



# INVESTIGATING THE BENEFITS AND DRAWBACKS OF REALIGNING THE NATIONAL GUARD UNDER THE DEPARTMENT OF HOMELAND SECURITY

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**Ryan Burke  
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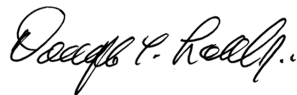
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## FOREWORD

Whereas the role of the federal military is clearly defined and limited in the spectrum of domestic operations, the National Guard, as a state or federal asset depending on duty status designation, assumes a more dynamic, multi-spectrum support role. This multi-spectrum role sometimes puts the Guard at the center of a contentious command power struggle between the states and federal government; a power struggle that has led to a growing debate over the role of the National Guard during domestic operations, with some questioning whether the Guard is better aligned to the Department of Homeland Security (DHS), rather than the states, for domestic operational requirements.

This monograph, by Dr. Ryan Burke and Dr. Sue McNeil, attempts to evaluate the benefits and drawbacks of a hypothetical realignment of the National Guard to the DHS. Drawing from interviews with a range of subject matter experts primarily from the National Guard and the DHS, Burke and McNeil first address the pros and cons of such a shift as suggested by their interview subjects. Using the highlighted issues as a basis for their argument, they conclude with five recommendations aimed at improving the utility and contribution of the National Guard during future domestic operations.



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## SUMMARY

The *2014 Quadrennial Defense Review* (QDR) designates homeland defense (HD) as one of the three core pillars of the nation's current and future defense strategy.<sup>1</sup> Defending the homeland from external threats and aggression requires a robust military capability. In this sense, both the federal Armed Forces (active and reserve components), as well as state National Guard forces play important roles in the defense of the nation. Further, HD often overlaps with civil support (CS) and homeland security to form a triad of domestic military operational domains. Where the roles, responsibilities, and limitations of the active and reserve components of the Armed Forces are relatively clear in this triad, the National Guard is a unique military entity capable of serving in either a state-controlled or federally controlled status during domestic operations. Whether the Guard operates in a state-funded, state-controlled status (State Active Duty [SAD]); a federally funded, state-controlled status (Title 32); or a federally funded and controlled status (Title 10) is a topic of ongoing debate during CS missions. Regardless of their duty status in such situations, the National Guard contributes to the security, protection, and well-being of the population. As such, it is important to continually assess the roles, responsibilities, and organizational orientation of the National Guard during domestic operations in support of civil authorities, and to ensure the states and federal government maximize the utility of this unique military capability when it matters most.

As part of the ongoing effort to improve domestic mission capabilities in support of civil authorities, the Department of Defense (DoD) continually evaluates

new and different approaches to achieving enhanced civil-military coordination. In this context, the unique position of the Guard as either a state or federal military force—depending on duty status designation—brings added complexity to the already difficult task of ensuring a well-coordinated state and federal military response effort. As such, there has been continued debate over whether the National Guard—or specific elements thereof—should serve in a permanent federal capacity to better support the nation’s security and disaster response mission. As a result of that ongoing discussion, the 2014-2015 Army War College’s Key Strategic Issues List (KSIL) asks: “what would be the benefits and drawbacks of realigning the [National] Guard under the [Department] of Homeland Security to enhance domestic security and disaster response, while retaining utility for overseas missions in support of the Department of Defense?”<sup>2</sup>

This monograph details our efforts to research and evaluate the perceived benefits and drawbacks of realigning the National Guard under the DHS, as per the KSIL topic noted above. We begin with a brief review of the relevant literature shaping the current policy and doctrinal approach to military CS operations, including a summary of laws and strategic guidance relevant to the discussion. We then note the important distinctions between homeland security (HS) and HD and the military role in each context. The seam between HS and HD provides a conceptual basis for discussing the roles and responsibilities of the National Guard, the DHS, and the DoD within domestic security and disaster response operations. After evaluating the National Guard’s role in each of the above contexts, we briefly discuss the realignment of the United States Coast Guard (USCG) within the DHS as a proxy for comparison of a similar realignment of

a military-style entity under the DHS. Then, drawing from interviews with relevant subject matter experts, we present several potential benefits and drawbacks of a Guard realignment to the DHS as noted by those interviewed for this monograph. Interview subjects represented a broad range of backgrounds, including officers from both the Army and Air National Guard; the Maryland and Delaware state emergency management agencies; active and retired U.S. Coast Guard officers; the Federal Emergency Management Agency (FEMA); U.S. Northern Command (NORTHCOM); current and former senior DoD officials with experience in homeland defense and CS operations; as well as representatives from academia with specific interests in military-involved state and federal operations. The study concludes with five short recommendations in summary of the research effort.

## ENDNOTES - SUMMARY

1. Chuck Hagel, *2014 Quadrennial Defense Review*, Washington, DC: Department of Defense, March 4, 2014, p. V.

2. Headquarters, Department of the Army, *Part I: Army Priorities for Strategic Analysis*, 2014-2015 Key Strategic Issues List, Carlisle Barracks, PA: Strategic Studies Institute and U.S. Army War College Press, June 2014, p. 10.





# INVESTIGATING THE BENEFITS AND DRAWBACKS OF REALIGNING THE NATIONAL GUARD UNDER THE DEPARTMENT OF HOMELAND SECURITY

## INTRODUCTION

The *2014 Quadrennial Defense Review* (QDR) designates homeland defense (HD) as one of the three core pillars of the nation's current and future defense strategy.<sup>1</sup> Defending the homeland from external threats and aggression requires a robust military capability. In this sense, both the federal Armed Forces (active and reserve components), as well as state National Guard forces play important roles in the defense of the nation. Further, HD often overlaps with civil support (CS) and homeland security (HS) to form a triad of domestic military operational domains. Where the roles, responsibilities, and limitations of the active and reserve components of the Armed Forces are relatively clear in this triad, the National Guard is a unique military entity capable of serving in either a state-controlled or federally controlled status during domestic operations. Whether the National Guard operates in a state-funded, state-controlled status (State Active Duty [SAD]); a federally funded, state-controlled status (Title 32); or a federally funded and controlled status (Title 10) is a topic of ongoing debate during CS missions. Regardless of their duty status in such situations, the National Guard contributes to the security, protection, and well-being of the population. As such, it is important to continually assess the roles, responsibilities, and organizational orientation of the National Guard during domestic operations in

support of civil authorities, and to ensure the states and federal government maximize the utility of this unique military capability when it matters most.

As part of the ongoing effort to improve domestic mission capabilities in support of civil authorities, the Department of Defense (DoD) continually evaluates new and different approaches to achieving enhanced civil-military coordination. In this context, the unique position of the National Guard as either a state or federal military force—depending on duty status designation—brings added complexity to the already difficult task of ensuring a well-coordinated state and federal military response effort. As such, there has been continued debate over whether the National Guard—or specific elements thereof—should serve in a permanent federal capacity to better support the nation’s security and disaster response mission. As a result of the ongoing discussion, the 2014-2015 Army War College’s Key Strategic Issues List (KSIL) asks:

what would be the benefits and drawbacks of realigning the [National] Guard under the [Department] of Homeland Security to enhance domestic security and disaster response, while retaining utility for overseas missions in support of the Department of Defense?<sup>2</sup>

## **SUMMARY OF MONOGRAPH AND METHODOLOGY**

This monograph details our efforts to research and evaluate the potential benefits and drawbacks of realigning the National Guard under the Department of Homeland Security (DHS), as per the KSIL topic noted above. We begin with a brief review of the relevant literature shaping the current policy and doctrinal approach to military CS operations, including a sum-

mary of laws and strategic guidance relevant to the discussion. We then note the important distinctions between HS and HD, and the military role in each context. The seam between HS and HD provides a conceptual basis for discussing the roles and responsibilities of the National Guard, the DHS, and the DoD within domestic security and disaster response operations. After evaluating the National Guard's role in each of the above contexts, we briefly discuss the realignment of the United States Coast Guard (USCG) within the DHS as a proxy for comparison of a similar realignment of a military-style entity under the DHS. The study concludes by listing and discussing the potential benefits and drawbacks of a National Guard realignment under the DHS and then makes five short recommendations in summary of the research effort.

In researching this monograph, we used a qualitative approach to data collection, combining semi-structured personal interviews with extensive document analysis. We requested interviews with subjects representing state and/or federal interests relevant to the research topic. After solicitation and coordination, we conducted individual interviews with personnel representing a range of both state and federal backgrounds. Personnel interviewed during the data collection phase of this research include representatives from the Army and Air National Guard (ranks ranging from lieutenant colonel to brigadier general); the Maryland and Delaware state emergency management agencies; current and retired USCG officers (ranks ranging from commander to [four-star] admiral); the Federal Emergency Management Agency (FEMA); and U.S. Northern Command (NORTHCOM). Additionally, current and former senior DoD officials with experience in HD and CS operations, as well as rep-

representatives from academia with specific interests in military-involved state and federal operations were interviewed. In total, we performed 21.5 hours of interviews and developed over 100 pages of interview notations for coding and analysis.

Based on the subjects' backgrounds, interviews focused on identifying both the potential benefits and drawbacks of a National Guard realignment under the DHS to support disaster response and domestic security missions. We coded interview data using an initial open coding scheme to label responses and suggestions. After open coding of all interview data, we used a descriptive coding scheme to develop specific code frames, grouping repeated assessments and recommendations into similar categories for further analysis. Once our code frames were developed, we used this data to identify the most significant perceived benefits and drawbacks of such a realignment as well as any recommendations that could be inferred as a result. Lastly, we reviewed over 1,000 pages of reports, policies, laws, studies, scholarly literature, and other relevant material to help shape our discussion and analysis. While the interview discussions and resulting drawbacks, benefits, and recommendations emphasized purely hypothetical scenarios given the above KSIL question, our subjects' collective backgrounds, knowledge, and experience provided a substantial basis of relevant information that facilitated a thorough analysis of the topic. This monograph presents a summary of our data collection and analysis efforts.

