and career opportunities for Guard general officers so they may fairly compete for combatant commands and senior joint positions.⁷⁷ The Commission, however, rejected the original Empowerment Act's provision to place the Chief, NGB on the Joint Chiefs of Staff explaining that the scope of the Chief's duties did not merit this move and it was more important to preserve Army's and Air Force's role as parent components.⁷⁸

Finally, the Commission observed that many DoD authorities and policies had not been updated since WWII, and did not include NORTHCOM and Department of Homeland Security organizations in interagency planning. These

⁷² The Commission presented 23 recommendations on aspects of the 2006 version of the National Guard Empowerment Act as requested by Congress. I have limited discussion to proposals I feel directly relate to enhancing bureaucratic stature and authorities of the Chief, NGB and the NGB within NORTHCOM and the Pentagon. Other Commission recommendations pertained to establishing a Governor's Council; modifying the composition of the Reserve Forces Policy Board; increasing the number of reserve personnel in NORTHCOM; and amending legal statutes allowing governors to direct federal military forces during a domestic emergency response.

⁷³ *Second Report to Congress*, March 1, 2007, xv.

⁷⁴ *Ibid.*, xii.

⁷⁵ *Ibid.*, xiv-xv.

⁷⁶ *Ibid.*, xvi. This recommendation differed slightly from Congress's original proposal because it suggests Reserve general officers should be considered for the NORTHCOM position as well.

⁷⁷ *Ibid.*, xvii-xviii.

⁷⁸ *Ibid.*, 75.

outdated organizational arrangements contributed to a “lack of clarity and mutual understanding of roles, missions, and spheres of authority in the homeland mission set.”⁷⁹ The Commission also considered OSD’s wholesale opposition to giving the National Guard a larger role in domestic support missions to be shortsighted and problematic, expressed in this exchange between Commission Chairman Punaro and JCS Chairman, General Peter Pace,

When Under-Secretary of Defense for Personnel and Readiness David Chu testified last month, he opposed every provision of the legislation and offered support for only one departmental request...Secretary Chu did not suggest any alternative approaches to deal with any of the issues that the legislation seeks to address. And, General Pace, I know firsthand from what the commission has heard in testimony, what we’ve learned, not just in our several months specific focus on this new statutory tasking we got from Congress, but we’ve been in business almost a year, and I know that sort of approaching this from the status quo is probably not going to pass muster, certainly not in the Congress and certainly not from a commission standpoint.⁸⁰

D. SECRETARY OF DEFENSE ACTS ON COMMISSION’S FINDINGS

After releasing its *Second Report to Congress* in March 2007, the Commission presented its recommendations to the newly appointed Secretary of Defense, Robert Gates for review and action. In a turnaround from previous OSD and JCS opposition, Secretary Gates convened a DoD working group to study the feasibility of adopting the recommendations. He subsequently accepted a majority of the Commission's proposals, enacting either through executive order or policy change.⁸¹ As suggested in the Commission's report, Gates assumed responsibility to oversee the Guard’s charter; designate the

⁷⁹ *Second Report to Congress*, March 1, 2007, viii.

⁸⁰ Arnold L. Punaro, Chairman, CNGR, remarks during Commission’s Hearings on Proposed Changes to the National Guard and Reserves, January 31, 2007.

⁸¹ Secretary of Defense Memorandum to Secretaries of the Military Departments, et al., "Implementation of the Recommendations from the Commission on the National Guard and Reserves," May 10, 2007 http://www.militarytimes.com/static/projects/pages/051007guard_reserve_memo.pdf (accessed May 18, 2007).

Chief, NGB a principal advisor through the Chairman, JCS; incorporate civil support requirements in service budgets; and develop consequence management plans for a coordinated Guard and active duty military response to domestic incidents.

However, Secretary Gates preempted some of the Commission's larger incursions into JCS authority by devising alternatives to protect parent service autonomy. Specifically, Gates modified the Commission's proposal to make the National Guard a joint activity within the DoD by changing eligibility criteria allowing joint credit and awards for Guard personnel who serve on the headquarters staff of the National Guard Bureau. This mirrored General Pace's interpretation of the provision when asked by Commission member E. Gordon Stump about making the Bureau a "joint activity,"

The real impetus, I believe, is for those officers who serve in those jobs...to get the joint credit that allows them to compete for the jobs that we want them to compete for...what we should do with the National Guard Bureau is take a look at the structure in the Guard Bureau and...make sure that they get the joint credit they deserve...so that when he competes to be the guy to go to NORTHCOM to head up as a colonel...that he can compete for those jobs. That's what I think the impetus is and I embrace making sure that those who do joint work get joint credit.⁸²

Since joint experience is an essential prerequisite for senior level promotions and command, Gates' policy was an effort to make Guard and Reserve officers more competitive for these opportunities. Finally, instead of permanently assigning a Guard general officer as NORTHCOM Commander or Deputy Commander, Gates pledged to improve processes to

...consider qualified National Guard and reserve officers for the most senior command and leadership positions within the Department, not only at U.S. Northern Command, but all joint and

⁸² General Peter Pace, Chairman of the Joint Chiefs of Staff, testimony before the CNGR, Hearing on Proposed Changes to the National Guard, January 31, 2007.

service senior leadership positions, consistent with their education, training and civilian and military experience.⁸³

E. LEGISLATORS PRESS AHEAD WITH NATIONAL GUARD EMPOWERMENT ACT OF 2007

Despite Secretary Gates' positive response to the Commission's findings, Senators Leahy and Kit Bond felt the recommendations did not adequately address the true nature of Guard organizational deficiencies. The Senators reintroduced their original bill as the "National Guard Empowerment Act of 2007" to be incorporated in the FY2008 National Defense Authorization Act, announcing "[we] remain committed to passing every facet of the Guard Empowerment Act. The measures the commission did not support remain a vital part of our legislation."⁸⁴ The House resubmitted their version of the legislation for review and markup as well. House and Senate approved versions emerged from the legislative process with differences that are currently being reconciled in conference committee. But what is worth noting in both House and Senate drafts, are the significant similarities in four main policy areas: formalizing roles and authorities of the Chief, NGB; modifying the status and purpose of the NGB for coordinating Guard utilization in domestic missions; expanding the role of the Secretary of Defense in overseeing the NGB and military support to civilian authorities; and reserving the NORTHCOM Deputy Commander position for a qualified Guard general officer. The convergences indicate a broad consensus in Congress that reforming the Guard's scope of responsibilities and establishing more formal access to the Secretary of Defense independent of Army and Air Force leadership is needed. The following sections detail the parallels in both versions of the draft legislation.

⁸³ SECDEF Memo "Implementation of the Recommendations from the Commission on the National Guard and Reserves," May 10, 2007.

⁸⁴ U.S. Senate National Guard Caucus, "Senate Guard Caucus Leaders: Commission's Report Falls Short On Prescriptions To Improve Guard's Intra-Pentagon Role," news release, March 1, 2007
<http://www.ngaus.org/ngaus/files/ccLibraryFiles/Filename/00000002315/caucusrelease030107.doc> (accessed December 8, 2007).

