

Goldwater-Nichols Act for Homeland Security

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Why is a Goldwater-Nichols Act Needed for Homeland Security?

All cabinet-level departments need to join together in a Goldwater-Nichols type reform to look at man-made and natural threats and government responses in an integrated manner. By creating better communication and synergistic efforts our government will be better equipped to handle, in a cost effective manner, the outcome of a terrorist act or natural disaster. This course of action will drive a holistic approach for the development of capabilities that will be flexible and resilient while providing a proactive capability to prevent some of the threats facing us today and in the future.

History of the Goldwater-Nichols Act

The attempted rescue of U.S. hostages held captive by Iranians in 1980 was categorized as unsuccessful, not just for its failed effort, but also because of a plethora of interoperability issues. For example, Marine Corps pilots were operating unfamiliar Navy helicopters, covertly inserting Army Special Forces to waiting Air Force refueling platforms, and while its joint concept appeared fluid, the operation was nevertheless chaotic. Interoperability issues would also plague the U.S. efforts in Grenada three years later. “Who,” asked Colonel O. E. Jensen, “hasn’t heard about the soldier who called from a phone booth on Grenada back to the States to get a message passed to U.S. Navy ships lying in sight offshore? Who doesn’t know that the ATO [Air Tasking Order]

1. Lieutenant Colonel Sean Cook, Major Mark Foley and Major Heath Bope also contributed to the research for this paper.

in the Gulf War had to be printed, copied, and carried to the Navy by hand because communication systems were incompatible? Such incompatibility could cost lives in the next war.”²

Congress created the Goldwater-Nichols Act in 1986 to force the Department of Defense (DoD) to be more responsive to the Commander-in-Chief and more efficient in the conduct of interservice matters. Lines of communication between president, cabinet, and service chiefs were fragmented and fundamentally separated. These divisions caused unhealthy competition between DoD organizations ranging from procurement to operations. Competition among air, land, and sea assets gave rise to:

- Waste, redundancy and inefficiencies in procurement;
- Overlap and inefficiencies in the development of new technologies;
- Network, software and equipment interoperability failures; and
- Issues with manpower and capabilities integration.³

Consequently, each service developed distinctive customs and practices; the “teamwork” atmosphere essential for conducting synergistic warfare was lacking. The objectives of Goldwater-Nichols for the military were many to include:

- Establishing clear responsibility;
- Assigning commensurate authority;
- Enhancing joint strategy formulation;
- Better providing for contingency planning;
- Strengthening the effectiveness of service members through Joint Professional Military Education (JPME) and Joint Duty Assignments (JDA); and
- Defining promotion eligibility requirements for general and flag officers.

2. “Information Warfare: Principles of Third-Wave War,” Col O.E. Jensen, *Aerospace Power Journal*, Winter 1994.

3. “Beyond Goldwater-Nichols, New Proposals for Defense Reform,” Clark A. Murdock and Richard W. Weitz, *Joint Force Quarterly*, issue 38: 34-41

All would lead to wide and sweeping changes within DoD. This reorganization allowed the Commanders-in-Chiefs (CINCs) [known as Combatant Commanders (COCOMs) after 2002] complete and total discretion over employment of all military assets in their particular region or “theater” of command. COCOMs are now responsible for assigned Army, Navy, Marine Corps and Air Force resources and report directly to the Secretary of Defense and the President of the United States. Goldwater-Nichols, a landmark in bureaucratic change, streamlined the military for greater efficiency in mission accomplishment. The overwhelming success of Operations JUST CAUSE and DESERT STORM revealed the extent to which the act unified the armed forces, enabling the military to be a more effective fighting force.⁴

Goldwater-Nichols also included integral elements within the legislation to provide DoD guidelines for Joint Officer Management (JOM) by establishing requirements for JPME and JDA categorization, and promotion rates/prerequisites within the service components to develop military officers with the skills needed to effectively integrate and operate within a joint environment. The objective of JPME is to educate officers in strategic thinking and planning, military history, and operational warfare. JPME is implemented in two distinct phases during selected officers’ careers when they become eligible for intermediate and senior service schools. Phase one emphasizes the fundamentals needed for joint operations, while phase two emphasizes joint perspectives, focusing on planning, operations and procedures.

