

**PROTECTING OUR HOMELAND AGAINST TERROR:
BUILDING A NEW NATIONAL GUARD FOR THE
21ST CENTURY**

HEARING

BEFORE THE

SUBCOMMITTEE ON TECHNOLOGY, TERRORISM,
AND GOVERNMENT INFORMATION

OF THE

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

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PROTECTING OUR HOMELAND AGAINST TERROR: BUILDING A NEW NATIONAL GUARD FOR THE 21ST CENTURY

THURSDAY, DECEMBER 13, 2001

UNITED STATES SENATE,
SUBCOMMITTEE ON TECHNOLOGY, TERRORISM, AND
GOVERNMENT INFORMATION,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:15 p.m., in room SD-226, Dirksen Senate Office Building, Hon. Dianne Feinstein, chairman of the subcommittee, presiding.

Present: Senators Feinstein, Leahy, Hatch, and Kyl.

Chairperson FEINSTEIN. The meeting of the subcommittee will come to order.

Senator Kyl, the ranking member of the subcommittee, will be here about 2:30. Unfortunately, he can't be here before, and we are delighted to have the ranking member of the full committee here and because he has got a time constraint, I would like to give him the opportunity to make his statement now. Then I will make a brief statement and then we would like to welcome Senator Bond and we will hear from him.

STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR FROM THE STATE OF UTAH

Senator HATCH. Well, thank you, Madam Chairperson. I appreciate you doing this for me because I have to be at the White House, but I am grateful for this timely and important hearing that you are conducting. I appreciate the opportunity to make this opening statement today. Unfortunately, as I said, I have got to depart shortly.

As a member of the Senate National Guard Caucus, I want to express my keen interest in the role of the National Guard in protecting our homeland against terror. This is an important topic, and I commend you in particular for holding this hearing.

As a Nation, it is imperative that we get this right. Our national security both at home and abroad depends on deciding the right mission for our National Guard and clearly articulating priorities. All recruiting, training and resourcing for the National Guard depends on the role they are given in the 21st century. We cannot afford to waste time, effort, or money.

Currently, the National Guard has the dual mission as a State militia and as a national warfighter. I believe this has worked well.

I would encourage a very judicious study of any new architecture proposed for the National Guard that would not preserve this dualism.

Another important concept concerning the National Guard is jointness. The National Guard executes joint operations extremely well with other active-duty forces. We see that today as the U.S. active-duty and reserve troops prosecute the war on terrorism overseas.

I also know that the National Guard implements jointness extremely well in its State militia role. I point to the experience of the Utah National Guard as they prepare to perform security operations for the 2002 Salt Lake Winter Olympics. I believe the preparation for these Olympic Games manifests just how well the National Guard has established a partnership between State and Federal military forces.

Yet, the National Guard's execution of joint operations does not stop with the military. The Utah National Guard also established a strong partnership with civil authorities in the process of gearing up for the Olympic Games. I refer to the excellent working relationships between the Utah National Guard and the State, local and Federal law enforcement agencies. It is essential that these relationships between State and Federal military and between military and civilian law enforcement be transparent to ensure effective security for the Games. In a hearing I chaired last May concerning Olympic security and cooperation among the various Federal, State and local agencies, the message was loud and clear. The National Guard knows how to execute joint missions.

I will close with just one last point. Whatever mission is handed to the National Guard, we all have a responsibility to ensure that the Guard is given the proper resources to do the job.

I am grateful to have Senator Bond here today, who plays a significant role in this area. We appreciate having you before the subcommittee.

So, again, Madam Chairwoman, I thank you for your leadership and the opportunity to examine this very important topic. I think this hearing is a very important hearing, so thank you.

Chairperson FEINSTEIN. Thanks very much, Senator Hatch. We are delighted that you came, and have a good trip to the White House. Thank you.

Senator Bond, if you have a time problem, and perhaps you do and would like to go now, I will leave it up to you. I can make my statement or I would be happy to defer to you.

Senator BOND. Madam Chair, if it is all right with you, this is a rather busy day for me and if I may be permitted?

Chairperson FEINSTEIN. Please go ahead.

**STATEMENT OF HON. CHRISTOPHER S. BOND, A U.S. SENATOR
FROM THE STATE OF MISSOURI**

Senator BOND. I do appreciate the opportunity to appear before this subcommittee to express my views regarding the role of the National Guard, and I would thank in absentia my good friend and dear colleague from Utah for his excellent statement.

As a former Governor of the State of Missouri and currently as the co-chair of the Senate National Guard Caucus, I understand

how vital it is that we continue properly to resource the Guard for the missions they are assigned both at home and abroad.

I also understand the need to preserve the National Guard's constitutional role. The Guard aptly states that "Today's National Guard continues its historic dual mission, providing to the States units trained and equipped to protect life and property, while providing to the Nation units trained, equipped and ready to defend the United States and its interests all over the globe."

I would add that during my time as Governor, I frequently called on the Guard to meet its civilian role. I called them out frequently. I was said to be the master of disaster because we had floods, tornadoes, fires, everything but earthquakes and pestilence, and the Guard was there.

Now, we have seen the Guard respond to the national security mission, and I am very pleased and honored to testify on this, the 365th birthday of the National Guard. If I may, I would extend my hardest, most sincere birthday wishes to Lieutenant General Russell Davis and the men and women who serve so faithfully as citizen soldiers and airmen.

We wish you, General Davis, not only a happy birthday, but as we would say in our line of work, many happy returns. Thank you, General Davis.

It is an honor to testify because we are here today to discuss the role of the Guard, while celebrating the Guard's record of unsurpassed service over 365 years. Over all these years, the Guard has been the bedrock on which our Nation's security has rested both at home and abroad.

Our national security depends upon the health and continued stability of our Guard forces. The Guard's dual role as the States' and Governors' first line of defense in support of local and State civil authorities and as the vital reserve for our active military forces is well-established.

I cite a recent Washington Post article entitled "Military Favors a Homeland Command: Forces May Shift to Patrolling U.S." The author there, Bradley Graham, states that our Nation's top military authorities favor appointing a four-star commander to coordinate Federal troops used in homeland defense. He correctly points out that the chain of command is not clear, and I would agree that that must be rectified.

The article also suggests that the historic Federal role of the Guard as the vital reserve for our active forces might be reevaluated in favor of restructuring the Guard, or portions thereof, for a more narrow homeland defense role. While discussing the National Guard's dual role, the author quotes Secretary Tom White, the interim Department of Defense Executive Agent for Homeland Security, who says, "One school of thought says we can still do both" for a domestic operation, "but the other side says we can't." The author also writes that Governor Ridge said the administration would look at whether to shift some Guard units and assets.

I am not suggesting that the Guard force structure should not be adaptable to a changing threat environment. It has, it can right now, and it always will. But I would caution anyone who would seek to alter the traditional dual role and mission of the Guard.

If, God forbid, we must endure another attack on our home soil, there is no doubt that the National Guard will be on station assisting local and State civil authorities. Any expansion of responsibilities of the National Guard must be fully supported with the resources necessary to perform its expanded mission. But any effort to reduce the Guard's longstanding wartime role in support of our National military strategy overseas would, I believe, be met with fierce resistance, and for good reason.

We all know that the First World War was labeled the war to end all wars. Little did we know that Nazi Germany had other ideas, and Japan. Ask our veterans and strategic reserves who served in Korea, Vietnam, Somalia, Desert Storm, the Balkans, Kosovo, and now Afghanistan, if these events were fully anticipated. We know not what the future holds, but we do know that our best defense is the ability to field a sound defense, and this, in my view, must continue to include the Guard.

We also know that without a vibrant force in reserve, ready to step in when our active forces absolutely must have reinforcements, our ability to wage a sustained war is weakened. If war must be waged, let it not be waged on our soil.

We are waging war in Afghanistan because we do not want to wage war here at home. Our active forces are designed and equipped to carry the fight to any enemy on his territory, but if our worst fears come true, if the bench is empty when our active forces overseas need replacements because we have foolishly weakened our vital reserves here at home, we are in deep trouble.

To recap, we must, in my view, acknowledge the need properly to shape our forces to respond to any attack here at home or abroad. Furthermore, additional requirements placed on our Guard forces must be adequately and fully resourced. That is military-speak for funding it.

Any attempt to fund the increased cost of homeland defense by radically restructuring the Guard and changing its traditional role would significantly weaken its ability to support our National military strategy. As we look to strengthen our homeland defenses, as we must, we must ensure our active and Guard forces are able effectively to coordinate, plan and implement a cohesive homeland defense strategy. And we must work to improve interagency communications and teamwork.

The Guard has a well-established record of working with local and State civil authorities and Federal military forces to accomplish the Nation's business. I am fully confident that the National Guard, led by Lieutenant General Davis, will continue to meet the requirements and responsibilities demanded by current and emerging threats.

We have no draft. Our only bench, our only emergency call-up forces are the strategic Guard and reserve. The strength of the strategic reserve remains the flexibility of the National Guard to shape our forces and respond to any threat either at home or abroad. This is the Guard's stated mission, and I truly believe any attempt to change it would be shortsighted.

I thank the subcommittee very much for the opportunity to share these views.

Chairperson FEINSTEIN. Thanks very much, Senator Bond. We appreciate your comments, and particularly as a former Governor they have double meaning. So thank you very much.

I would like to acknowledge the presence of the ranking member of the subcommittee, Senator Kyl, with whom I have worked closely on other issues.

Senator, I would like to make a brief opening statement, then turn to you. My understanding is the chairman of the committee—

Senator KYL. Might I just thank Senator Bond as well, Madam Chairman?

Senator FEINSTEIN. You certainly may.

Senator KYL. I very, very much appreciated his comments, and look forward to speaking with you personally about more of the ideas that you expressed. Thank you very much, Senator.

Senator BOND. Thank you, Senator.

**STATEMENT OF HON. DIANNE FEINSTEIN, A U.S. SENATOR
FROM THE STATE OF CALIFORNIA**

Chairperson FEINSTEIN. Thank you, Senator Kyl.

The chairman of the committee, Senator Leahy, it is my understanding, may wish to attend and make a statement, and when he does, we will defer to him as well.

Senator Bond mentioned the birthday of the Guard, and actually there is a very interesting historic anecdote about the birthday. The Guard dates its founding back to December 13, 1636, when the Massachusetts Bay Colony Legislature—that was called the General Court—divided the militia into three separate groups, with the purpose of increasing its efficiency.

For years, the Guard celebrated its birthday on the wrong day, October 10, not December 13, and that is because historians had determined that the General Court had met to reorganize the militia on the 10th day of the 10th month. However, in 1983, a National Guard historian researched the issue and determined that the legislature actually ordered the regiments to be formed on the 13th, not the 10th. He also determined that the calendar year in 1636 began in March, not January, so that the 10th month was December, not October.

So I too would like to say happy birthday to our National Guard.

This is a hearing on whether the National Guard should have an enhanced role in homeland security, not to defer or deter from its primary mission, but to give it another role. In many ways, such a role would return the National Guard more to what was envisioned by the Founders of the country.

Colonial militias protected their fellow citizens from Indian attack, from foreign invaders, and later helped with the Revolutionary War. And during the 19th century, the militia provided the bulk of the troops during the Mexican War, the early years of the Civil War, and the Spanish-American War.

It was not until 1903 that Congress passed legislation to increase the role of the National Guard as a reserve force for the United States Army, and that has become a primary role today. Currently, the National Guard acts as a strategic reserve for the Army and Air Force and as State militias.

Because Federal law requires that the Guard receive the same training and equipment as the regular armed forces and reserves, Guard members often spend a fair amount of time preparing for overseas deployment, and that is their primary mission, as well it should be.

However, it is far more likely that the National Guard will be used to respond to a terrorist threat, or even to help clean up a natural disaster. That is because in their role as State militias, they are exempt from the Posse Comitatus Act and thus are used as the armed forces' primary provider of support to civil authorities.

The National Guard's access to military command and control, discipline, training and equipment makes it well-suited to coordinate with and back up police, firemen, and other responders.

There are about 460,000 National Guard members that train throughout the year—353,000 Army National Guard and 106,000 Air National Guard. The approximate numbers of National Guard in individual States run from about 1,000 to 21,000, and vary according to the population of the State and the recruitment efforts.

In light of the September 11 attacks on the World Trade Center and the Pentagon, as well as the October 2001 anthrax attacks on Congress and the media, many experts have come to believe that the National Guard should play a more central role in responding to terrorist attacks, particularly those with weapons of mass destruction. In fact, the Guard has already played an important role in helping respond to these attacks, not only at the site of the attacks but also at airports, around the Capitol, and elsewhere where it is serving today.

The National Guard is well-suited to performing an enhanced homeland security mission because it is already deployed in communities around the country, integrated into local, state and regional emergency response networks, has ties with key players in local, State and Federal Governments, is not bound by the Posse Comitatus Act while serving in Title 32 status and thus has maximum flexibility. The Posse Comitatus Act generally restricts law enforcement to civil authorities.

