

# Is a Goldwater-Nichols Act Needed for Homeland Security?

CHRISTINE E. WORMUTH

Senior Fellow, International Security Program  
Center for Strategic and International Studies

The Goldwater-Nichols legislation that was enacted into law in 1986 is widely viewed as largely responsible for the most significant reform of the Department of Defense (DoD) since the National Security Act of 1946. While not without substantial flaws, the DoD is generally seen as a highly capable cabinet agency; one that is extremely mission-oriented and able to achieve tangible results while other federal departments often lack operational capacity. Five years after the 9/11 attacks, and one year after the disappointing governmental response to Hurricane Katrina, many in the national security community are asking whether a Goldwater-Nichols type reform is needed for the nation's homeland security system. From the dysfunction of the Department of Homeland Security (DHS) to the continuing interagency battles about roles, responsibilities and budget share, it is clear that the United States does not yet have a comprehensive, cohesive and competent system to ensure the security of the homeland. When considering whether a Goldwater-Nichols type reform would be useful or appropriate, it is useful to reflect on the major achievements of the original Goldwater-Nichols Act and how it might or might not translate into the homeland security arena.

## **Goldwater-Nichols: What Did it Achieve and Why Did it Happen?**

The legislation introduced in Congress by Senator Barry Goldwater and Congressman Bill Nichols and ultimately enacted into law in 1986 enabled a wide range of defense reforms, but at a minimum the law resulted in four key achievements that have had lasting positive effects for the modern DoD. First, the law revised roles and responsibilities in the Department to strengthen the Secretary of Defense relative to

the Service Secretaries, and placed a single person—the Chairman of the Joint Chiefs of Staff—clearly in charge of providing military advice to the President. The law also transformed the role of the combatant commanders, placing them squarely in charge of mission accomplishment and providing them the authority over forces to carry out that responsibility. The law forced the Department to pay more attention to comprehensive strategy and planning activities with the goal of achieving a more cohesive strategy that would drive DoD planning and programming efforts. Finally, the Goldwater-Nichols legislation mandated changes to the DoD personnel process that ultimately resulted in the development of military leaders that could look beyond their service affiliations and think “jointly,” allowing the Department to leverage the full range of Service institutional capabilities in order to develop more integrated and effective policies, plans and military operations.

In light of the typically static nature of large bureaucracies and the difficulty of enacting changes in these institutions, it is important to understand how the reforms enacted as a result of the Goldwater-Nichols legislation came about. What made such sweeping changes possible? The U.S. military has not always seen the success it had in Operation Enduring Freedom in Afghanistan or even in the initial phase of Operation Iraqi Freedom that culminated in the topping of the statue of Saddam Hussein in Baghdad. The 1970s and 1980s witnessed a notable handful of operational military failures that shook the confidence of the nation’s leaders, in particular Desert One, the disastrous mission to rescue the Iranian hostages in 1980 and the uncoordinated invasion of Grenada in 1983. Both operations revealed multiple instances of military Services unable to communicate and operate effectively together, despite the high quality of military personnel and tremendous financial investment in all of these institutions.

Although initial efforts to make the case for reform in DoD were met with strong opposition from within the Pentagon, ultimately a critical mass of lawmakers, senior retired military officers and subject matter experts were able to prevail and significantly change how the DoD functions. More than twenty years later, the changes enacted as a result of the Goldwater-Nichols legislation are widely viewed as fundamental

to the success of the nation's military and its ability to conduct operations effectively.

### **Is a Goldwater-Nichols for Homeland Security Needed?**

When considering whether reform on the scale of Goldwater-Nichols is needed in the area of homeland security, it is useful to consider whether there have been operational failures comparable to those the military experienced in the Iranian desert or in the rainforest of Grenada. Certainly the governmental response at all levels—local, state and national—to Hurricane Katrina in 2005 was not an operational success. Although the response was not a total failure, it was not acceptable in the eyes of almost everyone who watched it unfold. President Bush himself said “the system, at every level of government, was not well-coordinated, and was overwhelmed in the first few days.”<sup>1</sup> Of particular concern is that fact despite considerable warning of the hurricane, the response to Katrina was still dramatically inadequate. To truly ensure the security of the homeland, the nation must be able to manage the consequences of a no-warning event, and the response to Hurricane Katrina lay bare how far the homeland security system has to go before it can meet that standard.