1. Role of Chief, National Guard Bureau

Both versions of the National Guard Empowerment Act of 2007 reflect legislators' intentions to increase the Chief of the National Guard Bureau's stature and responsibility in the Pentagon, by upgrading the position to full general and expanding its role as a principal advisor to the Secretary of Defense through the Chairman of the JCS. Senator Bond explained his rationale for promoting the position,

I've been around the military long enough to know that if you're in a room with a guy with more stars on his shoulder, he's the one that does the talking, and if you're lucky, you get to listen, not talk.⁸⁵

Enhancing the Chief, NGB's position also provides a formal channel for state governors to articulate civil support needs to the Pentagon through their adjutants general to the Chief.

The Senate version adds a requirement that the Chief, NGB must report to Congress annually on states' requirements for military civil support and indicate whether funding has been programmed into next year's budget for validated state needs. Testimony during Commission on the National Guard and Reserves revealed DoD's priority to be funding and equipping the Guard for its Title 10 role, but considered Guard's Title 32 role as a "lesser included set of capabilities."⁸⁶ Since it was a secondary consideration for DoD decisionmakers and because the Guard had no avenues outside Army and Air Force budget channels, General

⁸⁵ Senator Christopher "Kit" Bond, Co-Chairman, Senate National Guard Caucus, remarks to the CNGR, Hearing on National Guard and Reserve Roles and Missions, March 8, 2006, 23.

⁸⁶ General Peter Schoomaker, Army Chief of Staff, testimony before the CNGR, Hearing on Proposed Changes to the National Guard, December 14, 2006. For clarification, under Title 10 of the U.S. Code, National Guard members can be mobilized for service with the federal branches of the Army and Air Force, under the command of the President. Title 32 of the U.S. Code refers to National Guard personnel who are mobilized under the operational command of the state governor, but costs of the mission are borne by the federal government. In "Title 32" status, Guardsmen are exempt from Posse Comitatus restrictions, which allows them to participate in law enforcement activities. Title 32 missions typically consist of disaster response, border patrol, critical infrastructure protection, and airport security. Timothy J. Lowenburg, "The Role of the National Guard in National Defense and Homeland Security," <http://www.ngaus.org/ngaus/files/ccLibraryFiles/Filename/000000000457/primer%20fin.pdf> (accessed December 13, 2007).

Blum testified the Guard had limited success with competing these requirements in programming and budget channels. This annual report illustrates the principal-agent concept of a “monitoring” device enabling Congress to assess DoD’s effectiveness in resourcing civil support needs.

2. Purpose of National Guard Bureau

In addition to strengthening the Chief, NGB’s clout in the Pentagon, House and Senate versions of the National Guard Empowerment Act for 2007 intend to increase the stature of the National Guard Bureau (NGB). By altering its charter to become a “joint activity” of the DoD, versus a joint bureau of the Army and Air Force, Congress is giving the Guard more independence in managing aspects of military assistance to civil authorities. Although empowerment legislation clarified that NGB remains the channel of communication between the Air Force, Army and states, under House and Senate draft proposals, it will serve as the central “hub” for coordinating Guard personnel and resources for domestic missions when requested. Expanding the role of the NGB to be the central coordinator for Guard support is partly a response to lessons from the Hurricane Katrina response. The Senate’s special report on Katrina highlighted significant problems in states’ efforts to request disaster support through the Emergency Management Assistance Compact (EMAC) process. The report had criticized the EMAC system as too slow and bureaucratic to efficiently process large military deployments into the disaster area.⁸⁷ At the request of Mississippi and Louisiana state officials, the NGB intervened and coordinated requests for Guard support directly from states’ adjutants general.⁸⁸ The Commission supported formalizing this arrangement to anticipate what will likely happen in future disasters and to streamline the process for requesting Guard support.⁸⁹ The

⁸⁷ U.S. Senate, Hurricane Katrina: A Nation Still Unprepared, Special Report of the Committee on Homeland Security and Governmental Affairs, Washington DC: 2006), 508 <http://hsgac.senate.gov/files/Katrina/FullReport.pdf> (accessed December 6, 2007).

⁸⁸ Ibid.

⁸⁹ *Second Report to Congress*, 45.

Senate version of the National Guard Empowerment Act further broadens the NGB's mandate for coordinating Guard mobilization to include overseas contingencies and "military operations other than war,"⁹⁰ which suggests legislator intent to give the National Guard more authority in managing its assets, beyond Army and Air Force channels.

3. U.S. Northern Command

Both Senate and House drafts of the National Guard Empowerment Act stipulate that the Deputy Commander of NORTHCOM position will be filled by a qualified National Guard general. Since "U.S. Northern Command is the joint command in charge of Title 10 homeland defense and civil support activities", this initiative is intended to add Guard influence in coordinating Title 32 aspects of NORTHCOM civil support plans and operations.⁹¹ The Commission on the National Guard and Reserves also noted that the "commander of U.S. Northern Command does not sufficiently advocate for the full range of civil support requirements affecting the National Guard and Reserves."⁹² Critics contend that NORTHCOM has been too focused on defending against terrorist threats to the homeland. Consequently, it has been more hesitant about civil support missions, operating under the mindset that as a supporting agency it must wait for official requests by the lead federal agency, and only after local and state forces had been overwhelmed.⁹³ Government statements on the Hurricane Katrina response suggest that the slow military response was due in part to DoD's

⁹⁰ David F. Burrelli, et al., *The FY2008 National Defense Authorization Act: Selected Military Personnel Policy Issues*, CRS Report RL34169 (updated October 26, 2007), 23.

⁹¹ *Second Report to Congress*, March 1, 2007, 46.

⁹² *Ibid.*, xi.

⁹³ Steve Bowman, Lawrence Kapp, and Amy Belasco, *Hurricane Katrina: DoD Disaster Response*, CRS Report RL33095 (September 19, 2005), 13-14; Katherine McIntire Peters and Jason Vest, "Calling in the Cavalry," *Government Executive.com*, October 1, 2005, <http://www.govexec.com/features/1005-01/1005-01s1.htm> (accessed December 6, 2007).

delayed approach to disaster aid support.⁹⁴ This provision attempts to balance NORTHCOM's focus on its Title 10 homeland defense missions by adding Guard leadership in the chain of command to address civil support operations.

4. Expanded Role of Secretary of Defense

House and Senate versions of the National Guard Empowerment Act assign overarching responsibility to the Secretary of Defense to identify, budget, delegate and monitor "military unique" plans and capabilities for military support to civil authorities.⁹⁵ The Secretary must also report annually to Congress after consulting with NORTHCOM and the Chief, NGB on plans for coordinated Guard and active duty military response to various domestic disasters and terrorist events. Applying principal-agent logic, these sections are designed to evaluate DoD activities with respect to planning and funding civil support response. Testimony by senior DoD and DHS representatives to the Commission on the National Guard and Reserves revealed that no single federal agency had responsibility to ensure military requirements for civil support were identified and submitted for funding.