The Guard is responsible for and experienced with homeland security missions, including air sovereignty, disaster relief, responding to suspected weapons of mass destruction events, and counterdrug operations. The Guard has existing physical, communications and training infrastructure throughout the United States.

It has existing training facilities, distance learning training networks, and a number of highly skilled individuals who have left active forces. And the Guard helps preserve a constitutional balance between State and Federal sovereign interests, given its unique dual Federal/State role.

Moreover, the Department of Defense reviews and reports, including the 2001 Quadrennial Defense Review and Reserve Component Employment 2005 study, have made clear that the National Guard should have an expanded role in homeland security. Other experts agree. Both the Hart-Rudman and the Gilmore Terrorism Commissions have both recommended that the National Guard be given a more direct role in the war on terrorism.

In close consultation with the Guard, we are currently drafting legislation that would do just that. It would build on two more narrowly defined missions the Guard has already assumed. The Guard currently has a number of civil support teams that assess a suspected weapon of mass destruction event, advise first responders, and facilitate the assistance of additional military forces, if needed. The Guard is used to provide support to law enforcement to help stop illegal drugs from being imported, manufactured and distributed, and in supporting drug demand reduction programs.

Essentially, the legislation that I am thinking of and we sent to your office, Senator Kyl, in hopes that you would like to weigh in on this, would establish in each State National Guard homeland security forces that, in their non-federalized role, would have homeland security as their primary mission. That is only in one part. We are not taking the other part of providing people for our military.

The legislation would also provide for appropriate command, control and coordination; statutory homeland security duties; Governors' homeland security activities plans, similar to those for the Guard's counter-drug mission; a National Guard resources plan for training, equipment, aviation supports and others needs; and, of course, as Senator Bond referred to, authorization of funds. The legislation would also help ensure that the Guard always supports, not leads, but supports civilian agencies and that any change in the Guard's mission not degrade our warfighting capabilities.

So I look forward to hearing testimony from the witnesses. It is a distinguished panel.

I would now like to turn to the ranking member, my good friend, the Senator from Arizona, Senator Kyl.

**STATEMENT OF HON. JON KYL, A U.S. SENATOR FROM THE
STATE OF ARIZONA**

Senator KYL. Thank you very much, Senator Feinstein, and thank you for holding this hearing. The topic is obviously timely, and I think the logic of the position that the National Guard has a key role to play in homeland defense is unassailable. Precisely what that means in terms of how we proceed obviously is the subject of this hearing, as well as of additional work that we will have to do.

Rather than read my statement in the record, given the amount of time that has elapsed here, I think what I will do is just ask unanimous consent to put my statement in the record so we can immediately hear from the witnesses. I think that will be a lot more productive than hearing from me.

Thank you, Madam Chairman.

Chairperson FEINSTEIN. Thank you very much, Senator, and I really want to work with you on this because all the preliminary work that we have done has really indicated a considerable support for moving in this direction as long as we protect the primary role and as long as we provide necessary funds.

I know the chairman of the committee wanted to say something, if he is here. Well, he will be back in 10 or 15 minutes.

Could I ask the first panel to come forward, then, and I will quickly introduce them.

Lieutenant General Frank Libutti has assumed the position as the Special Assistant for Homeland Security.

If all of you would come forward, I will just start introducing you.

His responsibilities include establishing a long-term homeland security organizational structure for the Department of Defense and developing operational solutions to national security threats. Lieutenant General Libutti also serves as the Department of Defense liaison with the President's Office on Homeland Security.

Next on our panel will be Lieutenant General Russell Davis. He is the Chief of the National Guard Bureau and he serves as the senior uniformed National Guard officer responsible for developing and coordinating policies and programs affecting more than half a million National Guard personnel. We are delighted to have him and he has been before this committee before.

The next individual is Major General Richard Alexander. He is the Executive Director of the United States National Guard Association. Before taking that position, he served as the 45th president of the organization from 1996 to 1998. He is also the former Adjutant General of Ohio and spent over four decades in uniform, beginning with his enlistment in the Marine Corps in 1954.

The final witness is Major General Paul Monroe, Jr. He was appointed as Adjutant General of the State of California Military Department by Governor Davis in April of 1999. He has been with the California National Guard since he enlisted in 1961, and as Adjutant General he now leads the largest National Guard force in the United States, with an end strength numbering more than 16,300 Army and 4,700 Air National Guard members.

General Libutti, we would begin with you, please.

STATEMENT OF LIEUTENANT GENERAL FRANK G. LIBUTTI (RETIRED), SPECIAL ASSISTANT FOR HOMELAND SECURITY, OFFICE OF THE SECRETARY OF DEFENSE, DEPARTMENT OF DEFENSE, WASHINGTON, D.C.

General LIBUTTI. Madam Chairman, Senator Kyl, and distinguished members of the subcommittee, I appreciate this opportunity to appear before you in my role as Special Assistant to the interim Department of Defense Executive Agent for Homeland Security.

Madam Chairman, if you will indulge me, I will make a brief opening statement and then answer any questions the subcommittee wishes to ask.

The Department of Defense currently views homeland security as composed of two principal elements: one, homeland defense, and two, civil support. Homeland defense is a Department of Defense-led task to protect the United States from threats and aggression in every dimension, land, sea and air. The fighter aircraft flying combat air patrols over Washington, New York and other major U.S. cities, under the operational control of NORAD, are a prime example of a homeland defense mission.

Civil support is where the Department of Defense assists a lead Federal agency, which can include such tasks as supporting the Federal Bureau of Investigation with domestic counter-terrorism, the Federal Emergency Management Agency with consequence

management, or Health and Human Services against biological attacks.

However, we must not forget that quick resolution of such incidents begins with those on the front line and local and State first responders, followed by second-echelon State-controlled National Guard units. Federal assets are the third echelon, including unique Department of Defense capabilities on a "by exception" basis.

Secretary White, the interim Department of Defense Executive Agent for Homeland Security, outlined three major objectives to guide us.

Number one, the Department of Defense must unify its efforts to enhance the cooperation and coordination of policy, planning, and resource allocation responsibilities as they relate to homeland security. Unity of effort will eliminate gaps and redundancies, while dramatically improving our responsiveness and our efficiency.

Second, we must develop operational solutions for the future. Pending revision of the unified command plan, the military responsibilities for homeland security are assigned to the unified commanders on an interim basis. The Department of Defense is exploring operational solutions for the future, but it is important to emphasize that as we look to the future we properly balance the apportionment of forces between the needs of warfighters abroad and the need to defend the Nation at home. Striking a proper balance is absolutely critical.

Third, we must improve interagency cooperation to guarantee that the many Federal, State and local authorities with homeland security responsibilities work together swiftly and decisively. My staff and I work very closely with Governor Ridge and the Office of Homeland Security as they engage the interagency coordination process and press forward on homeland security improvements.

As we do so, we remain mindful of the broad and critical responsibilities of the Department of Defense to defend our Nation against acts of war and terrorism; provide capability and capacity to respond to chemical, biological, radiological, nuclear, and high-yield explosive incidents, whether intentional or unintentional; and support lead Federal agencies in the event of natural disasters.

The National Guard, whether in State or Federal status, is an active partner in homeland security. Guardsmen in a State status are protecting critical infrastructure throughout the United States, and are supporting our consequence management efforts as well.

State Governors, in coordination with the White House, the Department of Defense and the Federal Aviation Administration, are using Guardsmen to augment security at over 400 commercial airports throughout the country. Although operating under the control of the Governors, the Federal Government is paying for this mission.

In addition, we have plans to support the Governors of States along our northern and southern borders and other lead Federal agencies by augmenting the U.S. Border Patrol, the U.S. Customs Service and the Immigration and Naturalization Service with Guardsmen in a Title 10 or Federal status to support Federal security missions.

Thank you, Madam Chairman. This concludes my statement and I look forward to the subcommittee's questions. Thank you, ma'am.

[The prepared statement of General Libutti follows:]

PREPARED STATEMENT OF LIEUTENANT GENERAL FRANK G. LIBUTTI

Madame Chairman, Senator Kyl, and distinguished members of the Committee, I appreciate this opportunity to appear before you in my role as the Special Assistant to the Interim Department of Defense Executive Agent for Homeland Security. Madame Chairman, if you will indulge me, I will make a brief opening statement and then answer any questions the Committee wishes to ask.

The Department of Defense currently views homeland security as composed of two principal elements: homeland defense and civil support.

Homeland defense is a Department of Defense-led task to protect the United States from threats and aggression in every dimension—land, sea, and air. The fighter aircraft flying combat air patrols over Washington, New York City, and other major U.S. cities under the operational control of NORAD are a prime example of a homeland defense mission.

Civil support is where the Department of Defense assists a lead federal agency, which can include such tasks as supporting the Federal Bureau of Investigation with domestic counterterrorism, the Federal Emergency Management Agency with consequence management, or Health and Human Services against biological attacks. However, we must not forget that quick resolution of such incidents begins with those on the “front line,” the local and state “first responders,” followed by the “second echelon,” state-controlled National Guard units. Federal assets are the “third echelon”—including unique Department of Defense capabilities on a “by exception” basis.

Secretary White, the Interim Department of Defense Executive Agent for Homeland Security, outlined three major objectives that guide us:

First, the Department of Defense must unify its efforts to enhance the coordination of policy, planning, and resource allocation responsibilities as they relate to homeland security. Unity of effort will eliminate gaps and redundancies while dramatically improving our responsiveness and efficiency.

Second, we must develop operational solutions for the future. Pending revision of the Unified Command Plan, the military responsibilities for homeland security are assigned to the unified commanders on an interim basis.

The Department of Defense is exploring operational solutions for the future, but it is important to emphasize that, as we look to the future, we properly balance apportionment of forces between the needs of warfighters abroad and the need to defend the Nation at home. Striking a proper balance is absolutely critical.

Third, we must improve interagency cooperation to guarantee that the many federal, state, and local authorities with homeland security responsibilities work together swiftly and decisively. My staff and I work very closely with Governor Ridge and the Office of Homeland Security as they engage the interagency coordination process and press forward on homeland security improvements. As we do so, we remain mindful of the broad and critical responsibilities of the Department of Defense to defend our Nation against acts of war and terrorism; provide capacity to respond to chemical, biological, radiological, nuclear and high-yield explosive incidents, whether intentional or unintentional; and supporting lead agencies in the event of natural disasters.

The National Guard, whether in State or Federal status, is an active partner in Homeland Security. Guardsmen in a state status are protecting critical infrastructures throughout the United States and supporting in consequence management efforts. State Governors, in coordination with the White House, the Department of Defense and the Federal Aviation Administration are using guardsmen to augment security at over 400 commercial airports throughout the country. Although operating under the control of the Governors, the Federal government is paying for this mission. In addition, we have plans to support the Governors of states along our northern and southern borders and the lead Federal agencies by augmenting the US Border Patrol, US Customs Service, and the Immigration Naturalization Service with guardsmen in a Title 10 or Federal status to support Federal security missions.

Thank you, Madame Chairman. This concludes my statement and I look forward to the Committee’s questions.

Chairperson FEINSTEIN. Thanks, General Libutti.
General Davis, welcome again.

**STATEMENT OF LIEUTENANT GENERAL RUSSELL C. DAVIS,
CHIEF, NATIONAL GUARD BUREAU, ARLINGTON, VIRGINIA**

General DAVIS. Thank you, Madam Chairman, Senator Kyl, and distinguished members of the subcommittee. Thanks again for the opportunity to come over and talk to you about the National Guard and our role in homeland security.

On 11 September when the World Trade Towers were attacked, two aircraft, F-15s, from the Massachusetts Guard were airborne and headed that way prior to the attack. Unfortunately, they didn't get there in time. But those militiamen, as did the militiamen of 1636, served our country and reacted appropriately when needed. Circumstances dictated that they come to the aid of the country and they responded.

During the 1950's, the Air National Guard started sitting runway alert, and they continue that and do it today. In like manner, the Army National Guard had a role with the Nike missiles defending our country, defending our shores for almost two decades.

After that attack, the President asked of our United States military, "be ready." I am here to tell you our United States military is ready. My response to him is we are—active Guard, reserve, Army, Navy, Air Force, Marine, and Coast Guard. It is that team that provides readiness to our country.

Within hours after that attack on the World Trade Center, Guardsmen from New York, Massachusetts, Virginia, North Dakota, Pennsylvania, and Maryland were right on the scene. They were joined by their fellow servicemen from the reserve, as well as from the active component. The Guardsmen stand shoulder to shoulder with first responders, and they did that day. In New York, we still have about 200 Guardsmen who are on duty, in State duty, paid for by the State of New York.

Today, we have about 45,000 National Guardsmen who are on duty from all 50 States, the territories, and here in the District of Columbia, providing support in operation Noble Eagle and Enduring Freedom.

