

U.S. RESPONSE TO SPECIAL INTEREST ALIENS, A COLLABORATIVE EFFORT

BY

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USAWC STRATEGY RESEARCH PROJECT

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by

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ABSTRACT

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This document is intended to be of operational and strategic relevance and of value to the Department of Homeland Security (DHS), specifically the United States Border Patrol (OBP), and the Department of Defense (DoD), particularly the U.S. Northern Command (NORTHCOM).

Ideally, this document will inform the specified DoD and DHS audiences concerning each other's roles, missions, and objectives. For each respective audience, half of this document will appear to be common knowledge. This is intentional. Readers are encouraged to focus on the operational structures outside of their area of expertise to gain a better understanding of their DHS or DoD counterpart and to utilize this knowledge to realize operational efficiencies within their own organization.

Within this document, I will describe the DHS and DoD structures responsible for and outline the nuances of homeland security and homeland defense. I will utilize DHS resources to catalog those aliens classified as "Aliens from Special Interest Countries" (ASIC's) or "Special Interest Aliens" (SIA's) by the Department of Homeland Security. I will explain the current OBP national strategy and organizational structure, and will

address improvements in resources and personnel levels since 9/11. I will provide similar information concerning the DoD components responsible for homeland defense.

U.S RESPONSE TO SPECIAL INTEREST ALIENS, A COLLABORATIVE EFFORT

To best protect the American people, homeland security must be a responsibility shared by our entire Nation. As we further develop a national culture of preparedness, our local, Tribal, State, and Federal governments, faith-based and community organizations, and businesses must be partners in securing the Homeland.

—George W. Bush
President of the United States

Situation

Since September 11, 2001, the United States has made tremendous strides in increasing the capability to detect and deter terrorist attacks against the homeland. Despite the improvements, the U.S. may still not be entirely able to identify a terrorist attempting to enter our homeland. Our best hope in preventing a catastrophic terroristic incident appears to rely on our ability to identify, locate, and track those individuals intent on carrying out terrorist attacks against the United States.

I will identify the categories of immigrants that the U.S. government (USG) considers to be Special Interest Aliens (SIA) and will address the USG organizational changes that have improved our ability to identify SIAs entering our country. Additionally, I intend to identify some shortfalls that support my belief that despite USG improvements, we still may not be able to detect a SIA terrorist entry and prevent an attack against the U.S. homeland.

Special Interest Alien (SIA) Classification

In an effort to identify and provide the appropriate level of investigatory scrutiny to those individuals intent on adversely affecting our way of life, a list of Special Interest Countries (SIC) was established by the Department of Homeland Security (DHS).

Within the DHS, aliens from Special Interest Countries are commonly referred to as ASICs or Special Interest Aliens (SIAs).

According to a memorandum released by U.S. Border Patrol Chief Patrol Agent David V. Aguilar in November 2004, the following 35 countries and the territories of the West Bank and the Gaza Strip have been designated as Special Interest Countries:

Afghanistan, Kuwait, Somalia, Algeria, Lebanon, Sudan, Bahrain, Libya, Syria, Bangladesh, Malaysia, Tajikistan, Djibouti, Mauritania, Thailand, Egypt, Morocco, Tunisia, Eritrea, North Korea, Turkey, Indonesia, Oman, Turkmenistan, Iran, Pakistan, United Arab Emirates, Iraq, Philippines, Uzbekistan, Jordan, Qatar, Yemen, Kazakhstan, Saudi Arabia, Territories of Gaza, and West Bank.¹

The SIA list is used by field agents and officers to identify aliens from special interest countries (ASICs) whose ideologies, religious or otherwise, produce a strong anti-American sentiment that could potentially cause individuals to carry out terrorist attacks against the United States. All of the countries included on the list are countries that have been identified as having ties to radical Muslim-based religious extremism, with the exception of North Korea, who makes the list for its historically tenuous relationship with the United States.