In order to not disadvantage officers for promotion within their respective service, Goldwater-Nichols established promotion rate and eligibility requirements to be considered during an officer’s promotion selection board. Officers who are currently serving in JDAs, or who became Joint Specialty Officer (JSO) qualified through Joint Staff positions, are expected on average to be promoted to the next higher grade at a rate not less than the rate for the officers in the same military service in the same grade and competitive category who are serving, or who have served, on the headquarters staff of their respective military service. Lastly, effective

4. “Taking Stock of Goldwater-Nichols,” James R. Locher III, 1996: 15.

September 30, 2007, to be eligible for promotion to the rank of a general or flag officer, an officer must be designated as a JSO.⁵

Joint Officer Management within the Department has not been without its shortfalls and the 2003 Government Accountability Office (GAO) study, *A Strategic Approach Is Needed to Improve Joint Officer Development* (GAO-03-548T), concluded that DoD needs to continue refining its JOM processes. The study found that a significant impediment affecting DoD's ability to fully realize the cultural change is the fact that DoD has not taken a strategic approach to develop officers in joint matters, especially as it relates to the total force concept of operations integrating the active, guard and reserve components of the military services. Further, DoD has also not determined the number of officers who should complete the joint education program and has not filled all of its critical joint duty positions with officers who hold a joint specialty designation.

While the GAO has highlighted areas for improvement, DoD's Joint education and assignment process can provide a template and lessons for development of similar programs across many organizations of government. The benefits of Goldwater-Nichols go beyond education, equipping and training, to name a few. This is an evolution born out of necessity that is becoming more critical with the increased power for destruction by the non-state actor, pace of technological change and constrained budgets. We must seek new relationships and integration opportunities for cost effective development of capabilities that achieve their full potential.

Historical Military Capabilities

Current U.S. military capabilities and competencies encompass an arsenal of firepower like no other in the world. This fighting force is composed of highly skilled men and women dedicated to defending this country from hostile threats through the application of various competencies across the full spectrum of warfare. Today's National Military Strategy calls for unity of effort to defeat an enemy in two near simultaneous theaters of operation with resounding success.

5. "Joint Assignments and Policies," <http://www.fa-57.army.mil/newsletter/online/Winter2005/assignment.htm>.

Historically, DoD developed war making capabilities based on the assessment of the “traditional” battlefield—the U.S. military services trained and equipped for large-scale campaigns to defeat fielded forces. Military strategy has been influenced through the application of Carl von Clausewitz’s general principle; “take possession of [the enemy’s] material and other sources of strength, and direct operations against the places where most of those sources are concentrated.”⁶ Military, political and economic actions against an enemy state have been the tools of influence for our nation. World War I and II characterized conventional military operations in which the strategy was to use large maneuver forces to defeat our enemies through attrition, breaking lines of communications and destroying their strategic war-making capability.⁷

During the Korean and Vietnam conflicts, DoD had indications that the face of battle was starting to change. U.S. forces were limited in their ability to attack rear echelons because of political boundaries or political limitations. Some of the techniques employed by the Vietnamese irregular forces confounded the use of conventional tactics—resulting in the development of the swift and agile Air Cavalry.⁸ As the United States moved into the Cold War, deterrence and containment became the scope of U.S. military operations and posture. The projected threat of nuclear force created a military trump card for generating favorable foreign responses. The military also developed large conventional forces capable of rapid engagement and smaller units, such as special operations forces or tailored conventional force packages, creating a wider range of options to achieve national objectives.

The application of U.S. tools of influence on our enemies was predicated on the ability to leverage their infrastructure through the threat or use of actual force. Because “America’s potential enemies are

6. “Principles of War, Carl von Clausewitz,” <http://www.clausewitz.com/CWZHOME/PrincWar/Princwr1.htm#IIIa>.

