
Before Disaster Strikes

Imperatives for Enhancing Defense Support of Civil Authorities



The Report of the
Advisory Panel on Department of Defense Capabilities for Support of Civil Authorities After Certain Incidents
to the Secretary of Defense and the
Chairmen and Ranking Minority Members,
Committees on Armed Services,
U.S. Senate and U.S. House of Representatives

September 15, 2010

Publication Notice

The Advisory Panel on Department of Defense Capabilities for Support of Civil Authorities After Certain Incidents was established by Section 1082 of the National Defense Authorization Act for Fiscal Year 2008, Public Law 110-181 (January 26, 2008). That Act directed that a Federally Funded Research and Development Center provide research, analytical, and other support to the Advisory Panel during the course of its activities and deliberations. The RAND Corporation has provided that support, under contract from the Department of Defense, since the Advisory Panel's inception.

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The Advisory Panel on Department of Defense Capabilities for Support of Civil Authorities After Certain Incidents

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September 15, 2010

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Mr. Secretary, Chairmen, and Ranking Members:

It is with a profound sense of urgency that we deliver the report of the Advisory Panel on Department of Defense Capabilities for Support of Civil Authorities After Certain Incidents. This is a matter of critical national importance.

All of us who have worked in the area of domestic disaster response know that there are factors that complicate effective response to major incidents. They include the constitutionally designed Federal system of governance, the guarding of prerogatives by participants at all levels, "stove-piping" among the Federal family, and the lack of integrated planning at all levels. These factors will most certainly complicate a response to a major chemical, biological, radiological, nuclear, or high-yield explosive incident, but they must not stand in the way of essential and timely preparation. Such an incident will happen. It is only a matter of time. The stakes are too high to delay action.

It is an obligation of all those in positions of responsibility to immediately search for, discover, and implement solutions to overcome the barriers to effective response. It is a national imperative. Notwithstanding the lower probability of the occurrence of such an incident compared with hurricanes, tornadoes, floods, wildland fires, and other natural disasters, the potential consequences demand that we quickly find those solutions.

The subject is complicated, and there is more urgent work to be done. In the year of the Panel's deliberations, we have identified a number of findings and recommendations that will enhance Department of Defense capabilities for support of civil authorities and also significantly improve related policy, processes, and structures in other Federal agencies and at the State and local levels. Action is required now to implement these recommendations.

Let me commend Frank Keating, the Vice Chairman, and my other colleagues on the Panel for their service over the past twelve months. They brought to the table both a vast amount of experience and the energy and dedication required to address this matter of critical national importance.

We are grateful to have had the opportunity to serve.

Very respectfully,

A handwritten signature in black ink, appearing to read 'S. Abbot', with a long horizontal stroke extending to the right.

Steve Abbot
Chairman

Preface

The Advisory Panel on Department of Defense Capabilities for Support of Civil Authorities After Certain Incidents (hereinafter, “Advisory Panel”) was established by Section 1082 of the National Defense Authorization Act for Fiscal Year 2008, Public Law 110-181, January 26, 2008 (as further amended by Section 1034, National Defense Authorization Act for Fiscal Year 2010, Public Law 111-84, October 28, 2009). Those statutory provisions require the Advisory Panel to submit a report to the Secretary of Defense and to the Committees on Armed Services of the U.S. Senate and the U.S. House of Representatives not later than 12 months after the date of its initial meeting, which occurred on September 15, 2009.

The Advisory Panel is required to include in that report its findings, conclusions, and recommendations for improving the capabilities of the U.S. Department of Defense to provide support to U.S. civil authorities in the event of a chemical, biological, radiological, nuclear, or high-yield explosive incident. Given the critically important relationships between numerous entities of government at all levels—Federal, State, and local—and, potentially, private sector and international entities in the effective provision of such support, the Advisory Panel report also contains findings and recommendations that apply to entities outside the U.S. Department of Defense.

Findings and recommendations in this report should be of interest to departments and agencies of the Federal Government with responsibilities for protecting against, preparing for, and responding to chemical, biological, radiological, nuclear, or high-yield explosive incidents; to Governors and to other State, territorial, and local officials with similar responsibilities; to entities in the private sector that may have capabilities to support a government response to such an incident; and to allied and friendly governments whose assistance may be offered or requested.

The statutory provisions that established the Advisory Panel required the Secretary of Defense to contract with a Federally Funded Research and Development Center (FFRDC) to provide support and assistance to the Advisory Panel in carrying out its duties. The RAND Corporation’s National Defense Research Institute (NDRI) was selected by the Office of the Secretary of Defense as the supporting FFRDC. NDRI conducts research sponsored by the Office of the Secretary of Defense, the Joint Staff, the Unified Combatant Commands, the Navy, the Marine Corps, the defense agencies, and the defense Intelligence Community. FFRDC support and assistance to the Advisory Panel was sponsored by the Office of the Assistant Secretary of Defense for Homeland Defense and Americas’ Security Affairs and was conducted within RAND’s Homeland Security and Defense Center.

For more information on RAND’s Homeland Security and Defense Center, contact the Director, Andrew Morral. He can be reached by email at morral@rand.org; by phone at 703-413-1100, extension 5119; or by mail at the RAND Corporation, 1200 South Hayes Street, Arlington, Virginia 22202-5050. More information about RAND is available at www.rand.org.

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Executive Summary

This section summarizes the findings and recommendations of the Advisory Panel on Department of Defense Capabilities for Support of Civil Authorities After Certain Incidents, established by Section 1082 of the National Defense Authorization Act for Fiscal Year 2008, Public Law 110-181, January 26, 2008 (as amended). The purpose of the Advisory Panel is to carry out an assessment of the capabilities of the Department of Defense to provide support to United States civil authorities in the event of a chemical, biological, radiological, nuclear, or high-yield explosive (CBRNE) incident.

Advisory Panel Membership

The Secretary of Defense, in consultation with the Chairman and Ranking Members of the Committees on Armed Services of the U.S. Senate and the U.S. House of Representatives, appointed the following individuals as Advisory Panel members:

- Steve Abbot (ADM, USN, Ret), Panel Chairman
- The Honorable Frank Keating, Panel Vice Chairman
- James Carafano, Ph.D.
- Dennis Celletti (MG, ARNG)
- The Honorable James Greenwood
- Jerry Grizzle (MG, USA, Ret)
- Ronald Harrison (MG, USA, Ret)
- Timothy Lowenberg (Maj Gen, ANG)
- James Metzger (VADM, USN, Ret)
- The Honorable George Nethercutt
- Raymond “Fred” Rees (MG, ARNG)
- Dennis Reimer (GEN, USA, Ret)
- Ervin Rokke (Lt Gen, USAF, Ret)

Complete biographical information on each Panel member is contained in the full report.

Advisory Panel Meetings

The Advisory Panel held meetings on the following dates at the following locations:

- September 15–16, 2009, The RAND Corporation Washington Office, Arlington, Virginia
- November 23, 2009, U.S. Northern Command Headquarters, Peterson Air Force Base, Colorado
- November 24, 2009, U.S. Air Force Academy, Colorado
- March 17–18, 2010, The RAND Corporation Washington Office, Arlington, Virginia
- June 2–3, 2010, The RAND Corporation Washington Office, Arlington, Virginia
- July 7, 8, and 9, 2010 (telephone conferences)

Findings and Recommendations

This section includes the Panel’s findings and recommendations in toto, supplemented with a brief background explanation.

Authorities

The Panel examined the existing statutory provisions that apply to DoD civil support, especially provisions related to a CBRNE incident. While most agree that there is ample statutory authority, directives, and other policy for a wide variety of DoD support activities, the Panel suggests ways that authorities and policies can be better explained and clarified, as well as a modification to one statutory provision that will enhance DoD capabilities.

Finding: The authorities for the Department of Defense to support civil authorities during a CBRNE incident are generally adequate but are not widely known and are frequently misunderstood. Moreover, officials at all levels of government could use additional training on the authorities for CBRNE incident response.

Recommendations:

1. *That the Secretary of Defense, in consultation with the Council of Governors, develop a handbook for DoD support of civil authorities that explains in comprehensive detail—using scenarios as examples—how DoD capabilities may be legally employed nationwide for support of civil authorities for CBRNE incidents.*
2. *That Governors and Federal Cabinet Officials with CBRNE responsibilities ensure appropriate training of officials and employees on authorities for CBRNE incident response.*
3. *That the Secretary of Homeland Security and the Attorney General jointly lead an effort to coordinate with States and U.S. Territories to identify and resolve Federal-State-local conflicts in authorities for CBRNE incident response.*
4. *That the Congress amend the Stafford Act to include explicitly biological incidents in the provisions dealing with Federal support for major disasters.*

DoD Guidance for Civil Support

There are at least seven key DoD Directives that relate to DSCA. Only one is dated later than 2000. A critical one is dated 1986. Importantly, civil authorities who may seek support from DoD will likely have to search multiple directives to determine what conditions may apply in a specific case.

Finding: DoD guidance for all forms of Defense Support of Civil Authorities is fragmented, incomplete, and outdated.

Recommendation: That the Secretary of Defense immediately consolidate all directives dealing with Defense Support of Civil Authorities into a single source document.

Title 10 Reserve Components

By law, Title 10 Reserve Component units are prohibited from involuntary mobilization for conducting domestic operations except those involving a “weapon of mass destruction” or catastrophic terrorism. However, Title 10 reserve units might be closer to an affected area than active duty Title 10 units or National Guard units from other States, and Title 10 reserves, particularly the Army Reserve, have a significant number of the types of units DoD is most often asked to provide to civil support missions. As a condition precedent to expanding the use of Title 10 Reserve Forces,

however, it is critically important to resolve how unity of effort is to be achieved during a CBRNE response. Recommendations to that effect are also included in this report.

Finding: The Title 10 Reserve Components include assets that might be valuable for CBRNE planning and response, but these assets are generally unavailable except for certain defined incidents.

Recommendations:

1. *That the Secretary of Defense coordinate with the Council of Governors and then with the remaining Governors to identify Title 10 Reserve Component assets that may be beneficial in responding to the full range of CBRNE incidents—natural and manmade—and report these findings to the Congress.*
2. *That the Congress expand statutory authority to allow for planning by and employment of Title 10 Reserve Component assets for any CBRNE incident, whether a result of terrorism or other causes.*

Training Authority and Requirements

It is essential to an effective response that forces are properly trained and exercised. There is significant room for improvement in this area. Although DSCA is a significant priority in the latest QDR, there is no systematic process to ensure that forces that could be given a DSCA mission are trained appropriately.

Findings:

1. *There is a lack of training authority to ensure that forces with a CBRNE response mission are consistently and properly trained.*
2. *Training that does exist for CBRNE response is often inconsistent, fragmented, or lacking fully developed standards.*

Recommendations: That the Secretary of Defense—

1. *Direct a lead entity to serve as training authority for Title 10 and Title 32 forces with a designated CBRNE response mission.*
2. *Direct the development of a joint mission essential task list for Title 10 and Title 32 forces with a designated or potential CBRNE response mission, including but not limited to general purpose forces, CCMRF, CBIRF, CERFP, CST, and HRF.*

Training Resources

CBRNE training facilities and funding must be enhanced to ensure adequate preparation.

Findings:

1. *There is a lack of suitable facilities for CBRNE response training.*
2. *The current/future Five-Year Defense Plans do not support adequate funding to execute the level of exercises and training events to support the mission requirements of USNORTHCOM and its subordinate organizations.*

Recommendations: That the Secretary of Defense—

1. *Identify and resource multiple regional training centers for CBRNE response training. Ideally, one training center should be resourced for each FEMA region.*
2. *Provide the funding necessary for the training and readiness certification of forces with a designated CBRNE response mission.*

Leadership Training and Professional Development

Improved training opportunities are essential to promote better understanding of response strategies, plans, and operations. All leaders should be proficient with the National Response Framework and the National Incident Management System, but few military leaders have been trained specifically for DSCA.

Findings:

1. *The level of training for military and civilian leaders in response planning and operations is inadequate.*
2. *There is no sustainable pool of military personnel trained for the CBRNE response mission.*

Recommendations:

1. *That the Secretary of Defense require the inclusion of instruction related to DSCA, the National Response Framework, and the National Incident Management System in the Officer Education Systems of all military services.*
2. *That the Secretaries of Homeland Security and of Defense jointly offer personal training on response planning and operations, to include the role of DSCA, to all Governors.*
3. *That the Secretary of Defense direct the services to establish within their personnel systems a means of identifying enlisted personnel, noncommissioned officers, and commissioned officers who possess particular skills and experience in DSCA for CBRNE, in order to develop a sustainable pool of CBRNE response personnel.*

Exercises Among DoD and Other Federal Agencies

Senior Federal officials have expressed concern about the quality and utility of Federal CBRNE exercise programs. Exercises vary in quality and often have predetermined outcomes, reducing their usefulness. The nation needs to improve the quality of exercises and scenarios, not just increase their number.

Finding: The type and quality of exercises involving the Federal Interagency for CBRNE-related incidents are inadequate.

Recommendations:

1. *That the President direct the Secretary of Homeland Security to lead a comprehensive Interagency evaluation of the adequacy and funding of Federal CBRNE exercise programs and recommend changes for their improvement.*
2. *That the Secretary of Defense and the Attorney General require and fund exercises to evaluate activities and the use of authorities provided under existing statutes in which their departments play a key role, including the Insurrection Act and CBRNE-related statutes.*

Command and Control of CBRNE Response Forces

Although there is a Constitutional basis for distinct and separate chains of command for State and Federal military forces, unity of effort requires the most-effective, most-coordinated use of such forces for domestic contingencies. Currently, such unity is not always achieved, and some argue that existing dual-status arrangements and liaison authority are not sufficient.

Finding: Unified command and control of Federal and State military assets for CBRNE response continues to be problematic. Under current approaches, even unity of effort between Federal and State forces cannot be assumed or assured.

Recommendations: That the Secretary of Defense, in collaboration with the Council of Governors, promote unity of effort between State and Federal military forces during a response to CBRNE incidents by—

1. *Providing Federal recognition of eligibility for dual-status command in every State and U.S. Territory.*
2. *Permitting, with the consent of State Governors and the authorization of the President, both National Guard commanders and certain Title 10 commanders who have been provided Federal recognition of eligibility to command in dual status for CBRNE incidents and other defined contingencies.*
3. *Developing plans for coordination of command and control authorities in the event of multi-state CBRNE incidents.*

A Joint Interagency Task Force for CBRNE Response

As part of pre-incident planning and coordination, an organization that can quickly and effectively translate national-level decisionmaking for a CBRNE incident into operational and tactical actions is imperative. A joint interagency task force (JIATF) for CBRNE could provide such capability.

Finding: There is currently no standing interagency organization that can direct the Federal operational response to a CBRNE incident in the homeland.

Recommendation: That the President direct that the Secretaries of Homeland Security and of Defense lead the establishment of a joint interagency task force that has the capability and authority to direct a Federal operational response to a CBRNE incident and that includes all Federal agencies with CBRNE-related functions under the National Response Framework.

Determining Requirements for CBRNE Response Planning

DoD possesses many capabilities that could be useful in response operations, and coordinating military and civilian planning efforts has become increasingly important. Major hurdles in this coordination are the lack of identified *requirements* for particular response scenarios and the lack of a complete accounting of the *capabilities* that State, local, tribal, or Federal civilian agencies can supply.

Finding: The nation has not defined with sufficient clarity what assets will be required to respond to CBRNE incidents.

Recommendation: That the President direct prompt completion by DHS of the capabilities inventory, to include explicit definition of requirements and capabilities necessary to respond to CBRNE incidents, based on the most current National Planning Scenarios.

Integrated Planning

A national integrated planning system is essential for effective disaster response, especially for a CBRNE incident.

Finding: There is currently no comprehensive national integrated planning system to respond to either natural or manmade disasters, including CBRNE incidents. Furthermore, planning among Federal agencies and other levels of government is fragmented and nonstandard, and there is no formal process by which State plans can inform Federal planning and vice versa, or by which international support can be considered.

Recommendation: That the President direct the establishment of an integrated planning system that promotes coordinated planning among local, State, and Federal Government entities and the private

sector and that includes provisions for support from international organizations and friendly and allied governments, especially Canada and Mexico.

Forces for Defense Support of Civil Authorities

Insufficient forces have been allocated or apportioned to USNORTHCOM, especially for potentially catastrophic CBRNE incidents. Despite the advent of the new National Guard Homeland Response Forces (HRFs), given the potential magnitude of a catastrophic CBRNE incident, general purpose Title 10 forces that may be required for DSCA should be identified, at least by type.

Finding: Sufficient military forces have not been identified for DSCA. Furthermore, domestic military deployments generally are not conducted in accordance with the comprehensive processes used for overseas deployments. This results in difficulty in tracking responding units and effectively employing their corresponding capabilities.

Recommendations: That the Secretary of Defense—

- 1. Allocate or apportion additional Title 10 forces to U.S. Northern Command for CBRNE response.*
- 2. Direct that the Joint Staff and U.S. Northern Command develop Time-Phased Force Deployment Data for additional forces for domestic military deployments based on specific CBRNE Defense Support of Civil Authorities plans.*

The Defense Support of Civil Authorities Mission in Force Generation

The 2010 QDR emphasizes the need for DoD to rebalance its policy, doctrine, and capabilities to better support six key missions, one of which includes homeland defense and DSCA. However, DoD is not placing sufficient emphasis on budget and planning priorities related to DSCA missions, including CBRNE response.

Finding: The Quadrennial Defense Review of 2010, expanding on guidance in the most current National Defense Strategy and National Military Strategy, identifies homeland security as a significant mission, but there is inadequate provision for Defense Support of Civil Authorities in the force generation cycle.

Recommendations: That the Secretary of Defense elevate the importance of the homeland security mission, to include DSCA for CBRNE response, to be equal to warfighting by—

- 1. Clarifying the roles and missions required for responding to a CBRNE incident in the next National Defense Strategy.*
- 2. Specifically including DSCA for CBRNE and other catastrophic incidents as a mission equal to other missions in the force generation cycle, including all aspects of doctrine, organization, training, materiel, leadership and education, personnel, and facilities (DOTMLPF).*

The National Guard Homeland Response Force

The 2010 QDR proposes that the existing CBRNE Consequence Management Response Force apportioned to USNORTHCOM be enlarged and reconfigured. Two additional CCMRFs will be reconfigured to act as command and control elements, and the National Guard will field ten new Homeland Response Forces, with one stationed in each of the ten FEMA regions.

Finding: The Homeland Response Force (HRF) structure provides a regional approach to CBRNE incidents, but the resources for and allocation of HRF assets among and between States have not been fully resolved, particularly for multi-state incidents. Furthermore, plans for the employment of the HRF for specific CBRNE responses have not been fully developed.

Recommendations: That the Secretary of Defense, in consultation with and advice from the Council of Governors—

1. *Develop agreements for multi-state resourcing of HRF units.*
2. *Clearly define the process by which the HRFs will be trained, equipped, and employed.*
3. *Determine how HRFs and DCOs/DCEs will coordinate effectively to support response planning and execution.*

Establishing and Resourcing CBRNE Response Forces

The Congress directed that the Panel “assess the adequacy of the process and methodology by which the Department of Defense establishes and maintains dedicated, special, and general purpose forces for conducting operations [to provide support to United States civil authorities in the event of a chemical, biological, radiological, nuclear, or high-yield explosive incident]” and “assess the adequacy of the resources planned and programmed by the Department of Defense to ensure the preparedness and capability of dedicated, special, and general purpose forces [to provide such support].” DoD policy, structures, and processes were being reviewed and significantly altered during the course of the Panel’s deliberations, in large part during the development of the 2010 QDR.

Findings:

1. *DoD’s assessment processes are significantly hampered by the lack of integrated planning among Federal, State, and local entities—especially information about potential civilian shortfalls. However, the overall approach employed by DoD to assess what might be needed and what can reasonably be resourced is generally appropriate.*
2. *Additional efforts will be required to provide a critical assessment of the specific analytical processes and methods, but these efforts would provide the greatest utility once strategic questions are better answered and assumptions better defined.*

Recommendations:

1. *That the Secretary of Defense ensure that future processes for developing dedicated, special, and general purpose forces for support of civil authorities for CBRNE response include consultation with all necessary stakeholders at the Federal, State, and local levels.*
2. *That the Secretaries of Defense and of Homeland Security report to the Congress on the evaluation of the May 2010 National Level Exercise.*
3. *That the Secretary of Defense report to the Congress the findings of the Senior Steering Group and similar processes and events as a means of further answering the specific questions raised in the Panel’s enabling legislation.*

A Repository for DSCA Data and Analysis

To estimate sufficient requirements for disaster response, government agencies need comprehensive data on and analysis of the types and amounts of capabilities that have been previously provided or will likely be requested.

Finding: There is currently no coordinated Federal effort, including a central repository, to capture data and analysis from emergency and disaster response operations that includes Defense Support of Civil Authorities.

Recommendations:

1. *That the Secretary of Defense establish a central DoD repository for deployment data on DSCA operations, including natural and manmade incidents. The repository should include all data on the original request for DoD support, military units and personnel deployed, details of their operations, logistical and transportation support, command and control, and funding, as well as related analysis.*
2. *That the President direct the establishment of a standardized, central Federal repository for data and analyses of all Federal response activities for natural and manmade emergencies and disasters, of which the DoD repository will be an integral part.*

Plan Sharing for CBRNE Response

A coordinated national response demands that response plans be shared among all Federal, State, and local response entities. State and local governments need to develop detailed disaster response plans, including plans for maintaining governance.

Finding: Federal, State, and local agencies responsible for CBRNE response are not making a sustained and comprehensive effort to share all-hazards response plans. Sharing plans is essential for the development of coordinated Federal, State, and local responses to disasters, especially CBRNE incidents.

Recommendations:

1. *That the President explicitly require, in his forthcoming directive on national preparedness, that response plans be shared across Federal agencies and that States share their plans with other States and with the Federal Government as a condition of future related Federal disaster planning assistance. The Presidential directive should define requirements for quality response plans.*
2. *That Governors develop COG plans with sufficient detail to ensure the succession of State leadership and essential services during an emergency, to include large-scale CBRNE incidents.*
3. *That Governors direct their emergency management agencies to share all State and local response plans, including COG plans, with Federal civil and military agencies and with States in their FEMA region and other adjoining States.*
4. *That the President direct the Secretary of Homeland Security to coordinate with Governors to establish a formal process by which State and local plans are shared with and inform Federal planning and vice versa, and that the President direct the establishment within DHS of a repository for Federal, State, and local response plans, to be updated annually.*
5. *That the President direct DHS and DoD to continue efforts—such as the Task Force for Emergency Readiness—to bolster States' response planning efforts by making available military capabilities in preparedness planning, and that the Congress fund such efforts at the appropriate levels of government.*
6. *That the Secretary of Defense direct that, to the maximum extent feasible, existing DoD domestic response plans be declassified and future plans be unclassified.*

The Defense Coordinating Officer/Defense Coordinating Element

The DCO is the primary point of contact for DoD support to civil authorities at an incident site. The DCO should play a pivotal role in the sharing of response plans between DoD, States, and major municipalities. Given its resources, the DCO/DCE is unlikely to perform all of its assigned missions effectively to ensure adequate preparation, planning, and response, particularly for catastrophes, including CBRNE incidents.

Finding: The Defense Coordinating Officer (DCO)/Defense Coordinating Element (DCE) is not adequately sized and structured for its assigned missions, and it is not sufficiently expandable to effectively coordinate responses to or command Federal military forces in a major CBRNE incident.

Recommendations: That the Secretary of Defense—

1. *Review and as required modify DCO/DCE structures and missions to ensure effective mission performance.*
2. *Remove the command and control authority of the DCO/DCE for all military forces.*
3. *In consultation with the Council of Governors and with the participation of the Secretary of Homeland Security, establish a protocol for the sharing of State and Federal plans for CBRNE incidents and other catastrophes, with the DCO/DCE playing a key coordinating role.*

A Common Operating Picture for CBRNE Response

Civil-military coordination for emergency response is currently hampered by the lack of a COP to which response organizations can fully contribute and which they can fully use. This is despite legislation to direct such coordination and communication.

Finding: There is currently no standard or sufficient mechanism for localities, States, and Federal agencies to share a civil-military common operating picture to support CBRNE incident response.

Recommendations: That the Secretary of Homeland Security, with support from the Secretary of Defense—

1. *Direct new efforts to develop completely the Homeland Security Information Network and Common Operating Picture to enable timely civil-military coordination for CBRNE response operations.*
2. *Study and report to the President on both the implications of relying on the Internet for vital communications during an emergency and whether backup capabilities are sufficient to support response operations in the event of a large-scale CBRNE incident.*

Civil Support Teams

Stationing criteria require that a CST be available for mutual support and response based on a radius of 250 miles and a response time of five hours. As a result, the Panel concludes that the current 55 certified CST locations and the two new (as yet uncertified) CSTs in New York and Florida meet these criteria, with some risks accepted in western Texas in FEMA Region VI.

Finding: The number of National Guard Civil Support Teams is adequate for the present, but their effectiveness would benefit from staff augmentation, and the current Future Years Defense Program (FYDP) does not support the modernization necessary to sustain them.

Recommendations: That the Secretary of Defense—

1. *Authorize an augmentation of not fewer than six additional personnel to each Civil Support Team.*
2. *Neither authorize more Civil Support Teams nor change their locations at this time.*
3. *Ensure that adequate funding is projected in current and subsequent Future Years Defense Programs to support modernization of CST equipment.*
4. *Require the Chief, National Guard Bureau, annually to report on CST capability shortfalls and to recommend required funding to support adequate CST modernization and sustainment.*

Conclusions and the Path Ahead

The Panel conducted its deliberations in a time of substantial change in this area, including the establishment and fielding of the new National Guard Homeland Response Force organizations. Based on the most recent evidence available to us, we believe that our recommendations will remain valid even as DoD's changing approach becomes better defined. If time had permitted, the Panel

would likely have explored other issues, such as joint reception, staging, onward movement, and integration, as well as potential DoD involvement in enforcing a Federal quarantine.

We recognize the substantial progress that has been made in recent years in all aspects of homeland security, including many aspects of DoD support of civil authorities. Nevertheless, DoD cannot enhance its support of civil authorities by itself—and our findings and recommendations reflect that simple fact. We therefore encourage the Congress; the President, the Secretary of Defense, and other Federal Executive Branch officials; and the State and local officials to whom our findings and recommendations are directed to proceed promptly to implement those within their purview.

Acknowledgments

We gratefully acknowledge the support of those who appeared before the Panel, either in full or in subpanel meetings. We also thank those who helped arrange witnesses for our meetings, especially Deputy Assistant Secretary Alan Cohn, Department of Homeland Security; Deputy Associate Administrator Carl Pavetto, National Nuclear Security Administration, Department of Energy; and Jordan Strauss, Director of Preparedness and Response, National Security Division, Department of Justice.

We express our appreciation to James Reeves, U.S. Northern Command, and Mike Daly, National Guard Bureau, for their continuing support throughout the Panel’s deliberations.

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Abbreviations

ADM	Admiral
ANG	U.S. Air National Guard
ARFORGEN	Army Force Generation
ARNG	U.S. Army National Guard
ARNORTH	U.S. Army North
ASD(AT&L)	Assistant Secretary of Defense for Acquisition, Technology, and Logistics
ASD(HD)	Assistant Secretary of Defense for Homeland Defense
ASD(HD&ASA)	Assistance Secretary of Defense for Homeland Defense and Americas' Security Affairs
ASD(RA)	Assistant Secretary of Defense for Reserve Affairs
C2CRE	Consequence Management Command and Control Response Element/ Command and Control CBRNE (or CBRN) Response Element
CAPE	Cost Assessment and Program Evaluation
CBIRF	Chemical Biological Incident Response Force
CBRNE	chemical, biological, radiological, nuclear, or high-yield explosive
CCMRF	CBRNE Consequence Management Response Force
CEO	Chief Executive Officer
CERFP	CBRNE Enhanced Response Force Package
CFR	Code of Federal Regulations
COG	continuity of government
COP	common operating picture
CST	Civil Support Team
DCE	Defense Coordinating Element
DCO	Defense Coordinating Officer
DCRF	Defense CBRNE (or CBRN) Response Force
DHS	Department of Homeland Security
DoD	Department of Defense
DoDD	Department of Defense Directive

DoDI	Department of Defense Instruction
DOTMLPF	doctrine, organization, training, materiel, leadership and education, personnel, and facilities
DSCA	Defense Support of Civil Authorities
EMAC	Emergency Management Assistance Compact
EXORD	execute order
FACA	Federal Advisory Committee Act
FCO	Federal Coordinating Officer
FEMA	Federal Emergency Management Agency
FFRDC	Federally Funded Research and Development Center
FRMAC	Federal Radiological Monitoring and Assessment Center
FRP	Federal Response Plan
FYDP	Future Years Defense Program
GAO	Government Accountability Office
GEN	General
HRF	Homeland Response Force
HSIN	Homeland Security Information Network
HSPD	Homeland Security Presidential Directive
IAB	InterAgency Board on Equipment Standardization and Interoperability
IPS	integrated planning system
JCIDS	Joint Capabilities Integration and Development System
JFO	Joint Field Office
JIATF	joint interagency task force
JMETL	joint mission essential task list
JOC	Joint Operations Center
JTF	Joint Task Force
LLIS	Lessons Learned Information Sharing
Lt Gen	Lieutenant General
Maj Gen	Major General
MG	Major General
NDRI	National Defense Research Institute
NGB	National Guard Bureau

NIMS	National Incident Management System
NLE	National Level Exercise
NRF	National Response Framework
NRP	National Response Plan
PFO	Principal Federal Official
PSMA	pre-scripted mission assignment
QDR	Quadrennial Defense Review
TPFDD	Time-Phased Force Deployment Data
U.S.C.	United States Code
USA	United States Army
USAF	United States Air Force
USMC	U.S. Marine Corps
USN	United States Navy
USNORTHCOM	U.S. Northern Command
VADM	Vice Admiral

I. Introduction

The Advisory Panel on Department of Defense Capabilities for Support of Civil Authorities After Certain Incidents (hereinafter, “Advisory Panel”) was established by the Congress in Section 1082 of the National Defense Authorization Act for Fiscal Year 2008.¹

The Purpose of the Advisory Panel

As specified in its enabling legislation, the purpose of the Advisory Panel is “to carry out an assessment of the capabilities of the Department of Defense to provide support to United States civil authorities in the event of a chemical, biological, radiological, nuclear, or high-yield explosive (CBRNE) incident.”²

Congressional Mandate

By statute, the Advisory Panel is required to

- (1) evaluate the authorities and capabilities of the Department of Defense to conduct operations to provide support to United States civil authorities in the event of a chemical, biological, radiological, nuclear, or high-yield explosive incident, including the authorities and capabilities of the military departments, the Defense Agencies, the combatant commands, any supporting commands, and the reserve components of the Armed Forces (including the National Guard in a Federal and non-Federal status);
- (2) assess the adequacy of existing plans and programs of the Department of Defense for training and equipping dedicated, special, and general purpose forces for conducting operations described in paragraph (1) across a broad spectrum of scenarios, including current National Planning Scenarios as applicable;
- (3) assess policies, directives, and plans of the Department of Defense in support of civilian authorities in managing the consequences of a chemical, biological, radiological, nuclear, or high-yield explosive incident;
- (4) assess the adequacy of policies and structures of the Department of Defense for coordination with other departments and agencies of the Federal Government, especially the Department of Homeland Security, the Department of Energy, the Department of Justice, and the Department of Health and Human Services, in the provision of support described in paragraph (1);
- (5) assess the adequacy and currency of information available to the Department of Defense, whether directly or through other departments and agencies of the Federal Government, from State and local governments in circumstances where the Department provides support

¹ P.L. 110-181, January 26, 2008 (as further amended by Section 1034, National Defense Authorization Act for Fiscal Year 2010, P.L. 111-84, October 28, 2009) (hereinafter, “enabling legislation”). The full text of the enabling legislation is reprinted in Appendix A.

² Enabling legislation, section (a).

described in paragraph (1) because State and local response capabilities are not fully adequate for a comprehensive response;

(6) assess the equipment capabilities and needs of the Department of Defense to provide support described in paragraph (1);

(7) assess the adequacy of the process and methodology by which the Department of Defense establishes and maintains dedicated, special, and general purpose forces for conducting operations described in paragraph (1);

(8) assess the adequacy of the resources planned and programmed by the Department of Defense to ensure the preparedness and capability of dedicated, special, and general purpose forces for conducting operations described in paragraph (1);

(9) develop recommendations for modifying the capabilities, plans, policies, equipment, and structures evaluated or assessed under this subsection in order to improve the provision by the Department of Defense of the support described in paragraph (1); and

(10) assess and make recommendations on—

(A) whether there should be any additional Weapons of Mass Destruction Civil Support Teams, beyond the 55 already authorized and, if so, how many additional Civil Support Teams, and where they should be located; and

(B) what criteria and considerations are appropriate to determine whether additional Civil Support Teams are needed and, if so, where they should be located.³

Organization and Structure

Advisory Panel Charter

The Department of Defense (DoD) Instruction governing advisory committees⁴ requires the preparation and publication of a charter for the Advisory Panel. It requires that the charter be filed with the Library of Congress and appropriate congressional committees and that it be posted to the Federal Advisory Committee Act website. A copy of the official Advisory Panel charter is reprinted in Appendix B.

By-Laws and Procedures

The enabling legislation requires the Advisory Panel to carry out its duties under procedures established by the Federally Funded Research and Development Center (FFRDC) providing support to the Advisory Panel, which include, among other things, the procedure for the selection of a chairman of the Advisory Panel from among its members. The Advisory Panel By-Laws and Procedures, adopted unanimously by the Advisory Panel at its first meeting, are reprinted in Appendix C.

³ Enabling legislation, section (d).

⁴ U.S. Department of Defense, DoDI 5105.04, *Department of Defense Federal Advisory Committee Management Program*, August 6, 2007.

Advisory Panel Membership and Organization

The enabling legislation authorized the Secretary of Defense, in consultation with the Chairman and Ranking Members of the Committees on Armed Services of the U.S. Senate and the U.S. House of Representatives, to appoint individuals as Advisory Panel members “from among private citizens of the United States with expertise in the legal, operational, and organizational aspects of the management of the consequences of a chemical, biological, radiological, nuclear, or high-yield explosive incident.”⁵ Pursuant to that authority, the Secretary appointed the following persons to the Advisory Panel:⁶

- **Steve Abbot** (ADM, USN, Ret), President and CEO, Navy–Marine Corps Relief Society; former Deputy Assistant to the President for Homeland Security; former Deputy Commander-in-Chief, U.S. European Command (Panel Chairman)
- **Frank Keating**, President and CEO, American Council of Life Insurers; former Governor of Oklahoma; former Associate Attorney General of the United States; former Assistant Secretary of the Treasury (Panel Vice Chairman)⁷
- **James Carafano**, Ph.D., Deputy Director, Kathryn and Shelby Cullom Davis Institute for International Studies; Director, Douglas and Sarah Allison Center for Foreign Policy Studies, Heritage Foundation
- **Dennis Celletti** (MG, ARNG), Assistant Adjutant General and Commander, Army National Guard, State of Illinois
- **James Greenwood**, President, Biotechnology Industry Organization; former Member of Congress (R-PA-8)
- **Jerry Grizzle** (MG, USA, Ret), President and Superintendent, New Mexico Military Institute; former Commander, Joint Task Force–Civil Support
- **Ronald Harrison** (MG, USA, Ret), formerly The Adjutant General, State of Florida; former President, National Guard Association
- **Timothy Lowenberg** (Maj Gen, ANG), The Adjutant General, State of Washington; former Chair, National Homeland Security Advisors Council; former Co-Chair, National Homeland Security Consortium
- **James Metzger** (VADM, USN, Ret), Vice President, SAIC; former Assistant to the Chairman, Joint Chiefs of Staff
- **George Nethercutt**, Of Counsel, BlueWater Strategies, LLC; former Member of Congress (R-WA-5)
- **Raymond “Fred” Rees** (MG, ARNG), The Adjutant General, State of Oregon; former Director, Army Guard; former Vice Chief and former Acting Chief, National Guard Bureau; former Chief of Staff, U.S. Northern Command
- **Dennis Reimer** (GEN, USA, Ret), former Chief of Staff, Army; former Executive Director, National Memorial Institute for the Prevention of Terrorism; former President, DFI Government Services
- **Ervin Rokke** (Lt Gen, USAF, Ret), former President, National Defense University; former Director of Intelligence, U.S. European Command; former Associate Director, National Security Agency; former President, Moravian College

⁵ Enabling legislation, section ((b)(1)). Although the enabling legislation did not define *private citizen*, other parts of the U.S. Code define the term as, for example, “including former civilian employees of the Federal Government who have been voluntarily separated, and members of the United States Armed Forces who have been honorably discharged” (Title 50, U.S. Code, section 411j-4).