## HISTORY AND CONTEXT

Military forces—both state and federal—have long been involved in supporting civil authorities in varying capacities and support roles. From Hurricane Andrew and the Los Angeles riots of 1992, to Hurricane Sandy and the pre-election political conventions of 2012, we have seen military forces involved in some of the most high-profile domestic security and/or disaster response missions in recent memory. In incidents of large magnitude involving complex or cascading failures to our physical and social infrastructure, military forces sometimes provide the necessary capability to meet and overcome these challenges—all while saving lives, preventing suffering, mitigating property damage<sup>3</sup>, and restoring our way of life. In incidents of massive proportion like Hurricane Katrina, we sometimes see state National Guard troops operating alongside federal military troops from the active and reserve components. Even with the recent adoption of the dual status commander (DSC) concept as a mechanism to improve coordination between the states and federal government<sup>4</sup>, the National Guard and federal military serve under distinctly different command structures during most domestic missions. As a result, this limits effective coordination between the National Guard and federal military during domestic operations; something that has continued to be present as a documented challenge in most combined state-federal missions, the most notable of which being Katrina. Given the National Guard's unique position and ability to perform roles within homeland defense, homeland security, and CS contexts—in either state or federal status—the states and federal government continue to debate the role of the National Guard in

domestic response and security missions well into the post-Katrina era.

Following the terror attacks of September 11, 2001, President Bush – through the Homeland Security Act of 2002 – directed the establishment of the DHS as the primary federal agency responsible for protecting the United States. Concurrently, the Bush Administration directed the establishment of NORTHCOM as a geographic combatant command with homeland defense and CS as its primary mission priorities. The creation of the DHS and NORTHCOM demonstrated the growing commitment to homeland defense and security as a national priority. As such, there is a wealth of national-level policy guidance outlining the roles and responsibilities of relevant federal agencies and stakeholders. More specifically, however, is the distinction between HD, HS, and CS in terms of domestic military operations.

Among the standing guidance influencing domestic military strategy, many documents advocate for a coordinated approach to defense, security, and CS. Documents like the 2010 *National Security Strategy*, *Presidential Policy Directive 8*, various Homeland Security Presidential Directives, the *National Military Strategy of the United States of America*, and the 2014 *Quadrennial Defense Review* all call for the need to strengthen and maintain interagency partnerships as well as stakeholder engagement and cooperation.<sup>5</sup> These documents also affirm that in the context of homeland defense and security, the protection of the American people is paramount. According to the *National Security Strategy*, “this Administration has no greater responsibility than the safety and security of the American people.”<sup>6</sup> To meet this responsibility, there is a national expectation that federal agencies

will establish necessary coordination mechanisms and interagency relationships designed to facilitate enhanced security and/or response operations. Creating and maintaining the required relationships requires clear and distinct guidance concerning the various roles and responsibilities of federal agencies during homeland defense, homeland security, and CS operations. With regard to the military role, these distinctions are significant and need to be examined.

### **Homeland Defense, Security, and Civil Support Spectrum.**

The DoD *Homeland Defense and Civil Support Joint Operating Concept (JOC)* was published by NORTHCOM in 2007 and discussed how the DoD fulfills its role in supporting and defending the nation during domestic operations when required.<sup>7</sup> The 2013 version of DoD *Joint Publication 3-27: Homeland Defense* expands on this and discusses the particular variations and relationships between HD, HS, and defense support of civil authorities (DSCA), or CS.<sup>8</sup> In addition to discussing how the DoD plans to detect, deter, prevent, and if necessary, defeat external threats and aggression, these documents provide the framework for military action during domestic operations intersecting between HD, HS, and DSCA/CS. In this context, there are important distinctions between HD, HS, and CS. The JOC pulls from other national guidance documents and defines each as follows:

Homeland Defense (HD): The protection of US sovereignty, territory, domestic population, and critical defense infrastructure against external threats and aggression, or other threats as directed by the President. [The DoD is responsible for HD.]

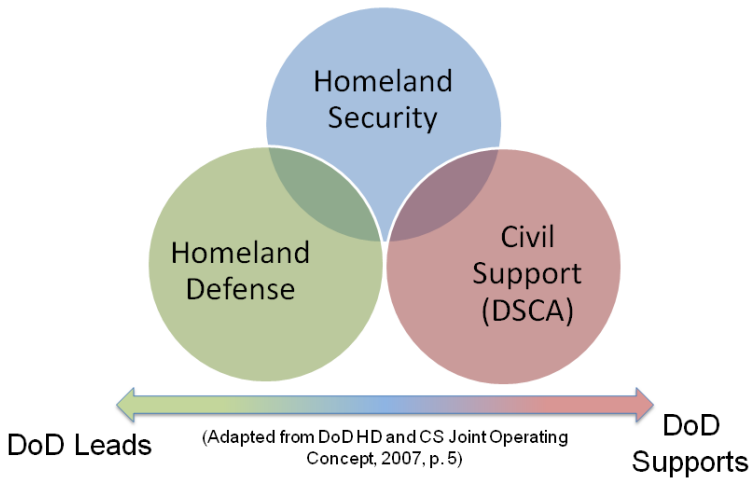
Homeland Security (HS): A concerted national effort to prevent terrorist attacks within the US, reduce America's vulnerability to terrorism, and minimize the damage and recover from attacks that do occur.

Civil Support (CS): DoD support to US civil authorities for domestic emergencies and for designated law enforcement and other activities.<sup>9</sup>

These are important distinctions for determining the roles and responsibilities of our various military and government capabilities during domestic missions meeting the above criteria. The JOC further clarifies that while the DoD is the lead federal agency (LFA) for HD operations, it operates strictly in a support role for both HS and CS (Figure 1). In contrast, non-federalized National Guard forces (Title 32 or SAD) can provide an often-needed military capability to state and federal authorities during HS and CS missions. The National Guard is trained and equipped by the DoD and, unless federalized under Title 10 authority, is "responsive to state sovereign authorities free of many of the limitations that constrain federal forces."<sup>10</sup> In the context of our national military capabilities, therefore, the National Guard is a key security and response resource for the states and federal government alike. However, the National Guard's current arrangement in national response and security doctrine places it in a debated position within a web of laws, policies, financial concerns, politics, and the founding principles of the nation. These many guiding parameters and restrictions only contribute to the friction between states and the federal government during domestic response and security situations. Therefore, it is important to revisit some of the relevant details that contribute to



the varying complexities associated with the National Guard and its domestic missions.



**Figure 1. The Roles of the Department of Defense Regarding Homeland Defense, Security, and Civil Support.**

## NATIONAL GUARD: ROLES AND MISSIONS

The United States Constitution guarantees individual states' rights to form and maintain their own militias.<sup>11</sup> Over the years, the constitutionally referred militia has since evolved from an obligated militia, to an organized militia, to the National Guard we know today.<sup>12</sup> Whereas federal military forces serve at the discretion of the President with the current legislative structure in place, National Guard troops can serve in three distinct duty statuses representing a combination of state and federal interests.

The National Guard remains a state military asset first. As a state asset, the National Guard provides an established military capability to Governors during security and/or response operations. When serving in SAD status, the National Guard is under the command and control of their state Governor.<sup>13</sup> Governors serve as the Commander-in-Chief of their state National Guard forces and can deploy the National Guard—in accordance with individual state constitutions and other laws—to support operations within their state as necessary (or in other states through emergency management assistance compact [EMAC] agreements). In SAD, states are financially responsible for all National Guard-related expenses. As a state military force, the restrictions of the Posse Comitatus Act<sup>14</sup> do not apply to National Guard forces in SAD status.

In Title 32 status, National Guard forces are called into service at the request of the President or Secretary of Defense “for training or other duty.”<sup>15</sup> In Title 32 status, National Guard forces remain under the command and control of the Governor. However, because the federal government requests—or retroactively approves following a Governor’s request for funding—Guard deployment in support of civil authorities under Title 32 of the United States Code (U.S.C.), financial responsibility for the employment of National Guard forces rests with the federal government. Additionally, because National Guard troops remain under the command of the Governor in Title 32 status, Posse Comitatus does not apply. Whereas the Constitution guarantees states the right to maintain a militia, Article II, Section 2 provides the authority for calling the militia into federal service:

The President shall be commander in chief of the Army and Navy of the United States, and of the militia of the several states, when called into the actual service of the United States.<sup>16</sup>

When mobilized or federalized under Title 10 status, command, control, and expenses of the National Guard are the responsibility of the federal government. The federal government primarily uses Title 10 authority to mobilize National Guard troops for overseas contingency operations in support of the DoD. However, if the President federalizes National Guard forces under Title 10 authority to support domestic operations, Posse Comitatus takes effect as the National Guard is considered a federal military force in this situation. Moreover, while the President has the ultimate legal authority to federalize the National Guard without approval from the respective states' Governor—abusing this power can have damaging political consequences—and is therefore rarely directed.<sup>17</sup> Table 1 summarizes the command, control, and expenses of domestic National Guard duty statuses.

<b>Duty Status</b>	<b>State Active Duty</b>	<b>Title 32</b>	<b>Title 10</b>
Command Authority	Governor		President
Pay and Benefits	State	Federal	
Posse Comitatus Act	N/A		Yes

**Table 1. National Guard Duty Statuses.**

Although there have been recent attempts through legislative and policy action to improve the inherent complexities of coordinating a combined National Guard and federal military response,<sup>18</sup> challenges

remain. The DSC initiative – which authorizes a single officer to command state and federal military forces during domestic CS missions – is still relatively new and requires further testing to improve its effectiveness as a command and control mechanism for emergency and disaster response.<sup>19</sup> The DSC arrangement has been used effectively during pre-planned domestic security and other special events since 2004.<sup>20</sup> However, questions remain as to whether such a command arrangement is ideal for the complexities of no-notice/limited-notice incident response requirements. Other military command and control options (Table 2) present equally challenging operational environments for domestic security and response, none of which is mutually beneficial to both states and the federal government.

<b>Command Option</b>	<b>National Guard</b>	<b>Federal Military</b>
State*	Governor	
Parallel	Governor	President
Dual Status	Dual Status Commander (32 U.S.C. § 315/325)	
Federal	President	
* Conceptual model—While such a model has been proposed in past legislation, currently there is no legal basis for the Governor of a state to assume direct command authority over federal military forces.		