On 27 September, the President asked the Governors to provide support at our airports. And as General Libutti said, we have almost 9,000 people out there serving today, guarding our airports, providing security and an armed, visible presence to assure our American citizens that they will be protected.

There is no question that there has been a seismic upheaval as a result of what happened on 11 September. I would say to you that the National Guard is ready. We have both a shield, which we use for homeland defense, and a sword, which we combine with the other military components to provide that combat power that we can project anywhere in the world.

As I said, within minutes after the hijacked aircraft struck, we went from 14 airplanes which we had on alert to almost 100 airplanes, providing 24-hour, 7-day coverage over many of our major cities in the United States. That force was a combination of Air National Guard, active Air Force, the United States Air Force Reserve, the United States Navy Reserve, the United States Marine Corps Reserve, and active Navy, ships as well as aircraft. Numerous other aircraft were involved, airlift aircraft and tankers to support the fighters.

We also had set up these weapons of mass destruction civil support teams and they were brought into play. Team number two in New York moved down and postured itself to respond to New York City, and it did, has done so numerous occasions since then, as have the other teams. We are on an accelerated schedule to get all of those folks certified, and a very active, aggressive team with the United States Army. The Department of Defense has made that happen, working in partnership with the National Guard.

Key asset protection: key assets throughout the United States are today being guarded by Guardsmen—bridges, power plants, nuclear facilities, and key laboratories throughout this country.

But I think it is important that we maintain that dual mission of the National Guard, both here at home to perform the missions required here, to respond to floods and all the other natural disasters and civil disturbances that occur in the United States, but also available, and we do have a number of people deployed overseas, and I will comment on that a little bit later on.

I want to say we stand with great pride after 365 years continuing to serve this great country, being of assistance to protect the life and property of American citizens.

Thank you very much.

[The prepared statement of General Davis follows:]

PREPARED STATEMENT OF LIEUTENANT GENERAL RUSSELL C. DAVIS

Good Morning, Madame Chairman and other distinguished members of this committee. Thank you for the invitation to testify before you today on role of the National Guard in the important Homeland Security mission.

On September 11th, 2001, the first military response to the terrible attack on America was led by members of the 102nd Fighter Wing, Massachusetts Air National Guard at Otis ANGB. Two F-15 Eagle jets from Otis were the first to arrive at the World Trade Center, just minutes after United Airlines Flight 175 sliced into the second tower. While they were unable to alter the course of history on that morning, they now stand guard with renewed vigilance.

It is fitting that the Massachusetts National Guard responded that frightful morning; for it was Massachusetts that formed the first militia in the colonies in 1636. Homeland security was a critical priority of the Massachusetts Bay Colony when they formed a militia of citizen soldiers to defend themselves. For almost 365 years, the citizen-soldiers and airmen of the National Guard have been the solid shield that has defended America at home, and the sword that America has wielded overseas in all her wars since that early period.

In the 1950's, the Air National Guard was sitting runway alert all over America to "*Defend America's Skies*" against enemy air attack. The Army National Guard had a similar role during that period manning Nike missile defense batteries for almost two decades.

As the Cold War threat receded, America chose to reduce its commitment to Continental Air Defense. America turned to other priorities, mostly overseas. The National Guard has played a significant role in every major contingency since the Gulf War in support of the combatant CINCs.

Now we have been asked to respond once again. President Bush has asked our armed forces to "*Be ready*". **We are**. He said the hour will come when America will act, and "*you will make us proud*."

Your National Guard is responding everywhere in thousands of ways, to the destiny that has been thrust upon us.

Within hours, National Guardsmen from New York, Massachusetts, Virginia, North Dakota, Pennsylvania and Maryland were among the first on the scene supporting the responders and civil authorities at the scenes of the disaster. National Guardsmen responded to the recent tragic events by supporting our governors, the several states, territories, and the District of Columbia plus the many other civil authorities in answering the needs of our nation.

The National Guard stood shoulder-to-shoulder with the civil responders in this crisis, and remains a vital component of the recovery process. We are proud to have supported the brave firefighters, EMS and law enforcement officials at the scene of

the disasters. We provided medical personnel to care for the injured, military police to assist local law enforcement officials, key asset protection, transportation, communications, logistics, and a myriad of other support functions. We are making our resources available as needed, to restore order, stability, and safety to our fellow citizens. Our newly certified Civil Support Teams provided WMD support in their operational debut.

At the latest count, (Dec 11) about 42,000 Guardsmen from 54 states, territories, the District of Columbia, and Puerto Rico had been called to service in response to Operations “*Noble Eagle*” and “*Enduring Freedom*”. We are responding as we are designed—“dual-missioned,”—to both federal and state requirements.

The machinery of accessibility has worked just as it was designed, and the National Guard has been both prompt and flexible in meeting the levy of the President and the governors in responding to the needs of the nation and the individual states. Our dual status (state and federal) has proved to be a particularly useful feature of our organization.

On September 27, President Bush asked the governors to call up over 7,000 National Guardsmen to supplement security at the nation’s 420 commercial airports for up to six months. The first National Guardsmen were on duty the very next day. They were joined shortly by others. The purpose is to restore the faith and confidence of the public in commercial air travel until more permanent arrangements can be made. Our commercial airline industry is a key link in the national economy and vital to our nation’s interests. Once again, the governors and the adjutants general who command the National Guard at the state level responded very rapidly to these requests.

We were ready and are prepared to “call out more of the National Guard” as needed for these important missions. National Guardsmen add an armed, comforting presence visible to the traveling public. Uniformed Guardsmen provide a visible display of American resolve, in order to reassure the public and to deter our foes. And not just in the airports.

More will surely follow.

There is no question that we have experienced a seismic upheaval in the way we think about national defense. How did we respond to the attack upon us on September 11th? Swiftly, with determination, and resolve. Swiftly, because we are in a war and that gives us a sense of urgency regarding the safety and security of our citizens. With determination and resolve because this war promises to be a long campaign. Like the Massachusetts militiamen, we face foes on several flanks. The United States must guard against further attacks at home, while it prosecutes an expeditionary campaign abroad.

That is precisely the role of today’s National Guard. We are part of the same team that is girding itself to provide both the **shield** of homeland defense, and at the same time to wield the **sword** of combat power in support of the Combat CINCs to protect America here at home or far from her shores.

As the president said, our primary task is to “*be ready*.” The National Guard must continue to be prepared for our responsibility as the first-line, ready—reserve defense force for America. It is the combat mission we have always had, at home and abroad, since the first Regiments of 1636, through the intervening years, and today, remains one of our fundamental responsibilities to recognize these roles alongside the combat role.

Review of Activity Since Sept 11, 2001

Prior to the attacks on September 11, 2001 the National Guard had 12,400 personnel on duty performing federal and state missions. Over 450 National Guard members were in state active duty status fighting forest fires, protecting our communities from natural disasters, such as floods and storms, providing drinking water or electrical power, and other domestic missions. Nearly 12,000 National Guard soldiers and airmen were deployed in support of CINC or Service requirements world-wide in a variety of combat and combat support missions, Bosnia/Kosovo, Southern and Northern Watch in Southwest Asia, and the enduring air sovereignty mission of Air National Guard and 1st Air Force air defense units.

Within minutes to hours of the hijack notification 34 Air National Guard fighter units were “generated” (prepared for combat operations), ready or flying over the Nation’s skies performing combat air patrol missions, leveraging critical combat skills and equipment, including Presidential Aircraft escort. In New York and New Jersey, the National Guard immediately began what was to become a response involving over 8,000 soldiers and airmen to provide support to efforts at the World Trade Center site. Eighteen Air National Guard refueling wings, multiple strategic and tactical airlift units (C-5, C-141 and C-130), along with Army National Guard aircraft, provided necessary lift support to the combat air patrols, consequence man-

agement activities and Enduring Freedom response requirements. National Guard units provided rescue support, civil engineers, communications and power generation capability, air traffic control, medical teams, chaplains and other service support operations, i.e., food and shelter service, public affairs and command and control entities. New York's WMD Civil Support Team provided analysis confirming the absence of Chemical, Biological or Radiological contamination at the scene, thus expediting efforts of the fire, police and medical support.

Since that disastrous day, because of its unique community-based structure, the National Guard, significantly increased its "dual mission" (state and federal) responsibilities to meet the requirements of the nation at home and abroad. As I said earlier, about 42,000 National Guard soldiers and airmen have been called to duty to help manage the consequences of the attacks and prosecute the resultant war on terrorism.

The National Guard's unique WMD Civil Support Teams have responded to more than 300 suspected chemical/biological incidents in which they put their cuttingedge training and technology to precisely the use Congress envisioned.

Even National Guard counterdrug equipment and personnel responded to fill specific gaps in transportation, and to provide photo reconnaissance and command and control support to Law Enforcement in the days immediately following the terrorist attacks.

In addition, several thousand National Guardsmen are providing force protection at military installations and protecting other critical assets around the country.

Finally, the National Guard responded to the President's request to provide airport security to more than 400 airports across the nation.

Today the Guard is performing these missions along with providing combat and support units and personnel deployed in the operations to defeat terrorism across the globe. As of 26 November 2001, National Guard personnel deployed are comprised of 3,000 on state active-duty and over 47,000 soldiers and airmen in support of CINC or Service requirements worldwide in a variety of combat and combat support missions. This is a near three-fold increase since the September 11 attacks.

Successes In Executing Our Responsibilities

The mission of the National Guard, like all other military organizations, is driven by its the roles and capabilities needed to meet the threat; and the resources that must be allocated to sustain needed capabilities.

Let me just recap what went well on and after September 11.

We were able to get National Guard troops rapidly into federal status. Maryland Army National Guard military police units were dispatched to provide security at the Pentagon in less than 24 hours after the attack. As I mentioned earlier, Air National Guard fighters were on the scene within minutes.

We were able to bring even fairly large amounts of military personnel and equipment rapidly to bear on the mission. Even after the on-site civilian Incident Command structure was tragically lost during the collapse of the World Trade Center, the NY National Guard was able to effectively receive and fill requests for support from the FDNY "second team" after they were up and running.

We were able to employ National Guard forces across state lines. New Jersey National Guard readily joined in support of the recovery efforts. California-based Cargo Inspection Systems were sent to enhance border security operations in the state of New York. The ability of National Guard forces to operate across state lines was also perfectly demonstrated recently when the state of West Virginia fought floods using National Guard assets from five states under provisions of the Emergency Management Assistance Compact.

We were able to integrate requested federal forces into the response, in this case because of the unique institution of the New York Naval Militia, the Governor of New York was able to gain access to Navy and Marine Corps Reserve assets inside his state as they were needed.

Although the National Guard has a long history of very effectively responding to domestic emergency situations—every year, in every state—we recognize that for a more robust level of Homeland Security to exist, some changes are necessary for the National Guard.

Within 10 days of the attacks, we took steps to establish a NGB Homeland Security office to acquire, manage, and distribute the necessary resources and information. This office was an expansion on an already existing cell and has been the central hub for the nearly overnight execution of the airport security mission.

We established this office because as the National Guard's roles and missions in the security of the homeland expands and strengthens, we at the National Guard Bureau understand that a commensurately expanded capability to oversee that role will be needed. Fortunately, the National Guard Bureau has a demonstrated capa-

bility and many years of successful experience in effectively coordinating across 54 states and territories.

The Future of the National Guard in Homeland Security

Madame Chairman, the National Guard needs to be empowered for success on both the homefront and the warfront—precisely where it has always been oriented. The tremendous cost-effectiveness of the National Guard over large standing forces is not an advantage to be cast aside lightly.

In addition to our current Key Asset and Force Protection missions, we are also evaluating other Homeland Defense roles that the National Guard could receive as America's homeland security is strengthened.

Dual Mission Orientation is Essential

The magnificent efficiency of the National Guard has always been its orientation on both protecting the lives and property of Americans here at home and on going to war to support American interests globally.

The National Guard has participated with distinction in every major armed conflict of this nation and this mission should not change. The special utility for the Nation is that in addition to being a critical war-fighting asset, the National Guard is also a crucial source of local and state emergency response support. Both are critically important to the nation and keeping both missions together is critical to the future strength of the National Guard. The resources, personnel, equipment, and training provided to accomplish the war-fighting allow the National Guard to support their local and state missions.

One specific example of this “dual-missioned” capability is found in the combat capability of National Guard F-16's flying combat air patrols over America since day one. These same units rely heavily on precision targeting equipment for visual identification while at the same time using this same critical equipment in their AEF Air Superiority role in Operation Southern and Northern Watch. The National Guard clearly could take on a greater role in performing the Homeland Security mission, however it is equally or more important than ever that it maintain its combat and combat support mission capability. All adversaries and enemies of the United States take note when the National Guard is deployed in our combat conflicts because they recognize the National Guard as the grass roots support of the local people in that conflict.