⁶ More-comprehensive biographical information on each member is at Appendix D.

⁷ At its first meeting (September 15, 2009), pursuant to its By-Laws and Procedures, the panel elected Steve Abbot and Frank Keating, Chairman and Vice Chairman, respectively.

As permitted by statutory and regulatory authority, the Advisory Panel organized itself into subpanels. The rationale for the resulting structure and responsibilities of the subpanels was to focus within each subpanel on a designated part or parts of the congressional mandate and to report subpanel findings and recommendations to the full Advisory Panel. In every instance, the deliberations and recommendations of each subpanel were subject to the approval of the full Advisory Panel. The subpanel responsibilities and membership are

- **Subpanel 1: Authorities**—subsection (d)(1)⁸
 - George Nethercutt, Chair
 - Timothy Lowenberg
- **Subpanel 2: Plans and Programs for Training and Equipping**—subsections (d)(2) and (d)(6), and Civil Support Teams—subsection (d)(10)
 - Dennis Celletti, Chair
 - James Metzger
 - Ervin Rokke
- **Subpanel 3: Operational Plans, Structures, and Resources for Defense Support of Civil Authorities for a Chemical, Biological, Radiological, Nuclear, or High-Yield Explosive Incident (DSCA for CBRNE)**—subsections (d)(3), (d)(7), and (d)(8)
 - Dennis Reimer, Chair
 - James Greenwood
 - Jerry Grizzle
 - Raymond “Fred” Rees
- **Subpanel 4: Coordination, Communications, and Information Availability**—subsections (d)(4) and (d)(5)
 - Ronald Harrison, Chair
 - James Carafano
 - Frank Keating

Chairman Steve Abbot was, ex officio, a member of each subpanel.

Other Statutory Requirements and Restrictions

Because the Congress did not specifically exempt the Advisory Panel from their coverage, the Panel’s activities were subject to the provisions of the Federal Advisory Committee Act (FACA) of 1972,⁹ the Government in the Sunshine Act of 1976,¹⁰ and related Federal regulations. As such, meetings of the Advisory Panel were generally required to be open to the public, with opportunities for members of the public to provide written and oral statements to the Panel under certain conditions.

Advisory Panel Activities and Deliberations

Basic Considerations

In order to address effectively and comprehensively the congressional mandate, members made some necessary and important initial assumptions. The mandate in the enabling legislation was

⁸ References are to sections in the enabling legislation.

⁹ Title 5, U.S. Code, Appendix, as amended.

¹⁰ Title 5, U.S. Code, Section 552b.

relatively straightforward but provided for some interpretation by the Panel. For example, the legislation did not limit CBRNE incidents to intentional acts—in fact, the legislation nowhere refers to terrorists or nation-state actors. The Panel therefore determined that it would include in its consideration of those incidents certain naturally occurring biological events—such as pandemic influenza—as well as a range of potential chemical, nuclear, and radiological industrial accidents.

In addition, although the legislation did not prohibit a focus by the Panel on natural disasters, members concluded that available time and resources would not permit a thorough examination of all such incidents. Nevertheless, members decided that the Panel would address issues relating to all hazards, if it were logical to do so in the consideration of CBRNE incidents.

Lastly, the Advisory Panel was permitted in the enabling legislation to include in its report “such other findings, conclusions, and recommendations for improving the capabilities of the Department for *homeland defense* as the advisory panel considers appropriate.”¹¹ The Panel determined that a full analysis of capabilities for homeland defense—with DoD in the lead for protecting the United States against external threats and aggression—would also not be possible within the time and resources available for deliberations and report submission. Members suggest, however, that the issue should be considered by a future, independent commission.

Full Advisory Panel Meetings

The Advisory Panel held four sets of meetings, attended by Panel members in person, on the following dates and at the following locations:

- **First meeting:** September 15–16, 2009, The RAND Corporation Washington Office, Arlington, Virginia. This was the first and organizational meeting of the Panel. The Panel elected a Chairman and Vice Chairman from among its members and organized itself into subpanels. Members were briefed on and discussed the specifics of the Panel’s congressional mandate. The Panel decided on topics for research and other activities for future meetings, based on its congressionally mandated tasks.
- **Second meeting:** November 23, 2009, U.S. Northern Command (USNORTHCOM) Headquarters, Peterson Air Force Base, Colorado; November 24, 2009, U.S. Air Force Academy, Colorado. This second meeting of the Advisory Panel included (on November 23) classified briefings by the leadership and staff at USNORTHCOM and discussions about the activities of that command that relate to the Panel’s congressionally mandated tasks. (Those briefings were closed to the public.¹²) On November 24, the Panel received a briefing on the role of the Defense Coordinating Officer/Defense Coordinating Element (DCO/DCE) and the mission and activities of various dedicated and special purpose forces that would be expected to perform CBRNE response missions. There was a briefing by Subpanel 2, Plans and Programs for Training and Equipping, on the Illinois National Guard’s “Joint Eagle” exercise in October. In addition, RAND staff provided an overview briefing on CBRNE-related recommendations, made by prior commissions, that have yet to be adopted.

¹¹ Enabling legislation, subsection (f)(2). Emphasis added.

¹² “Pursuant to 5 U.S.C. 552b, and 41 CFR 102–3.155, the Department of Defense has determined that the November 23 session of the meeting shall be closed to the public. Per delegated authority by the Under Secretary of Defense (Policy), the Assistant Secretary of Defense for Homeland Defense and Americas’ Security Affairs, Dr. Paul Stockton, in consultation with his legal advisor, has determined in writing that the public interest requires that the November 23 session of this meeting be closed to the public because it will be concerned with matters listed in section 552b(c)(1) of title 5, U.S.C.” (*Federal Register*, Vol. 74, No. 214, November 6, 2009).

- **Third meeting:** March 17–18, 2010, The RAND Corporation Washington Office, Arlington, Virginia. This third meeting of the Advisory Panel included presentations by and discussion with senior DoD officials on all aspects of the Panel’s congressionally mandated tasks involving DoD support of civil authorities for CBRNE incidents, including authorities; training and equipping; operational plans; structure and resourcing decisions; and communications, coordination, and information sharing with other entities (Federal, State, and local). The Panel also was briefed by and engaged in discussions with an Associate Administrator from the Federal Emergency Management Agency (FEMA).
- **Fourth meeting:** June 2–3, 2010, The RAND Corporation Washington Office, Arlington, Virginia. This fourth meeting of the Advisory Panel included a presentation by and discussion with Co-Chairs of the Council of Governors and senior U.S. Government officials, including from the Departments of Defense, Energy, Homeland Security, and Justice, on all aspects of the Panel’s congressionally mandated tasks involving DoD support of civil authorities for CBRNE incidents. In addition, the Panel was briefed by the leadership of the InterAgency Board on Equipment Standardization and Interoperability (IAB). The Panel also began the deliberation of draft findings and recommendations for inclusion in its report to the Secretary of Defense and the Congress.
- **Teleconferences:** July 7, 8, and 9, 2010. In addition to its in-person meetings, the Advisory Panel conducted a series of teleconferences for the sole purpose of considering draft findings and recommendations for inclusion in its report to the Secretary of Defense and the Congress.

Detailed information on each meeting—including Panel minutes, resource material, and other documentation—can be found on the FACA website and on the Panel website.¹³ A complete list of persons who appeared before the Panel, either in full or in subpanel meetings, is at Appendix F.

Subpanel Meetings

The subpanels described above met at various times during the tenure of the Advisory Panel, generally on days that were adjacent to full Panel meetings. Subpanel minutes, which include the names of witnesses and descriptions of the issues discussed in each meeting, are reflected in their adoption by the full Advisory Panel at the next regularly scheduled meeting and are included in that full Panel meeting’s minutes.

Report Structure and Rationale

Following this introductory chapter and a Chapter II discussion of the context in which the Panel deliberated and provision of some historical background on Defense Support of Civil Authorities (DSCA), the substantive chapters of the report listed below are generally organized according to the designations of the subpanels of the Advisory Panel:

- III. Authorities
- IV. Training, Exercises, and Professional Development
- V. Operational Plans, Structures, and Resources for DSCA for CBRNE
- VI. Communications, Coordination, and Information Availability
- VII. Civil Support Teams

¹³ The websites are, respectively, <http://www.fido.gov/facadatabase/committeeMenu.asp?cno=41848&FY=2009> and <http://www.rand.org/nsrd/DoD-CBRNE-Panel/>.

The final chapter (Chapter VIII) includes some general conclusions about certain related issues as well as observations on essential next steps.

Working Definitions Used in This Report

For the most part, terms that require explanation are defined throughout this report. There are, however, three important definitions and related explanations that require emphasis. For purposes of our deliberations and for this report, we have adopted the definitions used in various policy documents of the U.S. Government and synthesized in the DoD *Strategy for Homeland Defense and Civil Support*, the latter of which is quoted verbatim here:

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.” 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. It is the primary mission of the Department of Homeland Security to prevent terrorist attacks within the United States. The Attorney General leads our Nation’s law enforcement effort to detect, prevent, and investigate terrorist activity within the United States.

Homeland defense is 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 Department of Defense is responsible for homeland defense.

Defense support of civil authorities, often referred to as civil support, is DoD support, including Federal military forces, the Department’s career civilian and contractor personnel, and DoD agency and component assets, for domestic emergencies and for designated law enforcement and other activities. The Department of Defense provides defense support of civil authorities when directed to do so by the President or Secretary of Defense.¹⁴

The Congress chose the more explicit terms *chemical, biological, radiological, nuclear, and conventional high-yield explosive*, rather than the less precise term *weapons of mass destruction*. We follow their practice in this report.

¹⁴ U.S. Department of Defense, *Strategy for Homeland Defense and Civil Support*, Washington, DC, June 2005, “Key Definitions,” p. 5. Available at <http://www.defense.gov/news/Jun2005/d20050630homeland.pdf>.

II. Context and Background

This chapter describes the context in which the Advisory Panel was formed and acted and provides background about the DSCA mission and activities. It should be of particular interest to readers who are unaware of recent and ongoing changes in this arena.

The Current Context

The Advisory Panel conducted its activities and deliberations during a period of change in both DoD structures and policies for CBRNE support of civil authorities and certain key DoD personnel. Recently, for example, the 2010 Quadrennial Defense Review (QDR) called for a regional approach to DSCA and for restructuring certain DoD forces. However, ongoing efforts aimed at accurately estimating civilian capabilities during a disaster have not produced results at a level of resolution that can support truly robust military planning. Therefore, DoD continues to plan for DSCA in the absence of well-defined requirements, as described further in this report.

During this period, there were several terrorist plots and attempted attacks directed at the U.S. homeland as well as several significant natural disasters—all of which served to punctuate the importance of the topic being addressed by the Advisory Panel.

The DoD Historical Role in Support of Civil Authorities

DoD has a long history of assisting domestic civil authorities in responding to disasters both natural and manmade. Some of the most well known include responses to Hurricanes Andrew and Katrina as well as DoD support during the investigation of anthrax attacks in 2001. Nevertheless, the role of the military in providing what is now known as Defense Support of Civil Authorities (DSCA)¹ continues to evolve.

The Military's Role in Domestic Civil Support

With the publication of the 2002 *National Strategy for Homeland Security* and a subsequent series of Presidential initiatives and actions, DoD began an assessment of its roles in homeland defense and homeland security, specifically including DSCA. There have been many changes in DoD structure and posture for civil support as a result. While this and other chapters describe significant recent changes in the way the nation and DoD prepare for and are organized to respond to natural or manmade disasters, the basic philosophy underlying this preparation and organization has not changed. It has long been recognized that the response to most crises begins at the local level. The Federal Response Plan (FRP) in place before September 11, 2001, directed an escalating response, from local or regional response to State response and, finally, to Federal response.² In this scheme, Federal capabilities generally responded to a disaster only when requested by a State Governor. Under the FRP, the Federal response was coordinated by FEMA, then an independent agency

¹ As in many policy and operational documents, the terms *DSCA* and *civil support* are used interchangeably in this report.

² Federal response is governed by a number of statutes, including the Stafford Act, which may be invoked for major disasters and emergencies, normally at the request of a Governor.

but now in the Department of Homeland Security (DHS), and specific agencies were designated as lead Federal agents for specific functions. Today's approach is similar. As the FRP was replaced by newer plans and, most recently, by the National Response Framework (NRF), DoD was still considered a resource of last resort, to be called upon when alternative Federal response assets were depleted or unavailable. In some cases, DoD has been called upon to provide unique capabilities that do not exist or are otherwise unavailable elsewhere. Historically, the military has been called upon to provide a response that is either "more" or "different"; that is, to supply additional common capabilities (e.g., troops, vehicles, doctors) or unique ones (e.g., decontamination).³ Unless designated by the President, DoD is never the lead Federal agency for civil support missions; it always operates in support of civil authorities, although it will maintain command and control over Federal military forces in response missions.

In 2004, DHS issued the National Response Plan (NRP), designed to integrate all domestic prevention, preparedness, response, and recovery plans. The NRP called on a Principal Federal Official (PFO), appointed by the President, to coordinate Federal activities, although the PFO does not have directive authority over other Federal agencies. The NRP was replaced by the NRF in 2008, but their approaches are similar. Under the NRF, requests for assistance are forwarded from the States to Federal civilian officials, such as a Federal Coordinating Officer (FCO). If requested, DoD provides a DCO to act as a single point of contact between DoD and the FCO. If it is determined that DoD is the appropriate agency to fill the request, the request moves through military channels to the office of the Secretary of Defense and to the Joint Staff for approval and for the assignment of Federal forces to the approved requests. This is the manner in which active duty forces are mustered to provide civil support, but the military response often begins with the National Guard.

The Role of the National Guard

A key asset for domestic response is the National Guard of the several States, which, unless federalized, operates in State active duty status (when it is State-resourced) and, in certain cases, in Title 32 status (when it is federally resourced); in either case, it operates under the direction and control of the Governor. Given both the long-practiced approach of first using National Guard forces in State active duty status and certain legal restrictions on the use of Title 10 forces for domestic emergencies, the use of Title 10 forces for domestic response has historically been far more limited than the use of National Guard forces. Title 10 forces have been used both in very small numbers to supplement National Guard troops for very specific tasks and in large numbers for responding to major disasters (such as Hurricanes Andrew and Katrina). Further, unlike most National Guard forces, most Title 10 forces are not currently postured in a way that would enable them to respond to a civil support mission in a matter of hours. For example, the Governors of Louisiana and Mississippi began mobilizing their Army and Air National Guard in anticipation of Hurricane Katrina's landfall in 2005, with approximately 8,600 Guard members from those two States being employed during the first days of the response. Volunteer Guardsmen from every State, U.S. Territory, and the District of Columbia also responded through the Emergency Management Assistance Compact (EMAC),⁴ increasing the total number of National Guardsmen in Louisiana and

³ Gary Cecchine, Michael A. Wermuth, et al., *Triage for Civil Support: Using Military Medical Assets to Respond to Terrorist Attacks*, Santa Monica, California: RAND Corporation, MG-217-OSD, 2004, Ch. 5. Available at <http://www.rand.org/pubs/monographs/MG217/>.

⁴ EMAC is a mutual assistance agreement among the States for providing civilian and military assistance. EMAC came into being in 1996 (see P.L. 104-321) and is administered by the National Emergency Management Association. It is not a part of the Federal Government but rather an agreement among all 50 States, the District of Columbia,

Mississippi to 35,000 within 96 hours of the Governors' oral request for forces and to more than 45,000 within seven days of that request. While there are some limitations to consider in relying on Guard forces for response, including the availability of volunteers and transportation (military and civilian) and the large variability with which Guard assets are able to deploy, the contribution of the Guard during that catastrophic disaster was significant.

The Evolution of Civil Support

The role of DoD in providing support to civil authorities has been evolving rapidly in recent years as DoD's approach to the mission, civilian response planning, and civilian response organizations have evolved. While DoD is considered to be a "resource of last resort" in responding to disasters (with few exceptions), it also possesses many capabilities that could be useful in response operations, and coordinating military and civilian planning efforts has become increasingly important.

In June 2005, DoD published its inaugural *Strategy for Homeland Defense and Civil Support* as a first important step in rationalizing the differences between the homeland defense and civil support mission sets, distinguishing DoD's role from those of other agencies with "homeland security" responsibilities, and initiating the process of consolidation of the various directives and policies needed to carry that strategy into effect.

Federal and State agencies responsible for responding to disasters also initiated processes to codify national guidance, such as Homeland Security Presidential Directive (HSPD) 5, *Management of Domestic Incidents*, and HPSD 8, *National Preparedness*, which collectively directed increased coordination among agencies and identification of necessary capabilities. Important hurdles in this coordination are the lack of identified *requirements* for any particular response scenario and the lack of a complete accounting of *capabilities* that State, local, tribal, or Federal civilian agencies can supply. Because such requirements are a foundation for traditional military planning, DSCA planning is both challenging and unique.

Following the attacks of September 11, 2001, the United States, including DoD, began to look more closely at its ability to mount a coordinated response in the aftermath of a disaster. Substantial organizational changes were an immediate result.

The Homeland Security Act of 2002 created DHS. In doing so, it merged entire or major portions of 22 Federal agencies and programs into a single new department with approximately 180,000 employees, making it second in size only to DoD among U.S. Federal Government organizations. The act's only explicit mention of military roles and missions is found in Section 876:

Nothing in this Act shall confer upon the Secretary [of Homeland Security] any authority to engage in warfighting, the military defense of the United States, or other military activities, nor shall anything in this Act limit the existing authority of the Department of Defense or the Armed Forces to engage in the military defense of the United States, or other military activities.⁵

Puerto Rico, Guam, and the U.S. Virgin Islands to provide assistance across State lines when a disaster occurs. The Governor of the affected area must first declare a state of emergency, and that State must then request the help it needs. Protocols allow reimbursement to all assisting States, and EMAC has procedures to resolve liability issues.

⁵ P.L. 107-296 (H.R. 5005), November 25, 2002.

In addition, the DoD structure—military and civilian—for both homeland defense and DSCA changed dramatically in 2003 with the creation of the position of Assistant Secretary of Defense for Homeland Defense (ASD(HD))⁶ and the creation of USNORTHCOM.

This change in approach was accompanied by a rewording of the USNORTHCOM mission in 2007:

USNORTHCOM *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.⁷

Recent Developments in Civil Support

In October 2007, the White House issued the second *National Strategy for Homeland Security*. That document has important implications for DoD planners, calling on DoD to

develop operational plans based upon the national planning scenarios that will integrate and synchronize military forces to achieve unity of effort in support of homeland security missions across the Nation. These plans will determine specific military requirements and capabilities for accomplishing homeland security missions that will most effectively be met by the combined effort of active, reserve, and National Guard forces.⁸

DoD has provided valuable assistance to civil authorities in the past and can expect requests for assistance in the future. Preferably, to fit the military planning process, requests for assistance will be based on requirements rather than being requests for specific assets. Previous research suggests that until the processes for determining and communicating requirements is improved, this ideal situation is unlikely.⁹ Although these processes are improving, they have not yet defined requirements—as called for in the national strategy—with a significant degree of fidelity.

The Federal civilian agencies responsible for homeland security have developed a framework for planning, including the National Planning Scenarios, the Uniform Task List, and the Target Capabilities List, but they have not yet developed detailed plans or identified capabilities or gaps sufficiently to allow DoD to determine specific requirements for civil support. Military planning is complicated by the fact that the military is meant to be a resource of last resort, asked to fill whatever gaps emerge in civilian capabilities—and predicting those gaps has proven to be difficult. This difficulty extends to the National Guard as well, which, in either State active duty or Title 32 status, is considered to be a State asset. However, the National Guard’s requirements for civil support have similarly not been determined by DoD or the States.

In the absence of a comprehensive definition of capabilities and requirements for responding to a wide range of disaster scenarios, DoD faces a difficult challenge not only in determining what to

⁶ In November 2006, with congressional approval, DoD reorganized the Offices of the Under Secretary for Policy and ASD(HD), with the latter assuming responsibility for Western Hemisphere affairs. The latter’s title was therefore changed to Assistant Secretary of Defense for Homeland Defense and Americas’ Security Affairs (ASD(HD&ASA)).

⁷ Patti Bielling, “USNORTHCOM Works Toward Greater Jointness in Civil Support Operations,” U.S. Army North Public Affairs, March 12, 2008. Available at http://www.northcom.mil/news/2008/031208_a.html. Emphasis added. See also U.S. Northern Command, “About USNORTHCOM,” as of August 27, 2010. Available at http://www.northcom.mil/about/history_education/vision.html.

⁸ The White House, *National Strategy for Homeland Security*, October 2007, p. 51.

⁹ See, for example, Cecchine, Wermuth, et al., 2004.

plan for but also in conducting coordination. Because the national approach to response is that all disasters are local and response efforts scale up to Federal assistance as the scope of the disaster increases, Federal agencies, including DoD, have a need to coordinate with individual States in advance of a disaster to determine what capabilities may be requested. For USNORTHCOM and its primary land component, U.S. Army North (ARNORTH), this includes coordination with the National Guard Bureau and each State's National Guard. At the Federal level, USNORTHCOM has established a staff element located at USNORTHCOM headquarters that comprises approximately 40 representatives from other agencies.

Partly to address the absence of clearly defined requirements, USNORTHCOM and FEMA have agreed upon several dozen *pre-scripted mission assignments* (PSMAs).¹⁰ PSMAs describe a specific set of capabilities that DoD may be requested to provide for civil support, and some include equipment identification for cost estimation. This development is a significant advancement, as it serves both as a proxy for a more complete set of requirements and avoids past situations in which requests for assistance were unclear to DoD because, for example, they asked for specific equipment instead of articulating a requirement (e.g., “5 trucks” versus “capability to move 50 tons of food”).

New Military Structures

DoD has also moved forward in creating structures for CBRNE response. Examples are changes to the DCO program, the creation of standing execute orders for DSCA, and new operational structures. The 2010 QDR has recently provided additional impetus for significant changes in the approach to DSCA.

The 2010 Quadrennial Defense Review

The ability to defend the United States and to support civil authorities in the homeland is one of six key missions identified in the 2010 QDR.¹¹ The QDR directs an “enhancement” to “[i]mprove the responsiveness and flexibility of consequence management response forces,” and it further directs that DoD will reorganize forces for CBRNE response to “enhance their lifesaving capabilities, maximize their flexibility, and reduce their response times.”¹² The forces involved in this redirection are described below. Generally, the QDR-directed changes involve a reduction in the size of the recently formed Title 10 CBRNE response force structure and the addition of regional forces arrayed in each of the FEMA regions.

The Defense Coordinating Officer/Defense Coordinating Element

The DCO is a key element in DoD DSCA operations because the DCO is both the conduit through which all State and Federal requests for DoD assistance are made and the initial on-the-scene coordinator of DoD assistance. In addition, for small incidents, the DCO may be tasked with providing command and control for the DoD response. Whereas the DCO was previously a contingent additional duty for an active duty or a Title 10 reserve officer, it is now a full-time job

¹⁰ These PSMAs are described in U.S. Government Accountability Office, *Homeland Defense: U.S. Northern Command Has Made Progress but Needs to Address Force Allocation, Readiness Tracking Gaps, and Other Issues*, Washington, DC: U.S. Government Accountability Office, GAO-08-251, April 2008.

¹¹ The Congress directs DoD every four years to conduct a comprehensive review of its strategy and resources to meet the national security strategy; the QDR report is the result.

¹² U.S. Department of Defense, *Quadrennial Defense Review Report*, Washington, DC: Department of Defense, February 2010.

for an active duty Colonel supported by a staff of eight known as the DCE. In addition to being a full-time organization, a DCO/DCE is now assigned to ARNORTH and stationed full time in each of the ten FEMA regional headquarters.

This standing relationship is intended to allow a DCO to build relationships with the personnel and organizations with whom he or she will interact during a crisis. The DCO/DCE can help familiarize State and local officials with Federal military capabilities and how best to access them during an incident. However, the ability of the DCO to support FEMA and State- and local-level planning processes is limited, as the DCO, ARNORTH, and USNORTHCOM cannot make specific commitments to State, local, or other Federal officials before an actual incident. The DCO/DCE can advise but can only authorize specific requests for forces after a military response has been approved. The DCO/DCE cannot promise specific future support, something that makes planning with civilian agencies difficult. This means that FEMA regional planners and State planners must create their plans without firm expectations of the kind and extent of DoD support that will be available.

DSCA-Related Standing Execute Orders

The Chairman of the Joint Chiefs of Staff has issued standing execute orders (EXORDs) related to DSCA, which represents a significant change in how DoD approaches its civil support mission. The two current DSCA-related standing EXORDs are the August 2009 Standing DSCA EXORD and the classified April 2009 Standing CBRNE Consequence Management EXORD.^{13,14}

The Standing DSCA EXORD delegates limited approval authority to Combatant Commanders with DSCA responsibilities, in support of the NRF, for routine and historical requests for assistance in order to provide a rapid and flexible DoD response to Federal primary agencies for potential or actual disasters. It provides the commander of ground forces with the authority to deploy, but not employ, predetermined capabilities. It is this authority that has allowed USNORTHCOM to “anticipate” civilian requests.

DoD Forces Specifically for CBRNE Response

In addition to its standard combat support forces (known as *general purpose forces* in the DSCA context), DoD has created several specific force constructs for civil support.

The CBRNE Consequence Management Response Force (CCMRF). Consequence management for CBRNE incidents is a prominent DSCA mission that requires specialized capabilities, many of which reside in the military. To address the need to provide DoD resources if a catastrophic CBRNE incident overwhelms local, State, and National Guard capabilities, DoD initially established a requirement for three brigade-sized, task-organized response forces with approximately 4,700 personnel each.

A CCMRF is a federally resourced and controlled, scalable, and tailorable force package intended to provide medical, chemical decontamination, aviation (rotary-wing), mortuary affairs, search and rescue, and general force capabilities to support civilian authorities during a large-scale CBRNE disaster. Initially, the CCMRF was composed of units and personnel that were given the CBRNE consequence management task as a mission and were assigned to USNORTHCOM (under the

¹³ In addition, USNORTHCOM has its own October 2008 Standing CBRNE EXORD.

¹⁴ The CBRNE CM EXORD focuses on the employment of the CBRNE Consequence Management Response Force (CCMRF); because it is classified, it is not discussed further here.

operational control of ARNORTH) for a one-year rotation. The first forces were assigned on October 1, 2008. Subsequently, this command relationship was changed so that forces were no longer *assigned* but were instead *allocated* to USNORTHCOM for the CCMRF mission.

The CCMRF mission and structure are changing in consonance with guidance in the QDR. The name of the first full CCMRF will be changed to the Defense CBRNE¹⁵ Response Force (DCRF). The second and third CCMRFs “will be replaced with smaller units focused on providing command and control and communications capabilities for Title 10 follow-on forces”¹⁶ and will be renamed Consequence Management Command and Control Elements.¹⁷

The Homeland Response Force (HRF). The 2010 QDR directs the establishment of these National Guard forces, arrayed regionally in each FEMA region. There will be ten HRFs, intended to “provide a regional response capability; focus on planning, training and exercising; and forge strong links between the Federal level and State and local authorities.”¹⁸ HRFs will be under the direction of State Governors, and each HRF will have 566 personnel: 196 for command and control, 200 for security, 75 for decontamination, 50 for search and extraction, and 45 for medical response. HRFs are intended to self-deploy by ground within 6–12 hours of a mission assignment. Ohio and Washington State have been chosen to field the first two HRFs by the end of fiscal year 2011; the remainder will be fielded in 2012. A full description of the HRF organization as well as the approved locations for all ten is at Appendix H.

Civil Support Teams (CSTs).¹⁹ There are 57 of these 22-person National Guard teams nationwide, and they are specifically designed to be the first military responders to CBRNE incidents. They are capable of detecting and identifying CBRNE agents or substances, assessing their potential consequences, and advising other responders of the nature of the CBRNE agents and actions they should take to avoid contaminating personnel. CSTs also include valuable emergency communications capabilities. CSTs are restricted to operations inside the United States and its territories, and they are intended to be interoperable with civilian responders.

CBRNE Enhanced Response Force Package (CERFP). CERFPs are State National Guard forces that are designed to respond to a CBRNE incident within 6–12 hours. The CERFP mission is to perform incident site search and rescue, collect and decontaminate victims, and perform medical triage and initial medical treatment. The initial establishment of CERFPs placed at least one in each FEMA region. By the end of fiscal year 2012, there will be 17 States with CERFPs, with at least one CERFP in each of the ten FEMA regions. Additional information on the structure of the CERFP and the location of each is at Appendix H.

The Chemical Biological Incident Response Force (CBIRF). The CBIRF is an element of II Marine Expeditionary Force, Marine Forces Command. Its mission is to assist local, State, or Federal agencies and designated Combatant Commanders in the conduct of consequence management operations by providing capabilities for agent detection and identification, casualty search and extraction, technical rescue, personnel decontamination, emergency medical care, and stabilization of contaminated personnel. It consists of approximately 500 Marines, Sailors, civilian employees, and contractors.

¹⁵ Or potentially CBRN.

¹⁶ U.S. Department of Defense, 2010.

¹⁷ Or potentially Command and Control CBRNE (or CBRN) Response Elements.

¹⁸ U.S. Department of Defense, 2010.

¹⁹ The designation “Weapons of Mass Destruction–Civil Support Team (WMD–CST)” is frequently truncated to “Civil Support Team (CST).” The terms are synonymous.

III. Authorities

The Panel examined the existing statutory provisions that apply to DoD civil support, especially provisions related to a CBRNE incident. During its full Advisory Panel meetings as well as separate focused discussions in meetings of Subpanel 1: Authorities, members addressed the issue of legal authority for DoD support for CBRNE incidents. Those discussions involved not only the various attorney representatives with whom the Panel engaged—including the office of the DoD General Counsel; the office of the Staff Judge Advocate, USNORTHCOM; the office of the Counsel to the Chief, NGB; representatives of the Federal Bureau of Investigation; and the office of the Assistant Attorney General for National Security Affairs—but also State Governors and other key Federal, State, and local officials involved in planning and operational roles.

Among the key provisions the Panel addressed were

- The Robert T. Stafford Disaster Assistance and Emergency Relief Act¹
- The Insurrection Act²
- Defense Support to Law Enforcement Agencies³
- Chemical and biological incidents⁴
- Nuclear incidents⁵
- Public Health Emergencies⁶
- Federal Quarantine Authority⁷
- The “Posse Comitatus Act”⁸

Ample Legal Authority for Civil Support

The laws and policies that shape how DoD can support civil authorities are often misunderstood or misconstrued. The foundation for the military’s role in supporting civil authorities and responding to disasters has been forged through a long history of law and policy dating back to the earliest days of the nation.

There is ample statutory authority, directives, and other policy for a wide variety of DoD support activities initiated at the request of the Departments of Homeland Security and Justice and other Federal agencies, and at the direction of the President. While there are several statutory conditions and restrictions that apply to this type of support, wide-ranging authorities do exist, indicating some expectation that DoD can and should be prepared to execute missions for which there is a clear and unequivocal legal basis. There are actually few legal redlines if situations become severe.

¹ Title 42 U.S. Code, Sections 5121 et seq.

² Title 10 U.S. Code, Sections 331–334.

³ Title 10 U.S. Code, Sections 371 et seq.

⁴ Title 10 U.S. Code, Section 382.

⁵ Title 18 U.S. Code, Section 831.

⁶ Title 42 U.S. Code, Section 247d and related provisions.

⁷ Title 42 U.S. Code, Section 264.

⁸ Title 18 U.S. Code, Section 1385.

The Posse Comitatus Act is often cited—frequently inaccurately—as an obstacle to DSCA. For that reason, it is described briefly here. In the first century of the Republic, a number of instances in which the military was used to enforce laws gave rise to some criticism of those activities, most particularly military actions during the reconstruction and postreconstruction periods in the South. This caused the Congress, in June of 1878, to pass what has come to be called the “Posse Comitatus Act.”⁹ In that statute, the Congress made it a crime under Title 18 for anyone who “willfully uses any part of the Army or the Air Force as a posse comitatus or otherwise to execute the laws.”¹⁰ Interestingly, it did not proscribe the use of the military as a posse comitatus or otherwise as a means of enforcing the laws in Title 10—the part of the U.S. Code that generally regulates DoD and the military services. And in that same Act, the Congress created a very broad exception to the application of the Act for those “cases and under circumstances expressly authorized by the Constitution or Act of Congress.” The Congress has in fact created a number of statutory exceptions to that Act, including for disaster relief and for counterterrorism, and weapons of mass destruction prevention and response activities.

Virtually without exception, each person with whom the authorities issues were raised—within DoD, within other Federal agencies, and with State and local representatives—agreed that existing authorities for DSCA are robust and no major new authority is required. Many believed, however, that the nation’s response to a CBRNE incident could be improved by modifying existing statutory authority to allow the President to mobilize involuntarily elements of the Federal (Title 10) Reserve Components for broader employment than currently authorized, but they did not agree on an approach for how best to do that. Many also agreed that it would be prudent to add biological incidents to the list of incidents included in the major disaster provisions of the Stafford Act.

Many suggested that existing authority is not well understood and may be confusing, even to military leaders. In addition, much Office of the Secretary of Defense policy guidance for DSCA is fragmented and outdated. Although the Domestic Law Operations Handbook for Judge Advocates is a step in the right direction, it is designed for legal practitioners, not the broader audience of military and civilian leaders who need to understand the subject. What is required is a clear and concise explanation of the authorities—and the conditions and restrictions that apply to each—that may be used both within the military and by civilian officials at all levels of government.

Finding: The authorities for the Department of Defense to support civil authorities during a CBRNE incident are generally adequate but are not widely known and are frequently misunderstood. Moreover, officials at all levels of government could use additional training on the authorities for CBRNE incident response.

Recommendations:

1. *That the Secretary of Defense, in consultation with the Council of Governors, develop a handbook for DoD support of civil authorities that explains in comprehensive detail—using scenarios as examples—how DoD capabilities may be legally employed nationwide for support of civil authorities for CBRNE incidents.*
2. *That Governors and Federal Cabinet Officials with CBRNE responsibilities ensure appropriate training of officials and employees on authorities for CBRNE incident response.*

⁹ 18 U.S. Code, Section 1385. *Posse comitatus*, translated from Latin, means “the power or force of the county.”

¹⁰ The statute does not specifically refer to the laws “of the United States”; rather, it refers to “the laws” generally, which has been interpreted to include the laws of the various States. Although the U.S. Navy and the U.S. Marine Corps are not explicitly covered in this statute, DoD regulation has extended its provisions to them.

3. *That the Secretary of Homeland Security and the Attorney General jointly lead an effort to coordinate with States and U.S. Territories to identify and resolve Federal-State-local conflicts in authorities for CBRNE incident response.*
4. *That the Congress amend the Stafford Act to include explicitly biological incidents in the provisions dealing with Federal support for major disasters.*

DoD Guidance for Civil Support

There are at least seven key DoD Directives (DoDDs) that relate to DSCA. Only one is dated later than 2000. A critical one is dated 1986. Importantly, civil authorities who may seek support from DoD will likely have to search multiple directives to determine what conditions may apply in a specific case. Placing all DSCA authorities, conditions, and restrictions in one comprehensive directive—as Joint Publication 3-28, *Civil Support*, attempts to do—will help avoid confusion, potential overlap, and contradictions. The Panel is aware that DoDD 3025.dd, a proposed new directive on DSCA, is in final coordination and is expected to be published in a few months. But that directive has been in coordination for five years and only consolidates two of the seven key directives.

Finding: DoD guidance for all forms of Defense Support of Civil Authorities is fragmented, incomplete, and outdated.

Recommendation: That the Secretary of Defense immediately consolidate all directives dealing with Defense Support of Civil Authorities into a single source document.