**Table 2. Domestic Military Command Models.**

While the DSC arrangement may prove to be the best and most effective construct for commanding a joint military response force at some point in the future, we do not currently have a proven and reliable method of integrating the National Guard into the federal response or security framework. As we continue to see domestic security grow as a national

priority, and as we become more aware of the need for robust domestic disaster response capabilities, the ability to fully leverage the National Guard to support these requirements will be paramount. Due to the increasing emphasis on HD, domestic security, and disaster response, we need to continue to seek alternative methods to improve our ability to protect and defend our citizens using the full range of military capabilities. As such, calls to realign the National Guard—or at least some elements thereof—have received increasing attention following major domestic response efforts, such as those following hurricanes Katrina and Sandy. To consider this fully, it is necessary to understand the basic roles and responsibilities of the DHS, including its mission and organizational hierarchy.

## **DHS: ROLES AND MISSIONS**

The vision of the DHS is to “ensure a homeland that is safe, secure, and resilient against terrorism and other hazards.”<sup>21</sup> To achieve this vision, the DHS describes its core missions in five areas:<sup>22</sup>

1. Prevent terrorism and enhance security
2. Secure and manage our borders
3. Enforce and administer our immigration laws
4. Safeguard and secure cyberspace
5. Ensure resilience to disasters

A National Guard realignment under the DHS potentially contributes—conceptually and logically—to four of the five above missions. As a complete military force organized, trained, and equipped by the DoD, the National Guard is a geographically dispersed military

force capable of performing the full range of military operations. Similar to the DoD, the National Guard has both combat-capable air and ground services complete with the necessary administrative, intelligence, operational, logistical, and communications support required for performing and sustaining any military operation. Therefore, the National Guard can logically support each of the previously mentioned DHS mission areas (with some question as to their capabilities to safeguard and secure cyberspace) through its military capability. Since this capability maps well to most of the DHS mission areas, realigning the National Guard under the DHS makes sense operationally. However, such realignment makes less sense legally, politically, and even economically as numerous laws, policies, and regulations would require amendments or significant re-writing. Moreover, while we lack direct precedent for comparison, exploring the USCG realignment under the DHS from the Department of Transportation can serve as a useful starting point for further assessment of a National Guard realignment of similar intent and purpose.

## **EXPLORATION OF USCG REALIGNMENT UNDER THE DHS**

The Homeland Security Act of 2002 realigned the USCG to the DHS from the Department of Transportation.<sup>23</sup> The major difference between this realignment and a National Guard realignment is that the USCG was a federal entity prior to the realignment and remained a federal entity post-realignment. While the intent was similar—to simplify and streamline operational and administrative functions under a singular department structure—the mechanics of the USCG

realignment in comparison to a National Guard realignment are vastly different. In comparing a USCG realignment with a hypothetical National Guard realignment, we must consider affinity to mission as a primary concern in debating the potential pros and cons of any such organizational restructuring.

In the case of its realignment to the DHS, the USCG maintained (and continues to maintain) a direct affinity to the mission(s) of the DHS. As a maritime interdiction force, the USCG performs a range of security operations throughout the national waterways and along our water borders, which are among the primary areas of responsibility for the DHS. The USCG also supports other DHS agencies in customs and immigration missions at ports of embarkation and debarkation throughout the United States. As well, the USCG maintains robust aerial urban search and rescue (USAR) capabilities, oil and other environmental hazard control and extraction capabilities, and numerous other aerial and maritime capabilities frequently required in post-disaster operations led by the DHS. Therefore, the USCG's affinity to the DHS mission is direct and contributory. Further, as a federal entity, the USCG serves under federal command and control, and is funded by the federal government. There is no state responsibility or legal structure under which it must operate. Therefore, while some may point to this realignment as a useful comparison for consideration of a National Guard realignment, it is quite different.

Despite the absence of a useful comparison as a starting point, we were able to speak with individual subjects representing a range of relevant backgrounds and experiences. Through the interview process, these subjects assisted us in developing an analysis of some of the potential benefits, as well as drawbacks, of

realigning the National Guard under the DHS. The following sections summarize our analysis by offering discussions on the perceived pros and cons of such a realignment – taken from subject matter expert testimony – as well as a series of brief recommendations based on the resulting analysis contained herein.

## **EXAMINING A NATIONAL GUARD REALIGNMENT UNDER THE DHS**

To perform the research and analysis required for this monograph, our primary method of data collection was through personal interviews with a range of professionals able to provide relevant experience and subject matter expertise. We incorporated the perspectives of individuals from the DoD, the DHS, the USCG, FEMA, and National Guardsmen, as well state and local emergency managers, to gain a broad understanding of the potential benefits and drawbacks of a realignment. As part of our analysis, we assessed the role of the National Guard in domestic security and disaster response as well as the potential complications that a realignment may have on the National Guard’s ability to continue supporting the DoD in overseas contingency operations. Given our approach working with human subjects as our main source of data collection, we used a qualitative approach to data collection and analysis to synthesize material and make observations from the resulting data.

### **Drawbacks of Realignment.**

Realigning the National Guard under the DHS raises several obvious issues. At the federal level, there are literally dozens of policies, procedures, directives,



instructions, doctrinal publications, joint publications, service-specific field manuals, tactics, techniques, and procedures, as well as other strategic, operational, and tactical guidance that would require major revisions under a realignment. At the state level, realigning the National Guard under the DHS and making it a federal entity would require major revisions to nearly every state emergency management plan and associated guidance document. Legally, most of Title 32 of the U.S.C. - National Guard, would require revisions. Other relevant acts like the Stafford Act and Economy Act—both of which covers expense reimbursement for DoD actions during disaster response and relief—would require rewriting with the addition of the National Guard as a federal entity. However, revisions to Title 32, the Stafford Act, Economy Act, and other legal references may not be as problematic as the revisions to the legal core of the United States: the U.S. Constitution.

As the supreme legal foundation of the United States and its principles, the Constitution clearly defines the separation of powers between individual sovereign states and the federal government. Command and control of the Armed Forces and state militia or the National Guard are critical components of the federalist construct used in drafting the Constitution. In addition to removing state-level military capabilities and Governor control of the National Guard, realigning the National Guard under a federal department would effectively nullify the federalist construct as it applies to the command and control of domestic military forces. This has the potential to create a culture of militarized federal security and disaster response that may not only be socially unwelcome, but politically and financially unwelcome as well. While the

drawbacks are significant and should not be underestimated, they are more impractical than impossible.

States and the federal government regularly revise polices, laws, and other guiding documents in response to ongoing political debates, lobbying, social movements, and other influential activities. These revisions would require a major time investment and significant labor to accomplish, but are feasible nonetheless. However, numerous drawbacks to this realignment stretch beyond the obvious superficial changes required to laws, policies, and response doctrine. The next sub-sections represent a summary of the drawbacks identified by our subjects during the interview phase of the research.

### **Revisions to Relevant Laws and Policies.**

I hope I'm not working in the National Guard Bureau if they decide to realign the Guard to DHS. I'll be re-writing policies until I retire.<sup>24</sup>

There are numerous challenges and drawbacks to realigning the National Guard under the DHS. However, revising—and in some cases completely re-writing—the various laws and policies at both the state and federal level is perhaps the most significant drawback to a National Guard realignment. Each of our interviewees—regardless of background—noted this as a major obstacle. Due to the many works requiring change in this scenario, reviewing each law or policy is beyond the scope of this project. That said, the most significant revisions required relate to the various laws influencing the use of the National Guard for domestic operations. In particular, Title 32 of the U.S.C.—laws governing the National Guard—

would require a massive re-write in each of its five chapters (Organization, Personnel, Training, Service, and Homeland Defense) to reflect a new alignment under DHS.<sup>25</sup> Additionally, 10 U.S.C. § 12403-12406 authorizes the President to call members of the National Guard into federal service of the United States; or to “federalize” the National Guard for assistance during periods of invasion, rebellion, or as otherwise required, such as during periods of war.<sup>26</sup> Under a realignment to the DHS, these laws would require revision—or perhaps deletion—to reflect the National Guard’s new position as a federal entity. Perhaps even more significant, Article I, Section 8; Article II, Section 2; and Amendment X (depending on interpretation) of the Constitution require revision under a proposed realignment, as the National Guard would no longer reflect the state militia concept noted in the Constitution.<sup>27</sup>

In addition to numerous legal changes, dozens of DoD policies outlining the roles and responsibilities of the National Guard in domestic missions require attention and revision under a proposed realignment. Specifically, Joint Publication 3-28: *Defense Support of Civil Authorities*<sup>28</sup> and the DoD *Instruction 3025.22: The Use of the National Guard for Defense Support of Civil Authorities*<sup>29</sup> would require significant attention and revision following realignment. Federal budgeting and resource allocation policies and strategies, similar state-level materials, and nearly every other document, plan, or procedure affecting the National Guard at both the state and federal level—far too many to specifically note here—would also need to be addressed, with significant revisions likely. Administratively speaking, realigning the National Guard under the DHS would require a massive amount of man-hours

to update the various policies and laws required as a result of such a change. And not to be overlooked in this area is the fact that the United States currently has both legal and policy mechanisms in place that allow the National Guard to be integrated with the federal government, whether federalized under Title 10 authority or used under a DSC arrangement, within an assigned state or territory. Given the complexities of accomplishing such a change and the fact that the U.S. already has mechanisms in place to facilitate federal use of the National Guard during security or disaster missions, the major required revisions to current laws and policies present perhaps the most significant drawback to realigning the National Guard under the DHS. From a military perspective, Table 3 notes some of the major laws and/or policies requiring attention and revision under a proposed National Guard realignment to the DHS. However, the legal and policy-oriented challenges are far from the only drawbacks to such a change. While the above issues are administratively focused, there are strategic and operational drawbacks as well.

<b>The National Guard in the Homeland—Sample of Relevant Laws and Policies</b>	
<b>Law/Authority</b>	<b>Description</b>
Article I, Sec. 8	Constitutional authority given to Congress to provide for defense of the nation; includes the authority to call forth the militia—or National Guard—to execute the laws of the nation, prevent insurrections and repel invasions; establishes the legal precedent for using the National Guard during domestic military operations.
Article II, Sec. 2	Establishes the President as the Commander in Chief of the Armed Forces of the United States and of the National Guard of the individual states when called into service of the United States.