Summary

In summary, Madame Chairman and Distinguished Members of the Committee the National Guard has tremendous local and state-based, quick response capability to support the local, state and federal agencies in accomplishing the Homeland Security Mission. It has been performing that role at the local, state and federal level since its inception 365 years ago today. It will continue in the important effort to protect and defend our nation against all enemies foreign (as deployed combat forces) and domestic (as Homeland Security forces.)

It has been my distinct pleasure to be here today, I thank you for the opportunity to testify on this critically important aspect and mission of the National Guard. I welcome any questions you may have.

Chairperson FEINSTEIN. Thank you very much, General Davis.
General Alexander?

STATEMENT OF MAJOR GENERAL RICHARD C. ALEXANDER (RETIRED), EXECUTIVE DIRECTOR, NATIONAL GUARD ASSOCIATION OF THE UNITED STATES, WASHINGTON, D.C.

General ALEXANDER. Madam Chair, thank you so much for this invitation to appear before this subcommittee and present the views of the more than 40,000 officers in the National Guard Association of the United States, and also the 54 adjutants general of our States and territories.

The National Guard, in accordance with the U.S. Constitution and longstanding integration with Federal, State and local authorities, uniquely connects every fire hose to the Pentagon and every State house to the White House.

Although there is a need for selected units and personnel to be dedicated primarily or exclusively to homeland security, the home-

land security mission can be most effectively and efficiently accomplished as a dual mission that complements, enhances, and draws its essential strength from the National Guard's continued combat force structure, its training and experience. This is as referenced in the Hart-Rudman Commission report for Phase 3.

Specifically, the Adjutants General Association and the National Guard Association of the United States urge implementation of the following key tenets for a successful homeland security strategy.

The statutory charter of the National Guard Bureau should be amended to reflect its unique role as a channel of communication between the States and the national security authorities. The Bureau is the official channel of communication between the several States and the Department of the Army and the Department of the Air Force. The charter should be amended to also make the Bureau the channel of communication for homeland security between the several States and the supported CONUS CINC, the Chairman of the Joint Chiefs of Staff, the Secretary of Defense, and the Assistant to the President for Homeland Security; also, authorize and fund a program for National Guard execution of a Governor's plan for homeland security.

Program oversight and resourcing would be primarily provided by the National Guard Bureau based upon the decade-long National Guard counter-drug program model, in which each State Governor adopts and administers a program of full-time National Guard support, with AGRs, for law enforcement agencies. Within prescribed national standards and guidelines enforced by the Bureau, the Governor's plan for each State and territory marshals Guard resources to best meet the unique needs of each State and territory.

Provide funding to the National Guard Bureau to complete the fielding of the National Guard civil support teams in each State and territory; also, authorize and fund a program for organizing and training and equipping National Guard units for homeland security missions. Oversight of the homeland security mission should be provided by the National Guard Bureau based upon long-standing garden plot models in which National Guard units are trained and equipped to support civil authorities in crowd control and civil disturbances.

The program should also authorize and fund National Guard training with civil authorities, to include local first responders to assure a heightened state of collective preparedness for consequence management of domestic chemical, biological, radiological, nuclear, and explosive events.

Also, the strategy should embrace the standardized equipping of State contingency stocks with chemical, biological, radiological, nuclear, and explosive equipment, and the equipping of State task forces with modern National Guard communications and transportation assets. Each State and territory should have self-contained National Guard aviation assets capable of air-lifting civilian and military homeland security personnel and equipment within and outside the State or territory.

Further, the strategy should include increased full-time support to the National Guard military support offices in each State, territory, and the District of Columbia. Increased full-time National

Guard homeland security staffing at the National Guard Bureau and Joint Forces Command should also be a consideration in this strategy.

It should also authorize and establish a joint State task force in each State, territory, and the District of Columbia that is staffed appropriate to each mission that will be scalable in organizational structure and personnel in modular units with a variable command structure dependent upon the size of the task force, and also staffed by Army and Air National Guard soldiers and airmen with emergency planning and liaison officers from the Federal reserve components.

Further, we should have a National Guard officer in Title 10 status, if necessary, to exercise command and control of Title 10 military personnel who are added to this task force. The grade of the National Guard task force commander should be determined by the size and composition of the task force and be under the tactical control of the adjutant general and, in turn, the Governor in order to assure unity of command and unity of purpose. This would occur when Federal forces are called into a State. Further, it should support the State and Federal response plans.

One final element needs to be emphasized on behalf of the Nation's Governors. Use of the National Guard as a primary fusion agent in executing a balanced, integrated national domestic security strategy preserves the constitutional role of the sovereign States, and assures that Governors and other State and local civil authorities remain responsible and accountable for public safety and security of their State, territory, or local jurisdiction.

The use of the National Guard in State active-duty status and in Federal pay status under Title 32 permits military forces under the control of the Governor to assist civil authorities in executing all the laws, Federal, State and local, without violating *Posse Comitatus*.

Madam Chair, that completes my remarks. Again, I thank you for this opportunity to appear before this subcommittee and I am ready to respond to any questions you might have at your convenience. Thank you.

[The prepared statement of General Alexander follows:]

PREPARED STATEMENT OF MAJOR GENERAL RICHARD C. ALEXANDER

AGAUS POINT PAPER ON HOMELAND SECURITY

The National Guard, in accordance with the U.S. Constitution and long-standing integration with federal, state and local civil authorities, uniquely connects every firehouse to the Pentagon and every state house to the White House. The Adjutants General Association of the United States (AGAUS) and the National Guard Association of the United States (NGAUS) therefore urge the President to direct the Secretary of Defense, and request the Congress where necessary, to authorize, support, equip and fund the National Guard to assume a primary homeland security mission. Although there is a need for selected units and personnel to be dedicated primarily or even exclusively to homeland security, the homeland security mission can be most effectively and efficiently accomplished as a dual mission that compliments, enhances and draws its essential strength from the National Guard's continued combat force structure, training, and experience (see the Hart-Rudman Commission's Phase 3 Report).

Specifically, AGAUS and NGAUS urge implementation of the following key tenets of a successful homeland security strategy:

1. The statutory charter of the National Guard Bureau should be amended to reflect its unique role as a channel of communications between the states and

national security authorities. The Bureau is the official channel of communications between the several states and the Department of the Army and Department of the Air Force. (10 USC 10501(b)). The charter should be amended to also make the Bureau the channel of communications for homeland security between the several states and the supported CONUS CINC, the Chairman of the Joint Chiefs of Staff, the Secretary of Defense and the Assistant to the President for Homeland Security.

2. Authorize and fund a program for National Guard execution of a Governor's Plan for Homeland Security. Program oversight and resourcing would be provided by the National Guard Bureau based on the decade-long National Guard Counter drug Program model in which each state's Governor adopts and administers a program of full-time National Guard support (AGRs) for law enforcement agencies. Within prescribed national standards and guidelines enforced by the Bureau, the Governor's Plan for each state and territory marshals Guard resources to best meet the unique needs of each state and territory.

3. Provide funding to the National Guard Bureau to complete the fielding of National Guard Civil Support Teams (CSTs) in each state and territory. (See NEMA-AGAUS-NGAUS-IAEM White Paper on Domestic Preparedness)

4. Authorize and fund a program for organizing, training and equipping National Guard units for Homeland Security missions. Oversight of the homeland security mission should be provided by the National Guard Bureau based on the long-standing Garden Plot model in which National Guard units are trained and equipped to support civil authorities in crowd control and civil disturbance missions. The program should also authorize and fund National Guard training with civil authorities, to include local first responders, to assure a heightened state of collective preparedness for consequence management of domestic CBRNE events. (See NEMA-AGAUS-NGAUS-IAEM White Paper on Domestic Preparedness)

5. Prioritize standardized equipping of state contingency stocks with CBRNE equipment, and the equipping of state task forces with modern National Guard communications and transportation assets. Each state and territory should have self-contained National Guard aviation assets capable of airlifting civilian and military homeland security personnel and equipment within and outside the state or territory. (See NEMA-AGAUS-NGAUS-IAEM White Paper on Domestic Preparedness)

6. Increase full-time support to the National Guard military support offices of each state, territory and the District of Columbia. Increase full-time National Guard homeland security staffing at the National Guard Bureau and Joint Forces Command/CJTF-CS.

7. Authorize and establish a joint state task force in each state, territory and the District of Columbia that is staffed appropriate to each mission and which is:

A. Scalable in organizations structure and personnel in modular units with a variable command structure dependent upon the size of the task force; and

B. Staffed by Army and Air National Guard soldiers and airmen with EPLOs from the federal Reserve Components; and

C. Commanded by a National Guard officer (in Title 10 ADSW status if necessary to exercise command and control of Title 10 military personnel who are added to the task force). The grade of the National Guard task force commander should be determined by the size and composition of the Task Force; and

D. Under the tactical control (TACON) of the Adjutant General and, in turn, the Governor in order to assure unity of command and unity of purpose.

E. Supportive of the state and federal response plans.

F. The National Guard POMSO Office would provide the nucleus, planning and exercise functions for the standing task force element.

8. The Office of Homeland Security should include a National Crisis Action Center (NCAC) directed by a two-star National Guard general, with full-time representation from the other federal agencies involved in homeland security. (see Hart-Rudman Commission report at p. 17)

One final element needs to be emphasized on behalf of the nation's governors. Use of the National Guard as a primary fusion agent in executing a balanced, integrated national domestic security strategy preserves the constitutional role of the sovereign states and assures that governors and other state and local civil authorities remain responsible and accountable for the public safety and security of their state, territory or local jurisdiction. Use of the National Guard in state active duty status and

in federal pay status under Title 32, USC permits military forces under the control of the governor to assist civil authorities in executing *all* laws, federal, state and local, without violating the Posse Comitatus Act. Any attempt to repeal or substantially amend the Posse Comitatus Act would be met by a firestorm of resistance from the nation's governors and state and local civil authorities.

AGAUS—15 October 2001

Chairperson FEINSTEIN. Thanks, General Alexander.
General Monroe, welcome to Washington.

**STATEMENT OF MAJOR GENERAL PAUL D. MONROE, JR., AD-
JUTANT GENERAL, STATE OF CALIFORNIA, SACRAMENTO,
CALIFORNIA**

General MONROE. Thank you, Madam Chairwoman, and good afternoon to Senator Kyl, too. I want to thank you for the opportunity to provide insights from a State perspective on the role of the National Guard in the important homeland security mission.

While the issue of homeland security is one that has recently been thrust in the forefront of national awareness, it is important to recognize that these issues and concerns have been a central element of readiness, daily planning and operations at the State level for many years. My remarks today are a reflection based on the experience gained from State mobilizations for earthquakes, floods, wildfires, and civil disturbances. I have been involved in Federal mobilizations to support national security events during Vietnam, Desert Storm, and virtually every conflict or peace-keeping activity since.

There are many important reasons for considering the role of the National Guard in homeland security. Allow me to describe a few of the most crucial that are key to our success and ultimately to the success of homeland security of our Nation.

Specifically, this mission belongs to the National Guard. The National Guard is uniquely positioned to support homeland security for three reasons. First, we are the Nation's homeland force. This is why our Founders established the militia. Our units are located in over 300 communities across the United States—

Chairperson FEINSTEIN. Three thousand.

General MONROE. Three thousand. Thank you very much.

The District of Columbia, the Commonwealth of Puerto Rico, and the territories of Guam and the U.S. Virgin Islands. More importantly, we have been the homeland security force since 1636, with the formation of the first unit in Massachusetts.

The National Guard supports civil authorities in a myriad of missions, from community and national security to natural disasters and civil disturbances. We have also supported civil authorities in missions ranging from the war on drugs to participating in programs to encourage the youth of our Nation to embrace the value of education and the social skills that define the fabric of our Nation.

Finally, the National Guard is an integral element within each State government, fully integrated into the States' emergency response systems, even serving in many cases as the Governor's executive agent for emergency management, and in all cases the Governor's trained, equipped and deployable force to meet immediate emergency situations.

Homeland security is not the single mission of the National Guard, but one that should be codified in law and resourced in conjunction with identified requirements. Current National Guard force structure is designated by the active services to support their warfighting requirements, and that resource should be maintained as the most cost-effective method to meet the needs of the active services.

Adding force structure to the National Guard makes strong fiscal and operational sense for two reasons. First, adding homeland security capabilities to the National Guard, as opposed to other components, increases both Federal and State response capabilities. This is because a full spectrum of assets are available to both the Governor and for Federal mobilization.

Migrating current combat and combat support capabilities away from the National Guard to other components would reduce the available support to the active component until the same capabilities could be generated elsewhere.

Secondly, current capabilities of the National Guard provide the capacity currently required by each Governor in exercising military support for civil authorities within their State. Any capabilities that are migrated out of the National Guard become unavailable to the Governor, except under Federal mobilization.