7. “Iraq: Heavy Forces and Decisive Warfare,” *Parameters*, William R. Hawkins, Autumn 2003: 61-67.

8. “Winged Sabers: The Air Cavalry in Vietnam: 1965-1973,” Lawrence H. Johnson.

no longer exclusively established states with physical assets at risk,”⁹ returns on the use of strategic threats associated with traditional military capabilities have diminished. Nevertheless these capabilities can still be viable for unconventional warfare.

The development of lighter, agile and more lethal forces adapted for speed is not a new phenomenon in the employment of combat forces. Seeking to transcend the static trench warfare tactics of World War I, a German officer by the name of Hans von Seeckt set out to promote the idea of a tactical, more mobile military force. Envisioning the simultaneous maneuver of integrated tanks, aircraft, artillery, and a motorized infantry, von Seeckt paved the way for a new concept known as *Blitzkrieg*, or “lightening war.” In the early stages of World War II, Germany used this new tactic to great effect on the Eastern and Western Fronts. As General Erwin Rommel employed his 7th Panzer Division into France, smashing through Belgian resistance, he described transforming his forces “into a steel juggernaut emphasizing speedy movement and maximization of battlefield opportunities.”¹⁰ The German army set a historical precedent for the employment of armored troops and changed the nature of warfare by implementing a new ability for speed. Similarly, following this *Blitzkrieg* conceptual mindset, warfighting based on technology can not only create an advantage of speed and precision, but also foster new requirements such as the need for rapid intelligence during all phases of combat.

Blitzkrieg did not just create advantages of speed and precision, but also created new intelligence requirements. Information must meet precision targeting requirements to minimize collateral damage and be timely enough to target quickly emerging and fleeing targets. Non-kinetic resources, Information Operations, unmanned aerial systems (UAS’s) and space capabilities now play key roles in the effective and rapid employment of firepower. These advances are a result of the natural progression of technology and allowed campaigns from Operation Desert Storm to Operation Enduring Freedom to be more effective in destroying targets while reducing instances of unintended

9. “Sustain the Mission. Secure the Future,” <http://www.sustainability.army.mil/overview/ArmyEnvStrategy.pdf>.

10. “Blitzkrieg, 1940,” EyeWitness to History, www.eyewitnesstohistory.com (2002).

collateral damage. Consequently, intelligence gathered for these new capabilities allowed rapid assessment and targeting of “emerging” targets while enabling stringent rules of engagement to be employed with little or no effect on the surrounding civilian population.¹¹

Prior to 2001, the U.S. had a fighting force that was very capable of meeting conventional and non-traditional warfare requirements. The services were continuing to hone their joint and coalition operations while shortening the timeline from actionable intelligence to mission execution.

11 September 2001

The attacks of September 11, 2001 on the United States revealed a new threat and represented the opening salvo in the Global War on Terrorism (GWOT). Although unique in character, particularly for its conduct on our shores, the blurring of crime and war is a concept involved in fighting “non-traditional” enemies similar to hostile combatants in Afghanistan and Iraq (see Figure 1). Compelling a response with overlapping traditional warfighting roles, a new capability construct is emerging to address these threats. Although riddled with unique challenges, combating insurgents operating in the mountains

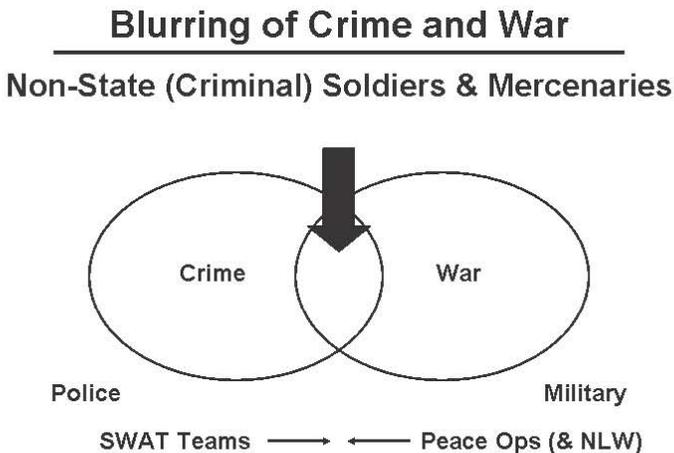


Figure 1: Blurring the Distinction between Crime and War

11. “Understanding Collateral Damage,” Carr Center for Human Rights Policy, John F. Kennedy School of Government, (June 2002).