Entry Methods

There are two primary methods that SIAs use to enter the United States: They may legally present themselves for admission at a designated port of entry (POE), or they may enter surreptitiously, both at and between the designated ports of entry. The overwhelming majority of illegal or "out of status" SIA's in the United States are encountered by law enforcement agents as "overstays." This simply means that the non-immigrant SIA presented him or herself for inspection at a designated port of entry,

entered legally under any one of numerous types of non-immigrant visas, and did not leave the United States when his or her non-immigrant visa expired.

Non-immigrant visas are issued to individuals visiting the U.S. on a temporary basis for either business or pleasure. Non-immigrant visas are generally issued in six-month increments. Not leaving upon visa expiration places these immigrants in an illegal immigration status. Even if a non-immigrant has no intention of staying in the U.S. for an extended period and clearly indicates their intention to enter the U.S. for a short duration and for a very specific purpose, say going to Disneyland, they generally receive a six-month visa.

This is problematic for a couple of reasons. First, six months is more than enough time to plan and execute a terrorist attack. Secondly, there is not currently a system in place that alerts law enforcement authorities that the SIA immigration document has expired or directs law enforcement officers to respond to the immigrants last known location. Even if there were such a system in place, there is not currently a sufficient enforcement mechanism to ensure compliance and the immigrant's removal.

The current system could result in a person who was allowed to enter and remain in the United States for six months legally, the opportunity to extend his or her stay indefinitely albeit illegally. The average U.S. citizen would be astonished to discover that once a non-immigrant SIA visitor presents him or herself for admission into the U.S. and is granted the authority to legally and temporarily enter the U.S., he or she basically leaves the country at the end of their visa visitation period on the honor system. As a U.S. Border Patrol Agent, I have personally encountered overstays who had remained in the United States for years past the expiration of their original six-month visa. Their

only hope of being detected and apprehended was through a chance encounter with law enforcement or by being turned in by a third party.

Today, the possibility remains that a would-be SIA terrorist could realistically gain legal entry into the U.S., as long as the CBP Officer at the port of entry performing the inspection was not able to link the individual to a criminal record or tie the individual to a terrorist group, provided the SIA terrorist could justify his or her visit. Of course, the probability of this happening has become significantly reduced with the advance of technology and the continued networking of the various intelligence and law enforcement databases. As technology continues to progress and enforcement measures consistently improve, the probability of a SIA terrorist legally entering “below the radar” diminishes. Unfortunately, even with the recent and immense technological and informational improvements, I would categorize this scenario as, ‘extremely difficult, but not impossible.’

Transformation

The governmental reorganization that took place as a result of the terrorist attacks on September 11, 2001, was nothing less than colossal. Structural changes were imposed to improve discordant communication channels amongst the serviceable but divisive intelligence organizations and to create or enhance governmental capabilities by realigning portions of the governmental command structure on a more functional basis. These changes were implemented to ensure the safety and security of United States citizens and to assure that immediate and essential security measures were taken to prevent future attacks against the homeland.

Although extremely unfortunate, prior to the terrorist attacks of September 11, 2001, the U.S. government did not devote adequate resources to national security or securing our nation's borders. There was little political capital and even less public support to secure our borders. With inadequate funding and insufficient personnel levels, our borders had been neglected for decades.

Similar to what the military experiences after being subjected to a post-war peace dividend, the agencies responsible for securing our nation's borders had been struggling for years to accomplish their missions without adequate resources and insufficient personnel levels. When political leaders backed by American popular support decided the U.S. needed to be able to identify all people who were entering the country who may wish to do us harm, border enforcement agencies were not able to begin with a clean slate. Border enforcement agencies were first forced to address the decades of neglect.

Security and Defense

The post-9/11 USG reorganization led to the development of two distinct but interdependent homeland protection mission responsibilities; homeland defense and homeland security.