Senate and House sponsors also concur on assigning the Defense Secretary additional responsibility for managing the NGB charter and exercising quality control on Guard officers nominated for the Chief, NGB position. Under proposed arrangements in both drafts, the Secretary of Defense will periodically review and approve the Bureau's charter, incorporating inputs from the Army and Air Force Chiefs, and the Chairman, JCS. The Commission noted that several new and existing responsibilities had not been added to the Guard's charter. Since the bulk of the new duties were related to the Guard's non-federal tasks,

⁹⁴ Joseph I. Lieberman, Chairman, U.S. Senate Committee on Homeland Security and Governmental Affairs, "Military Role in Katrina Response Seemed Cobbled Together," statement to the Homeland Security and Governmental Affairs Committee, Hearings on Preparations for and Response to Hurricane Katrina, February 9, 2006 http://hsgac.senate.gov/index.cfm?FuseAction=PressReleases.Detail&Affiliation=C&PressRelease_id=1193&Month=2&Year=2006 (accessed December 6, 2007).

⁹⁵ Burrelli, et al., 25.

the Commission noted it would be more appropriate for the Secretary of Defense rather than service Secretaries to supervise the review and update process.⁹⁶ Properly documenting the full range of NGB's roles and missions might strengthen any future initiatives by Congress to seat the Chief, NGB on the JCS.

Last, Empowerment Act proponents in the House and Senate task the Secretary of Defense to refine nomination procedures ensuring candidates for the position of Chief, NGB, have substantial joint and operational experience, appropriate levels of military education, and extensive knowledge of homeland defense. Defense policy specialist Lawrence Kapp suggested this quality control provision is designed to reverse long-standing perceptions that Guard generals are less qualified or capable to command, by aligning "the recommendation process for NGB Chief into greater harmony with the process used for recommending officers for other O-9 and O-10 positions."⁹⁷ This section could be seen as Congress's attempt to level the playing field by ensuring Guard officers have more opportunities and are equitably considered for positions of responsibility.

F. CONCLUSION

National Guard reform advocates maintain that the Guard's transformation from a Cold War "strategic reserve" to a post-9/11 "operational force" necessitates a similar transformation in DoD hierarchies.⁹⁸ Traditional DoD command relationships, requirements and appropriations channels have not kept pace with the Guard's expanded challenges in supporting its dual missions of overseas operations and civil support.

⁹⁶ Second Report to Congress, 73.

⁹⁷ Burrelli, et al., 27.

⁹⁸ Major General Francis D. Vavala, Vice President AGAUS, testimony before the House Armed Services Committee on the National Defense Enhancement and National Guard Empowerment Act of 2006, 109th Cong., 2nd sess., June 13, 2006 <http://www.ngaus.org/ngaus/files/ccLibraryFiles/Filename/00000001587/HASC-NG%20ENHANCEMENT%20TRANSCRIPTS.pdf> (accessed November 4, 2007).

Senior leaders in the DoD and Pentagon argue that current organizational structures are sufficient, and legislation giving more authority to the National Guard comes at the expense of efficient operations and full integration with the Army and Air Force. DoD leadership further contends that the most effective way to manage current strains on the National Guard is to focus on personnel management policies, sustained funding levels, and rebalance forces while preserving existing lines of authority.

The Commission on the National Guard and Reserves concluded that its recommendations for organizational changes in the Guard are essential for addressing the "new threat environment."⁹⁹ Their proposals incorporate two new national security bureaucracies, the Department of Homeland Security and U.S. Northern Command, into DoD interagency planning processes; strengthen the ties between state governors and the DoD through the Chief, National Guard Bureau; and advise Congress on shortfalls between state and federal emergency response capabilities.

The overarching similarities in both House and Senate approved versions of empowerment legislation suggest a concerted effort to give the National Guard more authority and stature in policy and budget decisions with respect to military assistance to civilian authorities, emergency response and civil support. Both versions formalize the Chief of the National Guard Bureau's role in coordinating use of personnel and resources between states and other federal agencies, and advising the Secretary of Defense through the Chairman, JCS on Guard issues. Congress has strengthened its oversight capacity by levying reporting requirements on the Chief, NGB and Secretary of Defense on DoD efforts to identify, train and budget for military support to civil authorities. Finally, Congress has placed the Secretary of Defense squarely in charge of overseeing the National Guard charter, and screening candidates to serve as the Chief, NGB.

⁹⁹ *Second Report to Congress*, March 1, 2007, iii.

III. APPLYING NEW INSTITUTIONALISM AND PRINCIPAL-AGENT CONCEPTS

A. NEW INSTITUTIONALISM AND RATIONAL CHOICE ASSUMPTIONS

Political action involves the management of uncertainty.¹⁰⁰

The rational choice school of new institutionalism operates on three basic assumptions concerning the way institutions affect political behavior. First, legislators' policy choices are primarily driven by a "fixed set of preferences," generally to be reelected to office.¹⁰¹ Second, the political environment is a "series of collective action dilemmas" in which actors, vying for their individual preferences, reach outcomes that are "collectively suboptimal."¹⁰² Last, due to pervasive uncertainty of anticipating what other actors will do, institutions are necessary to manage competition through procedural rules, committee systems, and "enforcement mechanisms," making political outcomes more efficient and predictable.¹⁰³ Applying these assumptions to current debates over the National Guard Empowerment Act, Congress can be seen to be motivated to reform the Guard because it offers important political and electoral benefits. Maintaining effective Guard capabilities for civil support and emergency management is advantageous for politicians who benefit by providing important public services to their constituents and capitalizing on an extensive political network of governors, adjutants general and Guard units.

In addition to assumptions concerning the role of institutions in shaping political outcomes, rational choice theorists examine the methods by which politicians' control government bureaucracies. The extent to which politicians are perceived as successful in providing public goods and services to their

¹⁰⁰ Hall and Taylor, 951.

¹⁰¹ *Ibid.*, 944.

¹⁰² *Ibid.*, 945.

constituents, depends largely on how well bureaucrats work under delegated authority. Rational choice theorists incorporate principal-agent concepts like monitoring devices and “enforcement mechanisms” to explain politicians’ influence on agents’ behavior and the need for information to verify bureaucrats are carrying out legislators’ priorities. In this perspective, the Empowerment Act enables Congressional oversight of the DoD by utilizing the Guard as a monitoring device for evaluating how well DoD prioritizes and funds civil support requirements.

B. AVANT’S INSTITUTIONAL MODEL OF CIVIL-MILITARY RELATIONS

Civil-military relations scholar Deborah Avant, using new institutionalism and principal-agent concepts to examine civilian influence on military doctrine, constructs “a model to explain when military organizations will respond appropriately to a state's security goals and when they will not.”¹⁰⁴ Categorizing military and civilian leaders as “strategic actors” pursuing specific, possibly divergent organizational preferences, she articulates a new institutionalist understanding that “political incentives change...notions of the national interest, condition its implementation through special interest group politics, and manage the ground rules for bureaucratic politics.”¹⁰⁵ Avant proposes that civilians can effectively shape military preferences through incentive structures, such as promotion systems. However, interservice rivalry stemming from competition for resources and missions can also be a useful dynamic for civilian control of the military. Avant describes the collateral benefits that resulted after Congress changed the rules for budget processes in the 1920s, as each service found itself competing with other branches for budgets and missions,

¹⁰³ Hall and Taylor, 945.