Looking beyond the operational realm, it is also clear that the homeland security system as a whole cannot yet function effectively. Strategy, planning and programming activities are not clearly linked together. Roles and responsibilities, within the interagency and among the federal, state, local, private and non-profit sectors remain somewhat murky defined. Perhaps most importantly, there is not yet a common corporate culture at DHS, nor are there sufficient numbers of homeland security professionals who have the training and expertise they need to be effective.

Relative to military operations, homeland security in the post-9/11 environment is a relatively new mission area, but nevertheless it is clear the country needs significant reforms in order to achieve an adequately functional homeland security system. A Goldwater-Nichols approach

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1. President George W. Bush, The White House, “President Discusses Hurricane Relief in Address to the Nation,” September 15, 2005, <http://www.whitehouse.gov/news/releases/2005/09/20050915-8.html> (accessed December 15, 2006).

to homeland security may well be part of the solution, but at the same time, the analogy is not perfect.

The Goldwater-Nichols Act greatly reduced the inter-Service infighting inside DoD. While a significant accomplishment, even before Goldwater-Nichols, the military services at least all worked for a single cabinet secretary. A central challenge in the homeland security arena is uniting the efforts of multiple cabinet agencies—each with its own cabinet secretary.

Goldwater-Nichols led to considerably more unity of effort among the various stakeholders inside DoD, but the reforms were only focused on a single level of government—the federal level, and on a single department within that federal government. The homeland security system is characterized by an exponentially larger number of stakeholders located at all levels of government and society—federal, state, local, tribal, private sector, non-profit and individual. Enhancing unity of effort among such a wide and disparate range of actors will be far more difficult than reforming a single cabinet agency at the federal level of government.

While the Goldwater-Nichols experience does not fit the homeland security sphere perfectly, there is a need for a new framework around which to organize the nation's homeland security activities to better ensure their effectiveness. In thinking about how the Goldwater-Nichols example might apply to the homeland security sphere, it is useful to consider what “jointness” really means. In an article marking the 20<sup>th</sup> anniversary of the Goldwater-Nichols legislation, Mackubin Owens noted that most supporters of the Goldwater-Nichol reforms used the word “jointness” to describe the quest for greater integration, specifically the desire for “improved procedures for combining the unique specialized capabilities of the different services to enhance combat effectiveness.”<sup>2</sup> Framed in this way, greater “jointness” is also needed in the homeland security sphere. There is a real need for a framework and set of institutional relationships that will promote increased integration among the many actors in this area so that the nation will be better able

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2. Owen, Mackubin, “Conformity Needs Competition,” *Armed Forces Journal* (June 2006): 25.

to combine their unique, specialized capabilities into a robust capacity to protect the homeland and manage the consequences when efforts to prevent attacks fail.

### **What Would a New Framework Look Like?**

The reforms enacted by the Goldwater-Nichols legislation are a useful starting point for exploring what a new framework for the homeland security system might look like, but given the significant differences between the defense and homeland security arenas, there will clearly be limits to how completely the Goldwater-Nichols experience can be applied to homeland security.

### **Stronger, More Unified Leadership at the Federal Level**

Reflecting on the major accomplishments of Goldwater-Nichols for the Defense Department, there may be loose analogues to challenges in the current homeland security system. First, the Goldwater-Nichols Act strengthened the Secretary of Defense and Chairman of the Joint Chiefs of Staff relative to the military Services, and also established lines of authority to unify the advice that DoD provides to the President. In the homeland security context, the parallel challenge is the central question of how to ensure that the organization at the federal level with primary responsibility for homeland security is sufficiently empowered to execute this mission. What is the best way to structure the homeland security system so that there is a clear focal point in the federal government for setting policy, convening all of the essential stakeholders and ensuring that policy is effectively implemented? The DHS was clearly established to serve as the focal point for homeland security activity at the federal level, but there are many other federal agencies that play important roles in various aspects of homeland security.<sup>3</sup> While Homeland Security Presidential Directive/HSPD 5 gives DHS the responsibility to serve as the principal Federal official for domestic incident management, DHS cannot direct the rest of the