Title 10 Reserve Components

CBRNE incidents will not always be related to terrorism; examples include pandemic influenza, a nation-state attack, and major industrial accidents. In some cases, the cause of the incident may not be clear, at least initially. By law, Title 10 Reserve Component units are prohibited from involuntary mobilization for conducting domestic operations except those involving a “weapon of mass destruction” or catastrophic terrorism. Involuntary mobilization is expressly prohibited for providing assistance to other Federal entities or to States for natural disasters and major accidents. For example, Title 10 reserves would not currently be available to assist in a response to a major influenza pandemic. However, Title 10 reserve units might be closer to an affected area than active duty Title 10 units or National Guard units from other States, and Title 10 reserves, particularly the Army Reserve, have a significant number of the types of units DoD is most often asked to provide to civil support missions.

Elsewhere in this report (Chapter V, “Command and Control of CBRNE Response Forces,” pp. 25–26), we have made specific recommendations about achieving unity of effort among Title 10 military forces and Title 32 and State active duty National Guard forces. *We believe it essential that those recommendations be implemented as a condition precedent to the recommendations that follow.*

Finding: The Title 10 Reserve Components include assets that might be valuable for CBRNE planning and response, but these assets are generally unavailable except for certain defined incidents.

Recommendations:

1. *That the Secretary of Defense coordinate with the Council of Governors and then with the remaining Governors to identify Title 10 Reserve Component assets that may be beneficial in responding to the full range of CBRNE incidents—natural and manmade—and report these findings to the Congress.*

2. *That the Congress expand statutory authority to allow for planning by and employment of Title 10 Reserve Component assets for any CBRNE incident, whether a result of terrorism or other causes.*

Conclusion

Elsewhere in this report (Chapter IV), the Panel has recommended including authorities in professional military education and exercises. This current chapter's two recommendations regarding the Title 10 Reserve Component complement these recommendations on statutory authority. Clear guidance and improved education and training on DoD authorities for DSCA for CBRNE are essential before a catastrophic incident occurs.

IV. Training, Exercises, and Professional Development

No amount of policy, structures, or plans will provide for an effective response unless the forces employed for the mission are properly trained and exercised. Most witnesses who appeared before the full Panel and its subpanels agreed that there is significant room for improvement in this area.

The findings and recommendations in this chapter are directed primarily at improving training and exercises for DoD forces, but they also include several recommendations that apply to other Federal agencies as well as State and local officials.

Training Authority and Requirements

Although DSCA is a significant priority in the latest QDR, there is no systematic process to ensure that forces that could be given a DSCA mission are trained appropriately. USNORTHCOM does not have training authority for DSCA over the units that may eventually be deployed under its command. In addition, the rotational cycle for active duty units leaves little time for DSCA training because DSCA is not an assigned mission for most military units. There is currently no specific training requirement for the DSCA mission for Title 10 units, with the exception of the U.S. Marine Corps (USMC) CBIRF and a leadership-oriented validation of units rotationally assigned for potential duty as part of the CCMRF. Instead, the rotational approach (e.g., Army Force Generation (ARFORGEN)) assumes that all units in the process are always trained and prepared to provide support to civil authorities. Except for the CCMRF, there are currently no DSCA-specific tasks in the joint mission essential task lists (JMETLs) for other units. There are important gaps in this approach, including a lack of required training in crowd control and the use of nonlethal weapons, for example.

Units that are allocated for the DSCA mission have no training requirements to perform the mission. Instead, DSCA-related training occurs only as a nonbinding agreement between the designated commander (e.g., Joint Task Force–Civil Support¹) and the allocated units.

Findings:

1. *There is a lack of training authority to ensure that forces with a CBRNE response mission are consistently and properly trained.*
2. *Training that does exist for CBRNE response is often inconsistent, fragmented, or lacking fully developed standards.*

Recommendations: That the Secretary of Defense—

1. *Direct a lead entity to serve as training authority for Title 10 and Title 32 forces with a designated CBRNE response mission.*
2. *Direct the development of a joint mission essential task list for Title 10 and Title 32 forces with a designated or potential CBRNE response mission, including but not limited to general purpose forces, CCMRF, CBIRF, CERFP, CST, and HRF.*

¹ Joint Task Force–Civil Support is a subordinate element of USNORTHCOM whose primary mission is to provide assistance to civilian authorities in the event of a CBRNE incident. Established in 1999, it is the Nation's only standing CBRNE joint task force.

Training Resources

There are few suitable training facilities for CBRNE response missions. Currently, the facilities at Camp Gruber, Oklahoma; Muscatatuck, Indiana; and the West Virginia “Tunnel” site provide suitable venues for training in urban rescue, requiring CBRNE-related units to expend considerable travel funds to train there. Other relevant training sites are designed for low-level collective and specialized individual training but not for necessary large-unit training.

USNORTHCOM is funded to conduct only four exercises per year. This funding appears inadequate to evaluate and conduct sustainment training for CBRNE-specialized units and critical support units that are designated as DoD CBRNE response elements. The four scheduled exercises per year support only a small percentage of these forces. Fully mission capable units must be trained and evaluated to ensure their effectiveness and readiness for critical CBRNE response missions. Similarly, ARNORTH training support required to teach and train units in collective and specialized individual training sets appears to be inadequately funded to support the required critical readiness levels.

Findings:

1. *There is a lack of suitable facilities for CBRNE response training.*
2. *The current/future Five-Year Defense Plans do not support adequate funding to execute the level of exercises and training events to support the mission requirements of USNORTHCOM and its subordinate organizations.*

Recommendations: That the Secretary of Defense—

1. *Identify and resource multiple regional training centers for CBRNE response training. Ideally, one training center should be resourced for each FEMA region.*
2. *Provide the funding necessary for the training and readiness certification of forces with a designated CBRNE response mission.*

Leadership Training and Professional Development

Civilian and military leaders have suggested improving training opportunities to promote better understanding of Federal and military response strategies, plans, and operations. All leaders should be proficient with the NRF and the National Incident Management System, but few military leaders have been trained specifically for DSCA, and the amount and level of formal training for response planning and operations varies among Federal, State, and local civilian officials, including Governors.

Despite recent QDR guidance, DSCA in general and CBRNE response in particular have not been high-priority DoD missions. Thus, there is no career development path for service members, including officers, to specialize in the field. This situation exists even though a few units (e.g., CBIRF and CCMRF) have a dedicated DSCA for CBRNE mission. As a result, service members who gain experience in DSCA for CBRNE are usually later assigned to other military units, leaving DSCA-dedicated units to continuously train new personnel for the DSCA for CBRNE role. For example, U.S. Marines assigned to the CBIRF are trained extensively for DSCA for CBRNE tasks, serve a short tour, and then return to other USMC occupations, never to return to the CBIRF.

Findings:

1. *The level of training for military and civilian leaders in response planning and operations is inadequate.*
2. *There is no sustainable pool of military personnel trained for the CBRNE response mission.*

Recommendations:

1. *That the Secretary of Defense require the inclusion of instruction related to DSCA, the National Response Framework, and the National Incident Management System in the Officer Education Systems of all military services.*
2. *That the Secretaries of Homeland Security and of Defense jointly offer personal training on response planning and operations, to include the role of DSCA, to all Governors.*
3. *That the Secretary of Defense direct the services to establish within their personnel systems a means of identifying enlisted personnel, noncommissioned officers, and commissioned officers who possess particular skills and experience in DSCA for CBRNE, in order to develop a sustainable pool of CBRNE response personnel.*

Exercises Among DoD and Other Federal Agencies

Senior Federal officials have expressed concern about the quality and utility of Federal CBRNE exercise programs. Exercises vary in quality and often have predetermined outcomes, reducing their usefulness. The nation needs to improve the quality of exercises and scenarios, not just increase their number.

Examples of two specific training shortfalls were discussed during Panel proceedings. First, there is a lack of quality exercises between the Department of Justice and DoD that practice and evaluate plans to address specific statutes involving those departments directly and relating to the Insurrection Act and specific CBRNE statutes, including chemical and biological emergencies and prohibited transactions involving nuclear materials.

Second, the Federal Radiological Monitoring and Assessment Center (FRMAC),² a Federal inter-agency asset, is available to assist Federal, local, and State authorities in response to a nuclear or radiological incident. Although the FRMAC conducts training and exercises with CSTs, it is not routinely included in exercises with other DoD CBRNE response assets, such as the CCMRF or the CBIRF.

Finding: The type and quality of exercises involving the Federal Interagency for CBRNE-related incidents are inadequate.

Recommendations:

1. *That the President direct the Secretary of Homeland Security to lead a comprehensive Interagency evaluation of the adequacy and funding of Federal CBRNE exercise programs and recommend changes for their improvement.*
2. *That the Secretary of Defense and the Attorney General require and fund exercises to evaluate activities and the use of authorities provided under existing statutes in which their departments play a key role, including the Insurrection Act and CBRNE-related statutes.*

² For more information, see National Nuclear Security Administration, "Federal Radiological Monitoring and Assessment Center," as of August 14, 2010. Available at <http://nnsa.energy.gov/aboutus/ourprograms/emergency-operationscounterterrorism/respondingtoemergencies/consequencemanageme-1>

V. Operational Plans, Structures, and Resources for DSCA for CBRNE

Even before the attacks of September 11, 2001, DoD had designated a small number of forces for CBRNE response. These are the 22-person National Guard CSTs,¹ and there are 57 of them across the nation. Since the attacks, DoD has also established other CBRNE response units, as described in Chapter II. The 2010 QDR directs an “enhancement” to “[i]mprove the responsiveness and flexibility of consequence management response forces,” and it further directs that DoD will reorganize forces for CBRNE response to “enhance their lifesaving capabilities, maximize their flexibility, and reduce their response times.”² The forces involved in this redirection, particularly the HRFs, are described in Chapter II. Generally, the QDR-directed changes involve a reduction in the size of the Title 10 dedicated CBRNE response force structure and the addition of regional forces arrayed in each of the FEMA regions. The establishment and resourcing of force structures to meet this guidance continues at the time of this report.

In order to meet its legislative mandate on this topic, Subpanel 3: Operational Plans, Structures, and Resources for DSCA for CBRNE, and the full Advisory Panel questioned and received testimony from officials from DoD and other Federal agencies, State Governors, and other representatives of State and local response organizations. The main concerns expressed by these individuals, summarized in this chapter, relate to the command and control of military forces to achieve unity of effort in CBRNE response, determining requirements to support response planning, the allocation and domestic deployment of response forces, and how new response forces might be resourced and employed. A significant concern is the lack of an interagency organization that can direct the Federal operational response to a CBRNE incident; in this chapter, the Panel recommends the establishment of a joint interagency task force (JIATF).

Command and Control of CBRNE Response Forces

National Guard forces operating in State active duty or Title 32 status and controlled by a Governor, are typically the first military forces to respond to a CBRNE incident. Federal military forces operating in Title 10 status may join the response operation, normally at a Governor’s request for assistance, in accordance with the NRF and typically under the Stafford Act. In certain cases, the President can direct Title 10 forces to respond without a Governor’s request.

The Panel acknowledges the Constitutional basis for distinct and separate chains of command for State and Federal military forces. Unity of effort requires the most-effective, most-coordinated use of State and Federal military forces for domestic contingencies. Such unity is not always achieved, however, because State military forces are under the command of Governors unless the President federalizes them. The prospect of Governors assuming full command or control of Title 10 forces is constitutionally problematic, despite the fact that State authorities may be in the best position to make emergency response decisions for a local area.

¹ The designation “Weapons of Mass Destruction—Civil Support Team (WMD–CST)” is frequently truncated to “Civil Support Team (CST).” The terms are synonymous.

² U.S. Department of Defense, 2010.

Progress has been made on achieving Federal-State unity of effort. In some cases, DoD has authorized a “dual-status” command wherein a Federally recognized Title 32 National Guard officer has been given authority simultaneously to command Title 10 and State military forces for certain domestic operations. In January 2009, DoD also established a policy that permits Federal military commanders to establish a “direct liaison” relationship with State authorities. Under this arrangement, Federal commanders coordinate with State authorities in the execution of tactical-level DSCA missions.

Some argue that existing dual-status arrangements and liaison authority are not sufficient. They believe that, when circumstances warrant, Governors should be granted “tactical control” over Federal military forces. (According to the current official DoD definition, *tactical control* is “the command authority over assigned or attached forces or commands, or military capability or forces made available for tasking, that is limited to the detailed direction and control of movements or maneuvers within the operational area necessary to accomplish assigned missions or tasks.”³) DoD has to date opposed that type of arrangement.

Finding: Unified command and control of Federal and State military assets for CBRNE response continues to be problematic. Under current approaches, even unity of effort between Federal and State forces cannot be assumed or assured.

Recommendations: That the Secretary of Defense, in collaboration with the Council of Governors, promote unity of effort between State and Federal military forces during a response to CBRNE incidents by—

1. *Providing Federal recognition of eligibility for dual-status command in every State and U.S. Territory.*
2. *Permitting, with the consent of State Governors and the authorization of the President, both National Guard commanders and certain Title 10 commanders who have been provided Federal recognition of eligibility to command in dual status for CBRNE incidents and other defined contingencies.*
3. *Developing plans for coordination of command and control authorities in the event of multi-state CBRNE incidents.*

A Joint Interagency Task Force for CBRNE Response

As part of pre-incident planning and coordination, an organization that can quickly and effectively translate national-level decisionmaking for a CBRNE incident into operational and tactical actions is imperative. A JIATF for CBRNE could provide such capability.

Despite having a nominal commander, the JIATF structure is not intended to supplant normal, full command and control of agency assets. It is simply a proven method of creating a coordination center for gaining unity of effort in multi-agency operations. A JIATF-CBRNE could have civilian leadership that would rotate among participating Federal departments. Nevertheless, the Panel intends that the entity that its recommendation addresses will have directive authority over the various Federal agency components that are assigned for the response to a particular incident, in the same way that entities that are involved through the Joint Field Office established under the NRF have such authority.

A JIATF for CBRNE should include representation from various elements of the Departments of Homeland Security, Defense, Justice, Energy, Health and Human Services, Agriculture, and potentially other Federal organizations with related functions designated in the NRF. Existing

³ Joint Chiefs of Staff, JP 1, *Doctrine for the Armed Forces of the United States, Incorporating Change 1*, March 20, 2009.

DoD organizations that could be associated with such a JIATF include Joint Task Force–North and Joint Task Force–Civil Support.

The establishment of such an organization is not an additional layer of bureaucracy—there currently is no standing, operationally oriented entity that performs these functions in an ongoing, coordinated fashion. It is also not intended to supplant either the structures and processes described in the NRF or the National Operations Center at DHS. In most cases, in the event of a significant CBRNE incident, the JIATF-CBRNE leader could be appointed as the PFO, and the JIATF-CBRNE staff could serve as the core staff of the designated Federal Joint Field Office (JFO)/Joint Operations Center (JOC) for the incident, consistent with the NRF.

A JIATF-CBRNE should be focused only on CBRNE responses and not employed for other catastrophes, except under circumstances as directed by the President, in order to maintain a CBRNE response leadership capability even when other catastrophes occur. This is especially important because naturally occurring catastrophes may present an opportune time for enemies of the United States to launch attacks in the homeland. Moreover, the response functions and responsibilities for natural disasters are reasonably well known and, for the most part, successfully executed under existing structures.

As a standing organization, a JIATF-CBRNE should serve as a focal point for interagency planning and exercising in preparation to respond to a CBRNE incident. For example, recent planning efforts undertaken by the Task Force for Emergency Readiness, previously funded by FEMA, could be continued through a JIATF-CBRNE, and a JIATF-CBRNE could be responsible for coordinating related national preparedness exercises. By coordinating interagency planning efforts, a JIATF-CBRNE would support and encourage improved planning in State, local, and tribal emergency management agencies and would promote improved interagency communication prior to incidents. The core staff of the standing JIATF should be capable of expanding for catastrophic incidents and should be able to be “tailored” to the specific incident scenario.

The Federal Government has used the JIATF structure to address other national challenges in the past. Examples include the Organized Crime–Drug Enforcement Task Forces, JIATF-South, and JIATF-West. In each case, the organization has included representatives from multiple Federal agencies.

The JIATF-CBRNE organization can be established by direction of the President to participating Federal organizations; legislation and separate budget authority are not required.

Finding: There is currently no standing interagency organization that can direct the Federal operational response to a CBRNE incident in the homeland.

Recommendation: That the President direct that the Secretaries of Homeland Security and of Defense lead the establishment of a joint interagency task force that has the capability and authority to direct a Federal operational response to a CBRNE incident and that includes all Federal agencies with CBRNE-related functions under the National Response Framework.

Determining Requirements for CBRNE Response Planning

Unless otherwise directed by the President, DoD is never the lead Federal agency when providing civil support. Although DoD is often considered a “resource of last resort” in responding to disasters, it also possesses many capabilities that could be useful in response operations, and coordinating military and civilian planning efforts has become increasingly important. Major hurdles in this coordination are the lack of identified *requirements* for particular response scenarios and the lack

of a complete accounting of the *capabilities* that State, local, tribal, or Federal civilian agencies can supply. Because such requirements are a foundation for traditional military planning, such planning for DSCA, including CBRNE response, is both challenging and unique.

DoD planning efforts are not sufficiently informed by information regarding requirements and capabilities. The majority of recent planning in DoD has been for responses to large incidents, particularly CBRNE incidents, based on the assumption that those are the cases in which DoD support will most likely be requested.

Because the DoD role is to provide capabilities when the civilian sector is overwhelmed or does not have those capabilities, deliberate planning for DSCA would benefit if DoD knew what civilian capabilities exist.

In a 2007 DHS appropriations bill, the Congress directed that DHS accelerate development of a “Federal Response Capabilities Inventory,” an inventory previously required in amendments to the Stafford Act and that includes “a list of organizations and functions within the Department of Defense that may be used.”⁴ DHS has started the inventory but has not completed it.

Finding: The nation has not defined with sufficient clarity what assets will be required to respond to CBRNE incidents.

Recommendation: That the President direct prompt completion by DHS of the capabilities inventory, to include explicit definition of requirements and capabilities necessary to respond to CBRNE incidents, based on the most current National Planning Scenarios.

Integrated Planning

Annex 1 to HPSD 8, *National Preparedness*, directed the establishment of a national integrated planning system (IPS). The IPS is not currently operational. HSPD-8 was issued during the previous presidential administration, but it has since not been reaffirmed, amended, or superseded.⁵ That directive required

- a national planning doctrine and planning guidance, instruction, and process to ensure consistent planning across the Federal Government
- a mechanism that provides for concept development to identify and analyze the mission and potential courses of action
- a process that allows for plan refinement to reflect developments in risk, capabilities, or policies, as well as to incorporate lessons learned from exercises and actual incidents
- a process that links regional, State, local, and tribal plans, planning cycles, and processes and allows these plans to inform the development of Federal plans
- a process for fostering vertical and horizontal integration of Federal, State, local, and tribal plans that allows for State, local, and tribal capability assessments to feed into Federal plans
- a guide for all-hazards planning, with comprehensive, practical guidance and instruction on fundamental planning principles that can be used at Federal, State, local, and tribal levels to assist the planning process.

⁴ See Department of Homeland Security Appropriations Act of 2007, P.L. 109-295, 2006, Section 651.

⁵ It continues to be available on the DHS website as of July 13, 2010.

Finding: There is currently no comprehensive national integrated planning system to respond to either natural or manmade disasters, including CBRNE incidents. Furthermore, planning among Federal agencies and other levels of government is fragmented and nonstandard, and there is no formal process by which State plans can inform Federal planning and vice versa, or by which international support can be considered.

Recommendation: That the President direct the establishment of an integrated planning system that promotes coordinated planning among local, State, and Federal Government entities and the private sector and that includes provisions for support from international organizations and friendly and allied governments, especially Canada and Mexico.

Forces for Defense Support of Civil Authorities

USNORTHCOM currently has few units actually assigned, allocated, or apportioned for DSCA missions in its area of operations.⁶ In conjunction with concerns about operational planning—especially the lack of an integrated planning system—expressed elsewhere in this chapter, and about training and exercises (see Chapter IV), insufficient forces have been allocated or apportioned to USNORTHCOM, especially for potentially catastrophic CBRNE incidents. Despite the advent of the new National Guard HRFs, given the potential magnitude of a catastrophic CBRNE incident, general purpose Title 10 forces that may be required for DSCA should be identified, at least by type.

In support of major military plans for operations outside the United States, an early step in force generation and provision is the development of Time-Phased Force Deployment Data (TPFDD)—a supported commander’s requirements document for forces. TPFDDs establish the type of units required for specific missions as part of a theater of operation campaign plan and supporting plans, based on the Supported Commander’s Concept Plan. They do not designate specific units by number—only by type. When units are actually provided and committed to a supported commander’s mission, a TPFDD becomes a Time-Phased Force Deployment List, which includes notional dates for departure from home station and arrival in theater. While a TPFDD has been developed for units allocated to USNORTHCOM under a specific Concept of Operations Plan, that is likely to be insufficient for supplying the larger number of forces that may be needed to respond to a catastrophic CBRNE incident.

Finding: Sufficient military forces have not been identified for DSCA. Furthermore, domestic military deployments generally are not conducted in accordance with the comprehensive processes used for overseas deployments. This results in difficulty in tracking responding units and effectively employing their corresponding capabilities.

Recommendations: That the Secretary of Defense—

1. *Allocate or apportion additional Title 10 forces to U.S. Northern Command for CBRNE response.*
2. *Direct that the Joint Staff and U.S. Northern Command develop Time-Phased Force Deployment Data for additional forces for domestic military deployments based on specific CBRNE Defense Support of Civil Authorities plans.*

⁶ *Assigned forces* are those over which Combatant Commanders exercise command authority. Forces are assigned when their transfer will be permanent or of an unknown or indefinite duration. *Allocated forces* are distributed upon plan execution among competing requirements for employment. *Apportioned forces* are identified for planning purposes among competing requirements.

The Defense Support of Civil Authorities Mission in Force Generation

The 2010 QDR emphasizes the need for DoD to rebalance its policy, doctrine, and capabilities to better support six key missions, one of which includes homeland defense and DSCA. However, DoD is not placing sufficient emphasis on budget and planning priorities related to DSCA missions, including CBRNE response. DoD must have the ability to generate forces for the execution of DSCA missions, notwithstanding its other commitments.

DoD uses standardized JMETLs to guide unit collective training. Many of the JMETLs include some but not all tasks that are relevant to civil support operations. However, time constraints in the force generation process prevent units from realistically preparing for all JMETL tasks in a training cycle. Given the pace of recent deployments, commanders must choose from the JMETL only those essential tasks required for the mission environment to which they will most likely deploy, which does not normally involve DSCA missions.

DoD should increase its flexibility to balance potential homeland defense and DSCA requirements with ongoing and enduring overseas commitments.

Finding: The Quadrennial Defense Review of 2010, expanding on guidance in the most current National Defense Strategy and National Military Strategy, identifies homeland security as a significant mission, but there is inadequate provision for Defense Support of Civil Authorities in the force generation cycle.

Recommendations: That the Secretary of Defense elevate the importance of the homeland security mission, to include DSCA for CBRNE response, to be equal to warfighting by—

1. *Clarifying the roles and missions required for responding to a CBRNE incident in the next National Defense Strategy.*
2. *Specifically including DSCA for CBRNE and other catastrophic incidents as a mission equal to other missions in the force generation cycle, including all aspects of doctrine, organization, training, materiel, leadership and education, personnel, and facilities (DOTMLPF).*

The National Guard Homeland Response Force

The 2010 QDR calls for a change to the nation's military structure for CBRNE and other incident response. The guidance in the QDR recommends that DoD field CBRNE response forces capable of more-rapid deployment and with enhanced lifesaving capabilities. As a result, the existing CCMRF apportioned to USNORTHCOM will be enlarged and reconfigured to more rapidly deploy elements to an incident site. It will also be renamed the Defense CBRNE⁷ Response Force (DCRF). The two additional CCMRFs will be reconfigured to act as command and control elements for follow-on active duty military forces and are being renamed Consequence Management Command and Control Elements⁸ (C2CRE). Additionally, the National Guard will field ten new HRFs (two in 2011, the remainder in 2012), each comprising 566 personnel; one HRF will be stationed in each of the ten FEMA regions. Key HRF tasks include brigade- and battalion-level command and control, incident site security, search and extraction, decontamination, and medical triage. (See Appendix H for more information.)

Critical issues remain to be resolved regarding the HRF concept. HRFs will be required to commence deployment within 6–12 hours of an order and will typically be under State control, but the command and control relationships among States are not yet clear. HRFs will be assisting

⁷ Or potentially CBRN.

⁸ Or potentially Command and Control CBRNE (or CBRN) Response Elements.

civil-military planning and coordination within their assigned FEMA region, but the relationship between HRFs and the DCO/DCE is not yet clear.

Units that comprise the HRFs are not solely dedicated to homeland missions; thus, they could be deployed abroad. Whether they should focus on CBRNE response or expand their mission to include natural disasters has not been determined, and the related processes for training and equipping the new HRFs have not been finalized. Current plans call for eight HRFs to be “sourced” from single states and for two to be sourced by multiple States; the State contributing the command and control element will be considered the “host” State,⁹ but decisions about how the units will be resourced and employed have not been fully concluded.

Questions have been raised about whether a Governor controlling an HRF (if this is in fact the command arrangement) would allow deployment of the unit during a period of heightened threat in which his or her own State might be attacked while the HRF is employed elsewhere—especially during threats or crises involving multiple CBRNE attacks spanning a large area of the United States.

The absence of regional civil governance structures with command authority in each of the ten FEMA regions creates particular challenges for resourcing and deploying the HRFs.

Finding: The Homeland Response Force (HRF) structure provides a regional approach to CBRNE incidents, but the resources for and allocation of HRF assets among and between States have not been fully resolved, particularly for multi-state incidents. Furthermore, plans for the employment of the HRF for specific CBRNE responses have not been fully developed.

Recommendations: That the Secretary of Defense, in consultation with and advice from the Council of Governors—

1. *Develop agreements for multi-state resourcing of HRF units.*
2. *Clearly define the process by which the HRFs will be trained, equipped, and employed.*
3. *Determine how HRFs and DCOs/DCEs will coordinate effectively to support response planning and execution.*

Establishing and Resourcing CBRNE Response Forces

Section 1034 of the National Defense Authorization Act for Fiscal Year 2010 amended the Panel’s original mandate by adding two tasks. It directed that the Panel

assess the adequacy of the process and methodology by which the Department of Defense establishes and maintains dedicated, special, and general purpose forces for conducting operations [to provide support to United States civil authorities in the event of a CBRNE incident] . . . [and] assess the adequacy of the resources planned and programmed by the Department of Defense to ensure the preparedness and capability of dedicated, special, and general purpose forces [to provide such support].¹⁰

DoD policy, structures, and processes were being reviewed and significantly altered during the course of the Panel’s deliberations, in large part in the development of the 2010 QDR. To address

⁹ “Department of Defense Homeland Response Force (HRF) Fact Sheet and Department of Defense CBRNE Enhanced Response Force Package (CERFP) Fact Sheet,” as of August 14, 2010. Available at <http://www.defense.gov/news/HRFCERFP.pdf>.

¹⁰ P.L. 111-84, October 28, 2009.

the additional tasks, the Panel considered accounts of earlier, similar reviews and also sought to determine the process underlying the ongoing QDR development.

The USNORTHCOM–Led Assessment

At the direction of the Deputy Secretary of Defense and in response to a request from the ASD(HD&ASA), USNORTHCOM led a department-wide, capabilities-based assessment for DoD’s homeland defense and civil support missions. The assessment was conducted between September 2007 and October 2008 and included DoD agencies, the Combatant Commands, the military services, NGB, and DHS; other key Federal interagency partners also participated to varying degrees in the assessment. That assessment did not include participants from State and local governments.¹¹

The assessment, conducted in accordance with DoD’s Joint Capabilities Integration and Development System (JCIDS),¹² identified 31 capability gaps related to DoD’s homeland defense and civil support missions, including four related to CBRNE or law enforcement and ten related to civil support for natural disasters. While the specific JCIDS methods used to determine gaps are not immediately transparent, we note the Government Accountability Office’s (GAO’s) assessment that the process was limited in that “(1) the nature of its assumptions may have hidden other capability gaps, and (2) DOD has not received precise information on the capabilities it will be asked to provide.”¹³ For example, a strategic assumption was that a DoD response to support civil authorities will include ordering Reserve personnel to involuntary active duty service in the event of a natural disaster, but DoD has no legal authority to do so at this time. As GAO noted, the precise scope of the shortfalls could not be determined because strategic policy questions remain to be answered, including interagency agreement regarding what DoD is expected to provide and what civilian shortfalls might be. We believe that these and other strategic issues raised in this report—including the lack of an integrated planning system—must be addressed before a complete assessment of the adequacy of methods used to establish, maintain, and resource civil support forces can be fully accomplished.

DoD Cost Assessment and Program Evaluation Processes

The depth and transparency of analysis supporting the establishment of the first CCMRF is unclear. During program budget reviews, some reportedly questioned the utility of the CCMRF, believing it to be too slow to deploy, given its stated mission of saving lives after a CBRNE incident.

In April 2008, DoD’s Program Analysis and Evaluation directorate, now known as the Cost Assessment and Program Evaluation (CAPE) office, began a consequence management study. The study was intended broadly as an “enterprise” approach to civil support; it was to consider all CBRNE-related forces and determine whether other structures would be more appropriate. CAPE developed a tool for this study, known as COMET, with a general methodology of

- determining capabilities required
- identifying tasks associated with capabilities

¹¹ U.S. Government Accountability Office, *Homeland Defense: DoD Can Enhance Efforts to Identify Capabilities to Support Civil Authorities During Disasters*, Washington, DC: U.S. Government Accountability Office, GAO-10-386, March 2010.

¹² See Chairman of the Joint Chiefs of Staff, CJCSI 3170.01G, *Joint Capabilities Integration and Development System*, March 1, 2009. Available at http://www.dtic.mil/cjcs_directives/cdata/unlimit/3170_01.pdf.

¹³ U.S. Government Accountability Office, 2010.

- analyzing the demand of those tasks in the event of a CBRNE incident
- comparing the supply of forces against the demand.

The study concluded that a regionalized concept would be most appropriate to ensure timely employment of CBRNE civil support forces. The processes and methods used have not been extensively reviewed by the Panel, but we suggest that earlier limitations of assumptions and the lack of planning requirements should cast some uncertainty on definitive results.

CAPE's conclusion, which supported a regional approach for civil support, provided the conceptual basis for the QDR, with the QDR team further refining CAPE's study.

2010 Senior Steering Group and National Level Exercise

On April 26, 2010, the Secretary of Defense established a senior steering group to implement plans for CBRNE response. The group is co-chaired by the Principal Deputy ASD(HD&ASA) and the Vice Director of the Joint Staff Force Structure, Resources and Assessment Directorate. It includes representatives from U.S. Northern Command, U.S. Joint Forces Command, U.S. Pacific Command, U.S. Transportation Command, the military departments, and the National Guard. Presumably, the group is tasked with reconciling earlier DoD approaches to CBRNE response, such as the CCMRF structure, with the QDR guidance, which called for a restructuring of the CCMRF and the establishment of regional HRFs. The group had met twice by the time its existence was made public in the media on June 24, 2010.¹⁴ Given the timing of its establishment, the Panel did not have the opportunity to be fully informed about the steering group and therefore cannot comment on its processes and methodology.

A National Level Exercise (NLE) was hosted by FEMA in May 2010. The NLE included Federal, State, and local partners and was designed to assess Federal emergency preparedness capabilities pertaining to a simulated terrorist attack scenario involving an improvised nuclear device. Such NLEs can be useful in assessing DoD policies, plans, and structures for CBRNE response, particularly by offering an opportunity to address strategic questions with other response partners and to better estimate DoD requirements. However, as in the case of the steering group, the timing of the exercise did not permit the Panel to assess the exercise's effectiveness. The Office of the Secretary of Defense's assessment of the exercise was preliminary and had not been fully reviewed.

Findings:

1. *DoD's assessment processes are significantly hampered by the lack of integrated planning among Federal, State, and local entities—especially information about potential civilian shortfalls. However, the overall approach employed by DoD to assess what might be needed and what can reasonably be resourced is generally appropriate.*
2. *Additional efforts will be required to provide a critical assessment of the specific analytical processes and methods, but these efforts would provide the greatest utility once strategic questions are better answered and assumptions better defined.*

Recommendations:

1. *That the Secretary of Defense ensure that future processes for developing dedicated, special, and general purpose forces for support of civil authorities for CBRNE response include consultation with all necessary stakeholders at the Federal, State, and local levels.*

¹⁴ Christopher J. Castelli, "High-Level Group Oversees Homeland Defense Changes for Gates," *Inside the Pentagon*, June 24, 2010. Available at <http://defensenewsstand.com/Inside-the-Pentagon/Inside-the-Pentagon-06/24/2010/menu-id-287.html>. The Panel has been told informally by OSD staff that U.S. Pacific Command is not a member and that CAPE, OASD AT&L, and OASD RA are also members.

2. *That the Secretaries of Defense and of Homeland Security report to the Congress on the evaluation of the May 2010 National Level Exercise.*
3. *That the Secretary of Defense report to the Congress the findings of the Senior Steering Group and similar processes and events as a means of further answering the specific questions raised in the Panel's enabling legislation.*

VI. Coordination, Communications, and Information Availability

The emergency response community has long understood that the foundation for any effective response to a CBRNE or other catastrophic incident consists of effective planning and information sharing before the emergency and a coordinated preparation and response activity prior to, during, and after the incident. Ideally, these vital processes are supported by modern, resilient communications systems and information technology that enable emergency responders at all levels of government to bring their strengths to bear in a collaborative effort to save lives and protect property.

Information and communications systems have seen dramatic advances in capability in recent years. Modern communications systems transmit data in real time to devices small enough to fit in a shirt pocket and enable entire communities to maintain situational awareness during various types of incidents. Information systems facilitate the storage, organization, and analysis of vast quantities of data that can inform analysts, planners, and operators in disparate fields. Yet despite these developments, many in the emergency response community remain unable to effectively conduct routine or emergency communications. Modern information collection, management, and analysis systems are not sufficiently established to enable planners nationwide to learn from prior emergency response operations, including those involving State and Federal military forces. Civil-military collaboration is also complicated by the need to move information between classified and unclassified networks.

The technical challenges associated with CBRNE incident response have been widely reported. Based on discussions with or testimony from military officials at USNORTHCOM and NGB, liaison officers assigned to USNORTHCOM from various U.S. Government agencies, two sitting Governors, and other State and local representatives, the Advisory Panel has concluded that policies and institutions also impede the information sharing and coordination that are required to substantially improve U.S. preparedness. In some cases, impediments stem from perceptions that offers to share plans will not be reciprocated. Some Title 10 structures are not, in the Panel's view, sufficiently resourced to undertake their assigned liaison duties with State authorities. Some State planning agencies exhibit a proclivity to focus on preparing for routine incidents, such as floods and hurricanes, rather than large-scale attacks, which are much more difficult to conceive of and plan for.

These technical and institutional obstacles to effective coordination, communication, and information sharing for emergency response undermine the nation's preparedness at all levels. They increase the risk of catastrophic failures during the extreme stress that a large-scale CBRNE incident could impose on both the personnel and equipment employed for response operations.

The nation can improve its ability to collaborate in preparation for or during any response to a CBRNE incident or other domestic contingency. This view is supported by a number of initiatives undertaken by the country's emergency response community in the years following the terrorist attacks of September 2001, including the following examples:

- DHS' developmental Homeland Security Information Network (described below), designed to support nationwide information sharing.
- FEMA's experimental Task Force for Emergency Readiness, which bolsters State and regional planning for catastrophic emergencies by, among other things, creating dedicated planning teams that include highly trained military planners.
- Intelligence fusion centers, supported by Federal funding, wherein local, State, and Federal authorities can collaborate to share information in an effort to prevent terrorist attacks and other crimes.

These developments indicate what can be accomplished when a collaborative spirit is established among authorities working from different levels of government. In an effort to suggest improvements in this field, the Panel recommends below some key technical and organizational initiatives that are designed to advance the national information sharing and coordination that are so vital to CBRNE incident response.

A Repository for DSCA Data and Analysis

If governmental entities are going to estimate sufficient requirements for disaster response and use those estimates to develop effective Federal and State response strategies, they will need comprehensive data on and analysis of the types and amounts of capabilities that have been previously provided or will likely be requested for a wide range of actual disasters.