As defined in the Strategy for Homeland Defense and Civil Support, homeland defense is the protection of U.S. sovereignty, territory, domestic population, and critical defense infrastructure against external threats and aggression, or other threats as directed by the President. The Department of Defense is responsible for homeland defense.²

Homeland security, as defined in the National Strategy for Homeland Security, is “a concerted national effort to prevent terrorist attacks within the United States, reduce America’s vulnerability to terrorism, and minimize the damage and recover from attacks that do occur.”³ The Department of Homeland Security is the lead federal agency for homeland security. In addition, its responsibilities extend beyond terrorism to preventing, preparing for, responding to, and recovering from a wide range of major domestic disasters and other emergencies.⁴

According to Assistant Secretary of Defense for Homeland Defense Paul McHale, homeland defense is the war fighting defense of the United States under Article II of the U.S. Constitution, and homeland security is working with the FBI and others, typically law enforcement, to protect against external threats, most especially the threats associated with transnational terrorism. Homeland security is the larger integrated mission using law enforcement.⁵

In the aftermath of the terrorist attacks of September 11, 2001, the Department of Defense (DoD) continued its traditional role in homeland defense through expeditionary, overseas ventures while restructuring domestically to meet the demands of an increased focus on homeland defense and enhanced civil support requirements. The Department of Homeland Security was established after the terrorist attacks and although it participates in overseas law enforcement preventative measures such as the Container Security Initiative (CSI), its primary focus on homeland security is domestic in nature.

Homeland Security

The Department of Homeland Security is responsible for: *Leading the unified national effort to secure America; preventing and deterring terrorist attacks and protecting against and responding to threats and hazards to the nation; ensuring safe and secure borders, welcoming lawful immigrants and visitors, and promoting the free-flow of commerce.*⁶ DHS became an operational organization on March 1, 2003.

In accordance with the 2007 Homeland Security Strategy, DHS' purpose is to guide, organize, and unify our Nation's homeland security efforts, in order to reach four goals: *Prevent and disrupt terrorist attacks; protect the American people, our critical infrastructure, and key resources; respond to and recover from incidents that do occur; and continue to strengthen the foundation to ensure our long-term success.*⁷

Customs and Border Protection (CBP)

Customs and Border Protection is a component of the Department of Homeland Security. CBP is the federal agency responsible for border security of the United States Homeland. Within DHS, the direct border enforcement and security mission primarily falls upon three components of CBP; the Office of the U.S. Border Patrol (OBP), the Office of Field Operations (OFO), and CBP Office of Air and Marine (A&M).

The Office of Field Operations is responsible for the designated ports of entry (POE), the U.S. Border Patrol is responsible for the areas between the designated POE's, and CBP Air and Marine provides air and maritime support to both OFO and OBP. Immigration and Customs Enforcement (ICE) is the investigative arm of DHS and is generally responsible for interior enforcement.

CBP Air was established on October 1, 2005, by integrating legacy U.S. Border Patrol and legacy U.S. Customs' aviation assets. CBP Marine assets were consolidated under CBP Air to create the Office of CBP Air and Marine on January 17, 2006.⁸ As an effect of the merger, CBP Air and Marine now has the largest law enforcement air force in the world.⁹

CBP Air and Marine maintains operational and administrative control over the vast majority of all CBP air and watercraft (the exception is small riverine watercraft, which OBP maintains operational and tactical control). The U.S. Border Patrol Sector Chiefs maintain tactical control of A&M aircraft, through the regional Directors of Air Operations (DAO). This simply means; that although a professional and separate organization has been created to manage, maintain, and account for the majority of all CBP aircraft; Border Patrol Sector Chiefs have continued access to air and marine assets in support of their law enforcement mission to secure the U.S. borders within their respective areas of responsibility.



Figure 1: U.S. Border Patrol Sector Areas of Operation

U.S. Border Patrol

The Border Patrol's current mission is preventing terrorists and their weapons from entering the United States between the designated Ports of Entry.¹⁰ Although the U.S. Border Patrol was consolidated under the Department of Homeland Security as a component of the Bureau of Customs and Border Protection (CBP) on March 1, 2003, it was initially founded in 1924 and brought with it to CBP, a long and rich history.¹¹ At different times in history, the Border Patrol has countered an array of threats from alcohol smuggling during prohibition, to drug and human trafficking, to today's threat of terrorism.