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3. Agencies with significant homeland security roles include the Department of Health and Human Services, the Department of Transportation, the Department of Justice, the Department of Defense, the Department of Agriculture and the Department of State, just to name a few.

cabinet to behave in particular ways, whether during an event or on a steady-state basis.<sup>4</sup>

The relative equality of all federal agencies complicates not only the federal government's ability to conduct joint operations inside the United States, but also overseas in the context of complex contingency operations. In its *Beyond Goldwater-Nichols Phase 2 Report*, the Center for Strategic and International Studies (CSIS) examined in detail how to bring greater unity of effort to interagency operations in the overseas context.<sup>5</sup> A theme that ran through many of the specific recommendations in the report was the need for the National Security Council (NSC) to play a stronger role in both the policy development process as well as oversight at the strategic level of planning for actual operations. Whether operating overseas or inside the United States, the only actor in the federal government that can ensure Presidential intent is being executed, mitigate disputes among cabinet agencies, and minimize instances of log-rolling is the White House in the form of the National Security and Homeland Security Councils. Only the President, or those that speak for him or her, can serve as the arbiter between cabinet secretaries, and for any complex operation to have the potential to succeed, there has to be a mechanism in the system to resolve major disputes. The lead federal agency model cannot be at the core of the homeland security system because it provides no realistic mechanism to broker bureaucratic disagreements at the strategic level.

### **Empowered Operational Leadership**

A second major accomplishment of the Goldwater-Nichols Act that is relevant when considering a new framework for the homeland security

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4. HSPD 5 states that "the Secretary of Homeland Security is the principal Federal official for domestic incident management. Pursuant to the Homeland Security Act of 2002, the Secretary is responsible for coordinating Federal operations within the United States to prepare for, respond to, and recover from terrorist attacks, major disasters, and other emergencies. The Secretary shall coordinate the Federal Government's resources utilized in response to or recover from terrorist attacks, major disasters." See Homeland Security Presidential Directive/HSPD 5: Management of Domestic Incidents (The White House, February 28, 2003).
  5. See *Beyond Goldwater-Nichols: U.S. Government & Defense Reform for a New Strategic Era, Phase 2 Report*, pp. 43-53, July 2005.

sphere was the empowerment of the combatant commanders to conduct operational planning and control the operational resources necessary to conduct successful operations. While there is not today an analogue in the homeland security system for the combatant commanders, to be effective in responding to major domestic catastrophes, the Nation does need to conduct joint, interagency operational planning in advance of actual response operations. The nation also needs a framework, if not a single organization, that brings together pre-existing operational plans, capabilities and the many stakeholders in the homeland security system into a clear, transparent process that can set priorities and then implement them effectively during a catastrophe.

Today, the most similar structure in the homeland security system to a combatant commander is the Joint Field Office (JFO), led by the Principal Federal Official (PFO), a position established in the National Response Plan (NRP). Under the NRP, in the event of a major catastrophe, the federal government would work together with affected states to establish a JFO that would allow key federal officials to be co-located with state emergency managers in order to work together to lead the response to a domestic incident. In the case of multiple, simultaneous events or an event that has significant national impacts, the Secretary of Homeland Security has the authority to designate a “national PFO” that would coordinate the response at the federal, strategic level. In stark contrast to DoD’s combatant commanders, however, PFOs do not have directive control over all of the resources and capabilities that would be employed as part of a response to a catastrophe. Principal Federal Officials have coordinating authority only, at the federal level among the many cabinet agencies, but also with state and local authorities. Although combatant commanders can work with coalition forces and non-military organizations such as non-governmental organizations and the private sector, their operational plans do not rely on capabilities from these organizations to succeed. Combatant command plans are based on only those forces that the commanders actually control or know with considerable certainty will

be available.<sup>6</sup> In contrast, PFOs, while not controlling the resources of other stakeholders at the state and local level, or in the private and non-profit sectors, fundamentally rely on capabilities from all of these sectors in order to carry out a response to a domestic incident. These features of the nation's emergency preparedness system are central differences between the defense and homeland security spheres, and it is not clear whether the empowerment of the combatant commanders that the Goldwater-Nichols Act achieved could be easily replicated in the domestic sphere.