¹⁰⁴ Avant, *Political Institutions and Military Change*, 1.

¹⁰⁵ *Ibid.*, 8.

...competition over strategy...provided civilians with a range of doctrines appropriate to meet a variety of pressing security concerns (as well as the parochial pork-barrel concerns of Congress).¹⁰⁶

Interservice competition proved useful during the Cold War era as well when Army and Air Force planners maneuvered to devise strategies and doctrine against the Soviet Union, providing “civilians a range of options for meeting this threat.”¹⁰⁷ Avant argues that military competition facilitated congressional oversight by providing tangible proof the services had merged their preferences with civilians’ foreign policy goals.

Finally, Avant suggests politicians’ reform efforts are motivated more by individual self interests than concerns about a particular security threat,

A domestic political actor is likely to promote institutional change in response to a changing position in the international system if the shift will augment that actor’s domestic political advantage.¹⁰⁸

C. FEAVER’S AGENCY THEORY

Peter Feaver offers a perspective on civil-military interaction through his “agency theory”, based on the idea that civilians delegate authority to the military to provide national security, but do not “abdicate control.”¹⁰⁹ While military and civilian leaders generally agree on the necessity to provide national security, they may differ on the means and strategy to produce it. He reasons that, because it is cost prohibitive for civilians to monitor every military activity, lawmakers use incentives and monitoring mechanisms to shape actors’ preferences and detect when the military is straying from the civilian agenda. Like Avant, Feaver

¹⁰⁶ Avant, “Political Institutions and Military Effectiveness,” 88.

¹⁰⁷ Ibid., 89.

¹⁰⁸ Avant, “The Structure of Delegation and Military Doctrine,” 7.

¹⁰⁹ Feaver, 55.

proposes that interservice rivalry can be an effective “fire alarm” alerting civilian officials to various issues about other branches of service or provide inside information about activities in the DoD.

D. APPLYING NEW INSTITUTIONALISM AND PRINCIPAL-AGENT CONCEPTS TO CONTEMPORARY SETTING

Recent findings from a 2007 RAND study on the state of civil-military relations in the United States offer a contemporary application of Avant’s and Feaver’s institutional dynamics and principal-agent frameworks. Analyzing the link between civil-military relations and military effectiveness, the RAND study concluded that in general terms, military and civilian leaders were united in their perception that transnational terrorism is the most important threat to national security.¹¹⁰ However, despite consensus on the nature of the threat, the RAND study predicted conflicts would likely surface over means and strategy due to “attitudinal differences” relating to “organizational affiliations which influence military’s and civilians’ views regarding the national interest and the role of the armed forces in contributing to national security.”¹¹¹ In a bureaucracy as massive and complex as the DoD, senior civilians are primarily responsible for overarching strategy development, but in the interest of organizational efficiency, must delegate authority over detailed operational and tactical plans to military agents.¹¹² The military subsequently develops expertise in the specialized, technological aspects of waging modern warfare, and thus has opportunities to influence policy outcomes by manipulating the agenda and flow of information to support its preferences. The RAND study echoes new institutionalist and

¹¹⁰ Thomas S. Szayna, et al., *The Civil-Military Gap in the United States: Does It Exist, Why, and Does It Matter?* (Santa Monica, CA: RAND Corporation, DAPRRW008, 2007), xvii.

¹¹¹ *Ibid.*, 22.

¹¹² *Ibid.*, 24.

principal-agent assumptions in observing that actors' "salience, preferences and political capabilities" determine how closely civilian principals must monitor military's decisions and performance.¹¹³

Since decisions are the outcomes of "conflict and bargaining" between civilian and military, organizational structure and monitoring are critical in minimizing "policy drift" and "bureaucratic discretion" among agents to implement policy as they deem appropriate.¹¹⁴ Structured decision-making processes also determine agenda and participants in key policy and budget issues, and are important channels in which to advocate priorities. General Blum, Chief of the National Guard Bureau commented on the importance of being included in formal, bureaucratic arrangements during testimony to the Commission on National Guard and Reserves, when he suggested the root of Guard readiness and equipment problems stemmed partly from "informal, ad hoc" relations between the Guard Bureau and DoD organizations. Under such unofficial arrangements, he noted that the Guard may or may not be invited to participate on decisions directly impacting its force structure, budgets and missions,

It doesn't mean that we're going to be right all of the time and we're going to be listened to any of the time, but at least we get heard and at least we have our position added to the thought process, to the decision-making process. And that's, I think all we're asking for, and I have faith and confidence in the people that run the Department of Defense and who serve on the Joint Chiefs, and particularly the chairman and vice chairman, that if they get good inputs, total, full disclosure, they will make the right recommendations.¹¹⁵

¹¹³ Thomas S. Szayna, et al., *The Civil-Military Gap in the United States: Does It Exist, Why, and Does It Matter?* (Santa Monica, CA: RAND Corporation, DAPRRW008, 2007), 27-29.

¹¹⁴ Szayna, et al., *The Civil-Military Gap*, 22.

¹¹⁵ Lieutenant General H. Steven Blum, Chief National Guard Bureau, testimony before the CNGR, Hearings on Proposed Changes to the National Guard, January 31, 2007.

E. EXPLAINING CONGRESSIONAL INTERESTS IN PURSUING EMPOWERMENT ACT LEGISLATION

Using rational choice institutionalism and principal-agent concepts constructed by Feaver and Avant, Congress is driving Empowerment Act legislation to improve the Guard's institutional position in the Pentagon based on electoral considerations and as a source of information on DoD performance. The following sections describe the policy and electoral motives behind strengthening the Guard's "bureaucratic muscle", to include utilizing the Guard as a monitoring device on DoD activities.

1. Policy Considerations

Testimony and public statements on empowerment legislation suggest Congress is pursuing a legislative remedy due to legitimate concerns over homeland security and improving civil support capabilities. Legislators' interest in the health and future of the reserve components predates current Empowerment Act legislation, when Congress established the Commission on National Guard and Reserves in 2005 with a broad mandate to

...identify and recommend changes in law and policy to ensure the National Guard and Reserves are organized, trained, equipped, compensated and supported to best meet the national security requirements of our nation now and in the future.¹¹⁶

The Commission was chartered principally to study the implications of transitioning the Guard from a strategic reserve to an operational force and make recommendations on organization, force structure, roles and benefits.¹¹⁷ The Commission was also tasked to determine an effective balance in skills and capabilities supporting the Guard's dual missions of overseas operations and as a military responder for state and local governments.

¹¹⁶ Arnold Punaro, Chairman of the CNGR, opening remarks to the CNGR, Hearing on National Guard and Reserve Roles and Missions, March 8, 2006.

¹¹⁷ See combined testimonies before the CNGR, Hearings on National Guard and Reserves Roles and Missions, March 8, 2006.