DoD has been involved in myriad DSCA missions. Future response efforts should be informed by past operations. The Panel sought to analyze historical instances in which the military supported civil authorities to respond to both natural and manmade disasters. Despite the existence of the Lessons Learned Information Sharing (LLIS) program at DHS and several organizations in DoD that appear to have similar responsibilities, comprehensive, authoritative data and analysis of DSCA missions do not appear to be available. There is, for example, a significant lack of consolidated data about Title 10, Title 32, and National Guard State active duty deployments for DSCA. The lack of standardized data on historical DSCA operations highlights the need for a comprehensive Federal repository to collect and store information on emergency and disaster response, including those events that may inform CBRNE response efforts. The development of a DSCA database, as a part of a larger Federal repository, would lay the foundation for improving DoD's ability, through analyses of prior operations, to estimate requirements for future DSCA planning and response.

Finding: There is currently no coordinated Federal effort, including a central repository, to capture data and analysis from emergency and disaster response operations that includes Defense Support of Civil Authorities.

Recommendations:

1. *That the Secretary of Defense establish a central DoD repository for deployment data on DSCA operations, including natural and manmade incidents. The repository should include all data on the original request for DoD support, military units and personnel deployed, details of their operations, logistical and transportation support, command and control, and funding, as well as related analysis.*
2. *That the President direct the establishment of a standardized, central Federal repository for data and analyses of all Federal response activities for natural and manmade emergencies and disasters, of which the DoD repository will be an integral part.*

Plan Sharing for CBRNE Response

Response plans are essential to describe requirements and the application of resources during response activities. A coordinated national response demands that response plans be shared among all Federal, State, and local response entities.

State and local governments need to develop detailed disaster response plans, including plans for maintaining governance, which can be significantly disrupted during an emergency. On September 11, 2001, for example, New York City's emergency management command center was destroyed when the World Trade Center collapsed. This experience was cited by the National Governors Association when it recommended that every State develop continuity of government (COG) plans to ensure that governments can continue to provide essential leadership and services in any emergency and in circumstances when government personnel and infrastructure are unavailable.

Federal officials informed the Panel that, despite requests, some States have been reluctant to share their response plans with DoD, USNORTHCOM, and NGB. This is partly because some States have found, and others believe, that Federal military organizations do not reciprocate and share relevant Federal plans with State authorities. Federal officials also advised the Panel that a number of States have not planned sufficiently for COG during an emergency. NGB in particular has launched an initiative to develop, coordinate, exercise, and evaluate States' plans on a more consistent basis. But that effort and others are only addressing parts of the problem.

State planning and resources for disaster response are uneven across the country. States that routinely experience natural disasters generally have more advanced capability for disaster response planning. Few States have either planned sufficiently for a large-scale CBRNE incident or coordinated their planning for such incidents with other States in their region and with the Federal government.

Plan sharing has sometimes been hampered by classification issues. The refusal to share Federal military and other plans with States based on security classifications establishes an environment in which mutual planning is severely restricted.

The Panel has elsewhere recommended that the President establish an integrated planning system that promotes coordinated planning at all levels of government. However, such a system cannot succeed unless Federal and State emergency response agencies, including military organizations, share their response plans.

Finding: Federal, State, and local agencies responsible for CBRNE response are not making a sustained and comprehensive effort to share all-hazards response plans. Sharing plans is essential for the development of coordinated Federal, State, and local responses to disasters, especially CBRNE incidents.

Recommendations:

1. *That the President explicitly require, in his forthcoming directive on national preparedness, that response plans be shared across Federal agencies and that States share their plans with other States and with the Federal Government as a condition of future related Federal disaster planning assistance. The Presidential directive should define requirements for quality response plans.*
2. *That Governors develop COG plans with sufficient detail to ensure the succession of State leadership and essential services during an emergency, to include large-scale CBRNE incidents.*
3. *That Governors direct their emergency management agencies to share all State and local response plans, including COG plans, with Federal civil and military agencies and with States in their FEMA region and other adjoining States.*
4. *That the President direct the Secretary of Homeland Security to coordinate with Governors to establish a formal process by which State and local plans are shared with and inform Federal*

planning and vice versa, and that the President direct the establishment within DHS of a repository for Federal, State, and local response plans, to be updated annually.

5. *That the President direct DHS and DoD to continue efforts—such as the Task Force for Emergency Readiness—to bolster States’ response planning efforts by making available military capabilities in preparedness planning, and that the Congress fund such efforts at the appropriate levels of government.*
6. *That the Secretary of Defense direct that, to the maximum extent feasible, existing DoD domestic response plans be declassified and future plans be unclassified.*

The Defense Coordinating Officer/Defense Coordinating Element

The DCO is the primary point of contact for DoD support to civil authorities at an incident site. DCOs/DCEs are assigned to each FEMA region to plan, coordinate, and integrate Federal military support with local, State, and other Federal agencies. Currently, the DCO can command Federal military forces. For large incidents, DoD may establish a Joint Task Force (JTF) to command DoD response assets. However, there is no standard DCO-JTF relationship.

The DCO should play a pivotal role in the sharing of response plans between DoD, States, and major municipalities. The Panel has elsewhere recommended that plan sharing be improved, and we recommend below that the DCO play a key coordinating role in this effort.

A DCO/DCE includes nine personnel: a U.S. Army Colonel as DCO and a staff of eight, including a Lieutenant Colonel as deputy, a Major for operations, and a Department of the Army civilian as the sole planner. This organization’s mission includes

- serving as subject matter experts for all State and Federal emergency response plans
- building habitual relationships with FEMA, State emergency responders, Adjutants General, and Joint Force Headquarters—State and providing liaison to State, local, and other Federal agencies
- participating in all local, State, Federal, and DoD homeland defense and civil support exercises
- providing oversight with all military installations regarding base support installation operations
- planning and supporting National Special Security Events
- deploying in a manner consistent with current response plans
- representing DoD in a disaster area
- validating mission assignments from the FCO and determining the best military resource for the mission
- being prepared to conduct operations in other FEMA regions
- exercising command and control of deployed Federal military forces.¹

Given its resources, the DCO/DCE is unlikely to perform all of these missions effectively to ensure adequate preparation, planning, and response, particularly for catastrophes, including CBRNE incidents. Furthermore, the existing DCO/DCE structure cannot scale up sufficiently to effectively perform these missions during a large-scale incident, and it does not have a staff sized or structured to exercise effective command and control of anything but a small Federal military

¹ Summarized from U.S. Department of Homeland Security, “Defense Coordinating Officer (DCO)/Defense Coordinating Element (DCE),” as of August 11, 2010. Available at http://www.fema.gov/about/regions/regionv/dco_dce.shtm.

force. Given its size and other mission requirements, the DCO/DCE should not also be required to execute command and control.

Finding: The Defense Coordinating Officer (DCO)/Defense Coordinating Element (DCE) is not adequately sized and structured for its assigned missions, and it is not sufficiently expandable to effectively coordinate responses to or command Federal military forces in a major CBRNE incident.

Recommendations: That the Secretary of Defense—

1. *Review and as required modify DCO/DCE structures and missions to ensure effective mission performance.*
2. *Remove the command and control authority of the DCO/DCE for all military forces.*
3. *In consultation with the Council of Governors and with the participation of the Secretary of Homeland Security, establish a protocol for the sharing of State and Federal plans for CBRNE incidents and other catastrophes, with the DCO/DCE playing a key coordinating role.*

A Common Operating Picture for CBRNE Response

The Homeland Security Act of 2002 assigned to DHS the responsibility for coordinating the Federal government’s homeland security communications with State and local government authorities, the private sector, and the public. To accomplish the assigned task, DHS is implementing the Homeland Security Information Network (HSIN). The HSIN is a secure, unclassified, Internet-based communications system. It serves as the primary DHS nationwide information sharing and collaboration network. HSIN users can access information on incidents, to include mapping and imagery products that provide for enhanced situational awareness, as well as analytical products and instant-messaging capabilities. Nevertheless, reliance on an Internet-based system has inherent vulnerabilities.

The 2006 Post Katrina Emergency Reform Act directed the DHS National Operations Center to establish a common operating picture (COP) to provide situational awareness to Federal, State, and local authorities in the event of terrorist incidents or natural disasters. The HSIN serves as the platform for the COP. The DHS activated a first-generation COP in 2006 and is currently developing “COP 2.0,” which will make use of geospatial information products, federated search engines, and data visualization and analysis from multiple sources. COP 2.0 is intended to allow movement of information between classified and unclassified networks. However, the development of COP 2.0 has been slowed by the need to establish common usage protocols and other agreements between multiple user communities.

NGB and USNORTHCOM use and share information via the HSIN system, but their participation is hindered by information classification and information assurance issues, user authentication, and other concerns. The COP 2.0 project may provide for a civil-military COP, but its completion is not likely until years in the future.

The Advisory Panel supports ongoing efforts by DHS, DoD, and other agencies to work with authorities nationwide in the development of new applications to promote multi-agency communications and situational awareness during domestic emergencies. However, civil-military coordination for emergency response is currently hampered by the lack of a COP that response organizations can use and to which they can fully contribute.

Finding: There is currently no standard or sufficient mechanism for localities, States, and Federal agencies to share a civil-military common operating picture to support CBRNE incident response.

Recommendations: That the Secretary of Homeland Security, with support from the Secretary of Defense—

- 1. Direct new efforts to develop completely the Homeland Security Information Network and Common Operating Picture to enable timely civil-military coordination for CBRNE response operations.*
- 2. Study and report to the President on both the implications of relying on the Internet for vital communications during an emergency and whether backup capabilities are sufficient to support response operations in the event of a large-scale CBRNE incident.*

Conclusion

The Advisory Panel recognizes the significant advancements and key initiatives undertaken in recent years by authorities at all levels of government in order to enhance national information sharing and coordination for disaster response. However, further improvement in civil-military collaboration is not only possible—it is essential. The programs and initiatives recommended in this report will, in the Panel's view, significantly advance current efforts to improve such collaboration.

VII. Civil Support Teams

The Panel was specifically directed to make recommendations on:

(A) whether there should be any additional Weapons of Mass Destruction Civil Support Teams (CST), beyond the 55 already authorized and, if so, how many additional Civil Support Teams, and where they should be located; and

(B) what criteria and considerations are appropriate to determine whether additional Civil Support Teams are needed and, if so, where they should be located.¹

In reviewing the DoD stationing criteria used in the location of the CSTs, the Panel noted the criterion that a CST must be available for mutual support and response based on a radius of 250 miles and a response time of five hours. An analysis to ensure complete coverage of the land area of the United States' most populated areas was undertaken by Subpanel 2: Plans and Programs for Training and Equipping, based on threat analysis-based criteria. As a result, the Panel concludes that the current 55 certified CST locations and the two new (as yet uncertified) CSTs in New York and Florida meet this criterion adequately, with some risks accepted in western Texas in FEMA Region VI.

The current criteria reflect the best available threat analyses as well as the recent development, however ad hoc, of CBRNE skill sets within DoD. The authorization of 57 CSTs at their currently planned locations seems adequate. However, these teams are facing a very high operational tempo, and they also respond frequently to requirements for civil support (particularly to first responders) under various scenarios, often across State lines of authority. This high demand on CST team members is made more difficult by the fact that 35 percent of CST positions are “one deep” in specialized skills sets with no ability to train replacements quickly. Augmenting these teams with no fewer than six additional personnel would improve each team's ability to meet mission requirements for continuous operations for a minimum of 72 hours. These additional personnel need not be Active Guard and Reserve forces: They could be traditional inactive duty service members who are trained, assigned, and available to perform relevant duties when augmentation is required. This would greatly improve support for extended operations, allow Soldiers/Airmen to attend required professional education without degrading unit capabilities, and enhance retention of specialized CST personnel. This augmentation must not come at the expense of removing critical authorizations from existing force structure; rather, it must be supported by an increase in personnel authorizations.

There are funding shortfalls for adequate equipment modernization and sustainment of critical elements within the CSTs. The effectiveness and utility of the critical equipment assigned to the CSTs are dependent upon two pacing items in particular (the Unified Command Suite and the Analytic Laboratory System), and this equipment is aging. These systems require sustainment and repairs, and outdated equipment must be replaced if they are to continue to provide capability to support the civilian first responder community. If this equipment continues to degrade, the CSTs' capability to communicate, assess the situation, and advise first responders will erode.

¹ Enabling legislation, subsection (d)(10). The designation “Weapons of Mass Destruction–Civil Support Team (WMD-CST)” is frequently truncated to “Civil Support Team (CST).” The terms are synonymous. The number of CSTs nationwide has increased to 57.

Finding: The number of National Guard Civil Support Teams is adequate for the present, but their effectiveness would benefit from staff augmentation, and the current Future Years Defense Program (FYDP) does not support the modernization necessary to sustain them.

Recommendations: That the Secretary of Defense—

- 1. Authorize an augmentation of not fewer than six additional personnel to each Civil Support Team.*
- 2. Neither authorize more Civil Support Teams nor change their locations at this time.*
- 3. Ensure that adequate funding is projected in current and subsequent Future Years Defense Programs to support modernization of CST equipment.*
- 4. Require the Chief, National Guard Bureau, annually to report on CST capability shortfalls and to recommend required funding to support adequate CST modernization and sustainment.*

VIII. Conclusions and the Path Ahead

As noted at the beginning of this report, time and available resources did not permit an in-depth consideration of several issues, including many natural disasters, homeland defense, and equipment required for DoD civil support. In the case of equipment, it is difficult to conduct assessments without better knowledge about what the requirements are for civil support.

Moreover, the Panel conducted its deliberations in a time of substantial changes in the approach that DoD is taking in this area—some of which have not yet been fully determined and implemented. One example is the establishment and fielding of the new National Guard HRF organizations. Our recommendations are based on the most recent evidence available to us, and we believe they will remain valid even as DoD's changing approach becomes better defined.

If time had permitted, the Panel would likely have explored other issues, such as joint reception, staging, onward movement, and integration, both for National Guard units in State active duty and Title 32 status and for Federal active duty units. Likewise, the Panel only touched on the issue of the level of potential DoD involvement in supporting the Department of Health and Human Services in enforcing a Federal quarantine.

We recognize the substantial progress that has been made in recent years in all aspects of homeland security, including many aspects of DoD support of civil authorities. Nevertheless, DoD cannot enhance its support of civil authorities by itself. Our findings and recommendations reflect that simple fact and are, therefore, directed to several entities outside of DoD.

The Panel encourages the Congress; the President, the Secretary of Defense, and other Federal Executive Branch officials; and the State and local officials to whom our findings and recommendations are directed to proceed promptly to implement those within their purview.

We complete our work with the satisfaction of knowing that we have fully addressed the critical issues that the Congress enumerated in our enabling legislation.

Appendix A: Enabling Legislation¹

SEC. 1082. ADVISORY PANEL ON DEPARTMENT OF DEFENSE CAPABILITIES FOR SUPPORT OF CIVIL AUTHORITIES AFTER CERTAIN INCIDENTS.

(a) In General- The Secretary of Defense shall establish an advisory panel to carry out an assessment of the capabilities of the Department of Defense to provide support to United States civil authorities in the event of a chemical, biological, radiological, nuclear, or high-yield explosive (CBRNE) incident.

(b) Panel Matters-

(1) IN GENERAL- The advisory panel required by subsection (a) shall consist of individuals appointed by the Secretary of Defense (in consultation with the chairmen and ranking members of the Committees on Armed Services of the Senate and the House of Representatives) from among private citizens of the United States with expertise in the legal, operational, and organizational aspects of the management of the consequences of a chemical, biological, radiological, nuclear, or high-yield explosive incident.

(2) DEADLINE FOR APPOINTMENT- All members of the advisory panel shall be appointed under this subsection not later than 30 days after the date on which the Secretary enters into the contract required by subsection (c).

(3) INITIAL MEETING- The advisory panel shall conduct its first meeting not later than 30 days after the date that all appointments to the panel have been made under this subsection.

(4) PROCEDURES- The advisory panel shall carry out its duties under this section under procedures established under subsection (c) by the federally funded research and development center with which the Secretary contracts under that subsection. Such procedures shall include procedures for the selection of a chairman of the advisory panel from among its members.

(c) Support of Federally Funded Research and Development Center-

(1) IN GENERAL- The Secretary of Defense shall enter into a contract with a federally funded research and development center for the provision of support and assistance to the advisory panel required by subsection (a) in carrying out its duties under this section. Such support and assistance shall include the establishment of the procedures of the

¹ Section 1082, National Defense Authorization Act for Fiscal Year 2008 (P.L. 110-181, January 26, 2008), as amended by Section 1034, National Defense Authorization Act for Fiscal Year 2010 (P.L. 111-84, October 28, 2009).

advisory panel under subsection (b)(4).

(2) DEADLINE FOR CONTRACT- The Secretary shall enter into the contract required by this subsection not later than 60 days after the date of the enactment of this Act.

(d) Duties of Panel- The advisory panel required by subsection (a) shall--

(1) evaluate the authorities and capabilities of the Department of Defense to conduct operations to provide support to United States civil authorities in the event of a chemical, biological, radiological, nuclear, or high-yield explosive incident, including the authorities and capabilities of the military departments, the Defense Agencies, the combatant commands, any supporting commands, and the reserve components of the Armed Forces (including the National Guard in a Federal and non-Federal status);

(2) assess the adequacy of existing plans and programs of the Department of Defense for training and equipping dedicated, special, and general purpose forces for conducting operations described in paragraph (1) across a broad spectrum of scenarios, including current National Planning Scenarios as applicable;

(3) assess policies, directives, and plans of the Department of Defense in support of civilian authorities in managing the consequences of a chemical, biological, radiological, nuclear, or high-yield explosive incident;

(4) assess the adequacy of policies and structures of the Department of Defense for coordination with other departments and agencies of the Federal Government, especially the Department of Homeland Security, the Department of Energy, the Department of Justice, and the Department of Health and Human Services, in the provision of support described in paragraph (1);

(5) assess the adequacy and currency of information available to the Department of Defense, whether directly or through other departments and agencies of the Federal Government, from State and local governments in circumstances where the Department provides support described in paragraph (1) because State and local response capabilities are not fully adequate for a comprehensive response;

(6) assess the equipment capabilities and needs of the Department of Defense to provide support described in paragraph (1);

(7) assess the adequacy of the process and methodology by which the Department of Defense establishes and maintains dedicated, special, and general purpose forces for conducting operations described in paragraph (1);

(8) assess the adequacy of the resources planned and programmed by the Department of Defense to ensure the preparedness and capability of dedicated, special, and general purpose forces for conducting operations described in paragraph (1);

(9) develop recommendations for modifying the capabilities, plans, policies, equipment, and structures evaluated or assessed under this subsection in order to improve the provi-

sion by the Department of Defense of the support described in paragraph (1); and

(10) assess and make recommendations on--

(A) whether there should be any additional Weapons of Mass Destruction Civil Support Teams, beyond the 55 already authorized and, if so, how many additional Civil Support Teams, and where they should be located; and

(B) what criteria and considerations are appropriate to determine whether additional Civil Support Teams are needed and, if so, where they should be located.

(e) Cooperation of Other Agencies-

(1) IN GENERAL- The advisory panel required by subsection (a) may secure directly from the Department of Defense, the Department of Homeland Security, the Department of Energy, the Department of Justice, the Department of Health and Human Services, and any other department or agency of the Federal Government information that the panel considers necessary for the panel to carry out its duties.

(2) COOPERATION- The Secretary of Defense, the Secretary of Homeland Security, the Secretary of Energy, the Attorney General, the Secretary of Health and Human Services, and any other official of the United States shall provide the advisory panel with full and timely cooperation in carrying out its duties under this section.

(f) Report- Not later than 12 months after the date of the initial meeting of the advisory panel required by subsection (a), the advisory panel shall submit to the Secretary of Defense, and to the Committees on Armed Services of the Senate and the House of Representatives, a report on activities under this section. The report shall set forth--

(1) the findings, conclusions, and recommendations of the advisory panel for improving the capabilities of the Department of Defense to provide support to United States civil authorities in the event of a chemical, biological, radiological, nuclear, or high-yield explosive incident; and

(2) such other findings, conclusions, and recommendations for improving the capabilities of the Department for homeland defense as the advisory panel considers appropriate.

Appendix B: Charter

CHARTER
ADVISORY PANEL ON DEPARTMENT OF DEFENSE CAPABILITIES
FOR SUPPORT OF CIVIL AUTHORITIES AFTER CERTAIN INCIDENTS

- A. Official Designation: The Committee shall be known as the Advisory Panel on Department of Defense Capabilities for Support of Civil Authorities After Certain Incidents (hereafter referred to as the Panel).
- B. Objectives and Scope of Activities: The Panel, under the provisions of section 1082 of Public Law 110-181 and the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), shall provide independent advice and recommendations to the Secretary of Defense, and to the Committees on Armed Services of the Senate and the House of Representatives on the capabilities of the Department of Defense to provide support to U.S. civil authorities in the event of a chemical, biological, radiological, nuclear, or high-yield explosive incident.

The Panel shall:

1. Evaluate the authorities and capabilities of the Department of Defense to conduct operations in support to U.S. civil authorities in the event of a chemical, biological, radiological, nuclear, or high-yield explosive incident, including the authorities and capabilities of the Military Departments, the Defense Agencies, the U.S. Combatant Commands, any supporting commands, and the reserve components of the Armed Forces (including the national Guard in a federal and non-federal status);
2. Assess the adequacy of existing plans and programs of the Department of Defense for training and equipping dedicated, special, and general purposes forces for conducting operations described in paragraph 1 across a broad spectrum of scenarios, including current National Planning Scenarios as applicable;
3. Assess policies, directives, and plans of the Department of Defense in support of civilian authorities in managing the consequences of a chemical, biological, radiological, nuclear, or high-yield explosive incident;
4. Assess the adequacy of policies and structures of the Department of Defense for coordination with other federal department and agencies, especially the Department of Homeland Security, the Department of Energy, the Department of Justice, and the Department of Health and Human Services, in the provision of support described in paragraph 1;
5. Assess the adequacy and currency of information available to the Department of Defense, whether directly or through other federal departments and agencies, from State and local governments in circumstances where the Department provides support described in paragraph 1 because State and local response capabilities are not fully adequate for comprehensive response;
6. Assess the equipment capabilities and needs of the Department of Defense to provide support described in paragraph 1;

7. Assess and make recommendations on:

- a. Whether there should be any additional Weapons of Mass Destruction Civil Support Teams, beyond the 55 already authorized and, if so, how many additional Civil support Teams, and where they should be located; and
- b. What criteria and considerations are appropriate to determine whether additional Civil Support Teams are needed and, if so, where they should be located.

The Panel, no later than 12 months after the date of the initial meeting of the Panel, shall submit a report on its findings and recommendations to the Secretary of Defense and the Committees on Armed Services of the Senate and the House of Representatives.

The report shall contain:

1. The findings, conclusions, and recommendations of the Panel for improving DoD capabilities to provide support to U.S. civil authorities in the event of a chemical, biological, radiological, nuclear, or high-yield explosive incident; and
2. Any other findings, conclusions, and recommendations for improving DoD capabilities for homeland defense the Panel considers appropriate.

- C. Panel Membership: The Panel, pursuant to section 1082(a) of Public Law 110-181, shall be comprised of no more than 20 members who have expertise in the legal, operational, and organizational aspects of the management of the consequences of a chemical, biological, radiological, nuclear, or high-yield explosive incident.

Panel members appointed by the Secretary of Defense, who are not full-time or permanent part-time employees of the federal government, shall be appointed as experts and consultants under the authority of 5 U.S.C. § 3109 and, with the exception of travel and per diem for official travel, they shall serve without compensation. These experts and consultants shall be considered Special Government Employees, and their appointments, regardless of their term of office, shall be renewed by the Secretary of Defense on an annual basis.

The Panel membership shall select the Panel chairperson.

- D. Panel Meetings: The Panel shall meet at the call of the Panel's Designated Federal Officer, in consultation with the chairperson, and the estimated number of Panel meetings is six per year.

The Designated Federal Officer shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies and procedures. In addition, the Designated Federal Officer shall attend all Panel and subcommittee meetings.

The Panel shall be authorized to establish subcommittees, as necessary and consistent with its mission, and these subcommittees or working groups shall operate under the provisions of the Federal Advisory Committee Act of 1972, the Government in the Sunshine Act of 1976 (5 U.S.C. § 552b, as amended), and other appropriate federal regulations.

Such subcommittees or workgroups shall not work independently of the chartered Panel, and shall report all their recommendations and advice to the Panel for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered Panel nor can they report directly to the Department of Defense or any federal officers or employees who are not Panel Members.

- E. Duration and Termination of the Task Force: The Panel, unless extended by Congress, shall terminate no later than 60 days after submission of the Panel's Report to the Secretary of Defense and the Committees on Armed Services of the Senate and the House of Representatives.
- F. Agency Support: The Department of Defense, through the Under Secretary of Defense (Policy) and a Federal Funded Research and Development Center, shall provide support as deemed necessary for the performance of the Panel's functions, and shall ensure compliance with the requirements of 5 U.S.C., Appendix, as amended.
- G. Operating Costs: It is estimated that the annual operating costs, to include travel costs and contract support, for this Panel is \$4,500,000.00. The estimated annual personnel costs to the Department of Defense are 2.1 full-time equivalents.
- H. Recordkeeping: The records of the Panel and its subcommittees shall be handled according to section 2, General Records Schedule 26 and appropriate DoD policies and procedures. These records shall be available for public inspection and copying, subject to the Freedom of Information Act of 1966 (5 U.S.C. § 552, as amended).
- I. Charter Filed: November 14, 2008
- J. Charter Modified: January 9, 2009

Appendix C: By-Laws and Procedures

ADVISORY PANEL BY-LAWS AND PROCEDURES

Article I. Official Name

The official name of the organization is “The Advisory Panel on Department of Defense Capabilities for Support of Civil Authorities After Certain Incidents” (hereafter referred to as the Advisory Panel).¹

Article II. Panel Membership and Status

A. Appointment. Members of the Advisory Panel are individuals appointed by the Secretary of Defense (in consultation with the chairman and ranking minority members of the Committees on Armed Services of the Senate and House of Representatives). Members must be private citizens of the United States with expertise in the legal, operational, and organizational aspects of the management of the consequences of a chemical, biological, radiological, nuclear, or high-yield explosive incident.²

Initial appointments to the Advisory Panel are required to be made and members must be sworn in before the first panel meeting can occur. Appointments to fill vacancies that may occur in panel membership or additional appointments as members may be made, pursuant to the requirements above, at any point during the tenure of the Advisory Panel.

Members of the Advisory Panel serve at the pleasure of the Secretary of Defense.

B. Status. Members of the Advisory Panel are appointed as Special Government Employees under the provisions of Title 5, United States Code, Section 3109, as “experts and consultants” for the purpose of providing advice to the Secretary of Defense and the Committees on Armed Services of the Senate and House of Representatives.

C. Conflicts. Individuals appointed as members of the Advisory Panel have been selected from those persons who have no actual or apparent conflict of interest with respect to other activities of the Department of Defense. In the event a potential conflict of interest on the part of any member arises during their service on the Advisory Panel, such member must promptly notify the Designated Federal Officer (see section V.G., below) of the circumstances that could give rise to that conflict. Based on the circumstances, an adjudication will be made about that member’s continuing service.

D. Compensation and Expenses. Advisory Panel members serve without compensation. Members are, however, entitled to reimbursement for travel, per diem, and other necessary and authorized expenses in accordance with Joint Travel Regulations and other applicable DoD procedures.

Article III. Panel Chairman

A. Election. A chairman of the Advisory Panel will be chosen from among the panel members by majority vote. Nominations may be made by any panel member. If no member receives a majority on the first vote, the two members receiving the most votes will be in a runoff. The panel members may choose to select a vice chairman, who will be elected in the same manner as the chairman.

B. Duties. The chairman will preside over all meetings of the Advisory Panel. In the absence of the chairman, the vice chairman (if one has been established) will assume that role. Otherwise, the chairman should appoint an acting chairman from among the members for the period of his or her absence.

C. Replacement. In the event that the panel chairman is not longer able for any reason to serve as chairman, panel members will elect a new chairman in the same manner set forth above.

Article IV. Panel Meetings

A. Initial Meeting. The first meeting of the panel is scheduled for September 15-16, 2009.

B. Subsequent Meetings. Meetings after the first meeting will take place on a date and at a time agreed to by the panel and the designated federal officer.

C. Meeting Locations. Unless otherwise determined by the panel and the designated federal officer, meetings will take place in the Washington office of The RAND Corporation RAND), 1200 South Hayes Street, Arlington, Virginia.

D. Conduct of Business. The business of the panel will be conducted in conformance with Roberts Rules of Order, unless by 2/3 vote of those members present, a quorum being present, a motion is passed to suspend those rules.

E. Subpanels. In addition to meetings of the full panel, members may choose to have smaller groups of members form one or more subpanels to address specific issues. If established, subpanels shall report all findings, advice, or recommendations to the chairman for deliberation by the full Advisory Panel.³

F. Attendance. Panel member attendance at all meetings is encouraged. In the event that a member cannot physically attend a member, teleconferencing may be permitted in certain circumstances by concurrences of a majority of panel members.

G. Additional Requirements. There are additional requirements in federal statute and related regulations for the conduct of the Advisory Panel activities. Those requirements are set forth in following sections.

Article V. Federal Advisory Committee Act (FACA)

A. Applicability. The Advisory Panel is subject to the provisions of the Federal Advisory Committee Act of 1972⁴ and regulations promulgated pursuant to that Act.

B. Panel Functions. Because the enabling legislation did not provide otherwise, the Advisory Panel shall be utilized solely for advisory functions. Determinations of action to be taken and policy to be expressed with respect to matters upon which the Advisory Panel reports or makes recommendations shall be made solely by the President or other duly empowered officers of the Federal Government.⁵

C. Charter. A charter for the Advisory Panel is required to be published and filed with certain federal entities. That charter was filed on November 14, 2008 and modified on January 9, 2009.⁶

D. Minutes. Detailed minutes of each meeting the Advisory Panel shall be kept, and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the Advisory Panel. The accuracy of all minutes shall be certified to by the chairman.⁷ RAND will be responsible for producing the minutes of each panel meeting.

E. Open Meetings and Public Comment. Generally, all meetings of the Advisory Panel are required to be open to the public. Interested members of the public shall be permitted to attend Advisory Panel meetings. Members of the public or interested groups, pursuant to section 102-3.140(c) of Reference (d), shall be allowed to submit written statements to the Committee for its consideration at any time or in response to the stated agenda of a planned meeting; however, the public shall not participate in Advisory Panel deliberations, unless otherwise authorized.⁸ The Advisory Panel may, in consultation with the designated Federal Officer (described below), place limitations (i.e., length of submission and time frame for submission) on written statements submitted in response to the stated agenda for a planned meeting.⁹ The Advisory Panel, in consultation with the Designated Federal Officer, may allow the public or interested groups to address the panel at a particular panel meeting. The Advisory Panel's established guidelines and procedures for addressing the panel shall be announced in the Federal Register meeting notice.¹⁰

Under certain circumstances, the Secretary of Defense (or his designee), may authorize that a portion of any Advisory Panel meeting be closed to the public for reasons specified in and in conformity with other provisions of federal law. An example of such a reason would be the discussion of matters appropriately required to be kept secret in the interests of national defense or foreign policy.¹¹ Any such determination shall be in writing and shall contain the reasons for such determination. If such a determination is made, the Advisory Panel shall issue in its report (discussed below) a statement setting forth a summary of its activities and such related matters as would be informative to the public consistent with the policy of the applicable federal law.¹²

F. Notice of Meetings. Notice of each meeting of the Advisory Panel shall be published in the Federal Register at least 15 calendar days prior to each meeting. Multiple panel meetings may be announced in a single notice.¹³

G. Designated Federal Officer. A designated officer or employee of the Federal Government shall be appointed to perform certain functions on behalf of the Secretary of Defense. The Designated Federal Officer is required to attend each meeting of the Advisory Panel (hereafter "Designated Federal Officer"). The Designated Federal Officer is authorized, whenever he or she determines it to be in the public interest, to adjourn any panel meeting. The Advisory Panel shall not conduct any meeting in the absence of the Designated Federal Officer. The Advisory Panel shall not hold any meetings except at the call of, or with the advance approval of, and with an agenda approved by, the Designated Federal Officer.¹⁴ An Alternate Designated Federal Officer may also be appointed.¹⁵

H. Records Made Available. The Advisory Panel shall make available to any person, at actual cost of duplication, copies of transcripts of Advisory Panel meetings. RAND will provide copies in response to any such request and collect the applicable costs.

Article VI. Duties of the Panel

The Advisory Panel shall carry out an assessment of the capabilities of the Department of Defense to provide support to United States civil authorities in the event of a chemical, biological, radiological, nuclear, or high-yield explosive (CBRNE) incident. Specifically, the panel shall:

- (1) evaluate the authorities and capabilities of the Department of Defense to conduct operations in support to United States civil authorities in the event of a chemical, biological, radiological, nuclear, or high-yield explosive incident, including the authorities and capabilities of the military departments, the Defense Agencies, the combatant commands, any supporting commands, and the reserve components of the Armed Forces (including the National Guard in a Federal and non-Federal status);
- (2) assess the adequacy of existing plans and programs of the Department of Defense for training and equipping dedicated, special, and general purposes forces for conducting operations described in paragraph (1) across a broad spectrum of scenarios, including current National Planning Scenarios as applicable;
- (3) assess policies, directives, and plans of the Department of Defense in support of civilian authorities in managing the consequences of a chemical, biological, radiological, nuclear, or high-yield explosive incident;
- (4) assess the adequacy of policies and structures of the Department of Defense for coordination with other department and agencies of the Federal Government, especially the Department of Homeland Security, the Department of Energy, the Department of Justice, and the Department of Health and Human Services, in the provision of support described in paragraph (1);
- (5) assess the adequacy and currency of information available to the Department of Defense, whether directly or through other departments and agencies of the

- Federal Government, from State and local governments in circumstances where the Department provides support described in paragraph (1) because State and local response capabilities are not fully adequate for a comprehensive response;
- (6) assess the equipment capabilities and needs of the Department of Defense to provide support described in paragraph (1);
- (7) develop recommendations for modifying the capabilities, plans, policies, equipment, and structures evaluated or assessed under this subsection in order to improve the provision by the Department of Defense of the support described in paragraph (1); and
- (8) assess and make recommendations on--
- (A) whether there should be any additional Weapons of Mass Destruction Civil Support Teams, beyond the 55 already authorized and, if so, how many additional Civil Support Teams, and where they should be located; and
 - (B) what criteria and considerations are appropriate to determine whether additional Civil Support Teams are needed and, if so, where they should be located.¹⁶

Article VII. Supporting Federally Funded Research and Development Center

A. Selection. Pursuant to the enabling legislation,¹⁷ the Secretary of Defense has selected The RAND Corporation (RAND) as the Federally Funded Research and Development Center (FFRDC) for the provision of support and assistance in carrying out the duties of the Advisory Panel.

B. FFRDC Duties.

1. Establishment of Procedures. The enabling legislation requires that the FFRDC establish the procedures contained in this document.¹⁸

2. Research and Analysis. RAND will conduct research and analysis on any of the topics specified in the assessment required in the Advisory Panel duties, as directed by the panel. RAND will provide written and oral presentations of the research and analysis at such times at the panel may specify.

3. Facilities. RAND will provide or arrange for the provision of the facilities required for all panel and subpanel meetings, including conference space, audio/visual and other necessary equipment, teleconferencing services, and any meals to accommodate the orderly process of panel meetings.

4. Finance and Administration. RAND will provide all necessary financial and administrative service to the panel and its members, including;

- a. Travel arrangements
- b. Panel member expense reimbursement
- c. Records maintenance
- d. Publications and related costs

Article VIII. Panel Report

A. Contents. The enabling legislation requires that the Advisory Panel submit to the Secretary of Defense, and to the Committees on Armed Services of the Senate and the House of Representatives, a report that sets forth:

1. the findings, conclusions, and recommendations of the advisory panel for improving the capabilities of the Department of Defense to provide support to United States civil authorities in the event of a chemical, biological, radiological, nuclear, or high-yield explosive incident; and

2. such other findings, conclusions, and recommendations for improving the capabilities of the Department for homeland defense as the Advisory Panel considers appropriate.

B. Deadline for Submission. The report is required to be submitted not later than 12 months after the date of the initial meeting of the Advisory Panel.