In the absence of a single individual like the combatant commander in charge of an operation, how can the nation—at all levels of government—best create unity of effort? At a minimum, the major stakeholders at all levels have to understand clearly which actors are in charge of which elements of a response effort and have some basic agreement about that division of labor. The current system, based around the NRP and the National Incident Management System (NIMS), is extremely complex for many reasons, but if the existing system is to function more effectively, it is critical that leaders and major “implementers” at all levels need to be much more familiar with the framework envisioned in the NRP and its supporting documents. In order to make such a complex system work, it must be trained and exercised extensively.

Any successful framework for the homeland security system also will need to be sufficiently flexible to accommodate a wide range of potential crisis scenarios. In many catastrophes, the current system, which envisions a response that is led by local, state and federal officials collectively, may be sufficient—particularly if those authorities have exercised and trained the processes outlined in the NRP and the NIMS. At the same time, it is important to consider whether there could be a small number of scenarios that might require a different command and control structure. Could there be instances in which the catastrophe

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6. For example, while U.S. Pacific Command does not have command and control over South Korean military forces, it is clear that those forces would be central to any engagement against North Korea and hence are factored into the war plan accordingly. In contrast, while some coalition forces were likely to have been available, when U.S. Central Command developed plans for Operation Iraqi Freedom, the only allied forces that were included in the core war plan were the British Army troops that Prime Minister Blair made clear would be available for the invasion.

is so dire that a federally-led effort is the only way to respond on the necessary scale and with the necessary speed? How will the nation's leaders determine when such a dramatic step might be necessary? Would such a response be possible under existing legal authorities? Are there steps the federal government could take, working with state governments, that would make state governors more comfortable with the concept of a federal lead for certain mega-disasters? Or is the key challenge to work with states to develop more robust capabilities to respond to a catastrophe so that a federal lead would not be necessary to ensure effectiveness? These are critical questions to answer before formulating any sort of Goldwater-Nichols Act for homeland security.

Greater emphasis on regional organizations may be part of the new framework that is needed. By definition, in a catastrophe state capabilities will be exceeded. Under the existing framework, states have a mechanism—the Emergency Management Assistance Compact—to share resources, but what specific resources might be shared under what conditions is often not defined until a disaster is already underway. More emphasis on regional organizations that are focused on assisting state efforts to develop plans and policies for catastrophic incident management—nor only among states in a region, but also between states in a region and the federal level—may help fill the gaps that exist today. Regional structures could also be a tool for working with state and local authorities on a steady state basis to implement policy and planning guidance coming from Washington more consistently and effectively. Regional structures offer a means by which to establish stronger relationships with the state, local, tribal and non-governmental sectors, as well as tool by which to begin cataloguing and assessing capabilities within regions.

For regional structures to be effective, whether they are largely state-centric entities with federal liaisons, or federal organizations with state liaisons, they must add real value and not simply function as an additional layer of bureaucracy. For regional organizations to be useful, federal headquarters in Washington DC will need to be willing to delegate real responsibility and authority, and not just see regional structures as a filtering mechanism.