of Tora Bora or the urban environment of Baghdad are achievable. The Vietnam conflict produced an enemy employing unconventional tactics. They blended into the battlefield using guerrilla tactics to fight American soldiers on “their terms.” Analogous to insurgent forces in the GWOT, the soldiers of the People’s Army of Vietnam (PAVN) were lightly equipped with small arms, mortars, and antitank weapons, no close air support, and perfectly camouflaged within their surrounding environment.¹²

The development and establishment of enemy non-state actors embedded within a nation, not necessarily sympathetic to that states’ objectives are also a tangential issue for the GWOT. The means of exerting influence over a nation, prior to using military force, has traditionally presented itself through the use of political, economic, and other instruments of national power. Unfortunately, some traditional methods of influencing desired behavior have limited effects on extremist since their views on national autonomy, the importance of freedom, and the universality of human rights are not always consistent with western thinking or understanding.

Determined to fight on our shores, terrorists are globally networked through ideology, well funded for their goals/methods, organized by cells, and cannot easily be deterred through conventional methods of national influence. They are steeped in radical anti-American ideology, with some of them being financially secured in measure by various criminal enterprises, some Muslim charities, banks and mosques. They are educated in schools that are “instrumental in creating an ideological climate which generates terrorism.”¹³ Such an enemy is difficult to fight, especially under today’s operational constraints.

The combination of DoD material and non-material solutions, kinetic and non-kinetic capabilities, competencies, and lessons learned have created a military evolution toward fluid tactics required for combating threats presented in the GWOT. Conducting military warfare under

12. “After Action Report,” Commanding Officer of 1st Battalion, 7th Cavalry, Lt Col Hal Moore, (November 1965), http://www.au.af.mil/au/awc/awcgate/vietnam/ia_drang.pdf.

13. “Fueling Terror, Institute for the Analysis of Global Security,” <http://www.iags.org/fuelingterror.html>.

the current global conditions requires a quick response to actionable intelligence with a precise and measured response in order to fight non-traditional enemies. Services are now focusing on future capabilities that will incorporate cyber warfare and non-kinetic weapons. DoD is also addressing asymmetric threats that potentially give non-state or state actors an advantage on the battlefield. One significant gap in our response to an elusive enemy is a coordinated effort bringing to bear all capabilities across all components of government. U.S. forces will need the competencies of the other arms of our government to complement and create greater effects.

A precise and measured response from an expeditionary force demonstrating power through rapid response, decisive projection of power, and a sustainment of troops is vital to the execution of combat operations. The combination of precision munitions and information operations provide the U.S. military with offensive capabilities to influence the battlefield within seconds, thus conforming to necessary operations on an accelerated timetable. Adhering to the ideals of transformation, the Army has created a more mobile, rapid, and less massive fighting force better suited to counter the urban warfare tactics employed by a non-traditional enemy. The new strategy of lighter and more technologically advanced units is the by-product of the natural selection of warfare for speed and agility, transforming service CONOPS and allowing for more rapid global retaliatory responses to secure tactical and strategic objectives in GWOT.

The military is evolving along lines that will improve GWOT capabilities and natural disaster response, but military solutions will not achieve full potential unless the process includes a team approach from government. There are conditions that exist throughout our government that are similar to conditions within DoD prior to 1986. Under the new demands of GWOT and natural disaster response, the cabinet-level departments of the U.S. government need an act that will create the same type of synergistic effects that have been beneficial to the DoD. For example, inclusion of the Department of Education will provide opportunities for expanding public understanding of our nation's struggle with terrorism.