The Border Patrol's current National Strategy consists of five main objectives: *Establishing a substantial probability of apprehending terrorists and their weapons as they attempt to enter illegally between the ports of entry; deterring illegal entries through improved enforcement; detecting, apprehending, and deterring smugglers of humans, drugs, and other contraband; leveraging smart border technology to multiply the effect of enforcement personnel; and reducing crime in border communities and consequently improving the quality of life and economic vitality of targeted areas.*¹²

The organizational structures and resource allocations have changed along with the threats, but the Border Patrol's core responsibility for border security has remained virtually unchanged since its official inception in 1924.



Figure 2: U.S. Northern Command Area of Responsibility

Homeland Defense

The Department of Defense (DoD) combatant command responsible for homeland defense is the U.S. Northern Command (USNORTHCOM). USNORTHCOM was established on October 1, 2002, to provide command and control of Department of Defense (DoD) homeland defense efforts and to coordinate defense support of civil authorities. USNORTHCOM defends America's homeland — protecting our people, national power, and freedom of action.¹³

U.S. Northern Command (USNORTHCOM)

The U.S. Northern Command reports to the Department of the Army Headquarters (HQDA). USNORTHCOM has the following mission: *Anticipates and conducts Homeland Defense and Civil Support operations within the assigned area of responsibility to defend, protect, and secure the United States and its interests.*¹⁴

USNORTHCOM consolidates existing missions that were previously executed by other DoD organizations under a single unified command. USNORTHCOM plans, organizes, and executes homeland defense and civil support missions, but has few permanently assigned forces.¹⁵ USNORTHCOM's civil support mission includes

domestic disaster relief operations that occur during fires, hurricanes, floods and earthquakes. Support also includes counter-drug operations and managing the consequences of a terrorist employing a weapon of mass destruction. The command provides assistance to a lead agency when tasked by DoD.¹⁶

Per the Posse Comitatus Act, military forces can provide civil support, but cannot become directly involved in law enforcement activities. In providing civil support, USNORTHCOM generally operates through established Joint Task Forces subordinate to the command. An emergency must exceed the capabilities of local, state, and federal agencies before USNORTHCOM becomes involved. In most cases, support will be limited, localized, and specific. When the scope of the disaster is reduced to the point that the lead agency can again assume full control and management without military assistance, USNORTHCOM will exit, leaving the on-scene experts to finish the job.¹⁷

U.S. Army North (ARNORTH)

U.S. Army North is the Army Service Component Command of U.S. Northern Command (USNORTHCOM). The ARNORTH mission is to conduct homeland defense (HLD) and defense support of civil authorities (DSCA) operations in the USNORTHCOM area of responsibility (AOR) to defeat terrorism; support local, state, regional, and federal emergency service agencies; and protect the American people and their way of life. ARNORTH commands and controls deployed forces as a Joint Task Force or Joint Force Land Component Command.¹⁸

ARNORTH achieved initial operating capability on October 1, 2005, but was already active in the DSCA mission, supporting relief operations for Hurricane Katrina and establishing a Joint Task Force for Hurricane Rita.¹⁹

Joint Task Force North (JTF-N)

Joint Task Force North is a direct operational component of ARNORTH, and is the DoD organization tasked to support our nation's federal law enforcement agencies in the interdiction of suspected transnational threats within and along the approaches to the continental United States, such as terrorism, narco-trafficking, alien smuggling, weapons of mass destruction, and the delivery systems for such weapons are those activities that threaten the national security of the United States.²⁰

JTF North employs military capabilities to support law enforcement agencies and supports interagency synchronization within the USNORTHCOM area of responsibility to deter and prevent transnational threats to the homeland.²¹

JTF North was originally established in 1989 as Joint Task Force Six (JTF-6), in response to President George H. W. Bush's declaration of the "War on Drugs." On September 28, 2004, JTF-6 was renamed JTF North and its mission was expanded to include providing support to the nation's federal law enforcement agencies.²²