Homeland security is a function that requires national authorization and coordination. However, planning and execution is best accomplished at the State and local level. In all cases, military support activities under homeland security will be subsequent to and in concert with local first responders, such as police, sheriff, firefighters, medical personnel, and emergency management offices.

This support role necessitates close coordination and planning well in advance of any development and response to any specific incident. This planning is best accomplished between the primary first responders and the National Guard, who are the military first responders. In virtually every State, this planning and coordination is routinely accomplished between the first responders and the National Guard as part of the current incident response system.

The appropriate response for supporting homeland security is to balance the current capabilities of the National Guard with the increased needs for this most recent mission. To meet these requirements in the most cost-efficient manner, the National Guard needs to establish a core of dedicated units and capabilities for homeland security.

It is not necessary to have 100 percent of the requirements in dedicated structure. The likelihood is slight that all National Guard units within a State would be federally mobilized in support of the Army and Air Force concurrent with requirements for homeland security. But it is possible that relying solely on federally-deployable units to plan, coordinate, exercise and conduct homeland security missions could result in the need for two critical missions being simultaneously required.

For example, currently the majority of the military police units in California have been federally mobilized to support Army and Air Force Federal missions. Yet, many of the missions currently underway in California could best be accomplished with these types of units. It is certainly reasonable to anticipate that assets that are

in demand for homeland security could also be in demand for Federal activation at times of crisis, so some redundant capabilities may be necessary.

To facilitate economy of scale, career management, training efficiencies, and to protect current Federal mobilization requirements, establishing a limited dedicated force for homeland security, sized to meet the unique requirements of each State, should be authorized.

There has been demonstrated a recurring need for a national method of connecting responsible agencies across local and State, as well as agency boundaries. After-action reviews of recent events show that this significantly impacts the efficiency of homeland security missions. The National Guard is in the process of fielding a nationwide network called GUARDNET that, if extended to all National Guard facilities, would provide low-cost access to first responders nationally.

Extending GUARDNET to all National Guard facilities and first responders could resolve the issue of the lack of an integrated warning information system such as that identified by authors Colonel Randall J. Lawson and Dr. Ruth A. David in their article.

Chairperson FEINSTEIN. General Monroe, I neglected to tell you about the red light. We are asking people generally to be confined to 5 minutes. If you could possibly sum up briefly, then we will get to questions.

General MONROE. Indeed.

Chairperson FEINSTEIN. Senator Kyl and I both have an Intelligence Committee hearing in about a half hour and I think we need to go to that.

General MONROE. And I probably would have gone that long if you hadn't stopped me.

In summary, then, the National Guard is the logical source for first military responders for homeland security. That need can best be met through limited increases to the National Guard force structure capability dedicated to this mission.

The national command authority must establish overall policy and maintain oversight of the development and training of these new responsibilities. However, each State must develop its own plan, based on Federal policy, that best meets the unique needs of each State. Success will be achieved through proper organization, equipping and training those National Guard units to meet critical shortfalls in accordance with the Governors' State plans and ensuring connectivity and coordination between the civilian and military first responders.

Homeland security requirements are an extension of the current military support-civil authority mission continuum that has been the hallmark of National Guard operations for over 350 years. With proper authorization and resources, the National Guard will accomplish this mission requirement with distinction, with no degradation to the support we have committed to the Army and the Air Force.

Thank you.

[The prepared statement of General Monroe follows:]

PREPARED STATEMENT OF MAJOR GENERAL PAUL D. MONROE, JR.

Good Morning, Madam Chairwoman and other distinguished members of this committee. Thank you for allowing me this opportunity to provide insights from the states perspective, on the role of the National Guard in the important Homeland Security mission

While the issue of homeland security is one that has recently been thrust to the forefront of national awareness, it is important to recognize that these issues and concerns have been a central element of readiness, daily planning and operations at the state level for many years. My remarks today are a reflection, based on the experience gained from state mobilizations for earthquakes, floods, wildfires, and civil disturbances. I have been involved in federal mobilizations to support national security events dating to Viet Nam, Desert Storm, and virtually every conflict or peacekeeping activity since.

There are many important reasons for considering the role of the National Guard in homeland security. Allow me to describe a few of the most crucial that are key to our success, and ultimately to the success of homeland security for our nation. Specifically:

1. The Mission Belongs to the National Guard

The National Guard is uniquely positioned to support Homeland Security for three reasons.

a. First, we are The Nation's homeland force. This is why our founders established the Militia. Our units are located in over 3000 communities across the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Territories of Guam and The US Virgin Islands.

b. More importantly, we have been the homeland security force since 1636 with the formation of the first unit in Massachusetts. The National Guard supports civil authorities in a myriad of missions, from community and national security to natural disasters and civil disturbances. We have also supported civil authorities in missions ranging from the war on drugs to participating in programs to encourage the youth of our nation to embrace the values, education, and social skills that define the fabric of our nation.

c. Finally, the National Guard is an integral element within each state government, fully integrated into state emergency response systems, even serving in many cases as the governor's executive agent for emergency management, and in all cases as the governor's trained, equipped, and deployable force to meet immediate emergency situations.

2. Increase the Capability of the National Guard, without transferring existing capabilities to other components of the Armed Services.

Homeland Security is not the single mission of the National Guard but one that should be codified in law and resourced in conjunction with identified requirements. Current National Guard force structure is designated by the active services to support their war fighting requirements, and that resource should be maintained as the most cost-effective method to meet the needs of the active services.

Adding force structure to the National Guard makes strong fiscal and operational sense for two reasons. **First**, adding Homeland Security capabilities to the National Guard, as opposed to other components, increases both the federal and the state response capabilities. This, because the full spectrum of assets are available to both the Governor and for Federal Mobilization. Migrating current combat and combat support capabilities away from the National Guard to other components would reduce the available support to the active component, until the same capabilities could be generated elsewhere. **Secondly**, current capabilities of the National Guard provide the capacity currently required by each governor in exercising military support to the civil authorities within their state. Any capabilities that are migrated out of the National Guard become unavailable to the governor, except under federal mobilization.

3. The need for Local Control

Homeland Security is a function that requires national authorization and coordination, however, planning and execution is best accomplished at the state and local level. In all cases, military support activities under homeland security will be subsequent to, and in concert with, local first responders such as; police, sheriff, firefighters, medical personnel, and emergency management offices. This support role necessitates close coordination and planning well in advance of any deployment in response to any specific incident. This planning is best accomplished between the primary first responders and the National Guard, who are the military first responders. In virtually every state, this planning and coordination is routinely accomplished between the first responders and the National Guard as part of the current incident response system.

4. The Need for Limited Dedicated, Scaleable Force Structure.

The appropriate response for supporting Homeland Security, is to balance the current capabilities in the National Guard with the increased needs for this most recent mission. To meet these requirements in the most cost efficient manner, the National Guard needs to establish a core of dedicated units and capabilities for Homeland Security. It is not necessary to have 100% of the requirements in dedicated structure. The likelihood is slight that all National Guard units within a state would be federally mobilized in support of the Army and Air Force, concurrent with requirements for Homeland Security.

But, it is possible that relying solely on federally deployable units to plan, coordinate, exercise, and conduct homeland security missions could result in the need for two critical missions being simultaneously required. For example, currently, the majority of the military police units in California have been federally mobilized to support Army and Air Force federal missions, yet many of the missions currently underway in California could best be accomplished with these types of units. It is certainly reasonable to anticipate that assets that are in demand for Homeland Security could also be in demand for federal activation in times of crisis, so some redundant capabilities may be necessary. To facilitate economy of scale, career management, training efficiencies, and to protect current federal mobilization requirements, establishing a limited dedicated force for homeland security, sized to meet the unique requirements of each state, should be authorized.

5. The Need for Connectivity

There has been demonstrated a reoccurring need for a national method of connecting responsible agencies across local and state as well as agency boundaries. After action reviews of recent events show that this need significantly impacts the efficiency of homeland security missions. The National Guard is in the process of fielding a nationwide network called GUARDNET that, if extended to all National Guard facilities, could provide low cost access to first responders nationally. Extending GUARDNET to all National Guard facilities and first responders could resolve the issue of the lack of an integrated warning/information/coordination system, such as that identified in *Homeland Defense: State of the Union, May 2001* (Col Randall J Larson & Dr. Ruth A. David)

6. The need for coordinated training

One need look no farther than the recent events of 9–11 to recognize the need for a standardized and coordinated training effort that ties together all of the various elements that respond to homeland security and Military Support to Civil Authorities. The greater the event, the more critical coordinated training in advance of the incident becomes. When a military organization responds in direct support of a single agency, on-site coordination and training can be effective. When an event reaches the proportions of the events of September 11, the criticality of immediate response can quickly overcome the availability of training time.

Deploying first responders, be they civil authorities or soldiers as first military responders, with inadequate or ad hoc training diminishes the effectiveness of the response and increases the potential for error. The National Guard has developed and is deploying a Distributed Training Technology Program that provides two way audio-visual and data capabilities.

Today in the United States, approximately 74% of the 30,000 fire departments are staffed primarily by volunteer fire fighters. The 785,000 volunteer fire fighters would benefit tremendously by having state-of-the-art training available through their local National Guard armory, and the Guard's Distributed Training Technology Program can provide that capability.

Another example of the complexity and breadth of the training requirement is the law enforcement community in California. California has 525 different local law enforcement agencies. These include 58 county sheriffs and 5 county marshals, 349 police departments, 10 police departments of the University of California, 23 State College police departments, 19 police departments at the public school level, and 31 community college police departments; plus the California Highway Patrol and various transit police departments as well as federal agencies that could respond to major events within the state.

Accelerating and extending the fielding of the Distributed Training Technology Program (DTTP) would serve three purposes.

First, the military readiness of the National Guard to respond to both Homeland Security and National Defense missions would be greatly enhanced.

Second, the DTTP classrooms would provide first responders access to state of the art training, provided locally, on a schedule that meets the requirements of the local volunteer. This training can include incident response training, initial and refresher training, and coordinating activities across functional and departmental lines.

Finally, the capability of two way voice & data communications (Video-Tele Conferencing) at the local level provides the capability for continued governmental operations during crisis situations by enabling each armory to serve as a local incident command center or alternate government office.

7. The need for a state specific plan

The need for a plan that is specific to each state's requirements cannot be overstated. No two states will have the same homeland security needs. To begin with, the potential mission requirements will vary from state to state. While some states, such as California, may have requirements to plan for supporting seaport activities, others will not. Some states coordinate with federal agencies to address international borders. Additionally, each state has their own unique mix of first responders and existing National Guard capabilities. Most critically, the governor of each respective state is individual who bears the responsibility for planning and conducting emergency operations. Whether these incidents are natural disasters or acts of terrorism, the governor is responsible for the public safety of the citizens of each state.

The final program adopted by this Congress must provide to the governor the means to develop (within reason of course) a capability and resource mix that balances needs of the state with existing capabilities and allocates new resources to those requirements that mitigate the greatest risk. Additionally, states need to be able to use commercial off-the-shelf technologies to meet specialized requirements, whenever this method is proven to be most effective.

It is anticipated that the majority of requirements in state specific plans will center on six major functions to strengthen capabilities within the state. These are:

a. Command, Control, and Liaison Capabilities to plan, practice, and perform the integration of military assets and civilian first responders to best meet the needs of the state.

b. Fill critical *transportation* requirements for both ground transportation and aviation shortfalls. We recognize from recent operations that timeliness is critical in responding to homeland security requirements, and in most states the available transportation assets are woefully inadequate to support projected needs.