C. Drafting and Editing. RAND will provide all necessary technical assistance in the drafting and editing of the panel report.

D. Dissenting Views. Any panel member who chooses to dissent from the views of other panel members on any conclusion or recommendation contained in the panel report is entitled to have those views included in the published version of the report.

E. Publication. The report of the panel will be published in hard copy and electronic form. Any classified portion of the panel's conclusions, recommendations, and supporting analysis and justification will be published in accordance with established procedures for protecting classified information.

Article IX. Termination

The Advisory Panel shall terminate 60 days after submission of its report with the Secretary of Defense and with the Committees on Armed Services of the Senate and House of Representatives, unless extended by the Congress.

Article X. Conformity

This document is designed to conform to the requirements in the enabling legislation¹⁹ and in applicable DoD policy.²⁰

Adopted by majority vote of the Advisory Panel on September 15, 2009.



Chairman

ENDNOTES

¹ Section 1082, National Defense Authorization Act for Fiscal Year 2008 (Public Law 100-181, H.R. 4986, 110th Congress, Second Session, January 28, 2008)(NDAA for FY2008).

² Sec. 1082(b)(1), NDAA for FY2009.

³ DoD Instruction (DoDI) 5105.04, Section E3.2.2.2.

⁴ Title 5, United States Code, Appendix.

⁵ FACA, Section 9(b).

⁶ FACA, Section 9(c).

⁷ FACA, Section 10(c).

⁸ FACA, Section 10(a)(1) and 10(a)(3), and Title 41, Code of Federal Regulations (CFR), Section 102-3.140.

⁹ DoDI 5105.04, Section E3.1.3.2.

¹⁰ DoDI 5105.04, Section E3.1.3.3.

¹¹ See Title 5, United States Code, Section 552b, Sections (b) and (c).

¹² FACA, Section 10(d).

¹³ DoDI 5105.04, Section E3.12.9.

¹⁴ FACA, Section 10(e) and (f).

¹⁵ DoDI 5105.04, Section E3.3.5.

¹⁶ NDAA for FY2008, Section (d).

¹⁷ NDAA for FY2008, Section (c).

¹⁸ NDAA for FY2008, Section (c)(1).

¹⁹ NDAA for FY2008, Section (c)(1).

²⁰ DoDI 5105.04, Section 4.7.

Appendix D: Panel Member Biographical Information



Admiral Steve Abbot U.S. Navy, Retired

Admiral Abbot is the President and Chief Executive Officer of the Navy-Marine Corps Relief Society, a private, non-profit aid society dedicated to assisting Sailors, Marines and their families. Until June, 2003, he served as the Acting Homeland Security Advisor to the President, having served as the Deputy Homeland Security Advisor under Governor Tom Ridge.

Admiral Abbot's last military assignment was Deputy Commander in Chief, U.S. European Command, Stuttgart, Germany. He oversaw the daily activities of a Unified Command with an area of responsibility encompassing 89 countries and more than 13 million square miles.

Born in Pensacola, Florida, Admiral Abbot graduated from the United States Naval Academy in June 1966. His graduate studies include Oxford University as a Rhodes Scholar and the Program for Senior Officials in National Security at Harvard University. Admiral Abbot also completed U.S. Air Force Test Pilot School and Naval Nuclear Power training.

Admiral Abbot enjoyed many assignments in his 34 year Navy career, including Commanding Officer of USS THEODORE ROOSEVELT (CVN 71) from February 1990 until August 1992, a period that included Operation DESERT STORM. Admiral Abbot then served as the THEODORE ROOSEVELT Battle Group Commander while assigned as Commander, Carrier Group EIGHT, and as Commander, Joint Task Force 120.

Admiral Abbot also served as Commander, U.S. SIXTH Fleet and Commander, NAVAL Striking and Support Forces, Southern Europe. During this period he was Joint Task Force Commander of Operation SILVER WAKE, the non-combatant evacuation of Albania.

Admiral Abbot and his wife, Marjorie, live in Arlington, VA. They have three sons, LCDR Spencer Abbot on duty with VFA-37 in Oceana, VA, Sebastian Abbot with the Associated Press in Cairo, Egypt, and LT Matt Abbot on duty with VT-22 in Kingsville, TX.

October, 2008

James Jay Carafano, Ph.D.
**Deputy Director, Kathryn and Shelby Cullom Davis Institute
for International Studies**
**Director, Douglas and Sarah Allison Center for Foreign
Policy Studies**

James Carafano is a leading expert in defense and homeland security at The Heritage Foundation.

Carafano's research focuses on developing the national security that the nation needs to secure the long-term interests of the United States – protecting its citizens, providing for economic growth, and preserving civil liberties.

An accomplished historian and teacher, Carafano was an Assistant Professor at the U.S. Military Academy in West Point, N.Y., and served as Director of Military Studies at the Army's Center of Military History. He also taught at Mount Saint Mary College in New York and served as a Fleet Professor at the U.S. Naval War College. He is a Visiting Professor at the National Defense University and Georgetown University .



Carafano is the author of several military books, history books and studies. His latest is *Private Sector/Public Wars: Contracting in Combat-Iraq, Afghanistan and Future Conflicts*, a rigorous study of the role of contractors on the battlefield and their impact on military effectiveness and civil society.

Carafano also is the coauthor of *Winning the Long War: Lessons from the Cold War for Defeating Terrorism and Preserving Freedom*. The first to coin the term, the "long war," the authors argue that a successful strategy requires a balance of prudent military and security measures, continued economic growth, the zealous protection of civil liberties and winning the "war of ideas" against terrorist ideologies.

In addition, Carafano is the coauthor of the textbook, *Homeland Security* published by McGraw-Hill. *Homeland Security* is a practical introduction to everyday life in the new era of terrorism. Numerous key details are addressed, from roles of first responders and volunteers to family preparedness techniques to in-depth descriptions of weapons of mass destruction.

His other works include: *G.I. Ingenuity: Improvisation, Technology and Winning World War II* (2006); *Waltzing Into the Cold War* (2002) by Texas A & M

University; *After D-Day*, a Military Book Club main selection (2000). Carafano is currently writing a book about modern military history. He is also editing the forthcoming book series, "The Changing Face of War," which examines how emerging political, social, economic and cultural trends will affect the nature of conflict.

As an expert on defense, intelligence, and homeland security issues, he has testified before the U.S. Congress and has provided commentary for ABC, BBC, CBS, CNBC, CNN, C-SPAN, Fox News, Fox Business, MSNBC, NBC, SkyNews, Pajamas TV, PBS, National Public Radio, the History Channel, Voice of America, Al Jazeera, and Australian, Austrian, Canadian, French, Greek, Hong Kong, Irish, Iranian, Japanese, Portuguese, Spanish, and Swedish television. His editorials have appeared in newspapers nationwide including The Baltimore Sun, The Boston Globe, The New York Post, Philadelphia Inquirer, USA Today and The Washington Times. He is a regular weekly columnist for the D.C. Examiner .

Carafano joined Heritage in 2003 as a Senior Research Fellow after serving as a Senior Fellow at the Center for Strategic and Budgetary Assessments, a Washington policy institute dedicated to defense issues. In 2006, Carafano became Assistant Director of Heritage's Kathryn and Shelby Cullom Davis Institute for International Studies.

Before becoming a policy expert, he served 25 years in the Army, rising to the rank of Lieutenant Colonel. During his service, Carafano served in Europe, Korea, and the United States and was head speechwriter for the Army Chief of Staff, the service's highest-ranking officer. Before retiring, he was Executive Editor of Joint Force Quarterly, the Defense Department's premiere professional military journal.

Carafano is a member of the National Academy's Board on Army Science and Technology, the Department of the Army Historical Advisory Committee, and is a Senior Fellow at the George Washington University's Homeland Security Policy Institute.

A graduate of West Point, Carafano also has a master's degree and a doctorate from Georgetown University and a master's degree in strategy from the U.S. Army War College. In 2005, Carafano earned Heritage's prestigious Drs. W. Glenn and Rita Ricardo Campbell Award. It is given to the employee who has delivered "an outstanding contribution to the analysis and promotion of the Free Society."



Major General Dennis L. Celletti
Assistant Adjutant General, Illinois Army National Guard

Major General Dennis L. Celletti is the Assistant Adjutant General -Army for the Joint Force Headquarters of the Illinois National Guard. He assumed this position on October 1, 2005. Major General Celletti is the first Assistant Adjutant General - Army in Illinois history to earn the rank of Major General.

As Assistant Adjutant General, Major General Celletti serves as the principal assistant to The Adjutant General in all matters pertaining to supervision and management of the Illinois Department of Military Affairs and the Illinois Army National Guard, which consists of 10,040 citizen- Soldiers.

Major General Celletti is also appointed as the Commander of the Illinois Army National Guard. He is responsible for the Army Guard's overall readiness, operation, training, maintenance and logistical support and for the management, welfare, morale, discipline and safety of its members.



Major General Celletti entered military service in 1972, when he enlisted in the Illinois Army National Guard. He was commissioned as a Second Lieutenant in the Illinois Army National Guard in 1976 through the Illinois Military Academy Officer Candidate School.

During his more than 38 years of military service with the Illinois Army National Guard, he has held several command positions including Troop Commander, Troop E, 106th Cavalry; Commander, 44th Chemical Battalion; Regimental Commander, 129th Regional Training Institute; Commander, 65th Troop Command Brigade; and Director of Plans, Operations and Training (G3) for the Illinois Army National Guard. Prior to becoming Assistant Adjutant General-Army, he was the Joint Force Headquarters Chief of Staff.

Major General Celletti's professional military education includes the Infantry Officer Basic Course, Armor Officer Basic Course, Armor Officer Advance Course, Chemical Officer Advance Course, Combined Arms and Services Staff School, Command and General Staff College, the Joint Task Force Commander Course and the U. S. Army War College. He holds a bachelor's degree from Western Illinois University, Macomb, Illinois

Major General Celletti's military awards and decorations include the Legion of Merit, Meritorious Service Medal, Army Commendation Medal, Army Achievement Medal, Army Reserve Components Achievement Medal, National Defense Service Medal, Humanitarian Service Medal, Oversea Service Ribbon, Armed Forces Reserve Medal and Army Service Ribbon.

He was born in Sterling, Illinois, but now resides in Springfield, Illinois with his wife and son.

James C. Greenwood
President and CEO, Biotechnology Industry Organization

James C. Greenwood is President and CEO of the Biotechnology Industry Organization (BIO) in Washington, D.C., which represents more than 1,200 biotechnology companies, academic institutions, state biotechnology centers and related organizations across the United States and in more than 30 other nations. BIO members are involved in the research and development of innovative healthcare, agricultural, industrial and environmental biotechnology products. BIO also produces the annual BIO International Convention, the world's largest gathering of the biotechnology industry, along with industry-leading investor and partnering meetings held around the world.



Since his appointment in January of 2005, he has markedly enhanced the trade association's capacity – increasing both its staff and budget by nearly fifty percent. BIO is now a world class advocacy organization playing a leading role in shaping public policy on a variety of fronts critical to the success of the biotechnology industry at the state and national levels as well as internationally.

Mr. Greenwood represented Pennsylvania's Eighth District in the U.S. House of Representatives from January 1993 through January 2005. A senior member of the Energy and Commerce Committee, he was widely viewed as a leader on health care and the environment.

From 2001 to 2004, Mr. Greenwood served as Chairman of the Energy and Commerce Committee Subcommittee on Oversight and Investigation with oversight authority over issues in the full Committee's vast jurisdiction. He led hard-hitting investigations into corporate governance at Enron, Global Crossing and WorldCom; terrorist threats to our nation's infrastructure; and waste and fraud in federal government agencies.

Prior to his election to Congress, Mr. Greenwood served six years in the Pennsylvania General Assembly (1981-86) and six years in the Pennsylvania Senate (1987-1992).

Mr. Greenwood graduated from Dickinson College in 1973 with a BA in Sociology. From 1977 until 1980, he worked as a caseworker with abused and neglected children at the Bucks County Children and Youth Social Service Agency.

Mr. Greenwood is married with three children and resides in Upper Makefield, Pennsylvania.

Major General Jerry Grizzle President/Superintendent, New Mexico Military Institute

Major General Jerry Grizzle, PhD, United States Army National Guard (Retired), became the 19th President/Superintendent of New Mexico Military Institute on July 1, 2009.

General Grizzle graduated in 1976 from Southwestern Oklahoma State University with a BS in Accounting. He received his MBA from Central State University and his Ph.D. from Oklahoma State University. Previously, General Grizzle was the President/CEO of Orbit Finer Foods, Skolniks, CD Warehouse, and most recently AMS Health Sciences in which he was fully responsible for all aspects of business development in a highly competitive marketplace. Prior to his tenure with CD Warehouse, he was Vice President/Treasurer of Sonic Industries. General Grizzle started his military career in 1971 as a Private and retired as a Major General in 2005. Attending Light Weapons Infantryman Training, Fort Polk, LA; Infantry Officers Candidate School, Fort Benning, GA; Infantry Officer Basic Course, Fort Benning, GA; United States Army Airborne School, Fort Benning, GA; Infantry Officers Advance Course (non-resident), Fort Benning, GA; Infantry Tactical Leader School; Oklahoma Air Assault School, Camp Gruber, OK; Command General Staff College (non-resident), Fort Leavenworth, KS, Defense Strategy Course, United States Army War College, Carlisle Barracks, PA and the National Security Studies Leadership Course, Stanford University. General Grizzle was appointed Commander of the 45th Infantry Brigade (Thunderbirds) of the Oklahoma National Guard, where he was responsible for all matters affecting the combat readiness of the command.

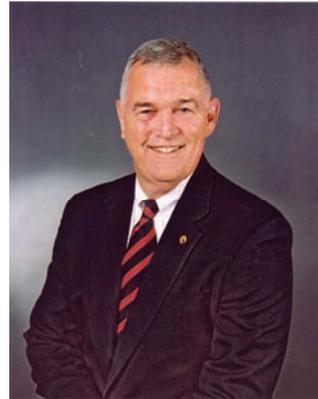


Immediately after the attacks of September 11, 2001, Major General Grizzle entered active federal service and took command of the Department of Defense Joint Task Force -Civil Support (JTF-CS), the only unit in the Department of Defense responsible for the planning and execution for the response to any possible Weapons of Mass Destruction attack within the United States.

General Grizzle and his wife, Shawn, a former high school Biology teacher, have two children and two grandchildren.

**Major General Ronald O. Harrison
USA, Retired
As of Sep-09**

General Harrison has a varied background in both business and military affairs, having spent forty two years in the US Army/Army National Guard. After serving on active duty for two years, General Harrison served in the Army National Guard for forty years commanding at every level culminating his military career serving as the Adjutant General of Florida. In addition to gaining experience in leadership, planning, operations and training from the military experience, being a businessman for the majority of the forty two year career added greatly to the understanding of the civilian community, and political realities found there.



In 1961, Major General Harrison began his military career in Schweinfurt, Germany as a rifle platoon leader and company executive officer in the 3rd Infantry Division. He was appointed to the Florida Army National Guard in July 1963 and has served as a reconnaissance platoon leader and in a variety of staff assignments. He has commanded at every level from company to brigade, including the 53rd Infantry Brigade (Separate).

General Harrison was appointed the Adjutant General of Florida by the Governor of the State of Florida on March 1, 1992. He served as the Adjutant General until his retirement on November 3, 2001. As the Adjutant General, he served as the Governor's senior military advisor and oversaw both the state and federal missions of the Florida National Guard. He supervised the administration, training, and operations of the Florida National Guard, consisting of more than 10,700 Army and 1,700 Air National Guard personnel with a full-time support workforce of over 1,400 personnel.

He is a graduate of the Command and General Staff College and the Senior Reserve Officer Course at the U.S. Army War College. His military decorations include the Distinguished Service Medal, the Legion of Merit and the National Guard Bureau Distinguished Service Award. He is a past member of the Department of Defense Reserve Forces Policy Board and the Department of the Army Reserve Forces Policy Committee. He was a member of the 2003 Summer Study of the Defense Science Board and a consultant to the Board's study on National Guard /Reserves.

General Harrison is past Chairman of the Board, of the National Guard Association of the United States, a past President of the Adjutants General Association of the United States. His professional affiliations also include the National Guard Association of the United States, the Association of the United States Army, where he served as a member of the Advisory Board of Directors, and is president of the Florida National Guard Foundation. He is a past Ordained Ruling Elder of the First Presbyterian Church of Orlando, a trustee for the Heart of the City Foundation in Orlando, and a past Director of the Rotary Club of Orlando.

The General holds the honorary degree of Doctor of Laws from Flagler College where he serves on the President's Council and is a member of Florida State University's Athletic Hall of Fame. He served on the

MAJOR GENERAL RONALD O. HARRISON

Governor's Domestic Security Advisory Panel. He is the 2002 recipient of the Association of the United States Army - LTG Raymond S. McLain Medal.

General Harrison was born in Bartow, Florida, and grew up in Orlando, Florida where he attended Boone High School. He was graduated from Florida State University in 1960, where he received a Bachelor of Science Degree in Business Administration. While at Florida State University he was recognized as Athlete of the Year in 1960 and as a distinguished military graduate. He currently resides in St. Augustine and is married to the former Mysie Surguine of Orlando, Florida. He has two children, Kim Harrison Ferguson and Raymond D. Harrison, a stepdaughter Mysie Surguine Saulsbury, and seven grandchildren.

General Harrison is retired from the US Army and the Florida National Guard and continues to be involved in military and homeland security issues as a consultant with Harrison and Associates LLC.



Frank Keating's Biography

Frank Keating took over as president and CEO of the American Council of Life Insurers in January 2003 after serving two terms as Oklahoma's 25th governor.

As president and CEO of ACLI, Governor Keating is the chief representative and spokesman for the life insurance industry in Washington, D.C., and all 50 state capitals. He and his staff work as advocates for 340 life insurance companies that account for 93 percent of total industry assets, 94 percent of the life insurance premiums, and 94 percent of annuity considerations in the United States.

Governor Keating has played a leading role in promoting public policies to boost Americans' retirement security and long-term savings. He regularly advocates on Capitol Hill and to the Obama administration on the need to make Americans' retirement security a national priority.

Born in St. Louis in 1944, Keating grew up in Tulsa, Oklahoma. He received his undergraduate degree from Georgetown University and a law degree from the University of Oklahoma. His 30-year career in law enforcement and public service included stints as an FBI agent; U.S. Attorney and state prosecutor; and Oklahoma House and Senate member. He served Presidents Ronald Reagan and George H.W. Bush in the Treasury, Justice, and Housing departments. His service in Treasury and Justice gave him responsibility for all federal criminal prosecutions in the nation and oversight over such agencies as the Secret Service, U.S. Customs, the Bureau of Alcohol, Tobacco and Firearms, U.S. Marshals, the Bureau of Prisons, and the Immigration and Naturalization Service.

In 1993 he returned to Oklahoma to run for Governor. He won a three-way race by a landslide and was easily reelected in 1998, becoming only the second governor in Oklahoma history to serve two consecutive terms.

Governor Keating won national acclaim in 1995 for his compassionate and professional handling of the bombing of the Alfred P. Murrah Federal building in Oklahoma City. In the aftermath of the tragedy, he raised more than six million dollars to fund scholarships for the nearly 200 children left with only one or no parents. His accomplishments as Governor include winning a public vote on right-to-work, tort reform, tax cuts, major road building, and education reform.

Governor Keating serves on the boards of the National Archives Foundation and Mt. Vernon and is President of the Federal City Council, a non-profit, non-partisan organization dedicated to improvement of the nation's capital. He is seen frequently on the Fox News Channel as a commentator on a wide variety of topics. Governor Keating also is the author of two award-winning children's books, biographies of Will Rogers and Theodore Roosevelt, and recently published his third children's book on the trial of Standing Bear. He is the recipient of five honorary degrees.

Frank and his wife Cathy live in McLean, Virginia. They have three children and six grandchildren.

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MAJOR GENERAL TIMOTHY J. LOWENBERG

The Adjutant General, Washington

Major General Timothy J. Lowenberg was appointed Adjutant General of the State of Washington on 13 September 1999. As the Adjutant General, he is commander of all Washington Army and Air National Guard forces and Director of the State's Emergency Management and Enhanced 911 programs. General Lowenberg also serves as Homeland Security Advisor to the Governor of Washington and as State Administrative Agent for all United States Department of Homeland Security grants awarded to Washington's state, local, tribal and non-profit agencies and organizations. In addition, he serves as Chair of Homeland Defense and Homeland Security of the Adjutants General Association of the United States; Chair of the Governors Homeland Security Advisors Council (National Governors Association Center for Best Practices); Chair of the Governor's Domestic Security Sub-committee; and Chair of the Governor's 2010 Winter Olympics Task Force Security Committee. From 2005 through 2008, he served as a founding Tri-Chair of the National Homeland Security Consortium - a coalition of more than two-dozen public and private sector national associations.

General Lowenberg is a distinguished graduate of the Air Force Reserve Officer Training Corps. He was commissioned in 1968 concurrent with award of a Bachelor of Arts degree in Political Science from the University of Iowa. He earned a Doctor of Jurisprudence degree from the University of Iowa College of Law in 1971 and has served as Adjunct Professor of Law at the University of Puget Sound School of Law and Seattle University School of Law from 1973 to present.

In his previous assignment as Air National Guard Assistant to The Judge Advocate General, General Lowenberg oversaw the formulation, development, and coordination of legal policies, plans and programs affecting more than 114,000 Air Guard members in more than 1,100 units throughout all 50 States, the District of Columbia, Puerto Rico, Guam and the Virgin Islands. In addition, he coordinated the accession, training, and deployment of all Air Guard judge advocates and paralegals and was responsible for developing and executing the worldwide civil affairs mission of the United States Air Force.

EDUCATION:

1968 University of Iowa, Bachelor of Arts Political Science, Iowa City, Iowa
1971 University of Iowa College of Law, Doctor of Jurisprudence, Iowa City, Iowa
1985 Syracuse University, National Security Management Course,
Correspondence/Seminar
2000 Harvard University John F. Kennedy School of Government, Executive Program in
National and International Security, Cambridge, Massachusetts
2007 Naval Postgraduate School, Homeland Security Executive Leadership Program,
Center for Homeland Defense and Security, Monterey, California

ASSIGNMENTS:

1. June 1968 - October 1971, Graduate Studies (Educational Delay), University of Iowa College of Law Program, Iowa City, Iowa
2. October 1971 – March 1972, Assistant Chief, Personal Affairs, 62nd Air Base Group, McChord Air Force Base, Washington
3. March 1972 – July 1972, Chief, Personal Affairs, 62nd Air Base Group, McChord Air Force Base, Washington
4. July 1972 – January 1975, Assistant Staff Judge Advocate, 62nd Air Base Group, McChord Air Force Base, Washington
5. January 1975 - July 1976, Deputy Staff Judge Advocate, 62nd Air Base Group, McChord Air Force Base, Washington
6. July 1976 – May 1978, Legal Officer (IMA), 1905th Air Reserve Squadron, Headquarters, Air Reserve Personnel Center, Denver, Colorado
7. May 1978 – May 1989, Judge Advocate Staff Officer, Headquarters, Washington Air National Guard, Camp Murray, Washington
8. May 1989 – September 1993, Assistant Adjutant General- Air, Headquarters, Washington Air National Guard, Camp Murray, Washington
9. September 1993 – September 1999, Air National Guard Assistant to the Judge Advocate General of the Air Force, Pentagon, District of Columbia
10. September 1999 – Present, The Adjutant General of the State of Washington, Washington Military Department, Camp Murray, Washington

MAJOR AWARDS AND DECORATIONS:

Air Force Defense Distinguished Service Medal
Legion of Merit
Meritorious Service Medal (with 1 Bronze Oak Leaf Cluster)
Air Force Commendation Medal
Air Force Outstanding Unit Award
Air Force Organizational Excellence Award
National Defense Service Medal (with 2 Bronze Service Stars)
Global War on Terrorism Service Medal
Humanitarian Service Medal
Air Force Longevity Service Award Ribbon (with 1 Silver Oak Leaf Cluster and 2 Bronze Oak Leaf Clusters)
Armed Forces Reserve Medal (with 1 Gold Hourglass Device and 1 Bronze Hourglass Device)
Air Force Training Ribbon
Washington Distinguished Service Medal
Washington State Disaster Relief Ribbon
Washington National Guard Service Ribbon (with 1 Bronze Oak Leaf Cluster)

PROFESSIONAL MEMBERSHIPS AND AFFILIATIONS:

American Bar Association
Washington Bar Association
Washington Trial Lawyers Association
American Trial Lawyers Association
Supreme Court of the United States
United States Claims Court
United States Court of Military Appeals
United States Court of Appeals for the Federal Circuit
United States Court of Appeals for the 9th Circuit
Washington Supreme Court
United States District Court, Western District of Washington
United States District Court, Southern District of Iowa
Iowa Supreme Court
Rotary International

OTHER ACCOMPLISHMENTS:

1999 National Guard Bureau Eagle Award

EFFECTIVE DATES OF PROMOTION:

Second Lieutenant 7 June 1968
First Lieutenant 5 June 1971
Captain 5 July 1972
Major 5 November 1977
Lieutenant Colonel 7 November 1981
Colonel 24 June 1987
Brigadier General 9 March 1990
Major General 26 January 1996



United States Navy Biography

Vice Admiral James W. Metzger
United States Navy Retired



Vice Admiral James W. Metzger graduated from the U. S. Naval Academy in June 1971 and subsequently Michigan State University with a Master's Degree in Electrical Engineering. He attended Nuclear Power School in Bainbridge, Md. and Prototype Training in Windsor, Conn.

Vice Adm. Metzger's initial sea tours include Electrical Engineering Officer and Main Propulsion Assistant aboard *USS George Bancroft* (SSBN-643)(Gold), Engineering Officer aboard *USS Indianapolis* (SSN-697) which included the fleet transfer of *Indianapolis* to Pearl Harbor, and as Executive Officer aboard *USS Tautog* (SSN-639)..

Vice Adm. Metzger's command tours include *USS Minneapolis-St. Paul* (SSN-708), Submarine Development Squadron Twelve, Submarine Group Eight/Submarines Mediterranean, and the U.S. Seventh Fleet..

Significant shore and staff duty includes the staff of CINCPACFLT as a member of the Nuclear Propulsion Examining Board, and as Director, Prospective Commanding Officer School. Vice Adm. Metzger also served as Executive Assistant to the Commander in

Chief, U. S. Atlantic Fleet, the Vice Chief of Naval Operations and the Secretary of the Navy, for whom he also served as Naval Aide. Vice Adm. Metzger also served as Deputy Director for Strategy and Policy, Joint Staff (J-5). He assumed assignment as Assistant to the Chairman of the Joint Chiefs of Staff on 22 July 2002, remaining in that position until his retirement on 1 January 2005. In that capacity, he traveled with the Secretary of State serving as his military liaison to the Joint Chiefs.

Vice Adm. Metzger's awards include the Defense Distinguished Service Medal, Distinguished Service Medal, Defense Superior Service Medal, Legion of Merit (with one silver star), Meritorious Service Medal (with two gold stars), Navy Commendation Medal (with two gold stars), Navy Achievement Medal, Navy Expeditionary Medal and Arctic Service Ribbon.

Updated: 13 August 2003

George R. Nethercutt, Jr.



Former Congressman George R. Nethercutt, Jr., who serves as Of-Counsel to the firm, brings a wealth of public and private experience to BlueWater Strategies, having served as a member of the United States House of Representatives from 1995 to 2005. Mr. Nethercutt's historic 1994 victory unseated then-Speaker of the House Tom Foley, the first defeat of a sitting Speaker since 1860.

Mr. Nethercutt represented Washington's 5th Congressional District until choosing to run for the U.S. Senate in 2004. While serving in the U.S. House of Representatives, he served on the prestigious House Committee on Appropriations and the House Science Committee. Prior to his election to Congress, Mr. Nethercutt was a practicing attorney in Washington State, specializing in estate planning, probate and adoption law. He previously served as staff counsel, and then chief of staff, to U.S. Senator Ted Stevens of Alaska, working on such issues as agriculture, fisheries, timber and mining.

Mr. Nethercutt co-founded the private, non-profit Vanessa Behan Crisis Nursery for the prevention of child abuse. He has also served as president of the Spokane chapter of the Juvenile Diabetes Research Foundation.

Mr. Nethercutt currently serves on the board of directors of the Washington Policy Center in Seattle, a nonpartisan free-market think tank. He also serves as of-counsel to the Spokane, Washington-based law firm Paine Hamblen LLP and sits on the Permanent Joint Board on Defense-U.S./Canada to which he was appointed U.S. Chairman by President George W. Bush in 2005.

Mr. Nethercutt earned a bachelor's degree in English from Washington State University before graduating from Gonzaga University School of Law. He and his wife, Mary Beth, have two children.



Biography

National Guard Bureau

Departments of the Army and the Air Force
General Officer Management Office, Arlington, VA

MAJOR GENERAL RAYMOND F. REES

The Adjutant General, Oregon National Guard



Major General Raymond F. Rees assumed duties as The Adjutant General for Oregon on July 1, 2005. He is responsible for providing the State of Oregon and the United States with a ready force of citizen soldiers and airmen, equipped and trained to respond to any contingency, natural or manmade. He directs, manages, and supervises the administration, discipline, organization, training and mobilization of the Oregon National Guard, the Oregon State Defense Force, and the Joint Force Headquarters. He develops and coordinates all policies, plans and programs of the Oregon National Guard in concert with the Governor and legislature of the State.

He began his military career in the United States Army as a West Point cadet in July 1962. Prior to his current assignment, Major General Rees had numerous active duty and Army National Guard assignments to include: service in the Republic of Vietnam as a cavalry troop commander; commander of the 116th Armored Cavalry Regiment; nearly nine years as the Adjutant General of Oregon; Director of the Army National Guard, National Guard Bureau; over five years service as Vice Chief, National Guard Bureau; 14 months as Acting Chief,

National Guard Bureau; Chief of Staff (dual-hatted), Headquarters North American Aerospace Defense Command (NORAD) and United States Northern Command (USNORTHCOM). NORAD is a binational, Canada and United States command.

EDUCATION:

US Military Academy, West Point, New York, BS
University of Oregon, JD (Law)
Command and General Staff College (Honor Graduate)
Command and General Staff College, Pre-Command Course
Harvard University Executive Program in National and International Security
Senior Reserve Component Officer Course, United States Army War College, Carlisle, Pennsylvania

ASSIGNMENTS:

1. Jun 66 - Nov 66, Student, Infantry School (Airborne/Ranger), Fort Benning, Georgia
2. Nov 66 - Jan 67, Casual
3. Jan 67 - Apr 67, Platoon Leader, Troop E, 2d Squadron, 2d Armored Cavalry Regiment, Germany
4. Apr 67 - Sep 67, Troop Commander, Troop H, 2d Squadron, 2d Armored Cavalry Regiment, Germany
5. Sep 67 - Jan 68, Assistant S-4, Headquarters and Headquarters Troop, 2d Armored Cavalry Regiment, Germany
6. Jan 68 - Oct 68, S3 (Air), Headquarters and Headquarters Troop, 2d Armored Cavalry Regiment, Germany
7. Oct 68 - Nov 68, Casual
8. Nov 68 - Nov 68, Student, Infantry School (Jungle Operations), Panama
9. Dec 68 - Mar 69, S3 (Air) Headquarters and Headquarters Troop 2d Squadron, 17th Cavalry, 101st Airborne Division, Vietnam
10. Apr 69 - Nov 69, Troop Commander, Troop D, 2d Squadron, 17th Cavalry, 101st Airborne Division, Vietnam
11. Nov 69 - Dec 69, Casual
12. Dec 69 - Jul 70, Chief, Advanced Individual Training Section, Army Training Center, Fort Lewis, Washington
13. Jul 70 - Apr 71, Student, Aviation School, Fort Rucker, Alabama
14. Apr 71 - Mar 72, Student, Armor School, Fort Knox, Kentucky
15. Mar 72 - Aug 72, S3 (Air), 1st Squadron, 17th Cavalry, 82d Airborne Division, Fort Bragg, North Carolina
16. Aug 72 - Nov 72, Platoon Leader, Troop C (Air), 1st Squadron, 17th Cavalry, 82d Airborne Division, Fort Bragg, North Carolina
17. Nov 72 - Aug 73, Executive Officer, Troop C (Air), 1st Squadron, 17th Cavalry, 82d Airborne Division, Fort Bragg, North Carolina
18. Aug 73 - Nov 73, USAR Control Group (Reinforcement)
19. Nov 73 - Apr 74, Operations and Training Specialist, Headquarters and Headquarters Detachment, Oregon Army National Guard, Salem, Oregon
20. Apr 74 - Aug 74, Liaison Officer, Headquarters and Headquarters Company, 41st Infantry Brigade, Tigard, Oregon
21. Aug 74 - Sep 74, Race Relations/Equal Opportunity Officer, Headquarters and Headquarters Company, 41st Infantry Brigade, Tigard, Oregon
22. Oct 74 - Apr 75, Executive Officer, Company A, 141st Support Battalion, Portland, Oregon
23. Apr 75 - Aug 76, Company Commander, Company C, 2d Battalion, 162d Infantry, Corvallis, Oregon
24. Sep 76 - Feb 80, S3, Headquarters and Headquarters Troop (-), 3d Squadron, 116th Armored Cavalry, La Grande, Oregon
25. Feb 80 - Jul 82, Executive Officer, Headquarters and Headquarters Troop, 3d Squadron, 116th Armored Cavalry, La Grande, Oregon
26. Jul 82 - Oct 86, Squadron Commander, Headquarters and Headquarters Troop, 3d Squadron, 116th Armored Cavalry, La Grande, Oregon
27. Nov 86 - May 87, Commander, 116th Armored Cavalry Regiment, Twin Falls, Idaho
28. May 87 - Jun 91, The Adjutant General, Oregon, HQ State Area Command, Oregon National Guard, Salem, Oregon
29. Jul 91 - Aug 92, Director, Army National Guard, National Guard Bureau, Washington, D.C.
30. Sep 92 - Jan 94, Vice Chief, National Guard Bureau, Washington, D.C.
31. Jan 94 - Jul 94, Acting Chief, National Guard Bureau, Washington, D.C.
32. Aug 94 - Mar 99, The Adjutant General, Oregon, HQ State Area Command, Oregon National Guard, Salem, Oregon
33. Mar 99 - Aug 02, Vice Chief, National Guard Bureau, Washington, D.C.
34. Aug 02 - Apr 03, Acting Chief, National Guard Bureau, Washington, D.C.

- 35. Apr. 03 - May 03, Vice Chief, National Guard Bureau, Washington, D.C.
- 36. May 03 – June 05, Chief of Staff, United States Northern Command and NORAD, Peterson Air Force Base, Colorado
- 37. July 05 – Present, The Adjutant General, Oregon, Joint Force Headquarters, Oregon National Guard, Salem, Oregon

MAJOR AWARDS AND DECORATIONS:

Defense Distinguished Service Medal
Army Distinguished Service Medal
Air Force Distinguished Service Medal
Defense Superior Service Medal
Legion of Merit (with Oak Leaf Cluster)
Bronze Star Medal
Meritorious Service Medal (with Two Oak Leaf Clusters)
Air Medal
Army Commendation Medal (with Two Oak Leaf Clusters)
Air Force Commendation Medal
Army Achievement Medal
Army Reserve Components Achievement Medal (with Two Oak Leaf Clusters)
National Defense Service Medal (with Two Bronze Service Star)
Vietnam Service Medal (with Four Bronze Service Stars)
Armed Forces Reserve Medal (with Gold Hour Glass Device)
Army Service Ribbon
Overseas Service Ribbon
Coast Guard Special Operations Service Ribbon
Republic of Vietnam Campaign
Global War on Terrorism Medal
Parachute Badge
Army Aviator Badge
Ranger Tab
Joint Meritorious Unit Award
Army Superior Unit Award
Republic of Vietnam Gallantry Cross (with Palm)
Army Staff Identification Badge
Office of the Secretary of Defense Identification Badge
Oregon Distinguished Service Medal
Oregon Exceptional Medal (with Oak Leaf Cluster)
Oregon 30 year Faithful Service Medal
Oregon Faithful Service Ribbon (Silver Hour Glass Device)
Oregon National Guard Superior Unit Award

EFFECTIVE DATES OF PROMOTIONS:

2nd Lieutenant 8 Jun 66
First Lieutenant 8 Jun 67
Captain (Temp) 8 Jul 68
Captain (Perm) 8 Jun 73
Major 8 Jun 77
Lieutenant Colonel 10 Jul 82

Colonel 2 Nov 86
Brigadier General (AGC) 2 Nov 88
Brigadier General (Line) 11 May 89
Major General (Line) 22 Aug 90

General Dennis J. Reimer (Ret.)