JTF North consists of active duty and reserve component soldiers, sailors, airmen, marines, and DoD civilians. Their dedication to the security of our homeland is best summed up by JTF North's motto, "Service to the Nation."²³

Joint Task Force Civil Support (JTF-CS)

Joint Task Force Civil Support (JTF-CS) began operations on October 1, 1999. Originally formed as a standing joint task force under U.S. Joint Forces Command, JTF-CS was transferred to U.S. Northern Command (USNORTHCOM) when USNORTHCOM was established October 1, 2002.²⁴

The task force consists of active, guard, and reserve military members drawn from all service branches, as well as civilian personnel, who are commanded by a federalized (Title X) National Guard general officer.²⁵

JTF-CS plans and integrates DoD support to the designated lead agency for domestic chemical, biological, radiological, nuclear, or high-yield explosive (CBRNE) consequence management operations. JTF-CS deploys to the incident site and executes timely and effective command and control of designated DoD forces, providing support to civil authorities to save lives, prevent injury, and provide temporary critical life support.²⁶

JTF-CS focuses on responding to the effects of a CBRNE incident after civilian resources have been utilized first and fully. Some typical JTF-CS tasks include incident site support, casualty medical assistance and treatment, displaced populace support, mortuary affairs support, logistics support, and air operations.²⁷

JTF-CS accomplishes its consequence management mission in strict adherence to existing federal law, which carefully balances the support capabilities within the U.S. military with the needs of civil authorities during emergencies. In most instances, JTF-CS and its designated forces are deployed only after a state or territorial governor requests federal assistance from the president. In any domestic setting, JTF-CS remains in support of the lead agency throughout the CBRNE consequence management operation.²⁸

Although the primary defense support to civilian agencies regarding intelligence of, response to, and resolution of special interest aliens' entries is coordinated through JTF-North, it is important to understand the JTF-CS role. The JTF-CS first response

and support mission and their relationships with federal, state, local, and tribal entities will become absolutely critical if a SIA is able to successfully carry out an attack against the U.S. Homeland. JTF-CS brings an enormous capability, of which homeland security professionals should be keenly aware.

Enforcement Measures

With a thorough understanding of the organizational structures through which the Department of Homeland Security and the Department of Defense operate to protect the U.S. homeland, we now turn our attention to enforcement measures.

In conducting their law enforcement mission, CBP and the U.S. Border Patrol (OBP) operate in three environmental domains along our international borders; urban, rural, and remote; with the overarching goal of obtaining “operational control” of their assigned areas of responsibility.²⁹ OBP defines operational control as the ability to detect, identify and classify, respond, and resolve all incursions into the United States.³⁰ Once OBP has met those four benchmarks in an area of operation, it considers that area to be under operational control. OBP also operates under a gain, maintain, and expand philosophy.³¹ Once it gains operational control over an area, it maintains that area and then expands its span of control to encompass territory in either or both directions along the border. Recently retired U.S. Border Patrol Deputy Chief Kevin Stevens often says, “The Border Patrol is a federal law enforcement agency with a military mission; we take a piece of turf and then expand our span of control.”³²

In gaining, maintaining, and expanding operational control along our nation’s borders, OBP recognizes the importance of deploying the proper mix of personnel, technology, tactical infrastructure, and rapid response capability.³³ OBP and its

operational field commanders, the Border Patrol Sector Chiefs, realize that there is no “one size fits all” when it comes to effective border enforcement and security. The Sector Chiefs continuously assess and reassess their respective AORs to ensure they are deploying the proper mix of personnel, technology, and tactical infrastructure based on current threat and trend analyses in conjunction with geographic advantage and restriction assessments.

Direct Enforcement

Every person apprehended by the U.S. Border Patrol is fingerprinted using an electronic biometric device that captures and classifies all ten fingerprints and a photo of the subject. The fingerprints are subsequently indexed and compared against various electronic biometric databases. Since I entered on duty in March 1995, the Border Patrol has gone from capturing only two fingerprints and comparing them against an internal immigration database, to capturing all ten prints and comparing them to multiple law enforcement databases and terrorist watch-lists, to include the National Crime Information Center (NCIC).