- The aviation posture of the National Guard on 9/11 was that over 54% of our fleet of aircraft was obsolete and targeted for retirement with no replacements in the pipeline. The current proposal is to retire the current Viet Nam era airframes and to re-allocate the remaining airframes, (dating to 1977) across the entire force. The net impact will be a reduction from the current 1100 Utility & Cargo airframes (CH47, UH1, UH60 only) to an end state of 799, an overall reduction of nearly 28%. The relative impacts on representative states is as follows:

	State	Current Cargo	Projected End State	Impact
i.	California	59	36	-40%
ii.	Arizona	8	8	N/C
iii.	Ohio	34	26	-24%
iv.	Alabama	38	27	-29%
v.	Kentucky	15	14	-7%
vi.	Delaware	19	13	-32%
vii.	Wisconsin	25	17	-32%
viii.	Washington	16	14	-12%

- In California, we are short 440 HUMMV vehicles (nationally the shortfall to meet current requirements is in excess of 6000 vehicles), we are short 185 line haul tractors, and our cargo truck fleet includes over 1100 trucks that date to 1953/1973. While this represents the current situation in California, I suspect a similar situation exists throughout the National Guard.
- Furthermore, these trucks are specifically designed for off-road applications, which limits their speed, their cargo hauling capabilities, and their fuel efficiency. Anyone stuck behind a National Guard Convoy on a two-lane road understands the limitations of applying tactical vehicles to over-the-road applications.

c. Chemical-Biological Reconnaissance and Decontamination. Some states, such as California have been assigned Civil Support teams, but the majority of states are still short this capability, and in large states additional teams may

well be required. In the three months following 9/11, the 9th Civil Support Team, stationed in California, has already responded to eight different deployments, including deploying across state lines for a national event.

d. Medical Response Capabilities. Virtually all medical capabilities, in excess of basic first aid medics, have been removed from the Army National Guard. This has severely reduced the Governor's homeland security medical response capability. The US Air Force Surgeon General and the Air National Guard have developed a low cost solution that will provide an excellent medical response for both natural disasters and homeland security events.

e. Law Enforcement Capabilities. The value of additional law enforcement resources for homeland security assets cannot be overstated. Most of the current deployments both in California and nationally could be best accomplished with trained, equipped law enforcement units, but most of our law enforcement trained units have already been deployed to federal missions, in many cases outside the state.

f. Engineer Capabilities. As with medical capabilities, much of the engineering capabilities in excess of battlefield engineering have been migrated outside the National Guard. In California, we have lost our vertical construction capabilities, our earthmoving and infrastructure repair capabilities, and most critically, our bridging assets. While it would appear that there is little call for emergency bridging in homeland security, every year while we still had the capability, our bridge unit was deployed to rescue people stranded by floods or bridge failures, and to capture and recover structures and items that were creating safety and navigation hazards. Additionally many states may need to develop Explosive Ordinance Disposal or Urban Search and Rescue capabilities.

8. The need for dedicated resources.

It is critical that in developing America's response to preparing for homeland security we stand ready to provide the resources required by the individual plans of each state. This will not be inexpensive, but it is critical to the success of homeland preparedness.

Based on the critical shortfall in aviation, one should anticipate that many states require additional aviation to accomplish homeland security requirements. The current cost of an 8 helicopter Blackhawk company, critical for rapid transportation of personnel and supplies, search and rescue, medivac operations, command and control, and other transportation support can easily exceed 100 million dollars each.

The cost of equipping a nuclear, chemical, biological decontamination unit is between 7 and 8 million dollars, depending on the equipment mix.

The cost of establishing regional training capabilities to facilitate integration of civil and military operations is estimated 55 million dollars.

9. Homeland Security: a mission continuum not a conversion

From my experience, the most effective way to meet evolving needs is to adapt the proven system currently in place rather than develop a new bureaucracy. By tradition and by law, during normal peacetime operations the National Guard provides first, and usually all, Military Support to Civil Authorities. Processes and procedures are already in place and utilized for the National Guard to respond to the needs of civil authorities, whatever those needs are and however large they are.

The system was tragically exercised by the terrorist attacks of 9-11, and the system worked. Even under the most dire conditions, faced with circumstances no one could envision beforehand, emergency response managers adapted the processes of the current system to bring into place all the required capabilities of the National Guard.

The New York National Guard initially responded to the exigent needs of the situation, then adapted its response to meet the needs identified by civil authority, which it is still doing today. The response of the New York National Guard, assisted by the National Guards of New Jersey, Connecticut, the National Guard Bureau, and, if only in a small way, the California National Guard, was in keeping with the best traditions of the National Guard. The heroic response of all the emergency responders is an affirmation of the proficiency of the emergency response system.

10. The need for early and frequent dedicated coordination

An adage we use in the military is that we fight as we train. More correctly in this context is that those actions and activities that have been pre-coordinated and rehearsed in peace, become routine and fluid during crisis periods. It is absolutely critical to recognize that unlike most military operations, 100% of homeland security operations will be in response to unfriendly acts accomplished in friendly environments.

The effectiveness of the integration of military support into a local situation will be dependent on the extent of pre-coordination and cooperation that exists at the outset. It is for this reason that we in California feel so strongly that in establishing

the structure necessary for homeland security, it not be an ad-hoc organization, but rather one that is dedicated to the coordination, liaison, planning and execution of Homeland Security as a primary mission focus.

Additionally, the design of the structure must be flexible enough to accommodate the unique needs of each state. It is unlikely that few other states will face the same breadth of coordination with law enforcement personnel that we have in California. Conversely, it is likely that more rural states will have a greater need for coordination with volunteer firefighting agencies, and all states will face ongoing challenges to balance legal and environmental concerns, coordination challenges, and training shortfalls. Only through ongoing liaison and coordination with local, state, and federal government, first responders, and the general public, can these concerns be best satisfied.

Summary

In summary, the National Guard is the logical source of first military responders for homeland security. That need can best be met through limited increases to the National Guard force structure capability, dedicated to this mission. The National Command Authority must establish overall policy, and maintain oversight of the development and training of these new responsibilities. However, each state must develop its own plan, based on federal policy, that best meets the unique needs of each state. Success will be achieved through proper organization, equipping, and training those National Guard units to meet critical shortfalls (in accordance with the Governors State Plans) and ensuring connectivity and coordination between the civilian and military first responders.

Homeland Security requirements are an extension of the current Military Support to Civil Authority mission continuum that has been a hallmark of National Guard operations for over 350 years. With proper authorization and resources, your National Guard will accomplish this mission requirement with distinction and with no degradation to the support we have committed to the Army and Air Force.

It has been my distinct pleasure to be here today, I thank you for the opportunity to testify on this critically important aspect and mission of the National Guard.

I welcome any questions you may have.

Chairperson FEINSTEIN. Thank you, General Monroe.

I will begin the questions.

The first question is for General Libutti. Attorney General Ashcroft and Canadian Cabinet members recently entered into agreements to tighten security along the U.S.-Canadian border. Under these agreements, it is my understanding that 600 United States National Guard troops will augment overworked Customs and Immigration agents at the border, and also help speed up commerce. I believe the mission is supposed to last 6 to 12 months.

I am informed that the Defense Department decided last Friday that the National Guard will be federalized—that is, mobilized under Title 10 of the U.S. Code—rather than remain under the control of the relevant State Governors; that is, mobilized under Title 32 of the U.S. Code. However, I am also told that the Justice Department believes that this is an issue still “under discussion.”

My question is this: has this administration decided yet whether the National Guardsmen, given this border security mission, will be federalized?

General LIBUTTI. Yes, ma’am. In response to, I think, what I discern as the two primary questions—one is what is the status in terms of whether they are federalized or not, and then how indeed do we see them in support of other lead Federal agencies—the answer is, number one, they will be federalized, and the decision taken to do that under Title 10 is correct, yes, ma’am.

The second piece is that these forces, and I would add parenthetically the identification of individuals who will support that effort, is underway and we hope that we will have boots on the ground, so to speak, within the next 2 weeks.

But that effort will indeed appear in what we believe is the smartest, wisest way to do business; that is, those forces will be working—that is, take their duty or task—from the lead Federal agency for whom they will work, whether it is Border Patrol, Customs, or INS, which legally in terms of legal authority permits us to exercise our law enforcement capabilities and responsibilities in support of security at the border.

Chairperson FEINSTEIN. Thank you very much.

I would like to hand you a letter which is signed by Chairman Leahy, Senator Murray, Senator Jeffords, and Senator Cantwell on this subject, if I might.

General LIBUTTI. Yes, ma'am.

Chairperson FEINSTEIN. Let me go to the next question. In a September 20, 2001, report GAO noted confusion between the National Guard's Weapons of Mass Destruction Civil Support Teams and the FBI as far as who would have the lead role in providing guidance to first responders.

In that report, GAO recommended that the Secretary of Defense reach a written agreement with the Director of the FBI that clarifies the roles of the National Guard teams in relation to the FBI. DOD, it is my understanding, concurred with that recommendation.

Has such an agreement been reached, and if not, why not?

General LIBUTTI. Ma'am, I don't know whether an agreement has been reached. I have no personal knowledge of that and I will do my homework and follow up and provide a response. What I can tell you is that under the circumstances for employment and support by our CSTs, the FBI does have lead in that and we support the FBI, were our teams called upon to support that event, whatever that event or situation might be.

Chairperson FEINSTEIN. Thank you.

General LIBUTTI. That is, ma'am, what we would call the standard procedure in terms of employment of those forces.

Chairperson FEINSTEIN. The FBI would be the first responder?

General LIBUTTI. First responders would be those first on the scene. The FBI would have authority as they moved on to the scene and we would take our lead from the FBI.

Chairperson FEINSTEIN. Thank you very much.

General Davis, in 1999 Congress authorized the creation of Weapons of Mass Destruction Civil Support Teams, each consisting of 22 National Guardsmen. These teams were created with the purpose of responding to attacks involving weapons of mass destruction. The authorizing legislation required that none of the teams be used to respond to an emergency unless the Secretary of Defense certifies that the team has the requisite skills, training, and equipment to be proficient in all mission requirements.

Although the first ten teams were originally scheduled to be fully operational by January of 2000, none of them were certified until July 2001. Congress has now authorized a total of 32 teams.

My question is how many of the 32 teams Congress has authorized have been certified by the Department of Defense?

General DAVIS. Well, we still have just those original ten teams that have been certified. It is done in three phases, ma'am, 10 in

the first phase, 17 in the second phase, and 5 which were recently announced in the third phase.

Those teams that are in the phase two portion of it have completed—about 60 percent of them have completed their training and the remaining few are in training now, with 3 or 4 to complete their training in January. We hope that if things go as well as they have up to this point with the successful training and the equipment flow, we hope to have those teams certified sometime in the late winter, anticipating that some will be certified not long after.

Those that have completed their training are doing a little follow-on training, following what we call an external evaluation which is done just to standardize it and make sure they meet all the quality performance standards at Ford Leonard Wood, and that is a consolidated program, so we do it across the Nation, the same standards. As we complete that program, a few weeks after that their paperwork will be submitted, and I think some of the paperwork is flowing through now, ma'am, on those teams.

Chairperson FEINSTEIN. Now, when did you say they would all be certified?

General DAVIS. The final 32 teams—the last 5 which were just recently announced in October, we are working now to staff those teams and to get equipment for them. We would hope that we could do that in about 15 to 16 months, ma'am.

Chairperson FEINSTEIN. Allow me one parochial question. When will the 95th Civil Support Team, headquartered in the San Francisco Bay area, be certified?

General DAVIS. Paul?

General MONROE. We think by the end of January.

Chairperson FEINSTEIN. Of next year?

General DAVIS. Yes. That is the final team. That will be the second team in California, ma'am, as you are aware.

Chairperson FEINSTEIN. Thank you very much.

Senator Kyl?

Senator KYL. Thank you, Madam Chairman.

General LIBUTTI. Ma'am, may I add to a point that you raised with me just for clarification in terms of an incident site or a situation that would require employment of the CSTs?

Chairperson FEINSTEIN. Yes.

General LIBUTTI. Oftentimes, it simply wouldn't be first responders and FBI. There would most likely be Department of Energy folks, as well, on scene. So, again, just to clarify the situation, we would normally be in support of either the Department of Energy or the FBI. It would depend on the situation and the timing in terms of how this incident was unfolding.

Chairperson FEINSTEIN. Thanks, General. That is helpful. Thank you.

Senator?

Senator KYL. Along that same line, General Libutti, let me just give you this hypothetical. Tomorrow morning, a bioattack is discovered in the nature of some kind of dispensing of smallpox in the New York City area and there is a mass exodus of people, or attempted mass exodus of people out of that area. It is highly contagious, of course, and you would want to do some kind of a quarantine.

Would the National Guard be ordered to preclude New Yorkers from leaving the area and spreading the disease around the country?

General LIBUTTI. Sir, if I can respond by addressing it in the following way, what we would hope would happen both at the national level and State and local would be an effort that would be one in concert with the other. We would hope that we would get initial assessment from first responders and a second assessment and request for support from the mayor or the Governor, and at that point, and I am talking minutes, not hours, an appropriate response or a call made to either Governor Ridge—and I am playing out your hypothetical if you will permit me—or to the President assessing the situation, identifying what the immediate need appears to be, and a decision therefore made in concert with the Department of Defense and other Federal agencies on how we might respond immediately—that is, with Federal response forces—if, again, requested and if we assess it as appropriate.

So I mean the point is that certainly in an emergency all hands, all Federal agencies, including the Guard, reserve, active forces, if you will, would be prepared to support. Again, I am playing through this hypothetical with you.

Senator KYL. Sure, and the question is intended as purely hypothetical and with all the normal caveats that we don't have all of the facts, and so on.

General LIBUTTI. Yes, sir.

Senator KYL. But it is a helpful answer. I am going to extrapolate a little bit. I gather the answer is, yes, that could be and, in fact, might well be part of the response quickly to such an event if the proper call were made.

General LIBUTTI. Now, you have pushed the right button for me and I am thinking as a former operator. The concerns I would have would be, of course, with the health issue, the contamination issue, the isolation of the area, protection of key facilities, et cetera, et cetera.