As the Commission began its series of initial public hearings on Guard and Reserve issues, Congress pressed ahead with more specific solutions, outlined in the National Defense Enhancement and National Guard Empowerment Act of 2006. Citing concerns the National Guard had not been an equal partner in the 2005 Base Realignment and Closure Commission (BRAC) process, decisions regarding cuts in Guard manning outlined in the 2006 Quadrennial Defense Review, and the disorganized state and federal response during Hurricane Katrina in 2005, Congress initiated empowerment legislation to strengthen the Guard's bureaucratic position within the DoD. Senator Bond, a co-sponsor of the legislation observed, "In terms of Guard's strategic role in the Active military...Guard is often treated as a lesser partner."¹¹⁸ The Empowerment Act was also intended to ensure state governors, as key stakeholders, are consulted in future decisions regarding force structure and missions.

2. Electoral Considerations

Civil-military relations scholars observe that Congress benefits considerably from its relationship with the National Guard, a valued organization in state and local communities, not only in terms of the emergency response resources it possesses, but the economic benefits the Guard brings through jobs and federal revenues. Politicians' efforts to strengthen and protect Guard missions and force structure often translate into votes. Lt Col David Fautua describes the strong ties between local communities and Guard units, which are generally the first military responders people see in a disaster or emergency, "it is the Army National Guard which is tangibly serving the people's needs, led by local leaders, commanded by state governors."¹¹⁹ These civic connections offer an attractive draw for politicians to be seen as Guard advocates.

¹¹⁸ Senator Christopher "Kit" Bond, Co-Chairman, Senate National Guard Caucus, remarks to the CNGR, Hearing on National Guard and Reserve Roles and Missions, March 8, 2006, 21.

¹¹⁹ David T. Fautua, "How the Guard and Reserve will fight in 2025," *Parameters* 29, 1, (Spring 1999): 127-149.

Steven Duncan, former Undersecretary of Defense for Reserve Affairs under President George H. W. Bush describes how legislators' policy choices are influenced by the economic benefits the Guard brings to local communities. He recounts with a fair degree of cynicism the Bush administration's struggles to draw down the military after the costly defense buildup during President Reagan's tenure. Governors and legislators who were vocal about the need to cut the defense budget to fund domestic programs, were also united against the executive to protest reductions in Guard forces,

...the Boston Globe gave, perhaps, the most candid assessment of the political reality: 'Congressmen, for their part, love the reserves, which represent home district jobs worth about \$6,000 per slot each year – in other words, votes.'¹²⁰

Peter Feaver links electoral imperatives to perceived threat levels, suggesting that national security becomes more important to politicians in a heightened threat environment, "when threat is high, there is a large electoral payoff for devoting attention to defense policy."¹²¹ Although Feaver was referring primarily to external threats associated with the Cold War, his rationale is equally applicable to current domestic threats as featured in various national strategy documents released since 9/11.¹²² Homeland security and emergency response have become important considerations amidst fears of future terrorist attacks on the U.S. In addition, the confused and disjointed response to Hurricane Katrina revealed significant gaps in state, federal and military disaster response protocols. In fulfilling the expectations of their constituencies, lawmakers stand to gain by "doing something" to address homeland threats and strengthen

¹²⁰ Stephen M. Duncan, *Citizen Warriors: America's National Guard and Reserve Forces & the Politics of National Security*, (Novato, CA: Presidio Press, 1997), 203.

¹²¹ Feaver, 198.

¹²² *National Strategy for Homeland Security*, (Washington, DC: Office of Homeland Security, 2007); The White House, *National Security Strategy*, 2006; *Strategy for Homeland Defense and Civil Support*, (Washington, DC: Department of Defense, 2005); *The National Military Strategy*, (Washington, DC: Joint Chiefs of Staff, 2004).

response capabilities for future natural or manmade disasters.¹²³ In addition, Congress has been energized to take action through Empowerment Act legislation on key issues impacting the Guard, such as uncertainties concerning Air Force plans to replace Guard missions terminated in the BRAC process, DoD's recommended cuts in Guard personnel outlined in the 2006 Quadrennial Defense Review, and chronic shortages in Guard equipment required for domestic support.

3. Fostering Interservice Tension as a "Fire Alarm" Mechanism

Drawing upon Avant and Feaver's observations regarding interservice rivalry as a useful source of information, Congress arguably has an interest in encouraging competition between National Guard and regular military as a means to facilitate oversight on DoD agendas and priorities. Feaver argues that service rivalry encourages productive military "working" because it fosters adaptation and innovation as services compete with each other for missions, particularly in new threat environments.¹²⁴ Competition between the services prevents "undue reliance on one narrow military approach to national security."¹²⁵ Finally, Feaver observes that a unified military is more effective at pursuing its organizational preferences and "resisting civilian control."¹²⁶ Zegart concurs that Congress prefers a divided military,

Division within the military ranks was good for Congress. Not only did it reinforce civilian control of the military, but it enabled individual members to exercise substantial influence over military policies and weapons programs.¹²⁷

¹²³ Bruce Schneier, *Beyond Fear: Thinking Sensibly About Security in an Uncertain World*. (Springer Science+Business Media, LLC/Copernicus Books, 2006), 33.

¹²⁴ Feaver, 296.

¹²⁵ *Ibid.*

¹²⁶ *Ibid.*

¹²⁷ Zegart, 155.

Historian Charles Cooper suggests that rivalry in the military is nothing new, and in fact has long been a part of bureaucratic relations between regular and reserve components, as each competed for resources and relevance in changing strategic environments,

...how the tasks of national defense are to be divided between the regulars and the volunteers has become an enduring question in American military history, each side contending for a monopoly over the divisions of military labor. In the modern era, tensions between the two traditions have normally been the most intense during periods of military demobilization when each side argues for the sacrifice of the other in order to maintain military effectiveness.¹²⁸

Congress can capitalize on institutional tensions between Guard and regular military and employ the Guard as a watchdog on Pentagon and NORTHCOM activities. Empowerment Act provisions that give more autonomy to Guard leaders in managing civil support and disaster response, place the Guard's charter under the purview of the Secretary of Defense and designate the National Guard Bureau as the focal point for coordinating requests for Guard support foster tension over authority and control of resources. Making the Chief, NGB responsible for reporting to Congress the gaps between state and federal response capabilities and placing a Guard general in the NORTHCOM chain of command also add monitoring elements to organizational relationships between the Guard, Air Force, Army, and DoD which benefit Congress as a source of information on DoD activities.

F. CONCLUSION

Avant and Feaver extend rational choice institutionalism and principal-agent concepts to civilian control of the military, described as an interactive environment of "conflict and bargaining."¹²⁹ In this context, testimony and

¹²⁸ Jerry Cooper, *The Militia and the National Guard in America Since Colonial Times: A Research Guide*. (Westport, CT: Greenwood Press, 1993), x.

¹²⁹ Thomas S. Szayna, et al., 20.

debates over National Guard Empowerment Act reveal Congress's legitimate policy concerns for the future viability of the National Guard with respect to its dual missions and contributions to national security. But Congress also has significant incentives for providing important public services such as homeland security and disaster response to its electorate. Legislation strengthening the Guard's bureaucratic position in the competition for DoD resources, ultimately benefits constituents, which could translate into votes. Finally, Empowerment Act provisions that direct reporting requirements, alter existing divisions of labor and mandate an increased role for the National Guard Bureau in coordinating Guard assets, transform the Guard into a "fire alarm," taking advantage of its historical tensions with the regular military to ensure the DoD is prioritizing and adequately resourcing state civil support requirements.