CBP has implemented policies to specifically address encounters with individuals posing the possible threat of terrorism. To ensure operational awareness, CBP employs a layered, risk-based approach to security and facilitation efforts along our Nation’s borders; CBP Officers and Border Patrol Agents are keenly aware and kept informed of continuing and emerging threats. Agents and Officers acquire information from both local and headquarters sources through policy, field muster information modules, and joint operations.³⁴

CBP Officers assigned to the Office of Field Operations work at the designated ports of entry throughout the United States. These POEs include inspection ports along our international boundaries and functional equivalents of the border such as international airports. CBP Officers receive a myriad of cultural and behavioral training to help them in screening for potential SIA terrorists. CBP Officers also have direct access to many biometric and law enforcement search databases to assist in their mission of preventing terrorists from entering the United States.

Collaboration and Information Sharing

Partnerships

CBP works determinedly with its partners to secure our nation's borders. Relationships with federal, state, local, and tribal entities continue to evolve, making it ever more difficult for a would-be SIA to enter or travel within the United States without being detected and to orchestrate a successful terrorist attack against the U.S. homeland. Of course, our borders are not yet completely secured but the U.S. government is moving swiftly toward this reality, backed by political, popular, and law enforcement partner support.

The Border Patrol assigns agents to numerous other agencies to maintain and develop critical operational and informational relationships. OBP currently has agents assigned to International Criminal Police Organization (INTERPOL), U.S. Northern Command (USNORTHCOM), FBI Joint Terrorism Task Forces (JTTF) and Organized Crime Enforcement and Drug Task Forces (OCEDTF), various DEA High Intensity Drug Trafficking Areas (HIDTA) Task Forces, and numerous Intelligence Fusion Centers.

Border Patrol Agents are currently assigned as governmental attachés in Canada and Mexico. The Border Patrol is building upon working relationships with Mexican law enforcement partners through our Mexican Liaison Units (MLU) and has continued to solidify its working relationship with Canadian law enforcement partners, the Canadian Border Services Agency (CBSA) and the Royal Canadian Mounted Police (RCMP).

Intelligence

CBP utilizes actionable intelligence and works with other agency partners to focus enforcement operations for greater operational efficiency. Joint Task Force-North (JTF-N) has the ability to assist in this endeavor by tracking SIAs as a part of their defense support to civilian/law enforcement mission and conducting trend analysis based on their findings. JTF-N feeds off of CBP, ICE, and Drug Enforcement Administration (DEA) reporting and are only responsible for original collection when they have been requested to do so by a lead law enforcement agency.³⁵

CBP understands the importance of reliable and timely intelligence collection and has worked diligently to streamline and enhance its intelligence collection techniques with the goal of becoming an intelligence-led organization. CBP sees each of its 48,000 employees as intelligence gatherers and enforces the intelligence reporting culture by continuously promoting the importance of intelligence in effective enforcement operations and making the reporting procedures as un-encumbering as possible.

When CBP receives specific intelligence concerning a threat to the border, and determines that an appropriate operational response to that threat is warranted to eliminate or mitigate the threat, an Intelligence Driven Special Operation (IDSO) is developed. An IDSO can address a group of facilities, such as all Northern Border

Ports of Entry (POE) or an area of several miles between the designated POEs. An IDSO can also focus on a very specific target, such as a specific POE or a specific crossing between the POEs.³⁶ IDSOs have been conducted utilizing USNORTHCOM personnel and resources in their defense support to civilian agencies (DSCA) supporting role along the Northern, Southern, and Coastal U.S. borders.

