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Homeland Security: The Department of Defense's Role

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Summary

For over a century the U.S. military has focused on expeditionary warfare overseas. Its participation in domestic operations has been sporadic and generally in response to natural disasters. With the heightened concern about large-scale terrorism, have come efforts to involve DOD more closely with federal, state and local agencies in their homeland security activities. DOD resources are unique in the government, both in their size and capabilities, and can be applied to both deter and respond to terrorist acts. While the DOD leadership is ready and willing to play a supporting role in these efforts, it wishes to maintain overseas military operations as the Department's primary focus, and avoid an inadvertent drain of fiscal, materiel, and personnel resources to the homeland security mission.

In response to the increased focus on homeland security, on October 1, 2002, DOD activated a new combatant command, Northern Command or NORCOM.. At the same time, Congress and the Administration are working to create a new statutory Department of Homeland Security (DHS). Exactly how DOD and a new DHS will establish and maintain coordination and cooperation remains to be seen. Legislation currently under consideration (H.R. 5005 and S. 2452) to create the new DHS is silent on this question, and details on the new NORCOM are scarce.

The intelligence collection and analysis capabilities within the Department of Defense are a substantial portion of the United States' national intelligence assets. They include the National Security Agency, the National Reconnaissance Office, the National Imagery and Mapping Agency, the Defense Intelligence Agency, and the intelligence and security branches of the individual armed services. Consequently, the means and extent of cooperation/coordination between DOD and the new DHS will be of great importance to the success of DHS's efforts to provide comprehensive intelligence analysis.

The Department of Defense, with its active duty and reserve forces, and the potential of federalizing National Guard units, has the largest and most diversified personnel assets in the Federal Government. As was demonstrated in the months after the September 2001 terrorist attacks, they can be used in a variety of security roles

The Department of Defense remains the greatest federal repository of resources for responding to a chemical, biological, radiological, or nuclear (CBRN) incident. It is anticipated that civilian authorities will eventually develop better capabilities to deal with CBRN incidents, however for the foreseeable future there will be continued reliance upon DOD assets.

DOD research & development related to homeland security is in chemical-biological defense. The FY2003 budget request identified approximately \$602 million as DOD funding for homeland security biodefense: bioweapons defense and countermeasures – \$120 million; agent detection, identification, and monitoring – \$300 million; and other unspecified biodefense research – \$182 million. Congressional appropriations supported this request in full.

Contents

Background	1
Deterrence	2
Intelligence	2
Personnel Augmentation	3
Northern Command	4
Response to Terrorist Incidents	4
Northern Command	4
Chemical, Biological, Radiological, and Nuclear Incident Response	5
U.S. Army Soldier and Biological-Chemical Command	5
National Guard Weapons of Mass Destruction-Civil Support Teams ..	6
U.S. Army Technical Escort Unit	6
U.S. Marine Corps Chemical-Biological Incident Response Force	7
U.S. Special Operations Command	7
Technology Research and Development	7

Homeland Security: The Department of Defense's Role

Background

For over a century the U.S. military has focused on expeditionary warfare overseas. Its participation in domestic operations has been sporadic and generally in response to natural disasters. With the heightened concern about large-scale terrorism, have come efforts to involve DOD more closely with federal, state and local agencies in their homeland security activities. DOD resources are unique in the government, both in their size and capabilities, and can be applied to both deter and respond to terrorist acts. While the DOD leadership is ready and willing to play a supporting role in these efforts, it wishes to maintain overseas military operations as the Department's primary focus, and avoid an inadvertent drain of fiscal, materiel, and personnel resources to the homeland security mission. In addition, long-standing reservations about the use of military forces domestically, and the consequent statutory limitations on their use, remain strong considerations. Secretary Rumsfeld stated before the House Select Committee on Homeland Security, there are three types of situations when DOD resources are called upon to assist civilian authorities: 1) extraordinary circumstances that require traditional military missions, such as combat air patrols; 2) emergency circumstances of catastrophic nature resulting from terrorist attack or natural disaster; and 3) provision of security assistance at National Security Special Events, such as the Olympics.¹

In response to the increased focus on homeland security, DOD has a new combatant command, Northern Command or NORCOM,. At the same time, Congress and the Administration are working to create a new statutory Department of Homeland Security (DHS). Exactly how DOD and the new DHS will establish and maintain coordination and cooperation remains to be seen. Legislation currently under consideration (H.R. 5005 and S. 2452) to create the new DHS is silent on this question, and details on the new NORCOM remain scarce.