Dennis J. Reimer is a native of Medford, Oklahoma and a 1962 Graduate of the United States Military Academy. General Reimer served 37 years in the United States Army retiring as the 33rd Chief of Staff U.S. Army in 1999.

Reimer's career in the U.S. Army spanned the era between Vietnam and the military transformation that started at the end of the Cold War. A two tour veteran of Vietnam Reimer spent over eight years of this time overseas. As a Major he served as the Aide-de-Camp for the then Chief of Staff Army General Creighton W. Abrams. He has commanded at all levels from Company to Army and rounded out his leadership experience with staff assignments at various levels primarily in the operations field. In 1982 Reimer was selected for promotion to Brigadier General. His next three assignments were Commander III Corp Artillery Fort Sill, Oklahoma; Operations Officer in the Republic of Korea and Commanding General Fourth Infantry Division at Fort Carson. In 1988 he was selected for promotion to Lieutenant General and served as the Plans and Operations Officer for the Army during Operations Desert Shield/Desert Storm. Upon completion of that assignment he was selected for promotion and assigned as the Vice Chief of Staff for the United States Army in 1990. In 1995 he was selected as the 33rd Chief of Staff United States Army and subsequent to that served as the Commanding General Forces Command and was responsible for all Army active and reserve components forces in the United States.

On April 1, 2000 General Reimer assumed duties as the Director of the National Memorial for the Prevention of Terrorism (MIPT) in Oklahoma City. This component of the National Memorial was dedicated to trying to prevent what happened in Oklahoma City from happening again throughout the United States. With a national focus MIPT worked with emergency responders across the nation. During his tenure, MIPT was able to develop and field three national programs; Lessons Learned Information Sharing; Terrorism Knowledge Base and Responder Knowledge Base. All three programs were started prior to 9-11; all three focused on information sharing amongst all emergency responders and have successfully strengthened the partnership between federal, state and local levels of government; public and private sector and the emergency responder community and the military.

In September 2006 Reimer returned to Washington, D.C. to assume the position of President of DFI Government Services—a rapidly growing knowledge management company designed to assist clients in solving the complex issues associate with national security. In April 2007 DFI-Government Services was purchased by Detica, a British firm specializing in information intelligence.

General Reimer is currently retired and resides in Arlington, VA with his wife Mary Jo.

Ervin J. Rokke
President, U.S. Air Force Academy Endowment

Ervin (Erv) Rokke is currently President of the United States Air Force Academy Endowment after having served two years in the Chair for Character and Leadership Development at the Academy and nine years as President of Moravian College and Moravian Theological Seminary in Bethlehem, Pennsylvania.



Erv's prior 35-year military career was distinguished by operational, diplomatic, and academic leadership positions. He served as a staff plans officer at NATO Headquarters in Brussels, as an intelligence officer with U.S. Forces Japan, as the National Security Agency's associate director for support to military operations, and as Dean of Faculty at the U.S. Air Force Academy. He was also assigned as Air Attaché at the American Embassy in London; as Defense Attaché in the former Soviet Union; as Director of Intelligence for the U.S. European Command in Stuttgart, Germany; and as the Air Force's Assistant Chief of Staff for Intelligence at the Pentagon. Prior to assuming his duties as President of Moravian College in 1997, he served as the President of the National Defense University, Washington, DC.

Erv is a member of the Council on Foreign Relations in New York and serves on the Director of Central Intelligence's Intelligence Science Board. He is a member of the Board of Trustees of the Falcon Foundation as well as the National Museum of Industrial History in Bethlehem, PA and serves on the Chairman's Advisory Council of the U. S. Institute of Peace. In recent years he has spent time as a fellow at the Australian National Defense University and made substantial presentations at international conferences in Romania, Serbia-Montenegro, and Germany. In May of 2006, Erv was awarded the Jan Masaryk Silver Memorial Medal from the Czech Republic for his contributions toward U.S.-Czech Republic relations.

Erv is a native of Warren, Minnesota. He graduated from the U.S. Air Force Academy in 1962 with a bachelor of science degree. He later earned a master's degree and a doctorate in international relations from Harvard University. He and his wife Pam have two children, Lisa and Eric.

Appendix E: Written Public Statements



September 10, 2009

Catherine Polmateer
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OFFICERS AND DIRECTORS
SUSAN N. HERMAN
PRESIDENT

ANTHONY D. ROMERO
EXECUTIVE DIRECTOR

RICHARD ZACKS
TREASURER

Re: Comments for the Meeting of the Advisory Panel on Department of Defense Capabilities for Support of Civil Authorities After Certain Incidents

The American Civil Liberties Union submits these comments to the first organizational meeting of the Advisory Panel on Department of Defense Capabilities for Support of Civil Authorities After Certain Incidents to urge the Panel to keep in mind the longstanding historical and constitutionally-based restrictions on the domestic deployment of military forces.

Accordingly, we ask the Panel to refrain from assuming at the outset that choosing to use military forces to respond to domestic emergencies is automatically the best course of action. In fact, using the military in this way could violate traditional American prohibitions against military participation in domestic law enforcement. Civilian authorities, not the military, have historically controlled and directed the internal affairs of the United States. This rule traces its origins to the nation's founding and had been reaffirmed in landmark statutes such as the Posse Comitatus Act, which is designed to preserve the foundational principles of our Constitution and democracy.¹ Unfortunately, our government's increasing domestic use of the military in drug enforcement, in border enforcement, in intelligence matters, and now in emergency response situations risks eroding this fundamental principle. As the Panel fulfills its congressional mandate to evaluate the authorities and capabilities of the Department of Defense (DoD) to conduct operations in support of U.S. civil authorities in the event of a chemical, biological, radiological, nuclear, or high yield explosive (CBRNE) incident, we ask you to recognize the unique threat that militarizing crisis response operations could pose to our democracy.

Avoiding military involvement in civilian law enforcement activities is essential to the protection of Americans' privacy and civil rights. As such, this Panel should consider alternatives for emergency CBRNE response that maintain the traditional dominance of civilian agencies in domestic operations and thereby leave the military to focus on its own mission of fighting foreign enemies. The U.S. Department of Homeland Security,

whose mission includes, “to prevent and deter terrorist threats and to protect against *and respond to* threats and hazards to the nation,” would be the natural agency to house a dedicated CBRNE response capability.ⁱⁱ

Where the Panel finds the DoD possesses unique capabilities or equipment, the Panel should recommend that DoD train and equip its civilian counterparts so that these emergency response functions, when required, can be performed by non-military personnel. Where the Panel finds that only the military can perform an essential function, it should recommend assigning that function to state National Guard units rather than federal forces.

Scandals involving DoD programs like the National Security Agency’s warrantless wiretapping program and the Counter Intelligence Field Activity (CIFA) spying efforts against anti-war protesters give Americans little faith that the DoD can effectively keep its operations within established legal limits.ⁱⁱⁱ We ask that the Panel keep this propensity to overreach in mind when determining the appropriate role of the military in responding to domestic emergencies.

We would be pleased to meet with members of the Panel or staff to further discuss these issues. Thank you for the opportunity to present our concerns.

Sincerely,



Michael W. Macleod-Ball
Acting Director, Washington Legislative Office



Michael German
Policy Counsel

ONE TEAM, ONE MISSION, SECURING OUR HOMELAND: U.S. DEPARTMENT OF HOMELAND SECURITY STRATEGIC PLAN 2008-2013, (2008), http://www.dhs.gov/xlibrary/assets/DHS_StratPlan_FINAL_spread.pdf.

ⁱⁱⁱ NO REAL THREAT: THE PENTAGON’S SECRET DATABASE ON PEACEFUL PROTESTS, AMERICAN CIVIL LIBERTIES UNION (Jan. 2007), http://www.aclu.org/pdfs/safefree/spyfiles_norealthreat_20070117.pdf.

Terri B. Hobbs, Chairwoman

W. Douglas Smith, Esq.

Glenn Cannon, Esq.

Fmr. Director, Response

Division, FEMA

Fmr. Public Safety

Director/Executive Director
Water Auth.

City of Pittsburgh, PA

L. Dwayne Hobbs, Chief

Police, Forest Park, GA

Chairman, Georgia Region

VII All Hazards Council

Rodney Tart, GM &

Director, Harnett County,

NC Water Authority

Past President, National

Rural Water Association

James Matthews, Executive

Director, GRWA

Tom Duck, Executive

Director, TRWA

D. Michael Walden, CEO

Windsor Technologies, Inc.



March 8, 2010

AIIS is a non-profit firm consisting of industry professionals dedicated to protecting our nations' critical infrastructure. We place particular emphasis on water infrastructure because it is the most vulnerable of our seventeen recognized critical infrastructures and the one offering the largest opportunity to do significant damage to the well being of our citizens. AIIS, its board and officers have been working with the water industry to identify and mitigate the vulnerabilities which pose the greatest risk to public health and safety.

The consensus among water security professionals is the most vulnerable area in the water system is post-treatment, in the distribution system. Numerous organizations including American Water Works Association (AWWA), National Rural Water Association (NRWA), U. S. Army, U. S. Air Force, United States Environmental Protection Agency (USEPA), General Accounting Office (GAO), and the Federal Bureau of Investigation (FBI) recognize the fire hydrant as one of the most accessible, visible and vulnerable components of any water distribution system. Any critical infrastructure's potable water system can easily be contaminated via the hydrant either accidentally or intentionally. Any hydrant can serve as a terrorist target for introduction of a chemical or biological contaminant into the water distribution system either by pumping or backflow. "Backflow" refers to the siphoning of any contaminant introduced into the barrel of the hydrant via the venturi effect. The U. S. Army CHPPM Tech Guide 244 identifies a number of contaminants which would require as little as 1/20th of a quart in one-million gallons of water to be toxic to humans. Such a contamination scenario only requires two minutes and a \$10 pipe wrench. The most common pipe used in our distributions systems is six-inch main. One-hundred twenty-nine (129) miles of six-inch (6") main is required to hold one-million (1,000,000) gallons of water. Simple logic shows very small

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www.secureinfrastructure.org

AIIS STATEMENT

PAGE TWO

amounts of agent could do significant damage to major population centers when placed in water post treatment i.e. the distributions system. It is the belief of AIIS there is no attack with the exception of a nuclear weapon where the health and safety of large populations could be as effectively threatened as with an attack on our water distribution systems

It is estimated the most visible and accessible component of the distribution system, the fire hydrant, could be protected nationwide for as little as \$5.5 billion with the creation of as many as 100,000 skilled and semi-skilled jobs. Estimates are not currently available for the protection of service connections but some states such as Georgia have mandated their protection. Members of our board are prepared to give closed session testimony on the urgent need to address distribution system vulnerabilities and provide supporting documentation.

Michael A. Kozeliski
Member AIIS
American Institute for Infrastructure Security

AIIS

www.secureinfrastructure.org



Nulli
Secundus

CITY OF NEWPORT NEWS FIRE DEPARTMENT

FIRE ADMINISTRATION

2400 Washington Avenue • 6th Floor • Newport News, Virginia 23607
Phone: (757) 926-8404 • Fax: (757) 926-8602



Kenneth L. Jones, Fire Chief

kjones@nngov.com

March 9, 2010

TO: Advisory Panel on DOD Capabilities for Support of Civil Authorities after Certain Incidents

FROM: Kenneth L. Jones
Fire Chief

SUBJECT: Public Safety Input at the March 17 & 18, 2010 CBRNE/DOD Panel Meeting

As the Fire Chief for the City of Newport News, Virginia, I am extremely troubled about first responder capability gaps in dealing with a radiological release either from a nuclear power plant (i.e. Surry, VA) or a terrorist Improvised Explosive Device (IED) dirty bomb. Currently, the only way a first responder can determine the extent of a release is by utilizing manual radiation detection equipment, placing the operator in a hazardous environment.

I have a major concern for the safety of the personnel under my command, and I am asking for your assistance in developing a partnership between the military and the first responder community to enhance the safety and information gathering capabilities of the first responder community.

A possible solution was on the horizon. The Newport News Fire Department in the Hampton Roads area has taken the lead in researching alternative methods to safely conduct the monitoring of a radiation release. After much work on a number of fronts, the way forward was determined to utilize an Unmanned Aerial System (UAV) with a payload package that would remotely monitor the radiation release.

After several years of working on the project, which included obtaining industry input, a prototype payload package was in the design stage by the Hawk Institute for Space Sciences. That company performed a demonstration of a water-based detection package during the summer of 2009 at Ft. Eustis, Virginia and was in consultation with the Lawrence Livermore Laboratory to develop a fully integrated aerial version of the radiation detection package.

The Hampton Roads Fire Chief's Association (HRFCA) submitted the UAV/Radiation detection package as an Investment Justification (IJ) for consideration in the Hampton Roads Urban Area Security Initiative (UASI) package for the upcoming grant cycle. Unfortunately, this IJ was deferred for inclusion in the submission package due to a restricted revenue allocation. The IJ would have allocated funding to provide for a prototype UAV compatible radiation detection package at a cost of approximately \$464,000.

If the Investment Justification had been approved, the radiation detection unit would have been developed along with the integration process for utilizing the data obtained from the unit while conducting over flight operations of a suspected release. The unit operational concept envisioned turning this vital detection component over the Virginia Army National Guard (VANG) to deploy inside one of their UAV units. This would be a win – win proposition by affording the VANG a capability not presently in inventory and becoming a force multiplier in dealing with a CBRNE type incident at minimal cost to the VANG while at the same time greatly improving a safer working environment for the first responder community.

I regret that I will not be able to attend the meetings next week due to schedule and travel conflicts, but I felt strongly enough that you should get this input from a first responder on the present shortfall in remote and timely radiation detection capability. I stand ready to provide more information on the research that has taken place on this project. Thank you for taking time to consider this issue. My contact information is listed below.

Name: Kenneth L. Jones
Position: Fire Chief
Company: Newport News Fire Department
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Newport News, Virginia 23607
Phone: (757) 926-8404
Email: kjones@nngov.com

Major General Arnold L. Punaro, USMCR (Ret.),
Former Chairman, Commission on the National Guard and Reserves
Remarks to DOD CBRNE Advisory Panel
March 17, 2010

“The Unfinished Business and the Appalling Gap”

Introduction

Distinguished Members of the Advisory Panel. It is a privilege to appear before the Panel today and offer some observations for your consideration. Your charge is an extremely important one, and I know you are operating under a tight time schedule to complete your work and report to Congress and to the Secretary of Defense. I certainly want to offer you my full cooperation and support in your important work.

CNGR Report Card

It has now been two years since the Commission on the National Guard and Reserves, which I had the privilege to chair, released its final report to Congress and the Secretary of Defense identifying the problems and recommending comprehensive solutions to the many complex issues facing the reserve components. That report was released January 31, 2008.

During those two years, a lot has changed – in the world, in the country, and in the Department of Defense. Today, I was asked to offer some thoughts on the CNGR’s work, how the ideas and recommendations put forward by the Commission have been implemented, what has been accomplished, and where there remains important unfinished work.

There certainly is abundant evidence that we are moving in the right direction in some areas, and have good leaders in the right places leading that charge. Secretary of Defense Bob Gates has made long overdue changes in the Pentagon’s approach to reserve component issues. Secretary Gates supported, in whole or in part, 82 of the Commission’s 95 recommendations. The Congressional leadership also was extremely supportive both of our final report, and of our report on the provisions of the National Guard Empowerment Act.

Assistant Secretary Paul Stockton, the current Assistant Secretary of Defense for Homeland Defense and Americas' Security Affairs, his Deputy Christine Wormuth, Dennis McCarthy, the Assistant Secretary of Defense for Reserve Affairs, and our first Four Star leader of the National Guard Bureau, General Craig McKinley, who now also serves as a direct advisor to the Chairman and the Secretary, all are driving important changes.

And in General Pete Pace at the time and now Admiral Mike Mullen we have had two very forward-leaning Chairmen.

And we had great help from the TAGs, a number of whom are still in office, including Major General Vavala, Major General Umbarger, Major General Lemke, and of course Major Generals Tim Lowenberg and Fred Rees who are members of this distinguished panel.

While I will offer some thoughts today on this topic, I am pleased to report that the Commission will reconvene later this year. In partnership with one of Washington's most prestigious think tanks, the Center for a New American Security, to take up this very issue. As former Commissioners, we will assess the government's progress in solving the problems we identified. We will produce a joint report card with CNAS in September 2010 to draw attention to the challenges still faced by the Guard and Reserves – in other words, the unfinished business.

We intend through this report card to hold the government's "feet to the fire" in the areas where we made important recommendations. We look forward to working closely with this body in doing our assessment.

I understand that your current schedule calls for you to release your report in September, which we also are targeting for release of our report.

While significant progress has occurred in many areas, I would like to focus today on one part of the Commission's work which also is a focus of this panel – catastrophic disaster response – where the results have not been as apparent.

Catastrophic Response Capability

While commentators in Washington are heavily focused on whether the underwear bomber should be tried in a military versus civilian tribunal, there

remain major pieces of unfinished business of a very significant nature that must be addressed in the homeland.

In particular, getting our nation fully prepared to respond to a truly catastrophic natural or man-made disaster such as a WMD attack.

We cannot let current events divert our attention from this real bull's-eye, as many of you experts in this field well know.

People's expectations

When it comes to disaster response, the American people don't care whether it is an active duty, Guard, or reserve helicopter who rescues them from a rooftop.

The American people pay for their federal, state, and local government, and their military, active duty, guard, and reserve. They pay for all of it.

And they expect their government to bring all its resources to bear to help them in their hour of need.

They believe that protecting American lives and property here at home is as important as -- or more important -- than putting a bayonet in the heart of a terrorist in the Khyber Pass or Marja, as important as that is.

Americans' patience for government inaction, poor planning, or uncoordinated leadership during a disaster today is very short.

They expect the government to have learned and made the changes necessary for the next "big one."

They expect their government to be ready.

Lessons Learned from Katrina?

A lot of ink was shed cataloguing lessons from Katrina, 9-11, and other disasters in reports by the House, Senate, White House, countless think tanks, and Commissions, including the Commission on the National Guard and Reserves.

So it is fair to ask here today, did we learn the lessons of 9-11 and those other tragedies?

Are we ready? Or maybe more precisely, are we as ready as we need to be for the next “big one” -- like the detonation of a nuclear device in an American city, one of the 15 scenarios that our nation is supposed to address?

Maybe it is because I am a Marine, but I have a straightforward view of this. Either you are ready, or you are not.

Unfortunately, the answer is – we are not ready.

The yardstick here is not how far we have come and the progress we have made. It is how far we have to go.

CNIGR’s Recommendations Related to Catastrophic Response

- DOD’s Role. In our report, the Commission on the National Guard and Reserves said that in the event of a catastrophic event, “DOD will be expected to respond rapidly and massively.” The Commission recommended that Congress codify DOD’s responsibility to provide support for civil authorities and include language that responding to disasters in the homeland are a core competency for DOD *of equal importance to its combat* responsibilities.
- Specialized Forces Ready. We recommended that the Secretary of Defense ensure that forces identified as rapid responders to domestic catastrophes are manned, trained, and equipped to the highest levels of readiness.
 - Regional and Guard Focus. We said that DOD should take into account regional efforts such as forces with a National Guard core that could deploy rapidly – within 12 – 24 hours following an event. It was our expectation that the National Guard would be the backbone of this capability.
- Interagency Planning and Coordination. We said that, as the lead federal agency, DHS should provide DOD with the requirements it

- C2. And we raised some eyebrows by recommending that command relationships be sorted out in advance, including mechanisms by which Governors could direct the efforts of Title 10 forces. We recommended that a Council of Governors be created to bridge some of these divides inherent in our federalist system of government.
- Appalling Gap. Overall, we said that the fact that the nation has not adequately resourced forces designed for a response to weapons of mass destruction is an “appalling gap, which puts the nation and its citizens at greater risk.” (p. 107)

Progress on Filling the “Appalling Gap”

So where are we on these important objectives?

In January of this year, the WMD Commission, with which I know you are very familiar because of the related nature of your two charters, issued a report card assessing the U.S. Government’s progress in protecting the U.S. from weapons of mass destruction.

They pointed out some promising developments, and handed out some “A”s in some areas.

But their conclusion was that the U.S. remains “woefully underprepared to respond to the growing WMD threat.” (Report Card, p. 4) Sadly, two years later, they reached the same conclusion we did.

So the appalling gap remains, and this should remain a powerful motivating force for all of us.

I’m now going to touch on the developments toward implementing the Commission’s recommendations on closing this appalling gap.

DOD’s Role

There is a growing realization and acceptance at the most senior levels of our government that homeland security *is* national security, conceptually and functionally, and needs to be managed holistically across all the agencies of government.

That is one of the reasons that, under the leadership of General Jim Jones, the National Security Advisor, the White House last year merged the National Security and Homeland Security Councils into one organization.

There is a growing acceptance within the Pentagon that, when the balloon goes up following a catastrophe, the President will call upon the Secretary of Defense to provide support to civil authorities and to do so – “rapidly and massively.”

I know there are still some who will say this is not and should not be DOD’s business.

I understand they fought some of the efforts to gain an explicit statement of this responsibility in the QDR.

But there is no doubt that the American people expect nothing less.

The statement that made it into the QDR says, “Although many efforts to protect the United States are led by other federal agencies, including the Department of Homeland Security (DHS), the role of the Department of Defense in defending the nation against direct attack and in providing support to civil authorities, potentially in response to a very significant or even catastrophic event, **has steadily gained prominence.**” (p. 18)

In my view, this statement is short of an explicit recognition of an obligation, and reflects the lack of a congressional mandate or better guidance from DHS.

The reality is that turf disputes between congressional committees overseeing DHS and DOD have prevented the enactment of meaningful congressional mandates regarding DOD’s role in the homeland.

Another possible reason is historic distrust among some factions of our society of the “militarization” of domestic emergency response.

Specialized Forces Ready

In 2008, Secretary Gates assigned a CBRNE Consequence Management Response Force (or C-Smurf) to U.S. Northern Command.

The second of these units, composed primarily of Guard forces, became operational in October, and a third was scheduled to become operational by October of this year.

CCMRFs were never enough to respond effectively to a high consequence WMD catastrophe. In addition, the CCMRFs deployment time of from 48 to 96 hours – tied partly to their geographic dispersal of their parts – limited their effectiveness as a solution to the catastrophic response equation.

Everyone knew this, but no one had identified and secured funding for a force structure to fill the capability gap.

Following a thorough analysis as part of the QDR, Secretary Gates has shifted the structure of these WMD response forces in what appears to be a promising direction, though you will have to judge whether this new approach truly is an improvement.

The new force structure construct calls for the establishment of 10 Homeland Response Forces (HRFs) of approximately 570 persons, made up of Guard forces, with one of these HRFs in each of the ten FEMA regions.

These new HRFs will train with other civilian and military responders assigned to their regions. They can form a core that other HRFs could be bolted onto should that be necessary to respond to the particular disaster, and will be able to deploy quickly to the CBRNE event.

The HRFs would be commanded by the Governor in the state where they were operating in State Active Duty or Title 32 status, unless the President activates them bringing them into federal service.

This is consistent with the CNGR's recommendation that some capabilities and additional resources for responding to disasters should be shifted to the National Guard **in addition to** their other responsibilities.

The things related to this plan that we need to watch are:

First, we don't have these forces yet in place, and there will surely be challenges to the needed additional funding for their equipment and training.

And second, even the sum total of the forces assigned in this new structure – approximately 18,000 persons -- are not sufficient to meet the demands of the high consequence event scenarios in a WMD attack situation.

You need highly-trained, well-equipped, highly specialized forces in large numbers for these most stressful scenarios. These forces should be in the Guard, and we should make sure they are fully trained and equipped. And this means a sizeable infusion of funds to the guard.

Related is the critical need to resource the rest of National Guard forces for the homeland mission. It does us little good if we stand up the HRFs, but we do not fully fund training for the CSTs, and the other critical capabilities represented in the Guard's Essential 10 requirements -- medical, transportation, C2.

This includes maintaining funding for the operational reserve, requiring a high state of readiness. Our Commission proved beyond a shadow of a doubt that the most cost-effective return on investment is in the Guard and Reserves.

Because the Guard has point for the most compelling threats to our homeland.

Interagency Planning and Coordination

Northern Command appears to have made some progress in its planning and information sharing processes – although they continue to be criticized by the GAO over how they share information with federal, state and local officials.

General Blum was named the Deputy at Northern Command, where he made great strides serving to integrate National Guard and reserve perspectives in that critical command most of whose activities in reality will center on the states.

Natural and man-made disasters are far more likely Northcom missions than defending against Soviet Backfire bombers penetrating our airspace.

Interagency coordination has improved. We now have an annual hurricane planning summit involving the Adjutants General, the NGB, and Northcom staff, and pre-scripted mission assignments for hurricanes.

Another related coordination mechanism is the Council of Governors. Our Commission recommended, and Congress established the Council as a forum to address a whole variety of issues associated with defense support to civil authorities. President Obama signed the Executive Order giving it life in January, and the Council met in February for the first time, which is great news.

And thanks to Paul Stockton for his continual push to make this happen. He is a hard-charger as is Dennis McCarthy.

In my view this Council is an important and positive step because so many problems experienced in the response to Katrina stemmed from poor understanding and communication between federal and state and local officials, the kinds of things that you have to sort out **before** disaster strikes and any communication becomes difficult to impossible.

Developed properly, the Council can play an important role -- improving lines of communications between DOD and the States, helping to build trust and confidence on each side, and serving as a forum for consensus building on challenging issues such as those related to command and control of federal reserve forces.

Civil Support Requirements

One area central to your mandate where there has not been any progress relates to the Department of Homeland Security. While I am not in DOD and on the receiving end of transmissions from DHS on this topic, my understanding is that DHS still has not produced requirements for DOD setting out its expectations for the Department in a catastrophic response.

Their Quadrennial Homeland Security Review, released recently, was disappointing in this regard. It says, "Federal departments and agencies

should jointly conduct planning and analysis for homeland security and related defense activities.” (p. 73, emphasis added)

“**Should**”? Almost nine years after 9-11, don’t the American people have the right to expect more than **that** from their government? Shouldn’t this planning already be fully developed?

We recommended that DHS produce civil support requirements and provide them to DOD who would validate and fund them as appropriate.

But DHS apparently still hasn’t learned how to speak DOD, so this effort hasn’t produced much useful for including in DOD’s budget processes. Without validated requirements, very little happens in DOD.

C2

On command and control, Congress has passed laws to improve structures for command and control in disasters

However, the “who’s in charge” debate hasn’t gone away.

As you well know, there is an important gap in the law that limits our ability to use all our nation’s capabilities.

Federal law limits the ability of the President or the Secretary of Defense to mobilize Title 10 -- federal reservists.

Of course, there will always be military commanders who respond immediately, and don’t need to be told how and when to do the right thing.

But immediate response authority is not a sufficient basis to marshal forces for response to a catastrophe.

Right now, the law says reservists can be mobilized for terrorism or WMD, but **not** “to provide assistance to either the Federal Government or a State in time of a serious natural or manmade disaster, accident, or catastrophe.”

So, current law prevents the federal government from mobilizing reservists even when there is a massive hurricane bearing down on a major American city – even if the reserve forces are the closest and most capable.

The President would have to wait until after landfall, would have to wait and watch to see if law and order breaks down before activating the federal military, including the reserves, or federalizing the response.

Because that approach makes no sense, the CNGR recommended that Congress amend the mobilization statutes to give Service Secretaries the authority to involuntarily mobilize federal reserve components for a limited time “in response to imminent natural or man-made disasters, similar to that employed to mobilize the Coast Guard Reserve.”

I know this issue is still hung up.

Governors want to ensure that they retain command and control over the domestic use of their own National Guard forces, supporting National Guard forces from other states, *and Title 10 forces operating within the supported governor’s state or territory.*

The governors’ view is that, unless they can be guaranteed control over all forces operating in their state, including federal reserve forces, they do not want any new law making it easier to mobilize the reservists.

And that stand-off is holding up the Congress from enacting legislation to allow mobilization of federal reservists to help in natural disaster response.

The CNGR said that both sides are right, and both sides are wrong to allow these issues to remain unresolved.

The Governors should be more flexible on the issue of mobilizing Title 10 reservists. The American people expect **all** national resources to be brought to bear in a disaster.

And DOD should meet the Governors half way on command and control issues.

In the vast majority of scenarios, the person in charge of the response at the state level is the governor, and the military forces, civilian personnel, and material coming into the state will be coming in to support the governor in responding to the crisis.

That is why the CNGR recommended that “As part of its efforts to develop plans for consequence management and support to civil authorities, **DOD should develop protocols that allow governors to direct the efforts of federal military assets responding to an emergency such as a natural disaster.**”

We were convinced that there are solutions to this problem set that will pass legal and political muster. The Governor can be given operational or tactical control with administrative authority retained by the President.

We said this could be done through a dual-hatted commander and an agreement between the President and the governor.

When in doubt, I side with the governors. They have tremendous experience to draw upon in their Adjutants General: Leaders such as Generals Tim Lowenberg, Fred Rees, and many others who have considerable experience and enjoy and deserve wide respect among their peers.

What it takes is for the two sides to sit down together, and work through the issues.

Establishing the ten Homeland Response Forces will help with this because they represent a recognition that Governors will control the response efforts in 98% of all disaster scenarios. The Council of Governors also should help to build consensus for solution to these challenging issues.

What about the ultracatastrophe?

If they are successful at bridging some these divides, then they may be able to broach what happens in an ultracatastrophe.

In considering true nightmare scenarios, federal, state, local, and tribal officials need to plan and exercise for the possibility that that their political leadership is decapitated, or that large numbers of people are killed or injured, and the local, and state systems are strained to or beyond their breaking point.

We can't just war-game scenarios based on assumptions that are practically and politically comfortable for us.

It is the scenarios that exceed our capacity to respond that teach us the most.

Our national exercise program has to do more than allow stakeholders to display their capabilities. It also must force us to confront the harsh reality of potential worst case scenarios.

Conclusion

Making the changes that must be made to get our country ready for the next “big one” won’t be easy.

First of all, we are still in the middle of two wars, that continue to require tremendous resources and well as commanding the near full time and attention of our nation’s leaders.

These wars are touching the lives of our active guard and reserve members, their families, and their communities in profound ways every day. And our military and their families are performing magnificently.

There never has been and there still is not within the Pentagon a great appetite to take on greater responsibility for homeland disaster response missions.

You can add to the mix the extremely challenging budget situation we are in as a nation with the current projection that we will add \$9 trillion in new deficits over the next ten years.

DOD’s budget has peaked and will be heading down, the states are broke because of the recession, and military personnel, health care, and retirement costs are growing at an unsustainable rate *within* our overall defense budget.

Looking at this problem set could make you discouraged. But there absolutely is an opportunity for the leadership we have here in this room and the current leadership in DOD who deal with these security issues to lead the way to a stronger and safer America.

Thank you for your service, and for the opportunity to appear before you today.

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**OPENING REMARKS BY
GENERAL CRAIG R. MCKINLEY
CHIEF, NATIONAL GUARD BUREAU**

**BEFORE THE
ADVISORY PANEL**

ON

**DEPARTMENT OF DEFENSE CAPABILITIES
FOR SUPPORT OF
CIVIL AUTHORITIES AFTER CERTAIN INCIDENTS**

MARCH 17, 2010

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Good Afternoon Chairman Abbot, Vice Chairman Keating and fellow Advisory Panel members. Thank you for inviting me to appear before you today to share thoughts and views on the National Guard's CBRNE response capabilities, as well as discuss enhancing the Department's ability to be responsive in its support in the event of a CBRNE incident or incidents that may require military forces to support the states, territories and the District of Columbia.

I'm here, as part to the National Guard Bureau team, with Lt Gen "Bud Wyatt, the Director of the Air National Guard; BG Tim Kadavy, the Deputy Director of the Army National Guard; and MG Mike Sumrall, my Director of the NGB Joint Staff.

As we get into the details of discussing the issues Congress has asked this panel to address, it's important for all of us to know that the citizen-soldiers and airmen of the National Guard stand ready everyday to answer the call of their communities and those of the Nation. The National Guard is located in more than 3,300 communities around the nation providing an indispensable link between the military and the citizens of our great nation. Our unique community-based heritage of National Guard members, living in the same communities in which they serve during times of disasters, has served our nation well. Since the time of when the first militia was organized in 1636 and the founding of this great nation to the current events of today, citizen-soldiers and Airmen have been, and are adding value to America.

The continually changing strategic environment we live in and the increasingly complex threats to our way of life and American values is forcing us to become better thinkers and better planners to not only prevent and protect from

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afar, but to be prepared by having the necessary responsive life saving capabilities and authorities in place to support civil authorities' requests for assistance, especially in those catastrophic incidents involving the use or threatened use of CBRNE.

In addition to the thousands of National Guard Soldiers and Airmen currently activated for ongoing federal missions overseas, the National Guard provides significant response to unexpected contingencies at home. Unique National Guard capabilities are perhaps best illustrated by our Weapons of Mass Destruction - Civil Support Teams (WMD-CSTs), which performed over 300 domestic support missions last year [2009] and our CBRNE Enhanced Response Force Packages (CERFPs) employed on stand-by missions to support last year's Presidential Inauguration, the G20 summit in Pittsburgh and most recently prepared to support the 2010 Winter Olympics last month.

National Guard Bureau as a Joint Activity of the Department of Defense

So, on to why we are here today – Assess the Department's capabilities to support civil authorities after certain incident, defined in the law for this Panel as CBRNE incidents.

It's mindful to note it is not a coincidence that this panel and I, as the Chief of the National Guard Bureau, are direct result of Congress' actions in the National Defense Authorization Act for Fiscal Year 2008. Since enactment in the law, the Chief's roles and responsibilities, as a Joint Activity of the Department, have greatly expanded to enable a greater involvement and consultation with the Secretary of Defense and his key leadership, the Chairman of the Joint Chiefs of

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Staff, the Combatant Commanders, the Service Chiefs, other key DoD components to ensure National Guard forces are manned, trained and equipped to defend America abroad and at home.

This Panel's mandate, too, is Congress' recognition that, although we've made positive strides as a Nation and are in a better position to respond to CBRNE incidents today, we have further work to accomplish. Your assessment, findings and recommendations to the Secretary of Defense and the Armed Service Committees of both houses of Congress is a continuation of the improvement process.

In 2009, the NGB made great progress in supporting DoD's efforts to both manage the Reserve Components as an operational force and establish the National Guard Bureau as a joint activity. The NGB, as part of the total operational force, has a greater role and increased responsibility for shaping the discussion and recommendations within DoD for issues related to Homeland Defense and Defense Support to Civil Authorities.

Any domestic response to a CBRNE incident must be comprehensive. The likely catastrophic nature of the incident will require more than a Federal "whole of government" approach, to include State, local, tribal, non-governmental organizations (NGOs), private volunteer organizations (PVOs) and the general populace. National Guard forces are a part of the overall solution, most likely under state control of their Governor. Balancing competing demands for military forces and capabilities, to include the desire to strike back in instances of overt attack, is part of a comprehensive response that I and all National Guard leadership are dedicated to ensuring any comprehensive response is effective and efficient.

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Catastrophic CBRNE events, if they happen, will be all consuming events, but we must remember that not all CBRNE is nuclear, and not all nuclear will be catastrophic. The National Response Framework (NRF) starts at local level. Historically,

- Over 90% of incidents are handled locally,
- About 6 to 8% involve State level engagement,
- Less than 3% involve Federal response.

Enabling success as early as possible and at the lowest government level feasible is in the best interest of the country and consistent with National Strategy and the National Guard is one of the early, State-level responders, as well as part of a potential Federal response.

While homeland defense and defense support to civil authorities are total force responsibilities, particular competencies reside in the National Guard and are important contributors to these missions. National Guard forces can support these activities under different statutes—state active duty; under state authority, as designated in U.S. Code, Title 32; or under Federal authority, as designated in U.S. Code, Title 10. In addressing domestic CBRNE response missions, the Department must balance requirements for homeland defense and support to civil authorities with traditional warfighting requirements.