Current Conditions

The military maintains core competencies and capabilities that support domestic GWOT and natural disaster response. They range from manpower to airlift, medical capacity, communications and more. DoD's recapitalization of equipment and manpower downsizing may remove military capabilities from the solution set because domestic requirements are not being captured or articulated to the right communities. Goldwater-Nichols was enacted within DoD to force the services to operate as a single war fighting entity and to develop officers skilled in attaining unity of effort between and among services, agencies, non-governmental organizations, and multinational forces. Its focus was to increase "jointness," interoperability, planning, and acquisition, and to transform all of these into cohesive functions. This new direction allowed service chiefs to concentrate on supporting regional combatant commanders by organizing, equipping, and training their forces to fight and win wars, instead of trying to outsmart their sister service counterparts in the budget, equipment, and mission arenas. As a result, regardless of the service, the mission now remains constant across similar organizations. Further, Congress directed this mandate and provided the necessary fiscal resources to accomplish the reorganization and paradigm shift.

Contrary to DoD's attempts at instilling "jointness" and developing its joint personnel force structure, the exact opposite concept of operations exists within the Department of Homeland Security (DHS). The primary mission of DHS is to protect the homeland, but unfortunately there is little unity of effort among the dissimilar agencies that comprise DHS to make it into a cohesive operative organization. While it is a daunting task to stand up an organization that incorporates numerous organizations and agencies, there does not appear to be any thrust to force change or resources to support this task. Communications between agencies is still a challenge, especially from the first responder level through the state to one or more DHS components.

The lessons learned from Hurricane Katrina showed that there were numerous breakdowns in areas such as command and control, unified management, communications, training, and logistics, to name just a few. DHS and other federal command centers had unclear and often

overlapping roles and responsibilities that were exposed as flawed,¹⁴ while the federal response to Hurricane Katrina highlighted various challenges in the use of military capabilities during domestic incidents. Limitations under federal law and DoD policy caused the active duty military to be dependent on requests for assistance. These limitations resulted in a slowed application of DoD resources during the initial response. Further, active duty military and National Guard operations were not coordinated and served two different bosses, one the president and the other the state governors.¹⁵

Therefore, all cabinet-level departments need to join together in a Goldwater-Nichols type reform to look at man-made and natural threats and government responses in an all-encompassing manner. Intra-agency reform will provide unity of effort to leverage departmental competencies. These capabilities can be applied to break threat chains prior to an attack and provide the fullest post-event response possible. While military services are restricted to identification of DoD solutions, there are common threats that need to be dealt with by the whole of our government. Steps are in place to capture all known and published threat documents. Threat documents can then be consolidated and prioritized by a sanctioned effort to help delineate and prioritize work effort and resources of the entire federal government. Solutions can be developed that have the most cost effective and long-term effects for the mitigation of these threats. As we look across the scope of a threat, from manufacturing an explosive device or development/recruitment of the terrorist, through transportation of that capability, to the execution of the act and efforts following the event, our government must determine the best resources and methods to sever the chain leading up to a potential incident. This approach will provide a holistic and cost effective method to determine alternatives for our senior decision makers. The identification of gaps and seams in our capabilities will also be critical to meeting the new challenges our nation faces in light of the potential magnitude of these types of occurrences.

14. "The Federal Response to Hurricane Katrina: Lessons Learned Chapter 5," <http://www.whitehouse.gov/reports/katrina-lessons-learned>.

15. "The Federal Response to Hurricane Katrina: Lessons Learned Chapter 5," <http://www.whitehouse.gov/reports/katrina-lessons-learned>.

DoD Capabilities in Domestic Response

There is a common thread between DoD and the rest of the federal government when it comes to protection against man-made and natural threats. Unfortunately, the divisions and fragmented lines of authority that plagued DoD prior to 1986 exist across cabinet-level departments today because intra-agency coordination and cooperation have not been addressed in ways similar to Goldwater-Nichols. Departments spend precious time and tax dollars in the development of solutions to similar problems. Our government must enact solutions for protection and security that are capable of meeting national requirements. Solutions should provide true capabilities that meet natural, man-made and/or foreign threats. This will be paramount in an era of decreasing and constrained budgets.