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IV. REVISITING TOTAL FORCE PRINCIPLES TO ADDRESS NEW STRATEGIC CHALLENGES

A. RETHINKING TOTAL FORCE CONCEPTS

Congressional initiatives to reform National Guard structure and policies typically correspond to profound changes in the national security environment or in response to national crises. The National Guard Empowerment Act is no exception, introduced in the midst of fundamental shifts in the world order triggered by the collapse of the Soviet Union, the rise of transnational terrorism, a revolution in information technology, and a long war on terror. The current administration, in an effort to transform national security organizations for diverse new threats, has reexamined existing divisions of labor, interagency relationships, and lines of authority with a goal to improving integration and information sharing across all “elements of national power.”¹³⁰ The Empowerment Act, as one aspect of this national effort for organizational reform, attempts to restructure the Guard’s lines of authorities and responsibilities for homeland defense and civil support. Reforms outlined in empowerment legislation also have larger implications for DoD’s Total Force policies which have been its guiding principles in budgets, training and equipping regular and reserve components.

The National Guard’s role in the U.S. military since Vietnam has largely been shaped by DoD’s thirty-year policy of “Total Force.” Confronted with declining defense budgets and a shrinking active duty force in the aftermath of Vietnam, Secretary of Defense Melvin Laird first articulated “Total Force” in 1973 to maintain a strong deterrence posture against the Soviet Union and honor the

¹³⁰ David A. Deptula, “Toward Restructuring National Security,” *Strategic Studies Quarterly* 1, 2 (Winter 2007): 8, <http://www.maxwell.af.mil/au/ssq/2007/Winter/deptula.pdf> (accessed December 7, 2007).

U.S.'s commitment to NATO for a forward deployed presence in Europe.¹³¹ Secretary Laird's Total Force vision was "to create a genuine ready reserve, with Guard and Reserve units properly trained and equipped so that they could be mobilized and deployed immediately...and integrated directly into active Army combat operations."¹³² These policies have evolved since 1973 to become a core principle in DoD strategic and operational planning, which leverages less expensive Reserve components to augment more costly active duty forces in fulfilling national security objectives.

Total Force has also been linked with the "Abrams Doctrine," after the Army Chief of Staff, General Creighton Abrams who developed "Roundout Brigades" using Guard units to augment active duty forces and rebalanced necessary combat skills and support functions into the reserve components. These force structure changes were initiated out of necessity to maintain a viable Army, as active duty manning and budget levels declined precipitously with the end of the draft and the military's transition to a volunteer force. Historians and civil-military relations experts are also in general agreement that the Abrams Doctrine ensured the next major conflict could not be fought without a large mobilization of the National Guard and Reserves. Senior military leaders considered President Johnson's reluctance to mobilize the Guard during Vietnam as a strategic failure and historian Michael Doubler suggests Abrams' restructuring was intentionally designed to,

...wean the Army from its reliance on draftees and to once again create a dependency on the National Guard as its primary combat reserve. However, more than thirty years of the draft and the trauma of the Vietnam War made the reconciliation slow and only partially successful. Because of the bitter Vietnam experience, General Abrams was determined to structure the active Army so it could never again go to war without the full support of the American

¹³¹ Michael Doubler, *I am the Guard: A History of the Army National Guard, 1636-2000*, 19 <http://www.arng.army.mil/Publications/guardhistorybook.pdf> (accessed October 12, 2007).

¹³² Cooper, 129.

people. The Roundout program made ARNG combat brigades the vital link between the American people and the Army.¹³³

Analyst Janine Davidson argues in her commentary "A Citizen's Check on War," that Total Force is equally relevant today, by adding important elements of transparency and accountability in the ongoing debates over Guard roles and missions. Friction over Guard deployments are positive signs that Total Force is succeeding as a "check and balance" on U.S. foreign policy,

In today's Total Force structure, repeated activations of reserves are supposed to take a toll. The budding debate over the structure and use of our military is a healthy reflection that the system is working. Unfortunately, Rumsfeld's response - to restructure the force for more efficient, less noticeable deployments - risks ensuring that such democratic debates will simply fade away.¹³⁴

However, Stephen Duncan proposes that DoD must reexamine Total Force concepts to better utilize the comparative advantages of each component in supporting an evolving national security strategy. He suggests the distinction between overseas operations and domestic missions are no longer useful, "...lines between 'foreign' and domestic' and 'war' and 'crime,' the line between 'military assignments' and 'civilian functions' is no longer as bright as it was before 9/11."¹³⁵ Duncan contends that DoD planners must critically assess existing divisions of labor to improve military efficiency,

A primary question which must now be answered is what conventional and homeland security missions can, and should be assigned to Active force units and personnel, and to Reservists, including the National Guard? What Active/Reserve force mix is required to ensure that the War on Terror is successfully prosecuted, that our other strategic challenges are successfully met, that all necessary missions - whether they are to be performed

¹³³ Doubler, 330.

¹³⁴ Davidson, "A Citizen Check on War."

¹³⁵ Stephen M. Duncan, "Homeland Security and the Reconstruction of U.S. Reserve Forces," in *Transforming the Reserve Component, Four Essays*, Center for Technology and National Security Policy, National Defense University, February 2005, 13-14 http://www.ndu.edu/ctnsp/Def_Tech/DTP10_Reserve%20Component.pdf (accessed October 14, 2007).

overseas or at home - are performed effectively? What military skills, experience, and resources are critical to homeland security and to what units and personnel should they be taught and given?¹³⁶

B. OSD AND CJCS: TOTAL FORCE IS ESSENTIAL FOR UNITY OF COMMAND AND EFFORT

Senior DoD civilian and military leaders' testimonies to the Commission on the National Guard and Reserves consistently supported Total Force principles as critical to integrating doctrine, missions, and resources between Reserve components and regular military. Military leaders warned that giving the National Guard autonomy as implied in empowerment legislation will confuse lines of authority and foster a perception that the Guard is a separate service. Air Force Secretary Wynne cautioned against treating the Guard as an independent branch,

The key to success is our integration and interdependence, and we need to be careful of the unintended consequences of stovepiping. Anything that would essentially create independence ultimately creates independent thought, ultimately creates independent structure, ultimately creates independent solutions problems. Our team can't afford to be divided. Unity of effort depends upon our current organizational structure. Islands ultimately will drift towards different alliances, weapons systems requirements, and equipment.¹³⁷

Air Force Chief of Staff, General Mike Moseley suggested that empowerment legislation could lead to a duplication of effort in acquisition and procurement processes and interoperability problems if the Guard is allowed to purchase its own equipment for civil support missions. General Moseley was also concerned the Air National Guard (ANG) could be at a distinct disadvantage as the smaller component in any organizational restructuring that gave the National Guard Bureau more authority,

¹³⁶ Duncan, "Homeland Security and the Reconstruction of U.S. Reserve Forces," 13-14.