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Readiness, Equipment and Modernization

To be prepared as an operational force for missions abroad and at home, National Guard readiness and preparedness must be maintained at appropriate levels. The National Guard must have modern equipment if we are to remain successful as defenders of the homeland at home and abroad. Army National Guard (ARNG) units deployed overseas have the most up-to-date equipment available and are second to none. However, a significant amount of equipment is currently unavailable to the Army National Guard due to continuing rotational deployments and emerging modernization requirements. Many states have expressed concern about the resulting shortfalls of equipment for training as well as for domestic emergency response operations.

The Army has programmed \$20.9 billion for ARNG equipment for FY09 through FY13 to procure new equipment and modernize equipment currently on hand. We appreciate that support and also the strong interest of Congress and the Department of Defense in closing the gap between our domestic requirements and the available equipment in our armories and motor pools.

The Air National Guard anchors the Total Air Force team, providing trained and equipped units and personnel to protect domestic life and property; preserving peace, order, and public safety; and providing interoperable capabilities required for Overseas Contingency Operations. In the domestic role, the ANG provides capabilities to support local emergency responders with life and property saving capabilities and expertise not usually found elsewhere in the Total Force.

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The Air National Guard supports state and local civil authorities with airlift, search and rescue, aerial firefighting, and aerial reconnaissance. In addition, we provide critical capabilities in medical triage and aerial evacuation, civil engineering, infrastructure protection, and hazardous materials response with our CSTs and our CERFPs.

Additionally, dual-use capability for supporting civil authorities is provided by the Air National Guard's RC-26. The ANG's only dedicated, light-manned ISR aircraft that not only supports Special Operations Forces abroad, but also within the domestic environment – the RC-26 is the ANG's premier aircraft for Incident Awareness and Assessment (IAA) for National Special Security Events, counter narcotics, homeland security, and response to natural or manmade disasters. The ANG continues to seek Air Force recognition and assignment of a Major Command for this aircraft.

The National Guard's dual mission requires a disciplined balance between persistent readiness to defeat threats to our nation and its vital interests, and constant availability to help our communities and states.

The National Guard has always recognized its unique role as America's First Military responder. In the continued quest for serving our citizens, we have leveraged the concept of the Joint Staff, both at the national and at the state level, to ensure rapid, effective, coordinated responses to domestic emergencies. This capability is modular, scalable, and can maximize effectiveness by employing Army and Air Guard capabilities into a true joint response. This supports the Adjutants General with single procedures for communication, coordination, collaboration, and employment.

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CBRNE Consequence Management Capabilities

The National Guard is in the process of adding two new WMD-CST units, bringing the total to 57 units. Each unit consists of 22 full-time Army and Air Guard personnel. WMD-CSTs help each state's civil authorities in identifying CBRNE agents, assessing current and projected consequences, advising on response measures, and assisting with appropriate requests for additional support.

Significant analysis has taken place over the last decade to determine what the requirement should be for the number of CSTs. Based on standing analysis and geo-political decisions, 57 seem to be the right number. In 2009, on average each CST experienced 22 events – 12 training exercises, 2-3 immediate responses, 4 standby responses (which ranged from 2-5 days per standby event) and 4 assist missions with federal, state or local responders.

More important for the CSTs is the need to ensure appropriate levels of resourcing to maintain continued CST mission effectiveness. We continue to actively engage in DoD, Service and Joint processes for resourcing CSTs in the Future Years Defense Program (FYDP) to keep pace with the civilian technology standards and modernization to address emerging threats. With USNORTHCOM support and advocacy, we have seen incremental program improvements; however program shortfalls continue to hinder long-term sustainment and modernization.

Seventeen CERFPs are task organized to bridge the gap of a needed capability for a CBRNE response. CERFPs assist local, state, and federal agencies in conducting consequence management by providing capabilities to conduct personnel decontamination, emergency medical services, casualty search and

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extraction and perimeter security. These professionals train with federal, state, and local agencies, and include the Marine Corps Chemical Biological Incident Response Forces (CBIRF) and FEMA Urban Search and Rescue teams. In addition, a number of CERFPs have deployed to support national special security events such as the State of Union Address, Presidential Inauguration, and Republican/Democratic National Conventions, and will deploy for many other special security events in support of civil and federal authorities in the future.

Over the last several years, the Department has gained important experience and learned valuable lessons from its efforts to field specialized consequence management response forces for CBRNE incidents. During the past year, the Director, Cost Analysis and Program Evaluation (CAPE) [formerly Program Analysis and Evaluation (PA&E)] conducted a study in coordination with the Assistant Secretary of Defense for Homeland Defense and Americas' Security Affairs (ASD (HD & ASA)), USNORTHCOM, the NGB, the Joint Staff, the Services and several other offices of the Secretary of Defense, to determine if there was a better way to organize consequence management forces to provide faster response with greater life saving capability and capacity.

As a result of QDR deliberations, the Secretary of Defense directed reprogramming of funds to stand up and sustain 10 Homeland Response Forces (HRFs) with specialized CBRNE training and equipment. The Department is drawing on existing National Guard forces to build a National Guard HRF in each of the ten Federal Emergency Management Agency (FEMA) regions. Stand-up of the HRFs recognizes the need for increased National Guard CBRNE timely response capabilities and capacity in the event of catastrophic CBRNE incidents.

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The National Guard will stand up two HRFs in FY 2011 and the remaining eight HRFs in FY 2012. The HRF will be made up of those early, life-saving capabilities including Search and Rescue, Decontamination, Emergency Medical, Security, and Command and Control (C2), with approximately 566 personnel per HRF.

The 10 HRFs, 17 CERFPs and 57 CSTs will provide the initial military response to a CBRNE incident.

Communications and Interoperability

The National Guard's Joint Incident Site Communications Capability (JISCC) provides communications capabilities for the National Guard while conducting domestic operations and providing defense support to civil authorities. With 85 deployed systems, JISCC provides interoperable communications and emergency satellite links to command and control centers to share information and tools needed to support collaboration with other federal, state, and local responders including FEMA, the Department of Homeland Security (DHS), and state emergency management agencies.

The success of JISCC's "anytime and anywhere" communications capability in supporting domestic operations has received recognition and support from the military departments. The NGB, Army and Air Force are assessing it for future development as a programmed and funded defense communications system.

The JISCC system, in conjunction with a web-based application – Joint Information Exchange Environment (JIEE), and a Command and Control

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Coordination Center (C4) are known collectively as the Joint CONUS Communications Support Environment (JCCSE). Together, JCCSE's three elements offer the states and territories, Combatant Commanders, and civil authorities a complete communications package for emergency management and response. Partial funding for sustainment of the three JCCSE elements has been recognized in the FY 2010-2015 defense budget.

Training and Exercising for CBRNE Consequence Management Response

As part of the National Guard's Joint and Interagency Training Capability (JITC), the standardized CBRNE collective training program trains CERFPs, CSTs, and National Guard Response Force (NGRF) teams, and will incorporate HRFs, to provide an immediate response capability to support civil and military authorities following a CBRNE incident by forensically identifying the contamination; locating, extracting, decontaminating, and medically treating victims; and providing responders with security.

Each year, the National Guard conducts four regional Vigilant Guard (VG) exercises to help military first-responders unify their efforts to support civilian authorities. In 2009, regional VG exercises were hosted by Iowa, Montana, New York, and Puerto Rico, with several other states contributing. The NGB is also building a special Vigilant Guard exercise to support the 54 states and territories in preparing for larger scale training or real-world events. Implementation will begin in FY 2011.

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Plans for CBRNE Consequence Management with State and Federal Agencies

In 2009, we made great strides in domestic planning efforts between NORTHCOM and the NGB. The National Guard has long been well prepared for commonly occurring natural disasters such as hurricanes, wildfires, winter storms, and flooding. Preparing for less likely but catastrophic events, such as CBRNE incidents, requires an even more inclusive approach to planning.

NGB is working with the States and USNORTHCOM on the sharing and coordination of plan development. We are also making progress with the Joint Staff on updating the Standing CBRNE Execute Order (EXORD) as we implement QDR decisions on forces and capabilities.

In coordination the Under Secretary of Defense for Personnel and Readiness, the NGB and the National Guard Joint Force Headquarters of the States (JFHQ-State) have been developing a Civil Support Task List (CSTL) to provide a standardized translation of military skills, training, equipment, and personnel into defined capabilities prepared to seamlessly integrate into the National Incident Management System (NIMS) in accordance with the National Response Framework (NRF).

The nature of military operations in support of civil authorities is unique to any other situation. The National Response Framework (NRF) assigns overall responsibility for emergency response to local civilian authorities and places other agencies such as DoD in a support role. Therefore the capabilities of the Department must be presented to civil authorities in accordance with the

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terminologies, taxonomies, and lexicons of the NRF. When appropriate for clarification, the CSTL provides information in both the DOD and NRF terms.

The CSTL consists of appropriate tasks, conditions, and standards in a common language and reference system that draws on both the military community and the civilian responder community understanding of civil support capabilities. The CSTL describes tasks in a common language which serves as a foundation for planning of operations in direct support of civil authorities.

The CSTL is a key element in developing defense support to civil authorities (DSCA) capabilities without taking military units out of their ongoing preparation for their assigned warfighting missions. The integration of the CSTL into a unit training plan and the Joint Training System (JTS) as well as current reporting systems such as Defense Readiness Reporting System (DRRS) will allow units to develop and report their status.

The CSTL will support the efforts of DoD, DHS, and state and local emergency planners and managers in preparing for timely defense support to civil authorities prior to and during emergencies.

Annual Report to Congress on National Guard Equipment for Domestic Operations

Section 351 of the National Defense Authorization Act (NDAA) for FY 2008 directs DoD to provide an assessment of the extent to which the National Guard possesses the equipment required to perform its responsibilities in response to an emergency or major disaster. The assessment is to:

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- Identify any equipment shortfall that is likely to affect the ability of the National Guard to perform such responsibilities,
- Evaluate the effect of any shortfall on the capacity of the National Guard to perform such responsibilities in response to an emergency or major disaster, and
- Identify the requirements and investment strategies for equipment provided to the National Guard by the Department of Defense that are necessary to plan for a reduction or elimination of any such shortfall.

In addition to actively participating on the several Secretary of Defense directed working groups to implement recommendations by the Commission on the National Guard and Reserves (CNGR), and in response to this requirement in law, NGB developed its own Capability Assessment and Development Process (CADP), which is modeled after Chairman, Joint Chiefs of Staff (CJCS) processes for analyzing mission functions and capabilities, and determining gaps/shortfalls and solutions.

The CADP supports NGB's ability to assess current and future capability needs to respond to domestic events, primarily catastrophic incidents, and to articulate those needs in appropriate planning, programming, and budgeting forums.

The NGB conducted regional scenario-based exercises in 2008 that provided data for the National Guard CADP. Subsequent analyses enabled the NGB to identify and prioritize several capability gaps and develop recommendations for:

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- Improving command and control (C2), communications, interagency information sharing, and capacity to conduct domestic operations,
- Improving National Guard Chemical, Biological, Radiological, Nuclear, and high-yield Explosive (CBRNE) disaster response capabilities, and
- Increasing joint and interagency training and readiness.

The National Guard Bureau is working through appropriate plans, programs, and budgetary processes in order to obtain the necessary resources to mitigate identified National Guard capability gaps and improve National Guard capabilities for Homeland Defense and Civil Support.

Conclusion

All major CBRNE events will involve resources of the U.S. military in both federal and non-federal statuses. States have preeminent jurisdiction for general welfare of citizens; yet for many circumstances the President, by law, has preeminent jurisdiction, (e.g., terrorism, most events nuclear or radiological, environmental impacts), as well as having political/moral obligation to step in and help, regardless of the size of incident. The expectation is that all elected officials will have to do something and the need to facilitate unity of effort as Federal forces integrate with ongoing State response is essential.

The National Guard remains a community-based organization with a clear understanding of its dual mission role – to serve abroad in support of our national defense; and to serve the Governors and people of the states, territories, and the District of Columbia to which they belong. Recognizing the principles of states' rights and the tiered approach to domestic support to civil authorities, the Adjutants

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General (TAGs) will continue to provide a wide range of capabilities to their Governors and play a significant role in determining National Guard priorities and in shaping the future of the National Guard.

The National Guard stands ready to respond to local, state and federal calls for assistance and is an integral piece for the Department's Total Force efforts to meet the complex challenges that face our Nation. We have proven that the old way of doing business does not work in today's environment. The National Guard must remain an operational force, indeed a force of strategic depth, and must be resourced as such, so we can not only perform wartime missions, but are resourced, trained and equipped to support civil authorities, regardless of the status. We must do what is right for citizens of America and we must be prepared to do it.

The National Guard Directors and I appreciate being afforded the opportunity to provide this Panel with our thoughts and ideas; on how we, in partnership with the Secretary of Defense and his offices, the Chairman of the Joint Chiefs of Staff, the Combatant Commanders and our Armed Service brothers and sisters, are ready to and will continue to improve our National Guard's capabilities to support civil authorities in the event of disasters and catastrophes, especially in the event of a CBRNE attack or incident.

OPENING STATEMENT

BEFORE THE

Advisory Panel on Department of Defense
Capabilities for Support of Civil Authorities
After Certain Incidents

Governor James H. Douglas (VT), Co-Chair, Council of Governors
and
Governor Christine O. Gregoire (WA), Co-Chair, Council of Governors

June 2, 2010

[Gov. Douglas] Good morning Chairman Abbot, Vice-Chairman Keating and members of the 1082 Panel. Governor Gregoire and I thank you for the opportunity to be with you today to add to the information you've received from witnesses in subpanel work group sessions and prior Panel hearings.

[Gov. Gregoire] As Governor Douglas said, on behalf of each of the *Council* governors and in a broader sense on behalf of the governors of all states and territories, we thank you for the opportunity to be with you today. In addition to our Council of Governor Co-Chair responsibilities, Governor Douglas chairs the National Governors Association (NGA) and I am a member of its Executive Board.

Whether wearing the hat of the *National Governors Association* or the *Council of Governors* or as Chief Executive and Commander-in-Chief of our respective states, our agendas – and responsibilities – are the same: to safeguard the people and property of our states and territories and to work with the federal government to assure the security of the *United States*.

[Gov. Douglas] As you undoubtedly know, Section 1822 of the National Defense Authorization Act for Fiscal Year 2008 directed the President to establish a bipartisan Council of Governors to “advise the Secretary of Defense, the Secretary of Homeland Security, and the White House Homeland Security Council on matters related to the National Guard and civil support missions.” President Bush signed the Act into law on January 28, 2008.

Two years later, on January 11, 2010, President Obama signed an Executive Order that carries out this Congressional mandate. In the EO, he appointed ten (10) governors as the Council’s “members” (five Republicans and five Democrats) and designated Governor Gregoire and me as the Council Co-Chairs.

To support our interface with the Department of Defense, the Department of Homeland Security and the White House Homeland Security Council, the Executive Order also named the following federal “participants”: the Secretary of Defense (Robert Gates), the Secretary of Homeland Security (Janet Napolitano), the Assistant to the President for Homeland Security and Counterterrorism (John Brennan), the Assistant to the President for Intergovernmental Affairs and Public Engagement (Valerie Jarrett), the Assistant Secretary of Defense for Homeland

Defense and Americas' Security Affairs (Paul Stockton), the Commander of U.S. Northern Command (now Admiral James Winnefeld, Jr.), the Chief of the National Guard Bureau (General Craig McKinley) and the Commandant of the U.S. Coast Guard (Admiral Thad Allen). The Executive Order also authorized the Secretary of Defense *or* the Secretary of Homeland Security to designate additional federal "participants". Secretary Napolitano, for example, designated FEMA Administrator Craig Fugate to attend our organizational meeting and subsequent work sessions and plenary meetings.

[*Gov. Gregoire*] The Executive Order defined the scope of the Council's activities as -

- "(a) matters involving the National Guard of the various States;
- (b) homeland defense;
- (c) civil support;
- (d) synchronization and integration of State and Federal military activities in the United States; and
- (e) other matters of mutual interest pertaining to National Guard, homeland defense, and civil support activities." (EO, Section 2)

Having looked at Section 1082 of the same Defense Authorization Act that created our Council, it appears Congress have given us (the Governor's Council and your Panel) an overlapping charter. Unlike your Panel, however, which must conclude its work by September 15, 2010, the Council of Governors is a standing forum in which governor "members" will engage with federal participants in ongoing discussions on these and other matters of vital importance to our national security.

[*Gov. Douglas*] On February 25, 2010 (six weeks after issuance of the President's Executive Order), the Council conducted its first meeting in Secretary Gates' Pentagon conference room. Secretary Gates spent the first 30 minutes with us. For the remainder of the two hour meeting, federal participants addressed DoD "Red Line" issues and presented a variety of Department of Defense perspectives.

The second meeting of the Council will be in Boston, Massachusetts on July 11, 2010, following the National Governors Association summer meeting. John Brennan has confirmed his attendance and we anticipate that Secretary Gates and

Secretary Napolitano will also participate. In fact, prior to the Council of Governors meeting, Secretary Gates and John Brennan will make a closed door presentation to all governors at the end of the NGA summer meeting.

Subsequent to the organizational meeting at the Pentagon in February, the Council created the following five subcommittees: (1) Unity of Effort; (2) CBRNE Response Forces; (3) Air and Army National Guard Recapitalization; (4) End Strength, Full Time Staffing and Accounting for students and other temporarily non-deployable personnel; and (5) Military Construction. Each subcommittee is co-led by two Council governors with principal support from their Adjutants General. A roster of the subcommittees, their members and federal participants is attached to our Opening Statement and will be provided to your executive support staff. Council subcommittees have begun exploratory discussions with federal participants; in fact, the Unity of Effort subcommittee conducted a telephonic work session last week (on Monday, May 25). Our intent is to conduct such meetings on a monthly basis to help identify shared objectives and to develop frameworks for productive twice-yearly meetings of the full Council.

[*Gov Gregoire*] I said earlier that governors' priorities are to safeguard the people and property of the states and territories and to work with the federal government to assure the security of the *United States*. As Commanders-in-Chief of our respective states, we have emergency powers that often transcend those of the President. As Governor Keating knows, Oklahoma law provides that "In the event of a civil defense emergency beyond local control, the Governor may assume direct operational control over all or any part of the civil defense functions within the state." The Governor of Oklahoma also has power in civil defense emergencies to (1) prioritize and allocate resources such as water, food and fuel, (2) provide for the full or partial evacuation of the population, and (3) exercise "all functions, powers, and duties as are necessary to promote and secure the safety and protection of the civilian population." (63 OS 683.9)

As Governor of the state of Washington, I have similarly broad emergency powers including the power to "declare the county or city in which troops are serving, or any portion thereof, to be under either complete or limited martial law." The statute defines "martial law [as] the subordination of all civil authority to the

military... [including the] right to try all persons...by a military tribunal.” (RCW 38.08.030)

When I, as Commander-in-Chief, elect to employ military force the law decrees that my decision “shall be final, incontrovertible, and unimpeachable.” (RCW 38.08.060)

[*Gov. Douglas*] As Governor Gregoire has pointed out, the governors of each of the states and territories have extraordinarily broad emergency powers, including explicit authority over military operations. The laws of the sovereign states and of the central government recognize that governors have a special role to play in national security matters and especially in the areas in which Congress has solicited your Panel’s guidance.

Governors are directly affected by the authorities and capabilities of the Department of Defense, including the non-federalized National Guard, to provide support to state officials and to other civil authorities when needed. We depend on properly trained, equipped and resourced National Guard forces, including Civil Support Teams and CERFP’s, that are deployable at our direction. We look forward to the fielding of a new National Guard Homeland Response Force (HRF) in each FEMA region as called for in the Quadrennial Defense Review (QDR) and I note that Governor Gregoire’s National Guard, along with that of the state of Ohio, has been designated to lead the development of this critical new CBRNE response capability.

[*Gov. Gregoire*] Governors also have a shared concern about the adequacy of policies, directives and plans for the management of military responses to all manner of domestic events, but most especially CBRNE incidents. In particular, we have concerns about the adequacy of DoD’s current interaction with other federal, state and local agencies as well as the policies, practices and procedures for employment of federal military forces in domestic operations.

We have little or no information about the capabilities or domestic response plans of federal military units in our states nor is there any process for sharing such information with us (if it exists) or for sharing local and state government plans with the Department of Defense. Quite frankly, local and state officials are

reluctant to share plans with a Defense agency that insists on being an independent actor in domestic operations.

[*Gov. Douglas*] The National Governors Association has had to actively oppose Department of Defense legislative proposals each year since 2005 that would have given DoD an unprecedented role in domestic military operations. In each instance, DoD's initiatives were pursued without notice or consultation with the states and without talking to us after our objections were raised. Our hope is that formation of the Council of Governors will force meaningful discussion of these fundamental state-federal issues.

At our NGA meeting in February 2007, we adopted a policy statement calling for Title 10 military forces to operate under the tactical control of the governor. In so doing, we were mindful of the doctrinal definition of tactical control, i.e. authority that is "limited to the detailed direction and control of movements or maneuvers within the operational area necessary to accomplish assigned missions or tasks." (DoD Joint Publication 1)

On March 1, 2007, the Commission on the National Guard and Reserves (CNGR) issued an Interim Report calling for governors to direct within their own state the unified efforts of all military forces responding to domestic contingencies. In the Commission's final report on January 31, 2008, the Commission repeated its recommendation and said: "The Department of Defense disagreed with the Commission's March 1 recommendation to develop protocols that allow governors to direct the efforts of federal military assets responding to an emergency such as a natural disaster, and incorrectly suggested that such an approach is inconsistent with established law. In fact, similar protocols are employed routinely overseas when U.S. forces are placed under the command of a foreign commander. The process is fully consistent with law and precedent. The President, as commander in chief, can assign a task force of active duty forces as a supporting command to a state military joint task force while retaining ultimate command authority over those federal forces. This decision by the Department to reject the Commission's recommendation, while offering no viable substitute, places the nation at risk of a disjointed federal and state military response to a catastrophe." (CNGR Final Report, p. 21)

[*Gov. Gregoire*] I've been told that when CNGR Chairman Arnold Punaro testified before the 1082 Panel he was asked about DoD opposition to this Commission recommendation and to the NGA's request for directional authority and he opined that DoD's position is based on "cultural resistance" rather than legal or operational considerations. As a former Attorney General, I fully understand why no one has testified that such protocols or arrangements would be illegal. In fact, governors note that the federal government signed a Canada – U.S. Civil Assistance Plan on February 14, 2008 giving Canadian military officials tactical control of all U.S. forces involved in domestic operations in Canada. The Plan's definition of "tactical control" is the same as the classic definition in DoD Joint Publication 1. (CAP, Annex J, Command Relationships). We also note that OSD General Counsel reviewed the Plan and approved it for signature by General Gene Renuart, Commander of U.S. Northern Command.

These arrangements are of more than passing interest to the nation's governors. In February 2010, Vancouver, British Columbia hosted the Winter Olympics and Paralympics. Washington's Adjutant General, Major General Lowenberg, oversaw integrated security planning for emergency responses on the U.S. side of the border and for support of responses on the Canadian side of the border. For more than five (5) years, he chaired quarterly planning meetings involving more than 300 participants from more than forty-five (45) U.S. and Canadian federal, state, provincial, local, tribal and private sector agencies, including JDOMS, ARNORTH, AFNORTH and US NORTHERN Command. If a CBRNE event had occurred on the Washington side of the border, DoD would have engaged in independent operations in our state refusing to assign tactical control of Title 10 forces to me or General Lowenberg – yet they freely agreed to transfer tactical control of U.S. forces to unspecified Canadian commanders on the Canadian side of the border.

[*Gov. Douglas*] The policy described by Governor Gregoire is part of a continuum of actions by the Department of Defense that adversely affect the nation's ability to respond to complex emergencies, including CBRNE incidents. Decisions are made about resourcing critical dual-use equipment (that is, equipment needed to support civil authorities *and* prosecute overseas combat missions) without involving Adjutants General or state representatives in the decision making

process. Decisions are made about recapitalizing and fielding Army and Air National Guard tactical airlift systems without involving Adjutants General or state representatives in the decision making process. Decisions are made about funding National Guard capital facilities (the very facilities needed to maintain a civil response capability) without involving Adjutants General or state representatives in the decision making process. The result is that with 50% of the Army combat force structure, 22% of the Army inventory of installations and facilities and 30% of the Army's validated facilities space requirements, the Army National Guard has to fight every year to receive 8% to 10% of Army military construction allocations.

When representatives of the National Guard Bureau (the statutory "channel of communications" between the states and DoD) are invited in to these and other decision-making forums, they are required to sign non-disclosure statements pledging not to share the information with governors or Adjutants General. It's these and other practices that have to change if we are to meet the requirements of the 21st Century threat environment in which every state and territory is part of a new global battle space.

[*Gov. Gregoire*] We want to conclude our opening statement by addressing the 7th and final tasking in your Panel charter; that is, to address "whether there should be additional Weapons of Mass Destruction Civil Support Teams, beyond the 55 already authorized and, if so, how many additional Civil support Teams, and where they should be located; and What criteria and considerations are appropriate [for making such determinations]."

We believe such determinations should continue to be based on (1) population, (2) population density, (3) an informed threat assessment and (4) consideration of response times [the so-called "tyranny of time and distance"].

First and foremost, we believe all existing teams should be "right-sized" and properly equipped before considering any increase in the number of teams. Each Civil Support Team (CST) consists of 22 full-time soldiers and airmen. With a team that small each position is "one deep" and each member is essential to the unit's ability to deploy and carry out its mission. There is no margin for injuries, family emergencies, in-resident training, vacation leave or other factors affecting

the Team's mission readiness. Adding five (5) members to each team would permit cross-training to cover unexpected absences and pre-training to cover projected vacancies due to reassignments to other units, intra-team promotions and transfers, retirements and other recurring personnel actions.

We also note that the Civil Support Teams were established and equipped more than a decade ago. Although they received state of the art equipment, some of it is becoming dated and all of it, including trucks and other vehicles, is being used at a much higher and more demanding operations tempo than anticipated. To the best of our knowledge, there is no provision in future year fiscal plans for upgrading equipment to evolving technical standards or for replacing equipment as it reaches the end of its service life.

[Gov. Douglas] With that, I would like to thank you for your kind attention and for the opportunity to present our Opening Statement. Governor Gregoire and I look forward to discussing these and any other issues of interest to the Panel.

Mr. Chairman and members of the Panel, we welcome your questions.

Council of Governors
Unity of Effort work group

- ✦ **Co-Lead Governors / TAGs:** Gov. Douglas / Maj Gen Dubie (VT) and Gov. Gregoire / Maj Gen Lowenberg (WA)
- ✦ **Federal participants:**
 - OASD (HD&ASA)
 - OASD (RA)
 - Joint Staff
 - USNORTHCOM
 - NGB
 - OASD (LA) Executive Secretary
 - DHS (NPPD)
 - US Coast Guard
 - FEMA
 - Customs and Border Protection

Council of Governors
CBRNE Response Forces work group

- ✦ **Co-Lead Governors / TAGs:** Gov. Brewer / MG Salazar (AZ) and Gov. Henry / MG Deering (OK)
- ✦ **Federal participants:**
 - OASD (HD&ASA)
 - OASD (RA)
 - Joint Staff
 - USNORTHCOM J3
 - JFCOM J3
 - NGB J1/ J3
 - OASD (LA) Executive Secretary
 - DHS
 - US Coast Guard
 - FEMA
 - FBI (Hazardous Material Response Unit –HMRU)

Council of Governors

End Strength; FTS; TTHS work group

- ✦ **Co-Lead Governors / TAGs:** Gov. Nixon / BG Danner (MO) and Gov. Fortuño / MG Vicens (PR)
- ✦ **Federal participants:**
 - OASD (RA)
 - Joint Staff
 - US Air Force
 - US Army
 - NGB
 - OASD (LA) Executive Secretary

Council of Governors

ANG/ARNG Recapitalization work group

- ✦ **Co-Lead Governors / TAGs:** Gov. Perdue / MG Ingram (NC) and Gov. McDonnell / MG Newman (VA)
- ✦ **Federal participants:**
 - OASD (RA)
 - Joint Staff
 - US Air Force
 - US Army
 - NGB
 - OASD (LA) Executive Secretary
 - DHS
 - FEMA

Council of Governors

Military Construction work group

- ✦ **Co-Lead Governors / TAGs: Gov. O'Malley / BG Adkins (MD) and Gov. Rounds / MG Doohen (SD)**
- ✦ **Federal participants:**
 - OUSD (AT&L)**
 - OASD (RA)**
 - Joint Staff**
 - US Air Force**
 - US Army**
 - NGB**
 - OASD (LA) Executive Secretary**

Questions for Council of Governors (Governors Douglas and Gregoire)

Q 1: By what process and resources does your state plan to respond to large-scale CBRNE events?

ANSWER: Our state Comprehensive Emergency Management Plan (CEMP, specifically known in Vermont as the State Emergency Operations Plan or SEOP) would trigger the immediate deployment of civilian CBRNE assets, and as may be directed by the Governor, also the immediate deployment of our National Guard CBRNE and general purpose forces to support the response of civilian agencies. If these responders prove insufficient, we would then draw specialized and general purpose National Guard and civilian assets from other states via our nationwide Emergency Management Assistance Compact (EMAC).

Q 1A: How does that process involve DoD, and to what extent do you depend upon either National Guard or Active duty forces in your planning?

ANSWER: We depend heavily on the more than 400,000 National Guard forces who are NOT on federal duty on any given day and who are therefore available at the call of their Governors. Most of our nation's specialized CBRNE forces are in the National Guard, as they should be, and are therefore deployable by their governors to support impacted states and territories.

We depend on DoD only to the extent that the rest of government depends upon DoD: for specialized units or equipment that can't be obtained anywhere else. And, by the way, if any such capabilities truly exist only in the federal active duty or reserve components that is a serious flaw in our national security strategy. Such units or capabilities should be transferred to the National Guard force structure where they are accessible to both Governors and the President under existing emergency authorities.

Q 1B: How is the defense coordinating officer involved?

ANSWER: [Gregoire] I've never met a DCO so I'm not familiar with their staff function. I've met FEMA Region Administrators on occasion during a Presidentially-declared disaster but never members of their staff, so as I understand it the DCO interacts with staff officers in General Lowenberg's Joint Force Headquarters for routine exchange of information and for processing requests for DoD emergency support.

ANSWER: [Douglas] Under current doctrine, the DCO serves as DoD's point of contact at the Joint Field Office (JFO). The DCO will be involved in processing requests from the State Coordinating Officer (SCO) for specialized units that are not available through EMAC. In order to accomplish this, the DCO processes those specific requirements for military support through DoD-designated channels. Note that in Vermont's Emergency Operations Center, there is a single

Military Support Officer, from the Vermont National Guard, through whom the Director of Emergency Management will expect a coordinated military response. Also, the National Guard is currently making progress with stakeholders to identify the procedures for NG representation / liaison within the JFO.

Q 1C: What scenarios do you use in planning?

ANSWER: [Gregoire] We use the Department of Homeland Security's National Planning Scenarios along with catastrophic planning scenarios for our own high-probability hazards such as floods, earthquakes and tsunamis.

ANSWER: [Douglas] Similar to Washington State, we use the National Planning Scenarios with Vermont-specific assessed threats, as identified in the SEOP:

- Floods = High
- Winter Snow and Ice Storms = Moderate
- Extreme Weather = High
- Man-made accidents = Moderate to High
- Terrorism = Low
- Epidemics = Moderate

Q 1D: How do you determine what might be required to respond to a CBRNE event, and how do you account for your state's capabilities to meet those requirements. Are any gaps defined?

ANSWER: Every disaster is unique. The types of CBRNE events and their individual impact, scope and scale are virtually limitless. You can't have a formal plan for every possible combination and permutation.

[Gregoire] In our state, we've engaged in full blown multi-jurisdictional field exercises for everything from a Dirty Bomb detonation in the heart of Seattle (the national Top Officials 2 exercise) to asynchronous terrorist CBRNE attacks that spanned the states of Oregon and Washington (National Level Exercise 2-08).

The biggest gaps to emerge from such exercises are (1) the difficulty of coordinating the actions of responding military forces and (2) meeting the mass shelter needs of the thousands of people affected by large-scale CBRNE events.

[Douglas] We face the same issues as our most significant gaps. During those events, our civilian capabilities would be exhausted fairly quickly and we would need the ability to bring in a coordinated military response to address those gaps, and two separate chains of command would exponentially complicate my duties to direct the state response.

Q 2: Has your state provided its CBRNE response plans to DHS, DoD or other entities, including other states or federal agencies?

ANSWER: [Gregoire] We've engaged in field and table top exercises with DHS, DOD and other federal agencies such as the Department of Energy (for nuclear scenarios) nearly every year for the past decade and our response plans have been freely shared with each of them.

ANSWER: [Douglas] Vermont Homeland Security has fully coordinated in this area with the spectrum of local, state and federal interagency partners. In addition, we have a nuclear power plant in Vermont and all of those plans and procedures have been fully coordinated and shared.

Q 3: HSDP-8 (and its Annex 1) created an Integrated Planning System (IPS). We understand that IPS has been put on hold pending a review. Has this affected your planning processes?

ANSWER: [Gregoire] No. We've engaged in our own state-level planning since long before the advent of HSPDs and continue to do so. When the federal government decides how it wants to proceed, we can adapt our planning processes to synchronize and integrate with federal plans as appropriate.

ANSWER: [Douglas] No. Planning should be state-centric, and federal planning efforts should enable the most effective federal support to a state's specific response. I am concerned that any federally-directed efforts under the guise of "planning" may infringe on the governors' sovereign responsibilities for planning and directing the state response.

Q 4: Please share your views about how National Guard and Active Duty military forces should be commanded and controlled during a CBRNE response in your state.

ANSWER: [Gregoire] It's really very simple. As you've said, the CBRNE event is taking place in *my state* where I have been popularly elected to exercise unique constitutional and statutory emergency powers to safeguard our citizens. Since the responsibility and accountability falls squarely on the governor's shoulders, we can't have federal military forces acting in any state or territory in an independent, disjointed or counterproductive manner.

If a disaster (CBRNE or otherwise) occurs in my state, I will be the supported civil authority and responding National Guard soldiers and airmen from every supporting state and territory will be under my Tactical Control (TACON). So should all supporting military forces, whether they are responding to a CBRNE event or a natural disaster.

ANSWER: [Douglas] The potential impacts of the current Unity of Effort discussions are as follows: (1) First, we can maintain the status quo of two separate command structures which is untenable. Previous responses to large-

scale events, such as Hurricane Katrina and Rita in 2005, have demonstrated that separate command structures for the NG forces (T32 or State Active Duty) and active duty military forces (Title 10) hindered response efforts by creating confusion over roles and responsibilities, unnecessarily duplicating efforts, and complicating planning and resource allocation. We do a better job overseas coordinating with foreign militaries under a framework of coalition operations than we do coordinating between military forces under a governor and those under the President during domestic operations. We need a clarified Federal-State doctrine of predetermined military relationships prior to an event.

(2) DoD may be successful in obtaining expanded authorities to access reserve components for domestic operations. This is untenable since it enshrines the two separate command structures, and ensures conflict between military organizations throughout the spectrum of domestic operations, not merely during worst-case scenarios. Governors recognize a federal role for directing a military response when state civil government is no longer functioning. However, the Constitution of the United States does not mandate dual chains of command for the NG and active duty forces during disaster response. DoD initiatives would give DoD access to forces at a level below the President, for reasons that are not clear. Similarly, it is not clear why DoD feels it must have the authorities to amass and employ significant military force structure without governors' consent. With approximately 450,000 members, even when shouldering significant overseas deployments, the NG has never been close to being exhausted with regard to bringing capabilities to bear during any domestic emergency. Further, DoD's proposed legislative changes would not increase the responsiveness of DoD personnel as the reserves are available to respond to domestic emergencies under existing Immediate Response authorities.

(3) Finally, there is the position of the governors. Governors should have the ability to synchronize military forces within their states, through their respective TAGs. This would effect a far better result for the American people. Governors are responsible for the safety of their citizens, and knowledgeable of their states. In accordance with the National Response Framework, federal capabilities should support the state response, and governors have unanimously spoken that federal military capabilities are supportive when those capabilities are synchronized through TAG guidance and direction in support of a governors' priorities. Without assigning a Governor the ability to control all military forces engaged in disaster response, "strong potential exists for confusion of mission execution and dilution of governors' control over situations with which they are more familiar and better capable of handling than a federal military commander." [Letter from Gov. Joe Manchin III (W.Va.) and Gov. Jim Douglas (Vt.) on behalf of the National Governors Association to DoD, dated August 7, 2009].