Certainly, the police, fire department and health agencies within New York City would be on-scene and doing their very best, and then it is a matter of what other Federal or local or State assets could you bring to bear very quickly.

Senator KYL. I guess there are two things that I wanted to get out of this, and purely hypothetical. The first is that it is quite possible that the homeland defense office would order, through the appropriate channels, in an appropriate way, nearly immediately upon request the Guard to help resolve that kind of a situation.

General LIBUTTI. Certainly a viable option, absolutely, sir.

Senator KYL. By the way, I am not advocating anything here. I am trying to illustrate a point here, and this is the second point that within the Office of Homeland Defense there is, as you say, an exploration of operational solutions for the future, which I would presume include a lot of at least tentative notions as to what you would do tomorrow if it happened.

General LIBUTTI. That specific point supports your point, as well as our sense that it is critical that we very carefully review the unified command plan that is underway now and we hope to close fair-

ly soon, the Secretary does, because part of that will examine the wisdom and efficacy of standing up a CINC for homeland security.

I won't go down that road in terms of options you are, I am sure, aware of, but that is key critical to decisions relative to, in my view, the future role of the Guard, the reserve, and those active forces that might be called upon to support the CINC for homeland security and then the national or regional situation that may present itself. So I am agreeing with you, sir.

Senator KYL. Right, and with due regard for, as you describe in your statement, a proper balance between the needs of warfighters abroad and the need to defend the Nation at home.

I think, General Alexander, you made the same point at the beginning of your testimony and I am sure all of you would agree with that.

So that is the point that I wanted to make here, and I think what we are most interested in here on the committee is—and our role as the Judiciary Committee relates to terrorism and any legal things that would have to be done here. Obviously, the Armed Services Committee has a larger role in terms of the unified command issues and the like.

We want to make sure that there is a process in place for anticipating what might happen and having the most appropriate forces prepared and ready to go so that there is no hesitancy at the time of a tragedy about what the options are and who has the authority to do what and the like.

General LIBUTTI. I think it is altogether fitting and proper, as my colleagues here on the panel have indicated, that we take a hard and proper review of the role of the Guard and reserve, for that matter, in the future, in the 21st century, relative to homeland security. It is absolutely critical we do that.

Back to the point we have all made, the balance piece is also key critical, as well as understanding the apportionment of forces in this one pot called Department of Defense assets. If there were to be a change, and it is smart after an appropriate review, we need to be very careful how we deal with that so that we don't eviscerate or destroy the current standard, which is fight the fight at home and fight the fight abroad.

Senator KYL. Thank you. That is very helpful.

General DAVIS. If I might, please, the Department of Defense in their reserve affairs office has just kicked off a study which will look at that. Is that the right mix? Do we have the right people in the National Guard and the reserve and in the active component? That study has kicked off and it will be completed sometime in the late spring, I believe.

Chairperson FEINSTEIN. I suppose an argument can be made, well, just leave things the way they are and the right things are going to happen, depending upon the situation, and it protects the primary mission of the Guard. I am not sure that is the case.

I mean, I think we are into a very unusual time. Who would have thought that the events of the anthrax incidents, looking at cropdusters, the World Trade Center, the Pentagon, the fear that something else is going to happen—we have never been in that arena before and the longer I am around, the more I think the kind

of primary military response is really the protection of the homeland.

I don't know another entity to do it and I have been somewhat puzzled by Defense not wanting to take a position here because I think we need to very aggressively define it. If you need more money, say so, but really get these teams certified—I mean, it has been slow going—and move ahead.

Of all the witnesses today in terms of what I would like to see accomplished, General Monroe was the most forthcoming with opinion, and I think maybe General Alexander. My understanding is that the Guard Association is in favor of moving in this direction.

Is that correct?

General ALEXANDER. The associations are in favor of homeland security being a primary mission for the National Guard. They advocate resourcing the structures that exist now to the extent that they can perform effectively the homeland security mission, while in dual status it can accomplish missions abroad.

When the Guard was born, our military was not an expeditionary force. The sole intention was to protect the homeland. But this has evolved, as you mentioned, since 1903 to date, so we have an obligation to not only protect at home, but to protect abroad. Some would say the first responders are those that are on the ground in Afghanistan protecting the homeland.

So there has to be a conscious mix of modifying our force to the extent that we can satisfy the homeland while satisfying our obligations abroad because there is no separate and distinct—we are no longer isolated anymore.

Chairperson FEINSTEIN. That is correct.

General Monroe, do you want to comment on that?

General MONROE. Yes. I think it is important that we develop a force within each State that is a Governor's asset that they can respond to these things with because the military on the ground at the World Trade Center was the New York National Guard, and the New Jersey National Guard supported them. But that is what is going to happen.

If there is an event that occurs in a particular State, the firefighters and the police officers are going to respond to it, and then the National Guard. And if it is more than the National Guard can handle, then there has to be Federal support. But if there was a force that could rapidly react to that, it could minimize the damage that was done during the incident.

General LIBUTTI. Ma'am, if I might add, just hitchhiking on a point you made about the DOD position, as I tried to articulate the concept or approach that we are looking at now—and I would add I have been on the job about five-and-a-half weeks now, and am proud and pleased to be where I am.

As I discuss this in great detail with Secretary White and other leadership in the Department, our concept, as I tried to again express, is when we think of homeland security, we think of the elements of that being homeland defense, unique capabilities and actions performed and led by the Department of Defense, and then the rest under the block called support for civil authority. That is the way we are trying to define now, currently, how we support our

Governors, how we support our National situation in terms of terrorism, and how we intend to do it in the future.

I applaud the initiative to pull the veneer back and look very carefully at the role of the Guard. Again, my point is that we should be very circumspect; we should not be premature in making judgments to change things until we see the results of reviews that are already underway and should be closed by the spring in terms of what DOD is doing to look holistically at the role of the Guard and reserve, what we are doing inside DOD, and that is to stand up what we hope will be an under secretary of defense, coupled with what Governor Ridge is doing, and that is organizing his team and also developing a national strategy for homeland security.

Chairperson FEINSTEIN. Well, wait one second. So this wouldn't necessarily be under Governor Ridge. It would be under an assistant secretary. Is that correct?

General LIBUTTI. I work, again, for Secretary White. He is the Executive Agent for Homeland Security for the Department of Defense and I am his special assistant. My charter is to work the day-to-day issues that come to the Defense Department relative to homeland security and to stand up, without new structure, but stand up an organization that combines current assets that work with homeland security but not under one leadership or one organization within DOD. So what we have started is something within the last 4 to 5 weeks to create an Office of Homeland Security within DOD.

General MONROE. Madam Chair, one other point, too. As you have pointed out, I have been around a long time and the Guard used to be involved in a similar way that we are talking about now. We had these air defense sites, where most of the people that manned these sites were full-time. They were along both coasts and they were operated by the National Guard as air defense for the United States against Soviet bombers. Well, when they developed intercontinental ballistic missiles, then those sites went away.

We also have something called the counter-drug program that we have been working for the last 10 years, and we are doing similar missions to this new mission that has come up along the border and we are doing it in Title 32, working for the same agencies that have requested this support. I can't think of a State that didn't advocate that this be done under Title 32 because it is just, as we see it, a continuation of what we are already doing.

Chairperson FEINSTEIN. I am a little puzzled that they used Title 10 myself.

I would like to recognize the distinguished chairman of the committee. Mr. Chairman, if you have some comments, we would be delighted to hear them.

**STATEMENT OF HON. PATRICK J. LEAHY, A U.S. SENATOR
FROM THE STATE OF VERMONT**

Chairman LEAHY. I do, Senator, and I thank you for doing this and I apologize for popping in and out. I am trying to juggle two other committees.

General Davis, it is good to see you again. I know you were well received in Vermont. I talked with General Rainville earlier about this hearing, and she sends her best.

General Alexander, it is always good to see you.

I think Senator Feinstein deserves an enormous amount of credit for doing this at a far busier time of the Senate session than I think either she or I ever thought it would be. So I applaud her for doing it.

I was glad to see Senator Bond come here. He and I co-chair the 85-member Senate Guard Caucus, something that we both think of with pride.

In Vermont, it is easy to talk about those kinds of things. We led the Nation in the per capita number of our reserves and Guard who were called up in the fight against terrorism. Within hours of the terrible events of the 11th, we had the Green Mountain Boys, our Air Guard, flying F-16s over New York City, the F-16 Fighting Falcons. I must admit they make it from Burlington, Vermont, to New York City a lot quicker than I have ever been able to go, and they don't lose your luggage along the way. So I applaud that.

But you know how difficult that is when you are trying to coordinate, and be able to do it almost immediately, to coordinate the turnaround, just as you can imagine, General Monroe, the logistics of somebody saying, okay, we are going from this to suddenly being down there.

General Libutti, you know in the Department of the Air Force when you are trying to mesh all those things, it looks great on paper, but you want to make sure it works when you actually do it.

So I think that they deserve a great deal of credit, obviously not only the Vermont Guard, but throughout the country, because they are the premier homeland defense force, and they have been proving it.

I have some concerns, and I understand Senator Feinstein has already put in the record a letter on this, but my concern about the administration considering establishing a central military homeland security command. I worry about how it might impact on the Federal-State balance, especially as the Guard is concerned.

Would Guard forces, for example, be called up continually under Federal active-duty status? Do they become indistinguishable from their active counterparts? Do the 50 Governors of our States and the adjutants general have control over the forces that serve within their States? If we go on the border, for example, do we suddenly have Guard units from California in the Burlington, Vermont, airport or along our borders? Are Vermont Guard people along the border in the State of Washington and Canada, or Michigan, and so on?

Do you bring them under Title 10, placing them on Federal active duty under an out-of-state command? That is what kind of worries me, especially when we talk about along the northern border, 4,000 miles of it.

I worry about the Governors and the adjutants general losing control of their own forces. On the other hand, under Title 32, as I understand it, Guard troops are federalized for pay and allowances, but the Governors and the State adjutants general maintain command and control. That is why the Washington State delegation and those of us from Vermont sent a letter to Governor Ridge on this basis.

Every single Governor is making homeland security and emergency response a priority. I mean, there is not a Governor in the country that is not looking at everything from bioterrorism to every other kind. Here in the Congress, we have been wrestling with this. Some of us, I must admit, have probably focused a little bit more in recent days on the question of anthrax, but we all have an interest in this.

I just don't want to take the Guard, which has performed so well in all the States—I know it has in California and every other State—I don't want to start reinventing the wheel here and take what is a well-working organization and turn it into something else.

So those are just some ruminations of mine. Again, I can't emphasize enough how important it is that the Senator from California is holding this hearing.

I must say, Madam Chair, that you couldn't have four better people to be here to discuss it with you. Any questions I have I will submit for the record, but I just wanted to come over and make those comments. I know you have put our letter in the record, and I thank you for doing this at a very busy time.

[The prepared statement of Senator Leahy follows:]

STATEMENT OF SENATOR PATRICK J. LEAHY

I want to thank Senator Feinstein for her work in organizing this important hearing.

As the co-chair of the 85-member U.S. Senate National Guard Caucus, I am intensely interested in the emerging role that is being taken by the National Guard in homeland defense. In Vermont we take particular pride in our National Guard—the fabled Green Mountain Boys. In fact, Vermont leads the nation in the per capita number of reserves called up to fight in the war on terrorism. If you have visited Ground Zero, you have probably run across citizen-soldiers from the Green Mountain Boys protecting the site or have seen the contrails overhead of the Vermont Air National Guard F-16 Fighting Falcons that have flown continuous air patrols over New York City since September 11. They have handled these difficult and unprecedented assignments with grace and, while doing so, they and their families and their employers have made sacrifices for which the nation is grateful.

I welcome all of our witnesses to the Senate. Senator Bond, I appreciate your taking the time to be with us to introduce this subject. I value our partnership in working on National Guard Caucus issues, and I look forward to facing next session's challenges together. General Davis, I have enjoyed working with you over this past year, and I want to congratulate you on your approaching retirement. General Libutti, I appreciate your giving us a broader Army perspective on the emerging role of the Guard in Homeland Defense. I am especially glad we have an Adjutant General of the United States, General Paul D. Monroe of California, and the executive director of the National Guard Association of the United States, retired Major General Richard Alexander. Your insights will be critical to our deliberations. As always, I also value highly the counsel I receive from General Martha Rainville of Vermont.

On all fronts, the National Guard is performing incredibly well with the assignments given Guard units in the aftermath of the terrorist attacks. They are proving every day that they are the nation's premier homeland defense force. Guard Interceptors from New Jersey, North Dakota, the District of Columbia, and Massachusetts, in addition to Vermont, have flown continuous air patrols over New York City and Washington since September 11. Thousands of troops from the Guard are standing watch at our airports and, soon, at our immigration posts. What makes these contributions all the more impressive is that all of it has been done under longstanding authorities with little question about chains of command and local control.