**Table 3. Laws and Policies Relevant to the National Guard in Domestic Operations.**

Law/Authority	Description
Amendment X	Reinforces the separation of powers concept by reserving the rights and powers not delegated to the United States by the Constitution, to the states respectively; this can be interpreted as the authority for a state governor to serve as Commander in Chief of the state militia or National Guard.
10 U.S.C. § 12403-12406	Authorizes the President to call members of the National Guard into federal service of the United States; National Guard forces operating under this authority are colloquially referred as being in a “federalized” status.
Title 32 U.S.C.	Laws pertaining to the government and regulation of the National Guard.
32 U.S.C. § 502f	Authorizes members of the National Guard to perform duties and services in support of national interests at the request of the President or Secretary of Defense while receiving federal pay and benefits rather than state pay.
18 U.S.C. § 1385	Posse Comitatus Act: the principal intent of the Posse Comitatus Act is to restrict the President and the federal government from using federal military forces to perform law enforcement activities and/or enforce laws within the states and territories of the United States. The restrictions of Posse Comitatus do not apply to the USCG or the National Guard when operating in state controlled status.
42 U.S.C. § 5122	Robert T. Stafford Disaster and Emergency Relief Assistance Act - Utilization of DoD Resources (section 5170b(C)). This section specifies that when the preservation of life and property are deemed necessary, at the request of a state Governor, the President may authorize DoD resources to assist in emergency and disaster relief at a 75% cost share to the federal government.
<i>DoD Directive 3025.18: Defense Support of Civil Authorities</i>	DoD policy directive outlining the considerations, processes, procedures, and responsibilities for providing military support to state and local government agencies; also known as defense support of civil authorities (DSCA).
<i>DoD Instruction 3025.22: The Use of the National Guard for Defense Support of Civil Authorities</i>	DoD policy directive that assigns the roles and responsibilities for the National Guard to conduct defense support of civil authorities operations.
<i>DoD Directive 3160.01: Homeland Defense Activities Conducted by the National Guard</i>	DoD policy directive that assigns roles and responsibilities for the National Guard to conduct homeland defense operations.

**Table 3. Laws and Policies Relevant to the National Guard in Domestic Operations. (cont.)**

Law/Authority	Description
Joint Publication 3-27: <i>Homeland Defense</i>	DoD joint doctrine to “govern the activities and performance of the Armed Forces of the United States in joint homeland defense operations and provides the guidance for U.S. military coordination with other U.S. Government departments and agencies during operations, and for U.S. military involvement in multinational operations supporting homeland defense.” (p. i.)
Joint Publication 3-28: <i>Defense Support of Civil Authorities</i>	DoD joint doctrine to “govern the activities and performance of the Armed Forces of the United States in DSCA operations.” (p. i.)
For a more comprehensive list of relevant documents, see Appendix G of Joint Publication 3-28.	

**Table 3. Laws and Policies Relevant to the National Guard in Domestic Operations. (cont.)**

### **Reducing the DoD’s Operational Reserve Footprint.**

If the Guard moves to DHS, who is the operational reserve force for DoD?<sup>30</sup>

Largely as a result of the ongoing War on Terror, the National Guard’s mission and purpose has changed. In recent years, the National Guard has shifted from what was once a strategic reserve of the DoD to more of an operational reserve force in readiness. As a supplement to the current active and reserve components of the Armed Forces, National Guard units throughout the United States have deployed in support of both Operation ENDURING FREEDOM and Operation IRAQI FREEDOM. In the current operational landscape, the National Guard has provided a valuable extension to the U.S. military footprint at home and abroad. Since the current War on Terror

commenced in the fall of 2001, the National Guard has demonstrated its ability to legitimately serve as an operational reserve force for the DoD while also retaining its utility for stateside service—albeit reduced during periods of deployment—when required by the Governors. If a National Guard realignment to the DHS occurs, this raises the question as to who or what will take the place of the National Guard as an operational reserve force for the DoD?

While it can be argued that the dual-theater requirements during the War on Terror are a rare occurrence, the ability to conduct two simultaneous wars has been the required standard for determining military size for over 20 years. In addition, although there are some ambiguities in current guidance, nearly every major defense policy, doctrine, and strategic document affirms this multi-theater capability as necessary to meet current and future global challenges, while also sustaining capabilities for crisis response, humanitarian assistance, regional deterrence, HD, and CS.<sup>31</sup> Therefore, with the known requirements to conduct multi-region campaigns unlikely to change, it is imperative to have a ready operational reserve to supplement federal forces for future conflicts that may arise. If the National Guard were to be realigned under the DHS—presumably for only domestic missions—the DoD’s ability to conduct multi-region operations would be significantly diminished. Losing the National Guard as either a strategic or operational reserve force could have additional cascading effects on future strategic decision-making and weaken the perceived strength of the U.S. military apparatus. Beyond this, should the National Guard realign to the DHS, it would, as a result, lose the DoD budget support, which currently makes up roughly 95% of the National Guard’s annual budget.

## **Eliminating DoD Budget Support.**

The best thing DoD does for the Guard is open its checkbook.<sup>32</sup>

Aside from the many obvious logistical, legal, and policy-oriented challenges associated with realigning the National Guard under the DHS, shifting budgetary appropriations for the National Guard from the DoD to the DHS is not as simple as changing the routing number on a deposit slip. Currently, the National Guard receives approximately 95% of its \$27.3 billion budget from the DoD; the remaining 5% is paid for—in varying degrees—by the states for use of state facilities and for periods of SAD training or activation.<sup>33</sup> DoD funding provides the means and resources to sustain the defense of the nation—and the National Guard is part of this funding. However, the National Guard is not a domestic response force. By design, it is principally funded and equipped to serve as an operational reserve force to the DoD. Realigning the National Guard to the DHS—in terms of budgeting—requires more than simply changing annual defense appropriations to reflect a loss of National Guard-specific requirements. Such a shift also requires revisiting the National Guard’s position and role in the defense and security spectrum. Revising this role to reflect a solely domestic and federally controlled mission will undoubtedly change the equipment, personnel, and training needed of the National Guard in its entirety, as well as remove all state-specific affiliations that otherwise differentiate the National Guard from the federal military. Such a dramatic and anticipated change in force structure and mission focus would largely



re-brand the National Guard, ultimately leading to additional unintended consequences and drawbacks.

### **Loss of the “Hometown Force” Concept.**

Guard personnel are members of their communities; under DHS we would lose that attachment-to-place mindset that so many of us value.<sup>34</sup>

The National Guard is comprised of volunteers who primarily serve in the state they reside. As a result, Guardsmen have opportunities to perform military service that directly benefits their local communities, home state, and neighboring states through EMAC agreements. Such service instills a sense of duty, pride, and connection to the communities in which the National Guard serves. According to several National Guard personnel, this “hometown force mindset of helping friends and neighbors”<sup>35</sup> generally seems to improve recruiting and retention, as well as pride in service among members of the National Guard.<sup>36</sup> During our interviews, most National Guard personnel expressed concern that a realignment under the DHS would effectively negate this hometown force mindset, as the National Guard would hypothetically become a federal entity. According to our interviewees, since a realignment would diminish one of the main attractions for service in the National Guard, it would presumably have a negative effect on recruiting and retention.<sup>37</sup> Further, National Guard personnel often bring unique and valuable area knowledge and expertise to security or response operations that federal personnel may not have. As federal employees, National Guard personnel may not operate in their home communities, which could have a detrimental

effect on a security or response mission. Moreover, although these issues and their effect on performance are less quantifiable than changing laws and budgets, the loss of the hometown force concept unique only to the National Guard is significant to its personnel, as evidenced in our interviews.

### **Loss of Supplemental Law Enforcement Capability.**

Right now we're a force multiplier for state law enforcement if needed . . . but if we (National Guard) serve under DHS as essentially another federal military force, because of Posse Comitatus, Governors can't use us to support state and local law enforcement the way they can now . . . and that could be a game changer.<sup>38</sup>

When activated for duty in a state-controlled status (either SAD or Title 32 status), the National Guard can engage in and support law enforcement activities within their state, as directed and authorized by their Governor. The restrictions of the Posse Comitatus Act do not apply to National Guard troops serving in either a SAD or Title 32 status. As such, state governors can—and often do—request National Guard support to law enforcement during periods of civil unrest, special security events, state emergencies or disasters, and other operations as designated by the Governor. Realigning the National Guard under the DHS would effectively transform the National Guard into another federal military force and would subject them to Posse Comitatus Act restrictions, thereby eliminating a Governor's ability to use them for state and local law enforcement support. This reduces—or at the very least marginalizes—state and local law enforcement capabilities during periods of increased need. Therefore, a

reduction in law enforcement capabilities and capacities is a notable drawback to realigning the National Guard under the DHS. Any significant policy change that reduces a governor's power and authority in this manner – whether through law enforcement capabilities or any other reduction– brings political backlash as a result. Such political challenges are also a notable drawback to realigning the National Guard under the DHS.

### **Political Challenges.**

Guard control during emergencies and disasters has always been a political hot potato. Removing the Guard from the Governors' control is a non-starter.<sup>39</sup>

Command authority of the National Guard has long been an issue of political sensitivity for state Governors in relation to the federal government.<sup>40</sup> As discussed earlier, recent legislative debates and posturing between state Governors and the DoD have resulted in a tug-of-war of sorts over control of the National Guard during domestic emergencies. Through such things as the DSC initiative, state Governors have fought successfully to retain command and control of National Guard forces in their states when not federalized under Title 10 authority. Realigning the National Guard under the DHS for use in security or disaster response missions would remove all military capability from the Governors' authority, and result in a state government lacking sufficient military resources for CS roles and missions that it would otherwise source from its state-based National Guard assets. Given the recent progress between the DoD and the Governors to mutually agree on a command arrangement linking

both state and federal military forces during designated emergencies or disasters, a proposed realignment of the National Guard into federal control under the DHS is not politically palatable. The National Guard provides Governors with a unique military capability to enhance state operations, whether in support of law enforcement or other designated CS capacities like disaster response. Relinquishing command and control of the National Guard is something the Governors will zealously fight against. Therefore, such a realignment—aside from the other noted drawbacks—is unlikely to be accepted without a lengthy debate and fight that could take years to resolve.