Finally, determining how to draw the boundaries of regional organizations is another challenge, and one with an analogue in the defense arena. The Unified Command Plan (UCP) outlines how the world is divided up among the various regional combatant commanders. In more than one instance, countries with intrinsic relationships in the real world are allocated to different combatant commanders—in many cases the politics of conflicts place countries on opposite sides of the UCP boundaries. While commands may avoid making difficult choices between countries with adversarial relations by virtue of these divisions, the dividing lines also can make it harder to view and address these precise conflicts in an organic fashion. In the defense realm these dividing lines are further complicated by the fact that other important U.S. organizations such as the Office of the Secretary of Defense and the Department of State do not divide up the world in the same manner as the military combatant commands. The challenge of establishing regional boundaries in the defense sphere is an important reminder that establishing regional divisions inside the United States will require careful thought, and if such a move is to have real hope of being beneficial, the federal government, states, major urban areas, and major private sector and non-profit organizations need to adopt a reasonably uniform approach to such boundaries.

### **Comprehensive Strategic Guidance and Planning**

Another significant contribution the Goldwater-Nichols Act made to the modern Defense Department was to direct much greater emphasis on developing a comprehensive approach to strategy development and planning. Although the DoD reviewed its strategy and planning process as part of the 2006 Quadrennial Defense Review institutional roadmaps, it is certainly true that while not perfect, the DoD has the most robust strategy development and planning system in the federal government. In contrast, despite an array of strategy documents, Homeland Security Presidential Directives and departmental strategy plans, it is clear that the full range of stakeholders in the federal homeland security system are not yet entirely on the same page in terms of priorities and overall focus. As one simple example, the federal government has not yet even developed a common terminology for homeland security matters

that enables the community to communicate clearly when its disparate elements come together.

Without prejudging the issue entirely, one potential way to bring more unity of effort to the strategy development and planning process for homeland security at the federal level would, again, be to ensure a more robust role for the White House. A first step toward a stronger White House role would be a merger of the National Security Council (NSC) and Homeland Security Council. Merging the National Security and Homeland Security Councils into a single, truly National Security Council would greatly facilitate the ability of the federal government to develop strategies, policies and plans that address homeland security challenges in a holistic, integrated fashion and make important linkages between security issues outside and inside U.S. borders. A unified NSC with staff that can address the full suite of security challenges would reduce disconnects that can and have arisen when two, largely separate organizations are responsible for addressing security issues that by definition are inextricably linked.<sup>7</sup>

Even if a future administration chooses to merge the NSC and HSC into a single, true National Security Council, there is still considerable work to be done in developing a more functional policy, planning, budgeting and execution (PPBE) system across the interagency. Although there are a number of White House-issued strategies related to homeland security, they have been developed separately at different points in time—in some areas they overlap and in other areas there are gaps—and it is not clear how to prioritize among the different documents. One means to unify these different concepts would be to conduct at the interagency level a Quadrennial National Security Review (QNSR) that would enable the entire interagency to work together to determine national objectives, develop a strategy to achieve those objectives, determine what capabilities are needed for that strategy and delineate roles and responsibilities inside the interagency so that federal departments can successfully implement those parts of the strategy for which they are responsible. Just as the Quadrennial Defense Re-

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7. See *Beyond Goldwater-Nichols Phase 2 Report: U.S. Government & Defense Reform for a New Strategic Era*, pp. 66-70 for a more extensive discussion on the need to merge the NSC and HSC.

view serves as the foundation for the Strategic Planning Guidance that DoD develops as an internal document to guide its efforts, a product of the QNSR would be the development of a National Security Planning Guidance that would provide more detailed direction to federal departments on how to implement their elements of the strategy, to include homeland security planning and activities.<sup>8</sup>

Equally important is determining how and to what degree to integrate state, local and tribal entities, as well as other non-federal actors into the PPBE system undertaken at the federal level. The primary tool the federal government has to shape activity at the state and local level is the DHS Grants and Training program, but it is not clear that the range of grants and training activities are sufficiently connected to strategic priorities or allocated in ways that maximize the degree to which state and local preparedness efforts reflect priorities being articulated at the federal level. Progress has been made in recent years on allocating a larger share of grants and training funding based on risk assessments, but considerable work remains. It is also clear from the DHS Nationwide Plan Review that more must be done to work with states on deliberate planning for catastrophes as well as developing a process by which to assess the readiness of national emergency preparedness capabilities at all levels.