The Military’s Integrated Unit, Base and Installation Protection Capabilities Based Assessment (see Figure 2) is fusing material and non-material inter-service, intra-agency, and multi-national solutions to develop force protection capabilities. A similar concept could help to dissolve stovepipes created from natural bureaucratic processes

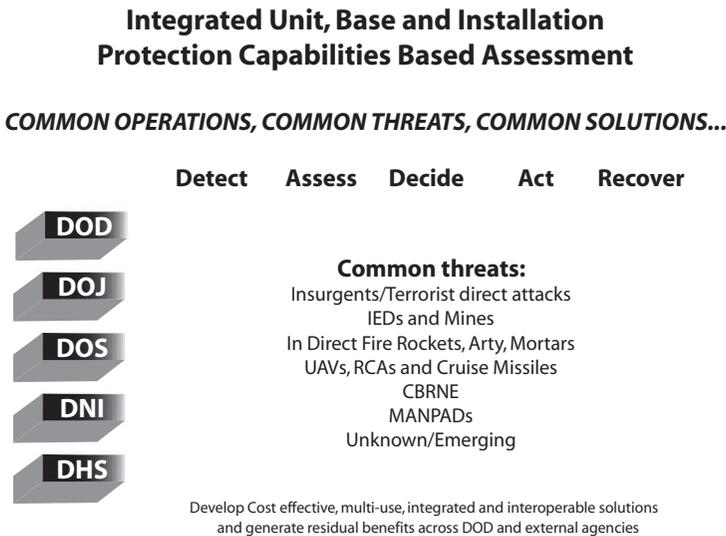


Figure 2: Integrated Unit, Base and Installation Protection Capabilities Based Assessment

within our government. It outlines the integrating operations and functions necessary to describe and apply DoD capabilities, ensuring unity of effort and global synchronization for security at the strategic, operational, and tactical levels. This Joint effort is integrating all force protection solutions to reduce waste and create interoperability across all the services while trying to expand effort across the whole government to meet common requirements.

DoD possesses human, material, and non-material resources and robust capabilities that provide for conduct of military and post natural disaster operations. But under limited budgets, many of these capabilities are at risk of going away or atrophying. Therefore it is critical for organizations to eliminate redundancy and the waste of funds in pursuit of parallel efforts aimed at meeting common department requirements. Goldwater-Nichols for government will help institutionalize the relationships, integration and cooperation required to achieve our government's full potential. This is highlighted again by the military's potential to support our homeland.

DoD Support for the Homeland

The key elements for supporting GWOT have been previously covered, but just as important are the domestic response resources. Land, sea, and air transportation assets can be utilized for transportation of supplies, pre-positioning of personnel and equipment, and aero-medical evacuation. Meanwhile, DoD C4ISR (Command, Control, Communications, Computers, Intelligence, Surveillance and Reconnaissance) assets can provide state-of-the-art communication connectivity at all levels of command and provide real-time intelligence and situation assessments. Additionally, DoD search and rescue forces, medical, and civil engineering resources can be used to expedite recovery operations and help mitigate impact to personnel affected in the area of operations. DoD can play a vital role for homeland security beyond material resources. The military can establish training programs on command and control, logistics, and mobilization to non-DoD agencies. NORTHCOM can be the interface between DoD and non-DoD agencies. An example of the kind of transferable concept that could come out of this kind of exchange may be found in the Air Tasking Order Process.