## **OTHER NOTABLE DRAWBACKS**

The previous sections summarized the several recurring themes extracted from the interview data concerning potential drawbacks of a National Guard realignment under the DHS. In addition to the specific drawbacks discussed above, our interviews revealed other drawbacks that, although less repetitive among the entirety of the interview data, are notable and worth mentioning.

### **Slowed Military Response to Emergencies and Disasters.**

National Guardsmen are civilian-soldiers. They are members of their communities first, many with careers and full or part-time employment. There is typically a 24-hour expected time for mobilization and response to most situations, following authorization by the Governor.<sup>41</sup> Federal control of the National Guard will not change this. According to our interviewees, DHS

control of the National Guard would add an additional layer of bureaucracy that could potentially lead to a slower response time than when the National Guard is state-controlled.<sup>42</sup> In such a realignment proposal, unless National Guard troops are designated full-time federal troops and equivalent to the active component of the Armed Forces – and therefore directly deployable by the DHS at all times – administratively aligning state National Guard units under the DHS will not likely lessen response time.

### **DHS is Not a Military Organization.**

The DHS, despite being a large, segmented, bureaucratic department within the federal government, is not a military organization. Moreover, while many employees within the department are former military and some elements of the structure may resemble that of a military organization, the DHS is not the military. This means at the very least, there is a cultural difference between the National Guard and the DHS that can lead to increased friction, confusion, and complexity that ultimately affects operational effectiveness.<sup>43</sup>

If given a larger sample of subjects, it is likely that several more drawbacks to a National Guard realignment would have been identified. The drawbacks discussed above and summarized in Table 4 below only represent the main or recurring themes present throughout the interview and data collection process of our research. While this list is in no way comprehensive or all-inclusive, it is representative of the most commonly held perspectives and opinions regarding potential drawbacks to date. While the drawbacks noted are significant, we also identified several potential benefits to realigning the National Guard under the DHS.

<b>Noted Drawbacks</b>	<b>Remarks</b>
Revisions to laws and policies	Major revisions to dozens of laws, policies, and associated/relevant planning and/or guidance documents required; significant time investment; change could have unintended consequences.
Reducing/Eliminating DoD's operational reserve	The National Guard serves as an operational reserve force for the DoD. Transition to the DHS would effectively weaken DoD's dual-theater warfighting capability requirements for future operations.
Eliminating DoD budget support from the National Guard	The National Guard receives ~ 95% budget support from the DoD. Transition to the DHS would (presumably) eliminate this support.
Loss of the "hometown force" concept	Realigning to the DHS would negate the local feel and attachment National Guard members have by serving their communities. As a federal entity, it becomes less intimate.
Loss of supplemental law enforcement support	As a federal force under the DHS, Posse Comitatus would restrict National Guard actions. This would significantly reduce (or all together eliminate) a governor's ability to supplement law enforcement efforts within his/her state.
Political challenges	Friction between state governors and the DoD persists during state and national emergencies. Changing the National Guard from a state asset to a federal asset will only create further tension.
Slowed military response	Additional bureaucratic layer to navigate before deploying National Guard troops to assist during emergencies may slow response time.
DHS is not a military organization	Cultural divide and the DoD (civilian entity) and the National Guard (military entity) may elicit greater friction and affect administrative and operational performance.

**Table 4. Potential Drawbacks of Realignment.**

## **BENEFITS OF REALIGNMENT**

There are many drawbacks to realigning the National Guard under the DHS. However, the potential benefits of such a change are also worth considering. The proceeding sections summarize the main themes noted in our interview data relative to the potential benefits of realigning the National Guard to the DHS.

### **Reduced Cost Associated with National Guard Budget.**

We need to build an effective defense, security, and response apparatus for as cheap as possible.<sup>44</sup>

Cost influences decision-making across many levels of government. While the DoD has the largest budget of any government department or agency, this does not make it immune to budget pressures and the need to allocate resources effectively to ensure an optimal defense. The Defense Department funds its combat requirements as a first priority. As part of the larger national defense apparatus, the National Guard serves as an operational reserve to the federal military, and thus receives most of its budget support from the DoD. However, in terms of effective budgeting and cost reduction, many in and around the DoD question the need for specific programs, weapons systems, and other costly items that are too narrowly purposed to justify their continued funding and expenses. Some elements of National Guard organization and equipment allocation raise questions as to their necessity for a predominantly domestic mission. The ongoing discussion over the use of Apache helicopters in the National Guard sits at the center of this debate.<sup>45</sup> If

realigned to serve under the DHS, such wartime programs and expenses relative to the National Guard may no longer be necessary to fund as a result of an exclusive domestic support role, thereby reducing the budget requirements of the DoD and ultimately saving taxpayer money.

The question some raise is simple: Why does the National Guard need Apache attack helicopters or tank battalions if they are not training and preparing for a wartime mission? The counter-argument to this question—that many in the DoD and the National Guard support—is that the National Guard is the operational reserve force for the DoD. In order to fulfill this role, the National Guard should be equipped and trained for wartime missions similar to any branch of the federal military. Critics, in contrast, look to the future and suggest that the National Guard’s role in the War on Terror is beyond its design, and lessons learned from over-extending the National Guard will result in a more defined domestic support role in the future, leading to less combat requirements, and instead will be more directly oriented to domestic CS. In terms of realigning the National Guard to the DHS, this change would result in the defunding of wartime requirements like tanks and attack helicopters. According to some, realignment in this sense would provide a catalyst to optimizing the National Guard for domestic security and response missions, reduce unnecessary costs for seldom-used wartime requirements, and redirect spending to more useful applications, maximizing domestic military action in response situations.<sup>46</sup> Beyond this, some in the DoD suggest that nearly 110,000 out of approximately 354,000 National Guard personnel “have no utility in defense missions.”<sup>47</sup> While there is no reliable method



of verification for this claim, as the interpretation of “utility for defense missions” can vary widely, even if half (55,000) of the suggested 110,000 Guardsmen have no utility in defense missions, we can logically wonder why these personnel fall under the DoD budget umbrella. In other words, why are we funding this? According to those advocating this position, realigning the National Guard under the DHS would result in a restructuring of the force to ensure we are funding appropriate training and capabilities for domestic missions. Regardless, the potential net impact on cost reduction (if any) is dependent on the mission. Our approach to budgeting allocation needs to consider mission requirements to ensure our military forces are appropriately equipped and postured to accomplish these missions. By refocusing the mission of the National Guard on domestic issues, costs to meet domestic mission requirements may be reduced, but there are other functions that still must be considered. Cost is and always will be to some extent influenced by the mission.

### **Streamlined Capabilities Sourcing.**

Another potential benefit of a National Guard realignment to the DHS concerns resource and capabilities sourcing during security and response missions. Some suggest that under a single federal command structure (rather than the National Guard being controlled by individual state Governors within the states themselves), the federal government would be better positioned to more effectively source and deploy specific capabilities to areas affected by emergencies or disasters, as well as provide security for both planned and unplanned security situations.<sup>48</sup> Assuming policy

agreements and memorandums of understanding are in place allowing for deployment of federal National Guard troops within the states (most likely at the request of the Governors), deploying a CS-specific military capability from the federal government to the states could simplify and improve disaster response and security operations. Again, such a claim is difficult to support and defend, as it deals entirely in hypothetical situations and is based solely on the opinions and conjecture of those interviewed. Nonetheless, streamlined capabilities and less confusion was repeatedly mentioned as a potential benefit to realignment.

### **Reduction of the DoD Role in Civil Support.**

Despite regularly training and preparing for response scenarios, federal military forces participate in domestic response infrequently. However, when the size and scope of an incident overwhelms local and state authorities and their ability to respond effectively, civil authorities sometimes request military support from the DoD. Although federal military response often provides an unparalleled capability that can be critical to saving lives, there is a high cost associated with DSCA operations that must be considered as part of the request and response process.<sup>49</sup> Given the varying nature of each emergency or disaster resulting in military support, it is difficult to estimate the average cost of a DSCA mission. Even with Stafford Act provisions outlining reimbursement ratios and procedures in an effort to simplify the process for DSCA, it is a costly mission area for the DoD.<sup>50</sup> As well, DSCA missions are influenced by a number of laws and policies that often restrict the DoD's ability to perform specific support functions and coordinate effectively with state and local responders.<sup>51</sup> Realignment

ing the National Guard under the DHS might actually serve to reduce or remove the DoD's CS role all together—something that can be argued as both a benefit and a drawback. Realignment of the National Guard under the DHS may serve to limit the need for federal military support during major incidents, thereby reducing the DoD's DSCA mission profile. Whether this will result in money saved over time requires comparing past and projected DSCA costs with past and projected National Guard costs to support similar operations; data we do not have at the time of this writing. Regardless, according to our interviews, the assumption is that realigning the National Guard to the DHS—where it would serve in an exclusively domestic support role—will likely reduce the DoD's DSCA mission significantly. This mission reduction may translate into cost savings, better-coordinated military response through a DHS entity, and less political tension between the DoD and the States in future operations as a result.

## **ADDITIONAL POTENTIAL BENEFITS**

In addition to the noted benefits above, throughout our interviews we identified other potential positive outcomes of a National Guard realignment to the DHS. For instance, USAR is often critical in disaster response scenarios. Fortunately, the National Guard is well equipped for USAR missions. In many cases, local and state governments do not have the necessary resources—mainly helicopters—to perform USAR adequately over a disaster area. Realigning the National Guard to the DHS would enhance federal USAR capabilities and capacities by combining National Guard and USCG assets to perform this critical mission requirement.

As well, realigning the National Guard to the DHS may have the added benefit of improving federal resource utilization timelines through the avoidance of the unpopular mission assignment process. If the National Guard operates under the DHS and there is an identified need for a military capability during a disaster or emergency, FEMA would have direct oversight—presumably—over the National Guard and would be capable of directing the appropriate response resources quickly and more efficiently than waiting on the traditional mission assignment process to occur.