### **Developing a “Joint” Homeland Security Career Path**

The last major accomplishment of Goldwater-Nichols that clearly has applicability to the homeland security sphere is the critical decision Congress made twenty years ago to link service for military officers in joint duty assignments to promotion to general officer ranks. It is widely acknowledged that this step, while vigorously resisted at the time by the Services and only grudgingly supported in the wake of the Act’s passage, resulted in a much higher quality Joint Staff and stronger corps of joint officers.<sup>9</sup>

There is recognition in Washington that there is a need for a much larger cadre of homeland security professionals who have the multi-

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8. Ibid, pp. 27-29.

9. James R. Locher III, *Victory on the Potomac: The Goldwater-Nichols Act Unifies the Pentagon*, pp.443-444. (Texas A&M University Press, 2002).

disciplinary expertise necessary to be successful managing the challenges inherent in protecting the homeland and managing the consequences of major domestic incidents. As part of building such a cadre, there is also recognition that there needs to be a professional development and educational system that explicitly focuses on the myriad, complex and in some cases unique features of the homeland security system. In this sense, there is a real need in the homeland security sphere to create a system similar to the joint officer management program that was directed by the Goldwater-Nichols Act.

In its *Beyond Goldwater-Nichols Phase 2 Report*, CSIS recommended that Congress and the interagency should work together to establish a national security career path that would require career civilians to serve in interagency rotations in order to be considered for promotion to Senior Executive Service (SES).<sup>10</sup> CSIS is not the first non-governmental institution to recommend such an approach; the Hart-Rudman Commission called for the development of a National Security Service Corps in its final report published in 2001. A career path of this kind would include traditional national security professionals and homeland security professionals.

In addition to requiring interagency rotations to be considered for promotion to SES, the CSIS Phase 2 study also called for building an education and training program that would be a central element of the professional development system for national security career personnel. The DHS is currently considering how best to develop such an education and training program. One option would be to expand the mandate of the National Defense University to address the full panoply of national security issues (of which homeland security is a part) and change the name of the institution to the National Security University. Critics of this option argue that such a change would likely be more cosmetic than substantive and might not ultimately provide sufficient focus on the non-defense aspects of the curriculum. Another option would be to establish a new institution focused on interagency operations, both domestic and international, or an institution that is focused exclusively on homeland security issues. At a minimum, it is clear that there is a need to provide senior homeland security professionals with a focused

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10. *Beyond Goldwater-Nichols Phase 2 Report*, pp. 40-42.

developmental experience at an accredited educational institution that has a curriculum targeted toward the full range of homeland security challenges.

### **The Goldwater-Nichols Act: An Imperfect Roadmap for Homeland Security**

Although there are many differences between the well-established and very mature national defense system and the much newer homeland security system, it is clear that the major reforms achieved as a result of the Goldwater-Nichols Act of 1986 can serve as both goals for which to strive toward and a rudimentary roadmap for how to move the homeland security system toward greater unity of effort and ultimately greater effectiveness. The homeland security environment is even more complex, both organizationally and politically, than the overseas environments in which the military combatant commanders operate. Tempting as it is, it is not possible to simply “cut and paste” the Goldwater-Nichols reforms into the homeland security sphere. The homeland security community will have to consider carefully how to translate the achievements of Goldwater-Nichols effectively into the homeland security environment. Ultimately it may not be possible to achieve the same degree of clarity in certain areas that was achieved in the defense realm as a result of the legislation. The short operational chain of command between the combatant commanders and the President of the United States that was enshrined in the Act may be a bridge too far on the domestic side in light of the complex array of actors at the federal level, the governors at the state level, the diverse models of authority and responsibility at the local level, as well as the presence of critical actors in the private and non-governmental sectors.

At the same time, the core achievements of the Goldwater-Nichols Act—establishment of strong, unified leadership at the federal level, empowerment of operational leaders in the field, strengthening the strategy development and planning process, and the creation of a more joint cadre of security professionals—are clearly much-needed elements of a stronger homeland security system and are reforms the wider homeland security community should seek thoughtfully but aggressively in the next few years.