The Joint Forces Air Component Commander (JFACC) is a derivative of joint doctrine developed as a result of the Goldwater-Nichols Act that made it possible to integrate the Desert Storm air effort. Initially, the Navy wanted to operate their strike packages autonomously using organic assets but realized DESERT STORM would be a massive, continuous strike operation rather than a short-term contingency operation. In order for the Navy to complete its mission successfully, they would have to rely on Air Force tankers under the control of the JFACC. The Marine Corps mantra was to support their ground forces through the Marine Air-Ground Task Force (MAGTF) and not support the JFACC, citing the 1986 Omnibus Agreement setting out guidelines for tactical control of Marine air forces.¹⁶ A compromise was agreed upon between the JFACC and MAGTF commander, allowing Marine air to support Marine ground forces as well as JFACC missions.

Due to the logistical problem of limited staging areas and multiple air assets, a joint document was needed to execute the DESERT STORM air campaign. The ATO document covered a 48-72 hour window of opportunity, de-conflicted airspace, coordinated all air assets, specified aircraft type, targets, time-on-target, and communications. This became the primary means to implement all air assets in theater, regardless of service or country of origin.

Likewise, a common document can be used for national resources in the event of a natural or man-made disaster. This type of document would delineate the areas of responsibility, provide clear concise C4ISR, coordinate logistics, etc. Elements will operate cohesively for the command authority but allow individual elements to carry out specific missions within their standard operating procedures.

Barriers to Support

The legal ramifications of the DoD support for DHS lay in Title 10 and Title 32 of the United States Code of Federal Regulations. The Posse Comitatus Act, passed in 1878, limits the powers of the federal government by “prohibiting the use of the Armed Forces as a posse comitatus to execute the laws except in cases and under circumstances

16. “Unity of Control: Joint Air Operations in the Gulf,” by James A. Winnefeld and Dana J. Johnson, *Joint Force Quarterly*, Summer 1993

expressly authorized by the Constitution or act of Congress.” Title 10, Chapter 10 (§331, §332, §333) states that the president may call into service the militia of a state [National Guard] to enforce the law when insurrection, domestic violence, or conspiracy hinders the execution of laws during the ordinary course of judicial proceedings. Furthermore, Chapter 18 (§371, §372, §373, §374) allows for relevant military equipment and resources, base and research facilities, training, and information to be made available to any federal, state, or local civilian law enforcement officials. Title 32, (§215.5) makes it legal, by way of a Presidential Executive Order, to employ DoD resources, Air Force, Army, and Navy [and activate units and members of the Reserve] pursuant to national security objectives. These legal implications are steadfast in structure, akin to chain of command “stovepipes,” and support a working coexistence of the DoD and DHS to combat a catastrophic incident affecting the homeland. The remaining challenge, however, is to remove organizational barriers other than structure.

Title 10 and Title 32 of the United States Code of Federal Regulations provide a conduit for interoperability of military and civilian law enforcement officials, but clear guidelines pertaining to intelligence and information sharing are underdeveloped, and require Congressional oversight. The equilibrium of jurisprudence between security and American civil liberties is difficult to define, and while intelligence and law enforcement officials may attempt to balance the issue, the legislative branch of government must provide the guidance necessary to ensure a positive outcome in the Global War on Terrorism.¹⁷

Summary

In summary, Congress enacted Goldwater-Nichols in 1986 to force the Department of Defense to be more responsive to the Commander-in-Chief and efficient in the conduct and execution of intra-service matters. Further, the Goldwater-Nichols Act broke cultural and organizational barriers thus creating better support and execution of the armed services’ role in national security.

17. “Guiding Lights: Intelligence Oversight and Control for the Challenge of Terrorism,” Jerry Berman & Lara Flint, (2003), <http://www.cdt.org/publications/030300guidinglights.pdf>.

Unfortunately, events have exposed a weakness in the rest of our government's organizational structures, mindsets, methodologies and concepts of operations. They are consistent with the limitations that existed within the military services prior to 1986. Organizational change, strategic vision and effective integration are desperately needed. The remaining cabinet-level departments have different missions yet similar responsibilities and challenges. A 21st century Goldwater-Nichols will enable our nation to handle various homeland defense and natural disaster challenges with solutions that are fully integrated and coordinated, ensuring the most efficient and responsive federal support possible.