Beyond the operational benefits noted above, the confusion over National Guard duty status determination would all but disappear. The National Guard would likely serve under a revised version of Title 32, allowing for undisputed federal funding as a federal asset under the DHS. This would improve the overall pay and benefits issues sometimes encountered when National Guard forces on SAD status operate across state borders, as in Hurricane Sandy.<sup>52</sup> More broadly, a realignment would serve as a military force multiplier, enhancing the total military capability of the federal government in response to a domestic security event or disaster response requirement. Between the Air National Guard, Army National Guard, and USCG, the DHS would have a full military force complete with air, land, and sea capabilities, to support most domestic requirements. With another military force under the DHS (in addition to the USCG), coordination and resource allocation between FEMA and the military would likely improve.

Table 5 summarizes the previous sections of noted benefits to realigning the National Guard under the DHS.

Noted Benefits	Remarks
Reduced cost and budget for the National Guard	Restructure and shift priorities for National Guard funding toward a domestic support set of mission capabilities and requirements. End funding of (expensive) exclusively combat requirements.
Streamlined capabilities sourcing	As a counter to the above drawback suggesting a slowed response, some argue that under the DHS the National Guard would be able to more rapidly deploy due to a full-time military duty status.
Reduction of the DoD role in CS	DSCA is a costly mission for the DoD (and taxpayers by extension) that does not directly contribute to defense of the nation. With the National Guard as a federal entity under the DHS, the requirement for DoD support and the DSCA mission would be largely reduced, thereby saving money.
Improved USAR capabilities post-disaster	Local and state entities in many cases lack necessary resources (helicopters) to perform larger search and rescue missions. The National Guard under the DHS will be better positioned to provide needed USAR support in conjunction with the USCG.
Duty status clarity	Under the DHS, the National Guard would have only one available duty status, rather than the three it can currently serve in (SAD, T32, T10).

**Table 5. Potential Benefits of Realignment.**

## RECOMMENDATIONS

Building on the analysis of the benefits and drawbacks previously discussed, this final section of the monograph outlines a series of recommendations targeted toward optimizing the National Guard for domestic security and disaster response operations, while retaining utility for overseas contingency support to the DoD. The recommendations are intended for consideration by the DoD, the DHS, and the National Guard Bureau (NGB) as ways to improve the

challenges and issues detailed in this report. We base these recommendations on our review of the available interview data collected during the research process. As noted previously, we used a detailed analytical coding process to identify, code, and extract themes from the interview data that led us to our conclusions and the following recommendations.

In order to design the project, conduct the research, analyze the data, and develop our findings, we first needed to determine the question(s) we were attempting to answer. Given the question: “what are the benefits and drawbacks of realigning the [National] Guard under the [Department] of Homeland Security?”<sup>53</sup> our research developed several benefits and drawbacks worth consideration. Identifying benefits and drawbacks of a National Guard realignment to the DHS, however, falls short of anything actionable. Therefore, as a result of our analysis, we developed a series of recommendations that suggest methods to better integrate National Guard/military functionality into the DHS, while retaining utility for support to the DoD when needed. These recommendations help to optimize the National Guard by enhancing its domestic relevance for future requirements, while ensuring the National Guard remains—as it has been and should be—the strategic and operational military reserve for the country. We will engage in conflict again in the future, and the National Guard needs to be there to provide this capability. Therefore, as our first recommendation, we can say, with absolute conviction and confidence in the data, that the National Guard should remain in its current capacity, as both a state-based military asset and a federal asset to the DoD when required.

## **Recommendation 1:**

*Do Not Realign the National Guard Under the Department of Homeland Security (DHS).* Disasters are opportunities to execute quickly and decisively. Realigning the National Guard under the DHS adds an additional layer of management and bureaucracy that will—in all likelihood—complicate the process in a time when speed is of the essence. As well, disasters create problems at the local level. As such, local problems require local decisions and local decision-makers. In its current state capacity, the National Guard is part of the local solution. In a proposed federal capacity, it is not. Instead of realigning the National Guard, the DoD, the DHS, and the NGB should consider future challenges, and their approaches to these challenges, in the context of authorities, capabilities, capacities, and partnerships. Using these categories, each organization will be better positioned to assess and meet future challenges with both comprehensive and effective solutions.

## **Recommendation 2:**

*Expand the Current Homeland Response Force Capability Profile.* Homeland Response Forces (HRF) are designated National Guard-sourced units, which are strategically located and regionally oriented throughout the country; each of the 10 FEMA regions (Figure 2 below) contains at least one HRF unit. Table 6 notes the current location and associated FEMA region of each of the 10 HRF units. The more than 500 Guardsmen that comprise the HRF units assemble within 12 hours of activation and, when required, deploy to designated areas to conduct military-specific opera-

tions in response to a range of emergencies, disasters, and similar destabilizing situations.<sup>54</sup> With over 5,000 Guardsmen, the total HRF national profile is relatively small in comparison to the greater than 354,000 personnel that make up the National Guard currently.<sup>55</sup> To meet the growing emphasis on HD and HS, and to be able to extend military-specific capabilities to the DHS during periods of emergency or disaster, the National Guard Bureau should consider expanding its current HRF strength from 10 regionally-oriented units throughout the FEMA regions to 20 units. Doubling the current HRF capability profile will not only enhance response capabilities at any given location, but also, with proper geographic placement of the new units relative to current HRF units, this expansion could considerably shorten current estimated response times due to greater geographic disbursement and coverage.

An alternative approach to expanding current HRF capabilities, without creating additional HRF units, involves placing designated National Guard units in an operational control (OPCON) status to the DHS on a rotational basis. In this model, the selected units would receive DHS funding for the duration of their OPCON status to the DHS. Augmenting the current HRF posture with rotating National Guard units from OPCON to the DHS theoretically would enhance the current HRF readiness profile and response capability. As well, this allows the Governors to maintain control over their National Guard forces, except when augmented to the DHS, and ensures a standing military response capability at all times. In addition to further integrating the National Guard into the DHS on a rotational basis, the NGB should expand joint training and readiness efforts between HRF units and the DHS Center for Domestic Preparedness (CDP).<sup>56</sup> In Title 32



status, Guardsmen serving as part of HRF units can attend DHS-funded training at the CDP. Such partnerships should be expanded and strengthened.



**Figure 2. FEMA Regions.**

FEMA Region	HRF Host State(s)
I	VT, MA, CT
II	NY, NJ
III	PA
IV	GA
V	OH
VI	TX
VII	MO
VIII	UT
IX	CA
X	WA

**Table 6. Homeland Response Force Regional Locations by State.**

### **Recommendation 3:**

*Consider DHS Funding Support for National Guard Civil Support (CS) Missions.* As part of its Homeland Security series in 2008, the Government Accountability Office (GAO) published a report outlining the future roles and readiness challenges faced by the National Guard in the context of CS. Among other things, this report noted the funding challenges affecting the National Guard's readiness to perform its CS mission. Since the DoD only funds the National Guard's combat readiness requirements, the National Guard is expected to use its combat resources and funding to perform CS functions when required. The GAO report noted that this funding model (specific only to combat readiness) often leaves the National Guard ill prepared to meet its CS mission requirements.<sup>57</sup> As an alternative to the current model, GAO proposed that the National Guard receive funding from the DHS to organize, train, and equip specifically for CS missions.<sup>58</sup> Modeled after the way the USCG receives funding from both the DHS and the DoD for specific missions, GAO suggested that the National Guard could benefit from a similar arrangement in which it receives its combat and wartime readiness funding from the DoD and its CS readiness funding from the DHS. As a result, the DHS could temporarily assume command and control of the National Guard during periods of state declared or national emergencies. Revisions to laws and policies would be required if this recommendation were to be implemented. However, such a funding arrangement could achieve the desired effect by giving the DHS a mechanism to integrate organic military capability into its security and response posture while allowing the National Guard to remain as an operational and strategic reserve to the DoD's warfighting mission.

#### **Recommendation 4:**

*Authorize the Reserve Component (Title 10) to Supplement the DHS for Civil Support (CS).* Although unrelated to the National Guard, it is worth considering whether the reserve component of the Army, Navy, Air Force, and Marine Corps can serve as a useful alternative to the National Guard during CS missions under the DHS. Since tension persists between the governors and the DoD during disaster response operations, we can assume that similar tension will be present between the governors and the DHS when command of the National Guard is at the center of the discussion. With no mutually agreeable scenario conceivable, using the reserve component to supplement the DHS during CS missions is a viable alternative. Instead of a state asset falling under federal control for domestic operations, the reserve component, as a federal entity under Title 10, would remain under federal control and under the temporary command authority of the DHS. With the expanding interest in using the reserve component as a supplement to CS operations and the resulting recent adoption of 10 U.S.C. § 12304a,<sup>59</sup> the reserve component is now a viable stand-by military force for response to a disaster or emergency.<sup>60</sup> With some adjustments to policy and relevant laws, using the reserve component to support the DHS in a similar fashion to governor support under 12304a is worth considering.

#### **Recommendation 5:**

*Further Study on Situations that Require Federalizing the National Guard.* Finally, this research revealed a great deal of concern for catastrophic event response scenarios among members of the National Guard,

FEMA, the DHS, the DoD, and other relevant response-oriented agencies. In many cases, our respondents asked rhetorically, “What do we do when ‘the big one’ happens?” While the DoD has plans for complex catastrophes,<sup>61</sup> many question the National Guard’s role in such a scenario. Since this research examined whether using the National Guard in a federal capacity under the DHS had merit or not, a similar line of questioning could examine the triggers for federalizing the National Guard during a complex catastrophe or similar incident of regional or national significance. Additionally, standing agreements with foreign nations—such as the State Partnership Programs—that could see the National Guard used in support of overseas operations would be affected under a National Guard realignment to the DHS, or a mass mobilization of the National Guard to federal service. While such issues are beyond the scope of this research effort, further consideration of the potential effect on these programs is warranted. Given that we know very little about hypothetical situations that would require a mass mobilization of the National Guard into federal service, we recommend that the DoD and the DHS consider funding additional research to better understand and conceptualize the triggers for such a requirement. What are the triggering mechanisms or criteria for federalizing the National Guard? Under what circumstances would federalization be considered an automatic or mandatory requirement? What cascading effects on partnership programs—if any—should we expect from a mobilization? Generating greater knowledge and understanding of the specific circumstances necessitating a broad federalization of the National Guard would help both the states and federal government to better anticipate and prepare for such scenarios. In addition, with better prepared-

ness comes better performance, both of which are critical before, during, and after a complex catastrophe.