Q 4A: Should there be a dual-hatted commander?

ANSWER: A dual-hatted commander is an interesting option for achieving needed control over domestic military actions, but there would have to be an agreement and a process established to use dual-hat command for no-notice domestic responses. It's certainly "doable" as a matter of policy and without any change in the law and is therefore one of many options that should be addressed in our Council of Governor deliberations. We've only had only one meeting thus far, however, and haven't had an opportunity to explore dual-hat command but it's my understanding that DoD has shown little openness to expanding such arrangements.

Q 4B: Would your views change for a multi-state incident?

ANSWER: No. Even in a multi-state scenario, events are taking place within individual sovereign states. The federal government is free to provide and withdraw supporting military and civilian resources and move such resources from state to state, but while they are working in a given state they should take their tactical direction from the Governor of the state in question.

Q 4C: [The National Governors' Association has recommended that governors be given command and control over all military forces (title 10 and title 32) that are within state boundaries in response to any disaster or emergency. What is your view?]

ANSWER: First, I have to correct your mischaracterization of the NGA policy position. The National Governor's Association has never asked for "command and control" of federal military forces. We've only asserted that we should have "tactical control" of federal forces operating in our state -- with full operational and administrative "command and control" of such forces remaining in the hands of federal authorities. We ask only that DoD give us the same tactical control it gives to unnamed civil authorities in Canada.

Now to answer your question: I wholeheartedly support the National Governors Association policy position which has remained unchanged for the last two federal administrations and I note it's the position of all 54 governors not just the 10 of us who serve on the Council of Governors.

We hope to work these and other things out with the Department of Defense, but if we're not able to do so we're mindful that the Council was also established to advise the White House, the Department of Homeland Security and other elements of the federal government. This isn't a process that should be controlled by any single agency; it's something far bigger that goes to the very heart of our system of government.

Q 5: The recent Quadrennial Defense Review calls for regional Homeland Response Forces (HRF).

Q 5A: How do you expect that states will allocate and employ the HRFs in the event of a CBRNE event?

ANSWER: The same as we've done throughout history – the same as we do with CSTs, CERFPs, Quick Reaction forces and all other National Guard assets. Supporting states are always quick to support impacted states and regions and I see no difference with Homeland Response Forces (HRFs) once they become equipped, trained and deployable.

[Gregoire] Washington is going to have one of the first two HRFs in the nation. As our HRF becomes operational, I will certainly confer with the President before deploying it outside our FEMA region and as each of the other FEMA regions develop a HRF task force I'm certain the governors involved will confer with one another and with the President when responding to single or multiple CBRNE events.

Q 6: What is your view of the adequacy of DoD plans for conducting defense support of civil authorities?

ANSWER: Our concern is that states know very little about DoD plans and, as we've already explained, the only thing certain is that under current practices DoD will execute its plans –whatever they might be -- as an independent actor prior to and after federal military forces have begun operating within our respective states.

Q 7: Do you believe that DoD has established and maintains sufficient forces and capabilities for providing CBRNE support to civil authorities?

ANSWER: I don't know how to answer an unqualified question like that nor, I suspect, does anyone. What I am confident of is that reliance on large standing military response forces such as CCMRFs (units of 1,000 to 4,000 personnel) will be too late to need because they won't be able to assemble and get transported to the scene of the CBRNE event in time to make a difference.

More strategically disbursed National Guard Civil Support Teams, Homeland Response Forces, CERFPs and other Quick Reaction forces will naturally be closer to the site of CBRNE events anywhere in the nation and will therefore be able to "swarm" to CBRNE sites with both initial response and follow-on sustainment forces

Q 8: How do you envision the role of DoD in the national response framework, and what additional structures or resources may be required from DoD?

ANSWER: DoD clearly plays a support role in the National Response Framework and should therefore organize and train its forces to be subordinate to and supportive of the lead federal agency which in nearly all instances is the Department of Homeland Security.

What is required of DoD in large part is prompt, timely and adequate tactical airlift support, principally because BRAC 05 and subsequent Army and Air Force programmatic decisions have systematically stripped the National Guard of its tactical airlift assets.

Governors deployed over 50,000 National Guard soldiers and airmen to the Gulf Coast states within 96 hours of Hurricane Katrina's landfall because they had access to and unencumbered authority to deploy National Guard tactical airlift assets. BRAC 05 removed from the National Guard the very aircraft that transported a large percentage of those personnel and short-tons of equipment and the reduction of National Guard tactical airlift assets continues to this very day as a result of DoD programmatic decisions, including a current Air Force "sweep" of C-130s from the National Guard to the active duty Air Force.

We believe essential domestic security assets such as tactical airlift aircraft should be consciously placed in the National Guard to insure their availability to both state and national command authorities.

Q 9: Some have argued that DoD should not have a significant role in responding to domestic disasters and emergencies, and this mission should be separated from the homeland defense mission, where DoD clearly has the lead. What is your view of alternative approaches?

ANSWER: If DoD would consciously allocate force structure such as tactical airlift and other dual-use assets to the National Guard, the nation's security would be enhanced by the ready availability of such units and personnel to both state and national command authorities. DoD would then be able to focus more directly on its homeland defense responsibilities instead of its homeland security support role.

Q 10: What is your view of the adequacy of programs for DoD and civilian agencies in your state to train and exercise together?

ANSWER: Our experience has been that DoD and civilian agencies (federal, state and local) don't train very effectively together because of DoD's propensity to focus on its own objectives and because of an unspoken undercurrent that suggests DoD may have to "take charge" despite what the HSPDs and National Response Framework say.

In order for agencies to train effectively there has to be a clear understanding of how they will actually operate together in the real world event and all exercise participants must be fiscally resourced to participate in the event.

DoD exercises (e.g., NLE 2-08) tend to be presented to state and local participants with 12 months or less notice and with no funding support. As a result, when states are able to participate at all it's usually at a reduced scale and DoD staff or DoD contractors end up "playing" the role of missing federal, state, local and private sector principals – agencies and officials whose authorities and processes they all too often don't understand. "Lessons learned" are therefore often "wrong" lessons because the exercise play is flawed and unrealistic.

In short, if DoD is to learn how to play its support role under the National Response Framework it should plan exercises in consultation with other federal, state and local authorities and assure they have the funding necessary to actually participate in the exercise instead of having their engagement simulated by contractors or DoD employees. This is not to suggest that DoD has to pay for all of the state, local and private sector participants, but exercises have to be planned and executed in a sufficiently collaborative fashion to assure that funding from appropriate sources exists.

Thomas P. D'Agostino
Administrator
National Nuclear Security Administration

before the

**Advisory Panel on Department of Defense Capabilities for Support of Civil Authorities
after Certain Incidents**

Good afternoon, I am pleased to be here to address two topics – (1) how the Department of Energy, National Nuclear Security Administration, participates in interagency response teams and responds to nuclear and radiological incidents, and (2) the question of Department of Defense providing support to civil authorities in incident response.

Let me begin by noting that the National Nuclear Security Administration is the Federal Government's lead agency for responding to nuclear or radiological emergencies worldwide. Please let me put this into the context of what we do at NNSA.

The NNSA's commitment to the American people is to provide for nuclear deterrence, to reduce nuclear dangers around the world, and to provide the capabilities to address the broader national security challenges of the 21st century. The focus of our efforts is the continuing transformation of the weapons complex from a Cold-War era weapons complex into a 21st Century Nuclear Security Enterprise. Accordingly, we are working hard in support of our DoD customer to transform the composition and size of the U.S. nuclear weapons stockpile. In this regard, we have had both a cooperative relationship and many successes including the major success story – the recently-issued Nuclear Posture Review. In completing the NPR, we have been fully engaged with the Department of Defense. I should also take this opportunity we at DOE/NNSA are proud of our interagency work. For example, I am particularly proud that we are working with the Department of State on a new START agreement. Moreover, we are working on a broad range of nonproliferation agreements with our international partners.

Let me now turn to nuclear and radiological incident response – both national and international – and let me preface my remarks by noting for you that within Office of Emergency Operations, we maintain a response capability composed of 1000 highly-trained responders, and equipment, fully capable of responding to any radiological or nuclear incident anywhere in the world. That said, let's look first at OCONUS incidents.

If an incident takes place OCONUS, the Department of Defense has the lead responsibility and we provide support. We rely on the Department of Defense to provide personnel, search and survey assets, and transportation. We know that this works well because of the successes we have had in several incidents over the years and this system has worked every time. Of late, we have had several situations where NNSA and DoD working together have traveled to foreign countries to recover materials.

Of course, we learn from each of these incident responses. In addition to learning from real-life incidents, we also maintain a joint program of regular exercises and here, again, we have been fully engaged with the Department of Defense. What we learn from the exercise programs is of tremendous benefit to improving our conduct of operations.

Now, let me address our responses to CONUS incidents.

For CONUS incidents involving nuclear or radiological materials, we have been working closely with the Department of Justice/FBI, Department of Homeland Security, and the Department of Defense on putting in place the interagency operations plans to do the following:

- Outline the command and control structure
- Provide a common model for managing the multi-dimensional aspects of an incident
- Provide a framework for deploying, integrating and employing the U.S. Government's response assets
- Identify the U.S. Government's departments' and agencies' roles.

In this effort, guidance comes from Homeland Security Presidential Directive 5, *Management of Domestic Incidents*, which provides the following authorities:

- The Secretary of Homeland Security is the Principal Federal Official for domestic incident management.
- The Attorney General has lead responsibility for criminal investigations of terrorist acts or terrorist threats.

In addition, Annex II to NSPD-46/HSPD-5, *U.S. Policy and Strategy in the War on Terror*, provides that the Attorney General, acting through the FBI, has the primary responsibility for finding and neutralizing weapons of mass destruction within the United States in response to information received from law enforcement, intelligence, or other channels.

The specific roles of the DoD in providing support for CONUS incidents are:

- To provide personnel, survey and search assets, and logistical support to the FBI
- In coordination with FBI, DHS and DOE, conduct training and exercises to personnel who would conduct search and survey operations
- Provide transportation assistance for the deployment and redeployment of response personnel and equipment.

At this point, the interagency group composed of the DHS, FBI, DOE and DoD are working diligently to develop and refine operating procedures for handling domestic incidents.

My suggestion for this panel is to let the agencies continue to do their good work. That said, I have every confidence that the working being done will identify any gaps in the authorities and capabilities of the Department of Defense to provide support to civil authorities.

I also believe that current processes will be successful in assessing the adequacy of policies and structures of the Department of Defense for interagency coordination in the event of a nuclear or radiological incident.

Thank you, again for the opportunity to appear here today. I believe that panel members may have some specific questions and I will be happy to try to answer any questions you might have.

Appendix F: Witnesses

The following alphabetical list includes persons who appeared before either full Advisory Panel meetings or subpanel meetings.

George Brock, Office of the J-5, National Guard Bureau Joint Staff

William L. Carwile III, Associate Administrator, Response and Recovery, Federal Emergency Management Agency

The Honorable Thomas P. D'Agostino, Under Secretary of Energy for Nuclear Security, and Administrator, National Nuclear Security Administration

The Honorable James H. Douglas, Governor of Vermont, and Co-Chair, Council of Governors

The Honorable Christine Gregoire, Governor of Washington, and Co-Chair, Council of Governors

Colonel Mark Johnson (U.S. Army), Defense Coordinating Office, FEMA Region VIII

Brigadier General Timothy Kadavy (Army National Guard), Deputy Director, Army National Guard

The Honorable David Kris, Assistant Attorney General for National Security, U.S. Department of Justice

Joseph J. Krol, Jr., Associate Administrator for Emergency Operations, National Nuclear Security Administration

Dr. Vahid Majidi, Assistant Director, Weapons of Mass Destruction Directorate, Federal Bureau of Investigation

Friedrich Martin, Office of the J-3, National Guard Bureau Joint Staff

David McBath, Staff Inspector–Field Command, New York State Police, and Chair, Inter-Agency Board on Equipment Standardization and Interoperability

The Honorable Dennis McCarthy, Assistant Secretary of Defense for Reserve Affairs

General Craig R. McKinley (U.S. Air Force), Chief, National Guard Bureau

The Honorable Tara O'Toole, Under Secretary for Science and Technology, U.S. Department of Homeland Security

Gerald W. Parker, Principal Deputy Assistant Secretary, Office of the Assistant Secretary for Preparedness and Response, U.S. Department of Health and Human Services

Carl Pavetto, Deputy Associate Administrator for Emergency Operations, National Nuclear Security Administration

Lieutenant General John M. Paxton, Jr. (U.S. Marine Corps), Director of Operations (J-3), The Joint Staff

Arnold Punaro, Chairman, Commission on the National Guard and Reserves

General Victor E. “Gene” Renuart, Jr. (U.S. Air Force), Commander, U.S. Northern Command. (Also attending were the principal staff officers of USNORTHCOM.)

Lieutenant Colonel Chris Rofrano (Army National Guard), Office of the General Counsel, National Guard Bureau

The Honorable Paul Stockton, Assistant Secretary of Defense for Homeland Defense and Americas’ Security Affairs

Jordan Strauss, Director, Preparedness and Response, National Security Division, U.S. Department of Justice

Major General Michael Sumrall (Army National Guard), Director, The Joint Staff, National Guard Bureau

Lieutenant General Guy C. Swan III (U.S. Army), Commanding General, U.S. Army North
Jamie Turner, Director, Delaware Emergency Management Agency, and Member, Inter-Agency Board on Equipment Standardization and Interoperability

Alan D. Vickery, Deputy Chief, Seattle Fire Department, and former Chair, InterAgency Board on Equipment Standardization and Interoperability

Carl Wagner, Associate Deputy General Counsel for Homeland Defense and Civil Support, Office of the General Counsel, Department of Defense

Lieutenant General Henry Wyatt III (Air National Guard), Director, Air National Guard

Appendix G: Council of Governors Executive Order

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

January 11, 2010

EXECUTIVE ORDER

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ESTABLISHMENT OF THE COUNCIL OF GOVERNORS

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 1822 of the National Defense Authorization Act of 2008 (Public Law 110-181), and in order to strengthen further the partnership between the Federal Government and State governments to protect our Nation and its people and property, it is hereby ordered as follows:

Section 1. Council of Governors.

(a) There is established a Council of Governors (Council). The Council shall consist of 10 State Governors appointed by the President (Members), of whom no more than five shall be of the same political party. The term of service for each Member appointed to serve on the Council shall be 2 years, but a Member may be reappointed for additional terms.

(b) The President shall designate two Members, who shall not be members of the same political party, to serve as Co-Chairs of the Council.

Sec. 2. Functions. The Council shall meet at the call of the Secretary of Defense or the Co-Chairs of the Council to exchange views, information, or advice with the Secretary of Defense; the Secretary of Homeland Security; the Assistant to the President for Homeland Security and Counterterrorism; the Assistant to the President for Intergovernmental Affairs and Public Engagement; the Assistant Secretary of Defense for Homeland Defense and Americas' Security Affairs; the Commander, United States Northern Command; the Chief, National Guard Bureau; the Commandant of the Coast Guard; and other appropriate officials of the Department of Homeland Security and the Department of Defense, and appropriate officials of other executive departments or agencies as may be designated by the Secretary of Defense or the Secretary of Homeland Security. Such views, information, or advice shall concern:

- (a) matters involving the National Guard of the various States;
- (b) homeland defense;
- (c) civil support;

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(d) synchronization and integration of State and Federal military activities in the United States; and

(e) other matters of mutual interest pertaining to National Guard, homeland defense, and civil support activities.

Sec. 3. Administration.

(a) The Secretary of Defense shall designate an Executive Director to coordinate the work of the Council.

(b) Members shall serve without compensation for their work on the Council. However, Members shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law.

(c) Upon the joint request of the Co-Chairs of the Council, the Secretary of Defense shall, to the extent permitted by law and subject to the availability of appropriations, provide the Council with administrative support, assignment or detail of personnel, and information as may be necessary for the performance of the Council's functions.

(d) The Council may establish subcommittees of the Council. These subcommittees shall consist exclusively of Members of the Council and any designated employees of a Member with authority to act on the Member's behalf, as appropriate to aid the Council in carrying out its functions under this order.

(e) The Council may establish a charter that is consistent with the terms of this order to refine further its purpose, scope, and objectives and to allocate duties, as appropriate, among members.

Sec. 4. Definitions. As used in this order:

(a) the term "State" has the meaning provided in paragraph (15) of section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101(15)); and

(b) the term "Governor" has the meaning provided in paragraph (5) of section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(5)).

Sec. 5. General Provisions.

(a) Nothing in this order shall be construed to impair or otherwise affect:

(1) the authority granted by law to a department, agency, or the head thereof; or

(2) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

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(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

BARACK OBAMA

THE WHITE HOUSE,
January 11, 2010.

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Appendix H: Homeland Response Force (HRF) and CBRNE Enhanced Response Force Package (CERFP) Organization and Locations¹

Department of Defense Homeland Response Force (HRF) Fact Sheet

- DoD plans to establish 10 National Guard-sourced HRFs. Regionally oriented, each of the 10 HRFs will be hosted in each of the FEMA regions.
- HRFs will increase the focus of DoD Chemical, Biological, Radiological, Nuclear, and High explosive (CBRNE) Consequence Management Response forces on life-saving objectives and increase operational flexibility while recognizing the primary role that the governors play in controlling the response to CBRNE incidents that occur in their states.
- The first two HRFs (Ohio and Washington) are expected to be in place no later than the end of FY11 with the remaining eight HRFs (Massachusetts, New York, Pennsylvania, Georgia, Texas, Missouri, Utah, and California) expected to be in place no later than FY12.
- Eight HRFs (FEMA Regions Three - Ten) will be sourced from single states. The other two HRFs located in FEMA Regions One and Two will be sourced from multiple states within those regions. The state contributing the HRF command and control element will be considered the “host” state.
- HRFs will be a key element of the new DoD CBRNE Consequence Management enterprise, which also will include:
 - One Defense CBRNE Response Force (DCRF), formerly CCMRF 1;
 - Two Consequence Management Command & Control Elements (C2CREs);
 - 57 Weapons of Mass Destruction Civil Support Teams (WMD-CSTs); &
 - 17 CBRNE Enhanced Response Force Package (CERFPs).
- The HRFs will operate alongside other National Guard-sourced CBRNE Consequence Management forces like WMD-CSTs and CERFPs, as well as federal-controlled elements of the enterprise, including DCRF, C2CREs, and follow-on forces, when necessary.
- When not deployed for CBRNE consequence management operations, HRF personnel will focus on planning, training, and exercising at the regional level.

HRF Capabilities:

- Each HRF will be composed of ~570 personnel.
- HRFs will have a 6-12 hour response posture, similar to that of the existing CERFPs.

¹ Fact sheets, pp. 147–149: “Department of Defense Homeland Response Force (HRF) Fact Sheet and Department of Defense CBRNE Enhanced Response Force Package (CERFP) Fact Sheet,” as of August 14, 2010. Available at <http://www.defense.gov/news/HRFCERFP.pdf>. Slides, pp. 150–153: National Guard Bureau, August 2010.

- HRFs will primarily be equipped to deploy via ground transport to CBRNE incident sites, but can be moved by air if necessary.
- The core of each HRF is CBRNE capability similar to that found in the existing 17 CERFPs; however, HRFs will also have substantial command and control and security capability.

	Unit Size
Medical Team	45
Search & Extraction Team	50
Decontamination Team	75
Security Team	200
Command & Control	200
Total Personnel	570

HRF Employment:

- Memorandums of Understanding (MOUs) governing employment within and outside host states and FEMA regions will be established with each host state
- EMAC remains the primary mechanism for interstate employment - under state control.

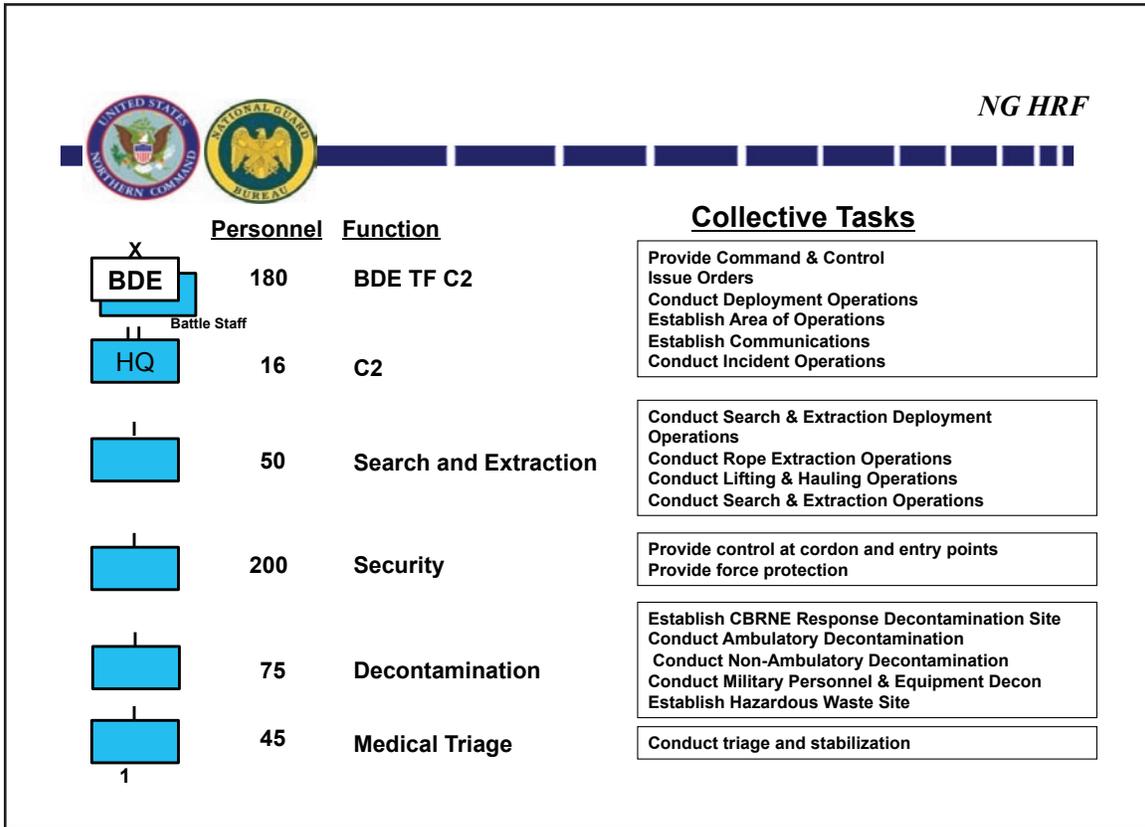
**Department of Defense
CBRNE Enhanced Response Force Package (CERFP)
Fact Sheet**

- There are currently 17 CERFP States: New York, Massachusetts, Pennsylvania, West Virginia, Colorado, California, Texas, Illinois, Missouri, Florida, Hawaii, Washington, Virginia, Ohio, Georgia, Minnesota, and Nebraska.
 - The CERFPs in following states will evolve into HRFs: New York, Massachusetts, Pennsylvania, California, Texas, Missouri, Washington, Ohio, and Georgia.
 - To maintain the number of CERFPs at 17, new CERFPs will be hosted by Indiana, Alabama, Puerto Rico, Wisconsin, Louisiana, Kentucky, Nevada, Oregon, and Maine.
- CERFPs locate and extract victims from a contaminated environment, perform mass patient/casualty decontamination, and provide treatment as necessary to stabilize patients for evacuation.
- CERFPs are composed of existing National Guard units on state active duty, Title 32 or, in extremis, Title 10 status, and are specially trained to respond to a Chemical, Biological, Radiological, Nuclear, and High Explosive (CBRNE) incident.

CERFP Capabilities:

- Each CERFP is composed of ~170 personnel.
- CERFPs have a 6-12 hour response posture.
- CERFPs are primarily equipped to deploy via ground transport to CBRNE incident sites, but can be moved by air if necessary.

	Unit Size
Medical Team	45
Search & Extraction Team	50
Decontamination Team	75
Total Personnel	170





HRF/CERFP SELECTIONS

FY 11 HRF

Region V – OH

Region X – WA

FY12 HRF

Region I – Regional (MA*, CT, VT)

Region II – Regional (NY*, NJ)

Region III – PA

Region IV – GA

Region V – FY11

Region VI – TX

Region VII – MO

Region VIII – UT

Region IX – CA

Region X – FY11

* lead state

FY11 CERFP

Region IV – AL

Region V – IN

FY12 CERFP

Regional – I Regional (ME, RI, NH)

Region II – PR

Region III – WV, VA

Region IV – FY11

Region V – WI, MN, IL, IN

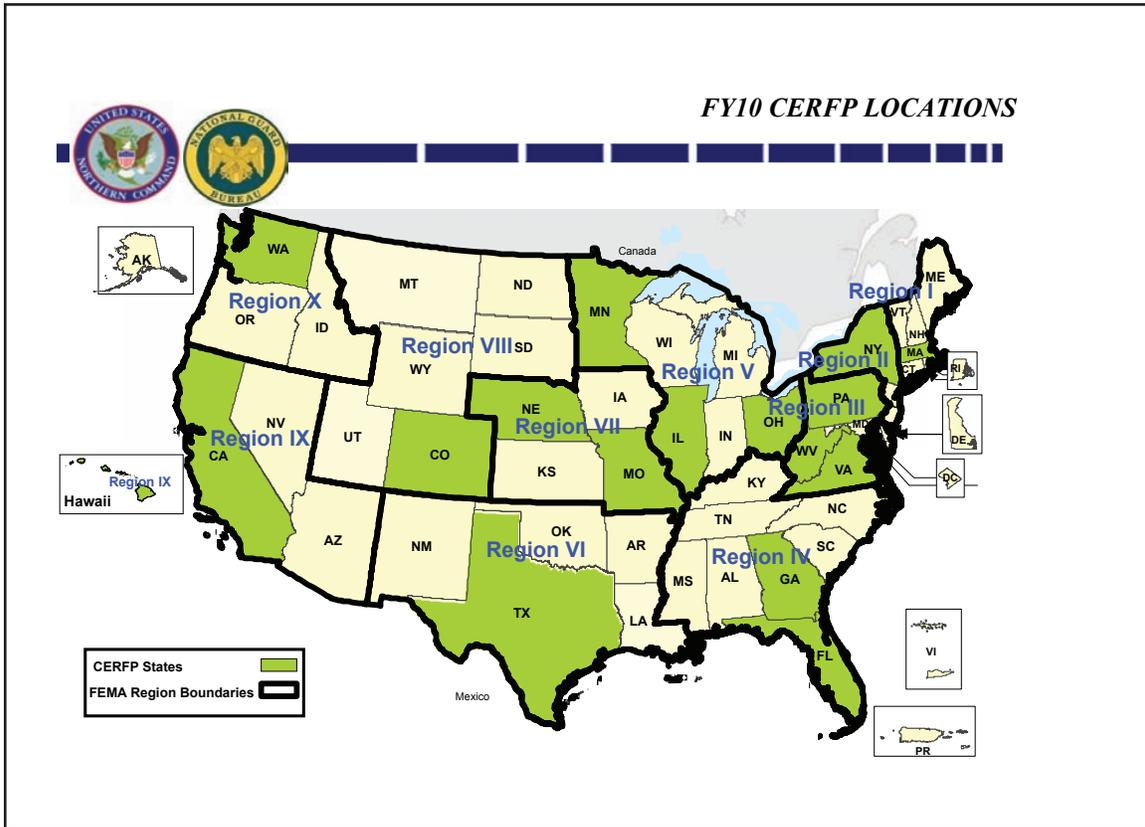
Region VI – LA

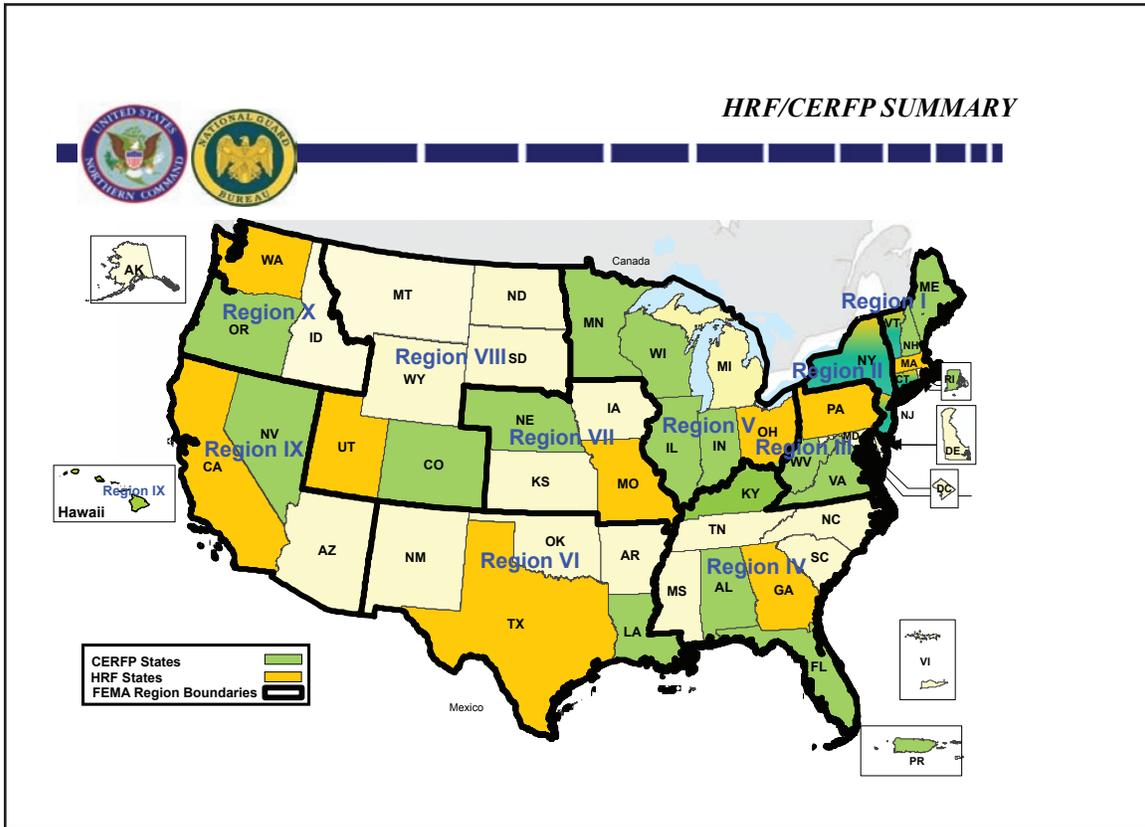
Region VII – NE

Region VIII – CO

Region IX – NV, HI

Region X – OR





List of Key Recommendations by Entity

The Secretary of Defense

- Develop a handbook on legal authorities for DoD support of civil authorities
- Immediately consolidate all DoD directives for DSCA into a single document
- Identify, in consultation with Governors, Title 10 Reserve Components for CBRNE response and report those findings to the Congress
- Designate a lead entity as training authority for Title 10 and Title 32 forces with a CBRNE response mission
- Direct development of a JMETL for Title 10 and Title 32 forces with a CBRNE response mission
- Identify and resource multiple regional CBRNE response training centers
- Provide funding necessary for training and certification of forces with a CBRNE response mission
- Require instruction of DSCA, NRF, and NIMS in the Officer Education Systems of all services
- Direct the services to identify all personnel with skills and experience in DSCA for CBRNE
- In collaboration with the Council of Governors, promote unity of effort by—
 - Providing Federal recognition of eligibility for dual-status command in every State and U.S. Territory
 - Permitting with consent of Governors and authorization by the President both National Guard and certain Title 10 commanders to command in dual status
 - Developing plans for command and control in the event of multi-state CBRNE incidents
- Allocate or apportion additional Title 10 CBRNE response forces to USNORTHCOM
- Direct that the Joint Staff and USNORTHCOM develop Time-Phased Force Deployment Data for domestic military deployments based on specific CBRNE DSCA plans
- Elevate the importance of the homeland security mission, to include DSCA for CBRNE response, by—
 - Clarifying roles and missions required for CBRNE incident response in the next National Defense Strategy
 - Specifically including DSCA for CBRNE and other catastrophic incidents as a mission equal to other missions in the force generation cycle
- In consultation with and with advice from the Council of Governors—
 - Develop agreements for multi-state resourcing of HRF units
 - Define the process by which the HRFs will be trained, equipped, and employed
 - Determine how HRFs and DCOs/DCEs will coordinate effectively
- Ensure that processes for developing dedicated, special, and general purpose forces for DSCA for CBRNE response include consultation with all necessary stakeholders at the Federal, State, and local levels
- Report to the Congress the findings of the Senior Steering Group and similar processes
- Establish a DoD central repository for data on DSCA operations
- Direct that, to the maximum extent feasible, existing DoD domestic response plans be declassified and future plans be unclassified
- Review and as required modify DCO/DCE structures and missions to ensure effective mission performance
- Remove the command and control authority of the DCO/DCE for all military forces
- In consultation with the Council of Governors and with the participation of the Secretary of Homeland Security, establish a protocol for the sharing of State and Federal plans for CBRNE incidents and other catastrophes, with the DCO/DCE playing a key coordinating role
- Authorize an augmentation of not fewer than six additional personnel to each Civil Support Team
- Neither authorize more Civil Support Teams nor change their locations at this time
- Ensure adequate funding to support modernization of CST equipment
- Require the Chief, National Guard Bureau, annually to report on CST capability shortfalls and to recommend required funding to support adequate CST modernization and sustainment

The Report of the Advisory Panel on Department of Defense Capabilities for
Support of Civil Authorities After Certain Incidents
to the Secretary of Defense
and the Chairman and Ranking Minority Members, Committees on Armed Services,
U.S. Senate and U.S. House of Representatives

List of Key Recommendations by Entity

The Congress

- Amend the Stafford Act to include biological incidents for Federal support for major disasters
- Expand statutory authority for use of Title 10 Reserve Components for any CBRNE incident
- Fund efforts to bolster States' response planning efforts at the appropriate levels of government

The President

- Direct the Secretary of Homeland Security to lead an Interagency evaluation of Federal CBRNE exercise programs and recommend improvements
- Direct that the Secretaries of Homeland Security and of Defense lead the establishment of a joint interagency task force to direct the Federal operational response to a CBRNE incident
- Direct prompt completion by DHS of the CBRNE capabilities inventory
- Direct the establishment of an integrated planning system for local, State, and Federal entities that also includes provisions for support from international entities
- Direct the establishment of a standardized, central Federal repository for data and analyses of all Federal response activities for natural and manmade emergencies and disasters
- Require that response plans be shared across Federal agencies and that States share their plans with other States and with the Federal Government as a condition of future related Federal disaster planning assistance
- Direct the Secretary of Homeland Security to coordinate with Governors to establish a formal process by which State and local plans are shared with and inform Federal planning and vice versa, and to establish within DHS a repository for Federal, State, and local response plans
- Direct DHS and DoD to continue efforts to bolster States' response planning efforts by making available military capabilities in preparedness planning

The Secretary of Homeland Security

- Develop completely the Homeland Security Information Network and Common Operating Picture
- Study and report to the President on implications of relying on the Internet for vital communications and backup to support response operations in the event of a large-scale CBRNE incident

The Secretaries of Defense and of Homeland Security Jointly

- Offer personal training on response planning and operations, including DSCA, to all Governors
- Report to the Congress on the May 2010 National Level Exercise

The Secretary of Defense and the Attorney General Jointly

- Require and fund exercises on activities and use of existing statutory authorities that apply to both departments

The Secretary of Homeland Security and the Attorney General Jointly

- Lead an effort to coordinate with States and U.S. Territories to identify and resolve Federal-State-local conflicts in authorities for CBRNE response

Relevant Executive Branch Agencies

- Ensure training of officials and employees on authorities for CBRNE response

Governors and State Officials

- Ensure training of officials and employees on authorities for CBRNE response
- Develop detailed continuity of government plans for emergencies and disasters
- Direct State emergency management agencies to share all State and local response plans with Federal agencies and with States in their FEMA region and other adjoining States

The Report of the Advisory Panel on Department of Defense Capabilities for
Support of Civil Authorities After Certain Incidents
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and the Chairman and Ranking Minority Members, Committees on Armed Services,
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