¹³⁷ Secretary Wynne testimony to CNGR, December 13, 2006.

...look at the percentages of mass...If you combined that into a separate service, what would that do to the Air Guard as a culture? What would it do to the Air Guard's ability to be part of the Air Force and not an air arm to something [else]?¹³⁸

C. ARE THERE LIMITS TO FULL INTEGRATION?

The National Guard is an indispensable partner in matching national security strategy means to ends as Total Force evolves to meet a diverse set of national security challenges. Congress, supported by state governors is renegotiating the bureaucratic boundaries of Guard's traditional roles, missions and authorities to expand its scope of decision-making. Empowerment Act advocates suggest the post-9/11 environment revealed limitations in traditional applications of Total Force policies. A 2004 GAO Report concluded that the Army's "Cold War" interpretation of Total Force left it unprepared for new demands of an open-ended, indefinite war on terror, observing "the Army could not efficiently execute its mobilization and demobilization plans, because the plans contained certain outdated assumptions."¹³⁹ A 2006 GAO Report offered a similar assessment of the Army's legacy approach towards its reserve components,

Growing equipment and personnel shortages in nondeployed units are symptoms of an outdated model for balancing reserve unit capabilities, costs, and risks. While DoD's strategies for supporting Army reserve component units during the Cold War may have been appropriate to that era, significant changes in the national security environment have led to greater use of the Army reserve components on an ongoing basis and spurred the need for a comprehensive reassessment of reserve component equipping, personnel, and training policies.¹⁴⁰

¹³⁸ Adam J. Hebert, "Can the Total Force Hold Together?" *Air Force Magazine* 90, 6 (June 2007): 30, <http://www.afa.org/magazine/june2007/0607force.pdf> (accessed November 1, 2007)

¹³⁹ GAO, *Military Personnel: DOD Needs to Address Long-term Reserve Force Availability and Related Mobilization and Demobilization Issues*, GAO-04-1031 (Washington, DC: September 2004), 5.

¹⁴⁰ GAO, *Reserve Forces: Army National Guard and Army Reserve Readiness for 21st Century Challenges*, GAO-06-1109T (Washington, DC: September 21, 2006), 20-21.

Although a strong proponent of Total Force principles, General Blum raised concerns about Army and Air Force policies that indirectly contributed to the Guard's eroding readiness levels. Since the parent services consider Title 32 missions a secondary priority, Blum testified the Guard has no independent avenue to submit equipment and training requirements for its civil support functions. Consequently, General Blum has had to pursue supplemental funding outside official Army and Air Force channels, which was not "appreciated by anybody."¹⁴¹ Other adjutants general testified that while Total Force policies have worked well in supporting the Guard's Title 10 federal missions, lines of authority and responsibility have not been as clear for unique Title 32 state requirements.¹⁴² Senior Guard leaders contend that Empowerment Act legislation gives the Guard the voice it needs in the Pentagon and DoD fears that it undermines Total Force are largely overstated,

The Guard Empowerment Act seeks to close gaps in the Department of Defense organization and operations that link with state active duty and Title 32 operations and hinder the nation's ability to bring critical resources to bear on external and internal threats. It does not seek to create a pseudo-separate service, as some have claimed...The adjutants general in no uncertain terms want to be different or separate from the Army or Air Force. We've spent nearly 30 years working to operate the same as the active component. We simply desire that the full spectrum of missions assigned to the National Guard be fully represented in planning, training, and resource allocation.¹⁴³

Scholars John Kuehn and Eliot Cohen contend that too much centralization in the DoD, as implied by Total Force, can be counterproductive for effectiveness and quality of military advice. Kuehn argues that efforts to unify the newly created Department of Defense after WWII, have created an Office of the

¹⁴¹ General Blum, testimony before the CNGR, January 31, 2007.

¹⁴² See combined Panel 3 testimonies before the CNGR, Hearing on Proposed Changes to the National Guard, December 14, 2006 [http://www.cngr.gov/hearing121314/1214cngr-panel3%20\(2\).pdf](http://www.cngr.gov/hearing121314/1214cngr-panel3%20(2).pdf) (accessed December 11, 2007).

¹⁴³ Major General Francis D. Vavala, Adjutant General for the state of Delaware and Vice President AGAUS, combined testimony before the CNGR, Hearing on Proposed Changes to the National Guard, December 14, 2006.

Secretary of Defense (OSD) that has become so powerful it “limits or distorts the strategic advice available to the Commander in Chief.”¹⁴⁴ Cohen also cautioned against the “steady movement toward centralization of military authority in large staffs.”¹⁴⁵ Referring specifically to the JCS, Cohen believes too much concentration of authority “reduces the sources of military advice for civilian authority. The President and secretary of defense need more than one senior military advisor.”¹⁴⁶ Empowerment Act provisions designating the Chief, NGB as principal advisor to the Secretary of Defense and assigning a Guard general officer as NORTHCOM’s Deputy Commander are two methods to broaden expertise on Title 32 issues for the Secretary of Defense and Chairman, JCS.

Finally, Total Force integration among the services appears to be largely influenced by DoD budget levels. Interservice cooperation can be seamless when resource availability is guaranteed, as historian Michael Doubler recounts during the Reagan administration,

The robust defense budgets of the Reagan Buildup allowed the Army and the ARNG to repair much of the damage of the Vietnam, guaranteed the success of the volunteer Army and fostered better interservice relations. The Roundout program flourished, and ARNG units widened their participation in overseas training events...By the late 1980s, the Army and the ARNG had reached peak strength levels and enjoyed the best working relations since WWII. For a short span of years, the ARNG seemed to have resumed its historical position as the Army’s primary combat reserve.¹⁴⁷

However, periods of declining budgets have triggered fierce, often public competition for resources. Battles over the 1997 Quadrennial Defense Review’s recommendations to reduce the Army Guard by 38,000 positions provoked

¹⁴⁴ John T. Kuehn, “Abolish the Office of the Secretary of Defense?” *Joint Forces Quarterly*, 47 (4th quarter, 2007): 115.

¹⁴⁵ Eliot A. Cohen, “Civil-Military Relations: Causes of Concern,” in *The Domestic Sources of American Foreign Policy*, ed. Eugene R. Witkopf and James M. McCormick, (Lanham, MD: Rowman & Littlefield Publishers, Inc., 1999), 199.

¹⁴⁶ Cohen, 199.

¹⁴⁷ Doubler, 331.

Guard accusations that Army leadership had intentionally “left them out of the QDR’s final decision-making process.”¹⁴⁸ Congress intervened with proposed legislation to promote the Chief, NGB’s position to general and place on the JCS, although these provisions were eventually defeated. Since institutional structures direct the competition for resources, both the Guard and regular military have a vested interest in how the DoD bureaucracy is arranged, implying that “seamless integration” is conditional on availability of resources. James Carafano, a senior researcher with the Heritage Foundation contends that “current strains on the Reserve Components can be traced directly to an over-reliance on policies justified under the Total Force,”¹⁴⁹ that contributed to “inefficient force structures...insufficient equipment, and inadequate programs for efficiently mobilizing and deploying Reserve forces.”¹⁵⁰

D. CONCLUSION

DoD and the Joint Chiefs of Staff reiterate that unity of effort embodied by Total Force concepts is essential for efficient budget, training, and equipping all components of the armed services.