Table 7 summarizes the suggested recommendations resulting from this analysis and discussed in the previous sections.

Recommendation	Remarks
Do not realign the National Guard under the DHS.	All disasters are local and require local decisions and local responders. As a state asset, the National Guard is local; as a federal asset, they are not.
Expand the current HRF capability profile.	Realign funding where excesses are noted and use this resource shift to increase the current HRF capability two-fold from 10 to 20 HRF units strategically positioned throughout the country. Maximize HRF involvement in CS missions.
Consider DHS funding support for National Guard CS missions.	Building on a 2008 GAO recommendation, authorizing DHS funding for National Guard CS operations would facilitate temporary military capability integration into the DHS when required while preserving the operational reserve footprint of the DoD for wartime requirements.
Authorize reserve component to support DHS.	Given the noted tensions between the states and federal government over control of the National Guard, using the reserve component to supplement the DHS during disasters or emergencies is a suggested alternative.
Commission and conduct studies on triggers to federalize the National Guard.	Further examination of triggers required to federalize the National Guard would offer further clarity to the ongoing discussion here. When and why does the National Guard most need to serve in a federal status?

**Table 7. Summary of Suggested Study Recommendations.**

## CONCLUSION

Despite consistent instability in the Middle East and the current rise of the Islamic State of Iraq and Syria (ISIS) as a threat to the United States, the defense drawdown in Afghanistan continues. As the U.S. military continues to reset its force following 15 years of sustained combat operations, it will reorient and prepare for anticipated contingencies throughout the world. While the current global environment projects instability, uncertainty, and the likely need for military intervention at some point in the future, there is an expanding interest in securing and protecting the homeland from external threats, aggression, and potential disasters. As the active and reserve components of the Armed Forces continue training for their warfighting mission, we will see the National Guard redirect some of its focus toward HD and HS, while remaining the strategic and operational reserve to the DoD for overseas contingency operations.

As evidenced in some of the most significant disasters and emergencies in recent memory, the future of HD and HS missions require military capability. Whereas the DHS and its many agencies and organizations will remain the lead federal agency during HS missions and will assist in CS, the DoD will continue to lead HD efforts while assisting in CS. As a state or federal military asset with both defense and security mission support capabilities, the National Guard will be involved in each mission area within the defense, security, and CS spectrum discussed earlier. Where these operations overlap is where the command of the National Guard becomes an issue of debate.

Despite clearly defined laws and policies establishing unquestioned command authority of the National Guard in three distinct duty statuses, some still question whether the utility of the National Guard is best suited for service within the DHS. As this project discussed, there are several benefits and drawbacks to realigning the National Guard under the DHS. Some of the benefits identified include optimizing the National Guard by eliminating excess and unnecessary costs associated with seldom-used combat capabilities; streamlining and simplifying military capabilities sourcing during disasters or emergencies; a potential reduction of the DoD role in CS, resulting in less DoD cost expenditures; improved urban search and rescue capabilities; and clearer command and control arrangements with the National Guard as a solely federal entity. Conversely, drawbacks to realignment include numerous required revisions to laws and policies; loss of the National Guard as a strategic and operational reserve for the DoD; loss of DoD budget support of the National Guard; loss of the hometown force concept unique only to the National Guard; loss of supplemental law enforcement capabilities for the states; political challenges; potentially slower response due to the mechanistic and cumbersome nature of the DHS; and a culture conflict between the DHS and the National Guard. As a result of our interview findings and the noted benefits and drawbacks, we concluded our research with five recommendations.

Our recommendations are intended to improve and further integrate military capability into future DHS missions. In addition to a clear recommendation not to realign the National Guard under the DHS, our recommendations call for expansion of the current HRF capability organic to the National Guard; consid-

eration of DHS funding support for National Guard CS missions; authorizing the reserve component of the Armed Forces to supplement DHS security and response operations through changes to funding and relevant legislation; and a recommendation to fund and conduct further study on the potential triggers for the federalization of the National Guard in response to a complex, multi-state or regional catastrophe.

Whereas these recommendations are detailed and specific, they are not exhaustive. There are numerous other factors to consider with regard to a hypothetical National Guard realignment to the DHS that are beyond the intended scope of this project. For instance, there are significant personnel implications of a realignment that must be considered. The DoD has well-developed benefits and incentive programs in terms of recruitment, education, and retirement, among others. The DHS in contrast, does not. What would be the impact of a realignment on these benefits and incentives for National Guardsmen? Questions like this, that are beyond the scope of our research, must still be assessed prior to major structural and organizational changes. Per the scope of this effort, if our recommendations are implemented, they can improve the current and ongoing challenges presented within the HD, HS, and CS spectrum. Whether these suggestions are implemented or not will not change the fact that the United States will continue to face obstacles to protecting and defending the homeland and responding to emergencies and disasters. These challenges will combine with the need to maintain a robust and ready military force capable of responding to contingency requirements anywhere in the world. The National Guard will remain a key element of the United States' strategic and operational defense posture, but will



also be imperative for domestic security and response requirements as they arise. As such, we need to determine the best overall utility for the National Guard and direct it toward the appropriate mission capabilities. Affinity to the mission – whether CS or warfighting – should be the primary focus for the future direction of the National Guard. Orienting, training, and equipping the National Guard to meet the anticipated requirements is necessary to ensure maximum force and resource utilization and allocation, which will ultimately contribute to the continued safety and security of the United States.

## ENDNOTES

1. Chuck Hagel, *2014 Quadrennial Defense Review*, Washington, DC: Department of Defense, March 4, 2014, p. V.

2. Headquarters, Department of the Army, *Part I: Army Priorities for Strategic Analysis*, 2014-2015 Key Strategic Issues List, Carlisle Barracks, PA: Strategic Studies Institute and U.S. Army War College Press, June 2014, p. 10.

3. Department of Defense, *DoD Directive 3025.18: Defense Support of Civil Authorities*, Washington, DC: Department of Defense, Directives Division, September 21, 2012, p. 4.

4. The dual status commander (DSC) concept was signed into law by the 2012 National Defense Authorization Act as the usual and customary command and control arrangement for emergencies and disasters involving both state and federal forces. As a command mechanism intended to improve state-federal coordination, the DSC arrangement has been used during pre-planned security events in the United States since 2004; and was used the first time for a no-notice/limited-notice incident in response to the 2012 Hurricane Sandy weather event in New York. For more information, see Ryan Burke and Sue McNeil, *Towards a Unified Response: Hurricane Sandy and the Dual Status Commander*, Carlisle, PA: Strategic Studies Institute and U.S. Army War College, 2015.

5. Barack Obama, *National Security Strategy*, Washington, DC: The White House, May 2010; Barack Obama, *Presidential Policy Directive (PPD) 8: National Preparedness*, Washington, DC: The White House, March 30, 2011; U.S. Joint Chiefs of Staff, *The National Military Strategy of the United States of America*, Washington, DC: Joint Chiefs of Staff, February 8, 2011; and Hagel.

6. Obama, *National Security Strategy*, 2010, p. 4.

7. Department of Defense, *Homeland Defense and Civil Support Joint Operating Concept Version 2.0*, Colorado Springs, CO: U.S. Northern Command, October 1, 2007, p. 1.

8. U.S. Joint Chiefs of Staff, *Homeland Defense*, Joint Publication 3-27, Washington, DC: Joint Chiefs of Staff, July 29, 2013, Appendix A, pp. A-1 – A-6.

9. Department of Defense, *Homeland Defense and Civil Support Joint Operating Concept*, p. 5.

10. *Ibid.*, p. 57.

11. U.S. Constitution, Article I, Section 8, Clause 15 (Militia Act) and 16 (Organizing the Militia) states:

Congress shall have the power. . . . To provide for calling forth the militia to execute Laws of the Union, suppress insurrections and repel invasions; To provide for organizing, arming, and disciplining, the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress.

12. The Uniform Militia Act of 1792 established that all able bodied white males between 18-45 were obligated to enroll in the militia. Involuntary – or obligated – military service was unpopular and diminished performance in subsequent military conflicts. As a result, a uniformed militia of volunteers replaced the obligated militia in future military engagements. However, this volunteer-only militia resulted in inferior training and readiness, which was evident in the Civil War, most notably. The Militia Act of

1903—or the Dick Act—restructured and reorganized the militia into two categories: a reserve—or unorganized—militia consisting of able bodied males between 17-45; and an organized militia of the states—what we know today as the National Guard—that received federal funding and support for military training and unit readiness but was precluded from performing missions beyond U.S. borders. Finally, the National Security Act of 1916—and its subsequent amendments—established the ability of the federal government to “federalize” the National Guard, which lifted the restriction on National Guard units from performing duty overseas. With some minor modifications, this current structure remains intact today. National Guard units are state assets until called into federal service.

13. National Guard forces enlisted with a state can fall under the command authority of a different state’s Governor under an Emergency Management Assistance Compact (EMAC). When serving in a state other than their home state under EMAC, National Guard forces then serve under the command of the Governor of the state within which they are operating.

14. 18 U.S.C. § 1385: Use of Army and Air Force as Posse Comitatus. Except under extraordinary circumstances (invocation of the Insurrection Act), Posse Comitatus restricts the President from using federal military forces in a law enforcement capacity.

15. 32 U.S.C. § 502, Required Drills and Field Exercises, Subsection (f).

16. U.S. Constitution, Article II, Section 2, available from <https://www.law.cornell.edu/constitution/articleii#section2>.

17. Richard T. Sylvester, *Disaster Policy and Politics: Emergency Management and Homeland Security*, Washington, DC: CQ Press, 2008, p. 174.