If intelligence revealed that a terrorist attack against the U.S. Homeland was imminent, DoD would respond in one of two ways based on the nature and the location of the threat. If the threat was in international waters or in the approaches to the United States, USNORTHCOM would receive orders to engage via the Joint Chiefs of Staff. If the threat was within the continental United States, DoD would generally respond when directly requested by a lead federal agency such as the Federal Bureau of Investigation (FBI), the Central Intelligence Agency (CIA), or DHS. The task organization for the response would include specific support packages and would be based on the nature of the threat.³⁷ Depending on the Homeland terrorist attack scenario, the DoD could also take the lead role in defense of the U.S. under Article II of the U.S. Constitution.³⁸

Enhancements

Department of Homeland Security

Technology within DHS has improved significantly since 9/11. DHS initiated the Secure Border Initiative (SBI) which is a comprehensive multi-year plan to secure America's borders and reduce illegal migration.³⁹ SBI is the DHS equivalent of the DoD's Future Combat System (FCS), aimed to assist DHS in adjusting to current and future border enforcement and illegal migration challenges.

The SBI enhancement package includes: more officers and agents to patrol our borders, secure our ports of entry, and enforce immigration laws; expanded detention and removal capabilities to eliminate “catch and release” once and for all; a comprehensive and systemic upgrading of the technology used in controlling the border, including increased manned aerial assets, expanded use of UAVs, and next-generation detection technology; increased investment in infrastructure improvements at the border – providing additional physical security to sharply reduce illegal border crossings; and greatly increased interior enforcement of our immigration laws – including more robust worksite enforcement.⁴⁰ CBP A&M is the only domestic law enforcement agency that utilizes unmanned aerial systems (UAS). A&M now has four Predator B systems in its inventory.⁴¹

Border Patrol funding and personnel increases have been unprecedented since the 9/11 terrorist attacks. The Border Patrol consisted of approximately 9,100 agents at the end of fiscal year 2001, and it currently has just over 15,000 agents on active duty.⁴² There is a current Presidential mandate that will put the Border Patrol personnel levels near 18,000 agents by the end of calendar year 2008.

Department of Defense

Since the terrorist attacks of September 11, 2001, the DoD has completely reassessed its air capabilities and reoriented those capabilities to better defend the United States, not only against nation-state threats but the emerging transnational terrorist threats.⁴³ DoD now conducts random combat air patrols within the domestic airspace of the United States and fighter aircraft is now integrated into the air defense of the U.S. to ensure that if terrorists convert a commercial airliner, once again, into a

weapons platform we are prepared to execute the very sobering mission of taking down that aircraft.⁴⁴ The DoD currently employs an integrated air defense in Washington, D.C., that did not exist on September 11th, in the form of open deployed, surface to air defense capabilities that are now in place.⁴⁵

After September 11th, the DoD identified rapid reaction forces to defend critical U.S. infrastructure, such as a nuclear power plant, if law enforcement capabilities were inadequate to respond to the terrorist threat.⁴⁶ The DoD now has U.S. Army and U.S. Marine Corps capabilities to provide a ground-based defense of critical infrastructure, in a homeland defense (not law enforcement) role.⁴⁷ According to Assistant Secretary of Defense for Homeland Defense Paul McHale, the National Guard deserves much of the credit for stepping up and providing capabilities that the United States simply did not have prior to Sept 11th.⁴⁸

Deficiencies

Notwithstanding the significant measures the government has taken to improve the safety and security of U.S. citizens, critical shortfalls remain that could allow SIA terrorists entry into the U.S. and the opportunity to harm U.S. citizens.

First, the USG has not implemented an effective guest worker program. Currently, there appears to be more manual labor positions in the United States than U.S. citizens will perform. Supply is driving demand resulting in masses of economic migrants illegally entering the United States on a daily basis. Economic migrants tax the agencies responsible for border security and result in time, energy, and funding devoted to apprehending and returning them to their country of origin. Time spent managing the economic migrant is time not spent denying terrorists or other transnational threats

access to the U.S homeland. The economic migrant “clutter” on the radar literally turns the terrorist or terrorist weapon in to a needle in the haystack.