While I am glad that we are convening today, I have to admit that I am concerned that—despite these real accomplishments since September 11—the Administration is actively considering establishing a central, military homeland security command.

Such a command has serious implications since it could have a negative impact on the Guard and the balance of powers between the federal and state government.

Basically, this approach does with the military domestically what the Goldwater-Nichols legislation did for structuring how we fight wars abroad. The Goldwater-Nichols law created a Unified Command Plan that invested responsibility for operational control in wartime with various regional commands. That legislation in the mid-1980s left homeland defense operations within the borders of the United States untouched because it raised too many objections about involving the military excessively in civilian affairs.

While we have seen the fruits of this landmark legislation in our ongoing fight against terrorism abroad, I wonder if we have really thought through the implications of extending the command plan to the United States. We need to ask what it would gain us and what it would cost us to impose such a change on the National Guard. Would Guard forces be called up continually under federal active duty status, becoming indistinguishable from their active counterparts? How would the nation's Governors and Adjutants General have control over the forces serving in their states?

Several of the concerns about creating a central homeland security command that uses the Guard mirror some of the issues raised by the recent discussions about bringing forces to supplement the INS along the porous 4000-mile Northern Border. There is question about whether to bring these force on under Title 10 status, which places Guard forces on federal active duty under an out-of-state command, and could conceivably result in bringing federal troops from distant locations to serve in place of state National Guard members. This action completely removes the Governor and the Adjutant General from any command and control over their own troops. Under Title 32 status, which is federalized for pay and allowances but with command and control maintained by the governors and states adjutant general, this would not be the case.

My own view on that question is that forces should be brought up under Title 32 duty because they have more flexibility to do the job. Additionally homeland security performed by state National Guard troops under the control of their own Governor and their own Adjutant General is much more acceptable to the citizens of each state. These are friends and neighbors of the citizen soldiers and they have come to expect and depend on Guard troops to perform these types of missions within their borders. These are missions the Guard was created for and trains for on a continuing basis. Under Title 32—state-controlled troops ensure Governors and Adjutants General remain in command and control of their own troops. Senator Feinstein, I would like to ask that a letter that the Vermont and Washington State Senate delegations sent to Governor Ridge on this subject be included in the record.

It seems to me that we may not need to make radical changes in the structure of the military and the Guard to carry out the homeland defense mission. All of our nation's governors are making homeland security and emergency response a priority. If there are skills in dealing with contingencies that they lack, then they can train to respond more effectively. Meanwhile, the National Guard has shown that its units can perform superbly when called upon. I question whether we are trying to find a solution for a problem that does not exist. Let's not reinvent the wheel here.

For the benefit of this committee, the Senate, the House and the Administration, I hope our witnesses will frankly address these issues in their testimony. I look forward to their testimony. Thank you again, Senator Feinstein.

Chairperson FEINSTEIN. Thank you very much, Mr. Chairman. We appreciate it very much that you would take the time to be here.

I would like to add to the record the statement of Bernard Rostker, from the RAND Corporation, on this subject. Unfortunately, he was ill and couldn't be here today.

[The prepared statement of Mr. Rostker follows:]

PREPARED STATEMENT OF BERNARD ROSTKER, SENIOR RESEARCHER, RAND
WASHINGTON OFFICE, WASHINGTON, D.C.

Madam Chairman and members of the committee it is my pleasure and honor to be here today to discuss the important topic of the National Guard and homeland security. While my remarks are based upon observations made during my tenure as a senior official of the Department of Defense, and as a senior researcher at

RAND, they are my own and do not necessarily represent the views of the Department of Defense or RAND.

During 1994, I was a member of a team at RAND that carried out a congressionally mandated study concerning the ability of the National Guard "to fulfill both its State and Federal missions." The study was mandated under Public law 103-160, 107 Stat. 1655, November 30, 1993. As part of that study we visited a number of states that had recently employed their National Guard in support of "consequence management" activities resulting from domestic emergencies and disasters, as well as civic action activities ranging from work with at risk youths to drug interdiction. During our field work we met with State Adjutants General and emergency coordinators. We interviewed unit commanders and ordinary Guardsmen. We met with officials of the Army, the Air Force, and the National Guard Bureau and visited their readiness centers in Arlington, Virginia and at Andrews Air Force Base. In one State we even met with the Governor. RAND published the results of this study as a report, MR-557-OSD, *Assessing the State and Federal Missions of the National Guard*.

I came away from this project with a deeper understanding and appreciation of the value of the National Guard, and for the dedication of the men and women who serve their State and Nation. The National Guard is an asset in both war and peace.

Several years later I found myself serving as the Under Secretary of the Army. In that capacity I assisted the Secretary of the Army with his responsibilities as the Defense Department's executive agent for military support to civil authorities. My field visits in 1994 served me well, giving me a much better appreciation for the use of the National Guard and the Federal Reserves in support of operations other than war in the United States.

As I noted the National Guard is a valuable asset in both war and peace. Today's missions for homeland security, while supporting our world wide effort to combat terrorism are more like traditional State missions under Title 32, than they are like combat missions under Title 10. Based upon my experience here are a number of points that I can recommend to you and the Committee as you consider the role of the National Guard and the need for any new legislation.

- The best solutions are local. My best advice is solve the problem at the lowest possible level. Federal authorities must remember that the National Guard is not the regular Army or Air Force. Guardsmen have chosen to be part-time soldiers and airmen, respect their decision.
- The National Guard is federalism at work, make the most of it. Don't cut the Governors or their State Adjutants General out of the action, use them. The National Guard is a unique asset, particularly when it remains in State status under Title 32. As agents of their State they are not subject to the provisions of the federal *posse comitatus* statute, and can be granted police powers by their Governors.
- The mission should be given to the State Adjutant General. He or she is in the best position to determine how to use effectively and efficiently the manpower of his or her State National Guard. In my field visits I was impressed by how well the State Adjutants General moved Guardsmen in and out of active service to facilitate the mission and meet the other responsibilities of their part time soldiers and airmen.
- The commanders of the National Guard are experts in working with State and local government and organizations. They know the people and can relate to local conditions better than a federal force.
- The National Guard organizations of the states have learned to work together in mutual aid compacts. This could be strengthened with national compacts, rather than just regional compacts. However, the system of compacts makes the whole greater than the sum of its parts.
- Coordination and standardization can and should be accomplished through the National Guard Bureau and it's readiness centers.
- Individual Guardsmen called to State active duty should have the full protection of the Soldiers and Sailors Relief Act. However, the best way to protect a Guardsman is to give the State Adjutant General the flexibility to employ his personnel as he sees fit. He is in the best position to protect his troops. Relying on statute will, in the long run only antagonize employers. Flexibility is the answer. The State Adjutants General are the key.

Again, thank you for the opportunity to present my views. I am ready to answer any questions you may have.

Chairperson FEINSTEIN. Also, we will include the letter to Tom Ridge from Senators Leahy, Murray, Jeffords, and Cantwell on the Title 10 versus Title 32 issue.

[The letter referred to follows:]

Chairperson FEINSTEIN. General Libutti, I would like to give you, if I might, a summary and a draft of a bill. You know, it is sort of an interesting thing. On the homeland security issue, we began a year-and-a-half ago in this subcommittee, Senator Kyl and I, urging that we move on homeland security, after we had the commission reports from everybody, and we couldn't get the administration to move.

And then, boom, the administration moved, I think, sort of in a partial way because I believe very strongly the Director of Homeland Security should have both statutory and budgetary authority. We have got 40 departments. The GAO says 25 percent of the \$13 billion we spend on terrorism isn't as well spent as it might be. We ought to take a look at that.

I believe whoever is Director of Homeland Security has to be able to move the chessmen on the board, not just give television interviews, but have real statutory authority. So I am going to introduce a bill. I would love to have the Defense Department's input. I would love to have your imprimatur on it. I don't know whether that is possible or not, but I would like to give you a copy of the statement and the drafted bill, and ask you if you would get back to Senator Kyl, to myself, to Senator Leahy if you care to, or Senator Hatch, who is very interested in this. It would be very good if we could all put something together prior to the time it is introduced.

Would you do that?

General LIBUTTI. Yes, ma'am. I would be honored. Thank you.

Chairperson FEINSTEIN. Thank you.

General Davis, I know you are under strictures not to be able to say anything, but if you have any personal views that you would care to offer, I would like to give you that opportunity.

General DAVIS. Just between us.

Chairperson FEINSTEIN. Just between us.

[Laughter.]

General DAVIS. No, ma'am. Thank you very much.

[Laughter.]

General DAVIS. One thing I would like to add, though, is we are doing a lot of training in the National Guard, and we do it through some systems that we have put together over the past 8 years of communication and classrooms, that kind of thing, distance training programs. We are using some of that to train and work with our first responders.

It also has the capability as a back-up communications network, and that is kind of part of what we see as our role in homeland security is to look for opportunities to use capabilities that are currently in existence. These programs, we think, are very, very key to be continued and perpetuated and funded.

So thank you for the opportunity to represent those 450,000 folks on our birthday, and we look forward to working with you in like manner with respect to your bill.

Chairperson FEINSTEIN. Thank you very much.

I am happy, General Monroe, General Alexander and General Davis, to make copies available to you. It has not been introduced. It is a draft. We would like input, but I think there really is an issue that we need to resolve, particularly since the Defense Department has decided to move on Title 10. That creates an issue, I think, that we need to be cognizant of as well.

General LIBUTTI. The bottom line, too, ma'am, if I may, on that was really in great measure based on a review of the mission in terms of is that a Federal mission. And I am happy for any forum or opportunity I have to lay out greater detail in terms of the rationale in support of that decision to you or other distinguished members of your subcommittee.

Chairperson FEINSTEIN. Are you saying, General, because it is a border issue that is going to involve more than one State and it involves people outside of the State—which makes some sense, incidentally—that you felt it was necessary?

General LIBUTTI. Yes, ma'am. I think at the heart of the debate will always be two things: one, the funding piece, and who is in control of the assets—funding and who is in control of the assets. It is not a matter of whether the Guard ought to be employed and whether the Guard forces or reserves are appropriate. I think everybody at the table would agree that is the right answer, given the circumstances.

The issue, again, is what statute do you apply, given the criteria and support of what is appropriate and what is legal in terms of legal authority, to execute a mission under those conditions, not to get wrapped around the legal aspect of that. Again, I would be very happy and honored to come and discuss that in greater detail.

Chairperson FEINSTEIN. That is excellent. Thank you.

The record will be kept open until Thursday, December 20, until five o'clock.

We will give General Alexander the last word.

General ALEXANDER. I would like to applaud the effort at controlling our southern border and the Southwest, and the merging of Title 10 and Title 32, where the States in Title 32 status are complementing the security of those borders. It is a very large border, it is a very porous border, but for years that kind of combination has made a significant contribution to the control of that border.

Chairperson FEINSTEIN. I agree with you, General. Thank you very much. Gentlemen, thank you for your testimony.

This hearing is adjourned.

[Whereupon, at 3:38 p.m., the subcommittee was adjourned.]

[A submission for the record follows.]

SUBMISSION FOR THE RECORD

UNITED STATES SENATE
WASHINGTON, D.C. 20510
December 12, 2001

The Hon. Tom Ridge
Director, Office of Homeland Security
The White House
Washington, D.C.

Dear Tom,

Recently, the Justice Department announced its request that troops from the National Guard supplement agents from the Immigration and Naturalization Service along the porous 4000-mile northern border. We understand that the Department of Defense is considering calling up these troops on a federal, Title 10 status. As representatives of two border states, we would like the administration to reconsider the idea and call up the forces under Title 32 instead.

Title 32 would allow more flexibility to accomplish this critical mission. Unlike forces called up under Title 10, Title 32 forces are not subject to posse comitatus restrictions. They can assist local and federal law enforcement organizations with its full range of activities, including arrests. Also in contrast to Title 10, Title 32 forces can continue to train for other missions. As the National Guard remains the nation's primary military reserve, this status allows our nation's adjutants general the ability to cycle forces through training and remain ready for other contingencies.

Title 32 also ensures that members of the Guard called up stay generally within their home state. Our nation's governors will remain in control, while Guard forces serving in their home state can bring unparalleled familiarity with the problems and challenges facing their communities. That understanding raises the comfort level of the country's citizens who might otherwise be concerned to hear that active duty troops from far away are serving in their community.

There are certainly occasions where members of the National Guard should be called up under a Title 10 status. But in this case, it seems apparent that Title 32 is the more sensible approach. We would appreciate your considering this question and responding as soon as possible with your views. We are impressed with your contributions in the months immediately after the awful events of September 11, and we look forward to continuing our work together.

Sincerely,

PATRICK LEAHY
United States Senator

PATTY MURRAY
United States Senator

JAMES JEFFORDS
United States Senator

MARIA CANTWELL
United States Senator