18. In accordance with the 2006 *Quadrennial Defense Review* (QDR), the Department of Defense (DoD) proposed legislation to give the Secretary of Defense (SECDEF) the authority to involuntarily order to active duty units and members of the Title 10 reserve components for the purpose of providing assistance during responses to major disasters and emergencies in the United States.

The originally proposed legislation was included in the 2007 National Defense Authorization Act (NDAA) and was subsequently passed by the House of Representatives but not the Senate. The Senate also passed a 2007 amendment to the Insurrection Act authorizing the President to expand federal military presence and activities during civil disturbances. Coupling the 2007 Insurrection Act amendment with the proposed legislation to expand the President's power to federalize the National Guard, state Governors and their Adjutant Generals (TAG) "erroneously perceived the two separate and distinct provisions as attempts by DoD to legislate federalization authority of National Guard forces" (email communication between the author and an employee of the DoD, 2013). Tensions between the Governors and DoD regarding command and control of the National Guard continued through subsequent NDAA provisions (2008 - 2010 NDAA's). Unwilling to relinquish control of their state National Guard forces to federal authority, the Governors continued to oppose any changes in annual NDAA legislation until both the DoD and the Governors could agree on a Unity of Effort concept for the employment of military forces during domestic operations (email communication between the author and an employee of the DoD, 2013). The agreed unity of effort concept catalyzed the adoption of the DSC arrangement as a usual and customary command arrangement for use during domestic emergencies and disasters involving both National Guard and federal military forces simultaneously. For a more detailed discussion, see Ryan Burke, "The Dual Status Commander and Hurricane Sandy: Maturity Military Response with Process Improvement," ProQuest Dissertations and Theses, No. 11843, Newark, Delaware: University of Delaware, May 2015, pp. 64-68, for more.

19. United States Government Accountability Office, "Civil Support: Actions are needed to improve DoD's planning for a complex catastrophe," Report to Senate Committee on Homeland Security and Governmental Affairs, GAO-13-763, Washington, DC: U.S. Government Accountability Office, September 2013, pp. 17-20. See also: Burke and McNeil, *Towards a Unified Response*.

20. William J. Prendergast IV, "Contingency Dual Status Commander: Balancing Title 10 and 32 Responsibilities," Strategy Research Project, U.S. Army War College, Carlisle Barracks, PA, March 2011, pp. 1-24; Ludwig Schumacher, "Dual Status Com-

mand for No-Notice Events: Integrating the Military Response to Domestic Disasters,” *Homeland Security Affairs*, Vol. 7, No. 4, February 2011, pp. 1-9; John Gereski and Chris Brown, “Two Hats Are Better Than One: The Dual-Status Commander in Domestic Operations,” *The Army Lawyer*, June 2010, pp. 72-79.

21. See “Department of Homeland Security: Our Mission,” available from [dhs.gov/our-mission](https://dhs.gov/our-mission) for more.

22. *Ibid.*

23. The Homeland Security Act of 2002, Public Law 107-296, H.R. 5005, Sec. 888(a)(2), Homeland Security Missions, 107th Cong., November 25, 2002, p. 115.

24. Interview conducted by the author with a senior Army National Guard officer, June 2015.

25. U.S. Code: Title 32 – National Guard, available from <https://www.law.cornell.edu/uscode/text/32>.

26. U.S. Code: Title 10, Chapter 1211, § 12403, § 12404, § 12405, § 12406, available from <https://www.law.cornell.edu/uscode/text/10/subtitle-E/part-II/chapter-1211>.

27. U.S. Constitution, Article I, Section 8 (clauses 15 and 16), available from <https://www.law.cornell.edu/constitution/articlei#section8>; U.S. Constitution, Article II, Section 2, available from <https://www.law.cornell.edu/constitution/articleii>; U.S. Constitution, Bill of Rights, Amendment X, available from <https://www.law.cornell.edu/constitution/billofrights#amendmentx>.

28. U.S. Joint Chiefs of Staff, *Defense Support of Civil Authorities*, Joint Publication 3-28, Washington, DC: Joint Chiefs of Staff, July 31, 2013.

29. Department of Defense, *DoD Instruction 3025.22: The Use of the National Guard for Defense Support of Civil Authorities*, Washington, DC: Department of Defense, Directives Division, July 26, 2013.

30. Interview conducted by the author with a former Army officer and current DHS senior advisor, June 2015.

31. Hagel, p. VI. In terms of the two simultaneous wars referenced, the 2014 QDR offers a change from 2010's (and other previous versions) "two major regional wars" terminology by stating that "the U.S. Armed Forces will be capable of simultaneously defending the homeland; conducting sustained, distributed counter-terrorist operations; and in multiple regions, deterring aggression and assuring allies through forward presence and engagement" (p. VI). While this does not explicitly state that the Armed Forces must be capable of waging two simultaneous wars in different regions, the implied meaning remains the same. See also: Daniel Goure, *The Measure of a Superpower: A Two Major Regional Military Contingency for the 21st Century*, Washington, DC: The Heritage Foundation, 2013.

32. Interview conducted by the author with a senior Army National Guard officer, June 2015.

33. Department of Defense, *Fiscal Year 2016 Budget Request*, Washington DC: Office of the Under Secretary of Defense (Comptroller) Chief Financial Officer, February 2015, pp. 5-6.

34. Interview conducted by the author with a senior Army National Guard officer, June 2015.

35. Interview conducted by the author with an Army National Guard officer, June 2015.

36. Summation of interviews conducted by the author with several National Guard personnel representing both the Army and Air National Guards, June 2015.

37. *Ibid.*

38. Interview conducted by the author with an Army National Guard officer, June 2015.

39. *Ibid.*

40. Sylves, 2008.

41. Interviews conducted by the author with several National Guard personnel representing both the Army and Air National Guards, June 2015.

42. Summation of interviews conducted by the author with several National Guard personnel representing both the Army and Air National Guards, June 2015.

43. *Ibid.*

44. Interview conducted by the author in June 2015 with a DoD employee who contributed to the *2014 Quadrennial Defense Review*.

45. Ellen Mitchell, *Top Army Leaders Push for Apache Transfers, Blast Potential Delays*, Inside the Army Newsletter, June 15, 2015, available from *defenseneewsstand.com*.

46. Summation of interviews conducted by the author with various personnel including: officers of the Army and Air National Guard; DHS personnel; and DoD personnel, June 2015.

47. Interview conducted by the author with a DoD employee, June 2015.

48. Interviews conducted by the author with personnel from the DHS, including employees of Federal Emergency Management Agency (FEMA); the U.S. Coast Guard; and the Office of the Secretary of Homeland Security.

49. Department of Defense, *DoD Directive 3025.18*, pp. 3-4.

50. The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) is a United States Federal law that specifies conditions when the President may authorize federal agencies to conduct support for state and local authorities using a 75% (federal) to 25% (state) cost share, respectively.

51. For more on the noted legal and policy complexities, see Burke and McNeil, *Towards a Unified Response*, pp. 8-14.

52. In State Active Duty status, National Guard troops receive state pay and benefits, not federal. In situations like Hurricane Sandy where National Guard troops were operating across state borders but in support of the same operation, troops did not receive equal pay, as state pay schedules for National Guard duty are different among the states. Under Title 32 status, National Guard troops receive federal pay and benefits at the same rate, regardless of their state of operation.

53. Headquarters, Department of the Army, p. 10.

54. For more, see “Homeland Response Force (HRF),” National Guard Bureau Public Affairs, 2014, available from [www.nationalguard.mil/Portals/31/Features/Resources/Fact%20Sheets/new/Domestic\\_mission/homeland\\_response.pdf](http://www.nationalguard.mil/Portals/31/Features/Resources/Fact%20Sheets/new/Domestic_mission/homeland_response.pdf).

55. National Guard Headquarters, *2015 Posture Statement*, Washington, DC: National Guard Bureau, 2015, available from [www.nationalguard.mil/portals/31/Documents/PostureStatements/2015%20National%20Guard%20Bureau%20Posture%20Statement.pdf](http://www.nationalguard.mil/portals/31/Documents/PostureStatements/2015%20National%20Guard%20Bureau%20Posture%20Statement.pdf).

56. FEMA, Center for Domestic Preparedness, “Homeland Response Force, National Guard Prepares to Support State,” Center for Domestic Preparedness News and Media Website, available from <https://cdp.dhs.gov/news-media/articles/homeland-response-force-national-guard-prepares-to-support-state/>.

57. “Homeland Security Enhanced National Guard Readiness for Civil Support Missions May Depend on DOD’s Implementation of the 2008 National Defense Authorization Act,” Report to the Ranking Member, Committee on Oversight and Government Reform, House of Representatives, GAO-08-311, Washington, DC: U.S. Government Accountability Office, April 16, 2008.

58. *Ibid.*, p. 23.

59. 10 U.S.C. § 12304a (Title 10 Reserve Component), Order to Active Duty to Provide Assistance in Response to a Major Disaster or Emergency, now authorizes the Secretary of Defense to order to active duty any member or unit of the reserve component of the Army, Navy, Air Force, and Marine Corps to provide support to a governor’s request for response to a disaster or emergency.



60. Bert Tussing, "Reexamining the Role of the National Guard and Reserves in Support to Civilian Authorities," Center for Strategic Leadership: Issue Paper, Vol. 9-08, Carlisle, PA: U.S. Army War College, July 2008, pp. 1-4; Christine Wormuth *et al.*, *The Future of National Guard and Reserves: The Beyond Goldwater-Nichols Phase III Report*, Washington, DC: Center for Strategic and International Studies, July 2006.

61. Office of the Secretary of Defense, "Actions to improve defense support in complex catastrophes," Secretary of Defense Memorandum, Washington, DC: The Pentagon, July 20, 2012.



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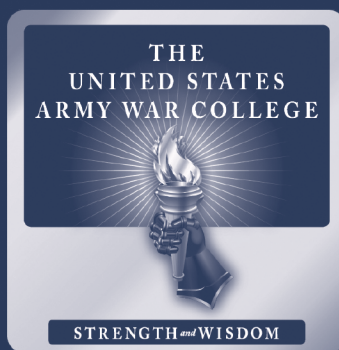
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