Although much of the blame can be placed on the government of Mexico for not providing its citizens the opportunity to prosper internally, much of the blame can be placed squarely on the United States. When the U.S. entrance fees are prohibitively expensive and the wait times are astronomical, jumping the fence may be seen as the only option to the economic migrant worker. The bottom line is that the United States needs the workers and economic migrants need the work. An effective guest worker program would fill job demand, reduce illegal migration, and make the U.S. safer.

A second issue is the USG’s current inability to track international visitors within the United States and ensure that they return to their country of origin when their visas expire. Although the threat this issue brings may be reduced once all visitors are required to carry a machine-readable entry document under the Western Hemisphere Travel Initiative (WHTI), the U.S. will still not have the ability to alert the appropriate governmental and law enforcement officers that an international visitor has decided not to leave the U.S. upon visa expiration, nor does the U.S. have sufficient enforcement resources to ensure compliance and return. There is no room for the immigration honor system in today’s current threat environment.

Thirdly, although we have made improvements, we still have not been able to link the various domestic and international agency information and intelligence databases. For example, the U.S. Border Patrol may apprehend someone and conduct record checks against the databases to which they have access; however, this check may not

indicate that the person is an international fugitive wanted by INTERPOL or by the Mexican, Canadian, or other international governments.

Lastly; federal, state, local, and tribal agencies cannot communicate across the various operational radio frequencies. Recent communication security upgrades have increased intra-agency communication security with the byproduct of diminished communication with their local partners who generally cannot afford expensive communication system upgrades. We must be able to communicate if we are to maintain viable collaborative partnerships. When agencies consider communications system upgrades, they must also consider the implications to other agency associates. Resourced federal agencies should seek federal funding streams to ensure under-resourced partner participation.

Conclusion

It is undeniable that the United States government has dramatically enhanced its ability to detect and respond to special interest aliens who are intent on harming American citizens. The government structural realignments imposed after the 9/11 terrorists have proven effective, in that the U.S. has not fallen victim to a terrorist attack since 2001. Overall, the system is either working effectively or is rapidly evolving toward an appropriate level of effectiveness. There are; however, potential systemic loopholes that would allow SIA terrorists the opportunity to enter and attack the U.S. homeland.

Although border enforcement and security measures have improved significantly, it is equally undeniable that our borders are still not completely secure. In light of this sobering fact, it is absolutely critical that agencies responsible for securing our nation

borders and ensuring the safety and security of U.S. citizens continue to evolve in both process and structure to realize future operational efficiencies.

Although the DoD brings the lion's share of resources to bear against a potential adversary intent on attacking the homeland, its primary role for homeland security is supportive in nature to lead law enforcement agencies.

To truly be effective, the USG must ensure connectivity across law enforcement and other pertinent organizations so that critical information flows down to the patrol officer on the street. The USG has been extremely effective at bridging the informational gaps within the federal government, but more needs to be done to inform the state, local, and tribal entities and to improve communication connectivity.

USNORTHCOM deserves much of the credit for improved liaison efforts and moving the nation toward greater security levels through collaborative efforts and information exchange.

The National Incident Management System (NIMS) has done much to improve emergency response protocol by providing a common user language. However, more than six years after the terrorist attacks of September 11, 2001, we cannot currently communicate across the various law enforcement and medical first response radio frequencies. A law enforcement officer encounter with an SIA in one part of the country may have profound implications on a terrorist investigation in another part of the country. There must be a shared mechanism to ensure communication and information connectivity among law enforcement and other governmental agencies.

As the two largest and most resourced departments of the federal government charged with homeland defense and homeland security, DoD and DHS share the

greatest responsibility for making sure our law enforcement and governmental partners are properly resourced and connected to handle the challenges associated with denying SIA terrorists and their weapons access to the U.S. homeland.

The weakest link in the chain analogy definitely fits here. Domestic counterterrorism is most definitely a team fight. If one agency loses a single battle in the war on terror, we all lose. Never has communication, collaboration, and appreciation of interagency roles been more critical.

Endnotes

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