However, critics argue that DoD efforts to redefine the Guard’s roles, missions and authorities in the post-9/11 security environment has been hindered by its traditional interpretation of Total Force integration which subsumes the Guard under the purview of the Army and Air Force. Empowerment Act proponents suggest that unity of effort and interdependence were essential and necessary in meeting the stable, more predictable threats of the Cold War period. But the new security environment demands organizations that can respond and react quickly. Critics argue DoD has been slow to recognize the comparative

¹⁴⁸ James Kitfield, “Guard Controversies,” *Air Force Magazine* 81, 4 (April 1998): 30, <http://www.afa.org/magazine/april1998/0498guard.asp> (accessed October 30, 2007).

¹⁴⁹ James Jay Carafano, “The Army Reserves and the Abrams Doctrine: Unfilled Promise, Uncertain Future,” *The Heritage Foundation*, Heritage Lecture No. 869, April 18, 2005, 2 <http://www.heritage.org/Research/NationalSecurity/hl869.cfm> (accessed October 30, 2007).

¹⁵⁰ *Ibid.*, 9.

advantages in broadening the National Guard's authority and responsibilities for leading domestic support operations. Congress, through Empowerment legislation, is redefining Total Force notions of interdependence and integration to accommodate a larger role for the Guard in managing Title 32 operations.

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V. CONCLUSIONS

Debates over the National Guard Empowerment Act center on the implications of transitioning the Guard's organizational structure, missions, and authority to an "operational force." The Guard's sustained overseas deployments and accompanying strains on equipment and personnel levels, have diminished its capabilities as state militias. Congress intervened with the National Guard Empowerment Act to address competing pressures on Guard readiness and compel the DoD to focus more resources and attention on civil support and domestic operations. National security concerns have expanded to include the homeland, renewing political interest to ensure the National Guard can mitigate terrorist attacks, natural disasters and manmade catastrophes, while still fulfilling its operational commitments. Empowerment legislation intends to recognize the Guard's transition to an operational force by increasing its scope and authority overseeing its Title 32 missions.

Department of Defense and Joint Chiefs of Staff contend that current stresses on the Guard are not due to lack of influence in DoD hierarchy, but years of underfunding following the collapse of the Soviet Union as the nation tried to realize a "peace dividend." OSD and JCS leaders point out that shrinking DoD budgets have impacted all branches and components of the military, not just the National Guard. Army and Air Force leaders further stress that DoD is well into the process of revising Cold War policies and structures governing the National Guard and must have time to see these initiatives to fruition. Empowerment Act critics also charge that too much emphasis on strengthening the Guard as a first responder overlooks the responsibilities of other local, state and federal agencies. The National Guard is not intended to be the initial "go-to force," but called in only when local and state resources have been overwhelmed or exhausted. Finally, critics assert that Empowerment Act legislation threatens

to undermine the unity of effort embodied in DoD's Total Force policies, which have guided military planning, training and force structure decisions over the past thirty years.

Using new institutionalism theory and principal-agent concepts developed by Avant and Feaver, I argue that Congress introduced the National Guard Empowerment Act as an instrument to shape DoD policy and priorities giving more attention to domestic security and civil support issues. In addition, the Empowerment Act offers valuable electoral incentives for Congressional members who will be perceived as “fixing” Guard problems that surfaced during a disjointed, confused government response to Hurricane Katrina, strains on personnel and equipment from continuous overseas deployments, and governors’ complaints of being overlooked in important force structure decisions.¹⁵¹ Since Congress and the National Guard have a long tradition of political ties, this relationship is mutually beneficial in that the Guard can appeal to its allies in Congress over budget and policy disputes with the DoD.

The Empowerment Act also positions the Guard as a “fire alarm,” providing information that can alert Congress if DoD strays from legislative priorities. Provisions for annual reports and elevating Guard officers in DoD and NORTHCOM headquarters are methods to assess how well DoD prioritizes, plans, and funds military support to civil authorities and other domestic operations. Employing the Guard as a “monitor” on DoD activities effectively leverages long-standing tensions between the Guard and regular military stemming from competition for resources and relevancy.

Finally, Joint Chiefs of Staff and OSD representatives have repeatedly raised concerns that empowerment legislation jeopardizes fundamental Total Force principles, meant to integrate regular and reserve forces into a seamless force, equally capable, trained and equipped to meet a diverse range of security

¹⁵¹ Matthew D. McCubbins and Thomas Schwartz, “Congressional Oversight Overlooked: Police Patrols versus Fire Alarms,” *American Journal of Political Science* 28, 1 (February 1984): 168.

threats. Organizational changes mandated by the Empowerment Act are considered unnecessary and potentially harmful to Total Force policies, which stress integration and interdependence among the service components for efficient operations. Giving the National Guard autonomy over aspects of homeland support along with limited budget authority could duplicate efforts, confuse lines of authority, and lead to equipment interoperability problems.

However, DoD's traditional approach towards Total Force structures and hierarchy have contributed to its reluctance to change existing lines of authority on behalf of the National Guard. DoD's "status quo" position and bureaucratic inertia rallied legislators to press for Guard reforms. More DoD willingness to formalize Guard participation in decision-making channels in the early stages of the empowerment debates might have defused the acrimony evident in the ensuing public hearings. Despite Secretary Gates' adopting many of the recommendations by the Commission on the National Guard and Reserves, a level of distrust had developed between Congress and DoD. Senators Leahy and Bond reintroduced the legislation, noting,

The Guard is a 21st Century organization, stuck in a 19th Century bureaucracy. The Guard deserves a place at the table when decisions...are made that affect its readiness, its missions and its effectiveness. The Guard deserves more than lip service to these structural problems. They deserve action.¹⁵²

Debates over "who's in charge" stem from larger questions concerning the competition for resources and the appropriate division of labor for homeland defense, civil support and emergency response.¹⁵³ Total Force policies must be reconceived to recognize the Guard's comparative advantages in domestic operations and incorporate its leadership in corresponding DoD and NORTHCOM headquarters.

¹⁵² U.S. Senate National Guard Caucus, "Senate Guard Caucus Leaders: Commission's Report Falls Short On Prescriptions To Improve Guard's Intra-Pentagon Role."

¹⁵³ Szayna, et al., 22.

Based on political actors' interests, substantial dependence on the Guard as an operational reserve, and larger governmental efforts to transform national security bureaucracies for the long war on terror, DoD might have preempted Congressional intervention by offering their own plan to incorporate Guard leadership in selected NORTHCOM and Pentagon structures. However, DoD's adherence to "status quo" structures and existing lines of authority precipitated Congressional involvement. Finally, a convincing argument can be made that Total Force policies developed under Cold War assumptions must be revisited to factor in evolving security concerns and recognize the comparative advantages of each service component in meeting domestic and overseas threats.

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