The DOD has also created the Special Assistant to the Secretary of Defense for Homeland Security, currently Peter Verga, who is charged with developing policies and procedures to improve DOD's domestic terrorism response capabilities. This office will also serve as Secretary of Defense's liaison with the staffs of a new Department of Homeland Security, the National Security Council, and the White House's Office of Homeland Security.

¹ For a detailed discussion, see also CRS Report RL-30938, *Terrorism and the Military's Role in Domestic Crisis Management: Background and Issues for Congress*.

In general, DOD's contributions to homeland security can be divided into three general areas: deterrence, response, and technology research & development. Under these categories are a variety of activities and capabilities that can contribute directly or indirectly to improved homeland security.

Deterrence

Intelligence

The intelligence collection and analysis capabilities within the Department of Defense are a substantial portion of the United States' national intelligence assets. They include the National Security Agency, the National Reconnaissance Office, the National Imagery and Mapping Agency, the Defense Intelligence Agency, and the intelligence and security branches of the individual armed services. These assets provide communication intercepts, satellite reconnaissance, and human intelligence worldwide. Consequently, the means and extent of cooperation/coordination between DOD and the new DHS will be of great importance to the success of DHS's efforts to provide comprehensive intelligence analysis.

Neither DHS legislative proposal (H.R. 5005, S. 2452) addresses DOD's intelligence assets specifically. H.R. 5005 (Sec. 203), in establishing the DHS Under-Secretary for Information and Infrastructure Protection, grants the new department

“...access to all reports, assessments, and analytical information relating to threats or terrorism in the United States, and to all information concerning infrastructure vulnerabilities...”

The FY2002 Department of Defense Authorization Act (P.L. 107-107, Sec. 924) directs the Secretary of Defense and the Director of Central Intelligence to submit a report assessing alternative for the establishment of a “national collaborative information capability”. H.R. 5005 directs that DHS shall have full access to information from any such joint DOD /DCI entity established in the future.

For its part, S. 2452, Sec. 301, in mandating the development of a national strategy for combating terrorism, directs the new DHS and a new statutorily-based National Office for Combating Terrorism within the Executive Office of the President to address:

“...policies and procedures to maximize the collection, translation, analysis, exploitation, and dissemination of information relating to combating terrorism and homeland security response throughout the Federal Government and with state and local authorities.”

Neither legislative proposal grants any administrative or tasking authority over DOD intelligence assets, and both specifically state that no provision of the legislation shall be construed as affecting the intelligence authorities of the Secretary of Defense under the National Security Act of 1947. H.R. 5005 does, however, create a DHS Intelligence Center, and directs the Secretary of Defense to enter into cooperative agreements with the new DHS to detail to this center “an appropriate

number of individuals” from the National Security Agency, National Imagery and Mapping Agency, and the Defense Intelligence Agency.

Reflecting an increasing interest in the organization of DOD’s intelligence elements, the House version of FY2003 Defense Authorization Act (H.R. 4546) creates an Undersecretary for Intelligence. The responsibilities and authorities of this new office are left to the discretion of the Secretary of Defense. It is likely that, if enacted, this office will serve as the conduit for information/intelligence sharing with DHS and oversee personnel detailing agreements.

One area of concern involving intelligence which a new Secretary of Homeland Security will have to resolve is how to fulfill its information-sharing responsibilities to state and local law enforcement and first responders without compromising classified national security information or sources. Providing meaningful and actionable warnings to state and local officials has proven a challenge for the current Office of Homeland Security. Lack of specificity and recommended action has been the primary criticism.

Personnel Augmentation

The Department of Defense, with its active duty and reserve forces, and the option of federalizing National Guard units, has the largest and most diversified personnel assets in the Federal Government. As was demonstrated in the months after the September 2001 terrorist attacks, they can be used in a variety of security roles. The National Guard augmented the border patrol, customs agencies, and airport security personnel, flew air patrols, and provided site security in Washington, DC and New York City. A major concern when armed forces personnel are deployed in these roles under federal command is their remaining within the provisions of the Posse Comitatus Act, which generally prohibits their conducting law enforcement activities such as arrests or search and seizures.² Other subjects of controversy have been whether these detailed military personnel should be armed and whether they have had sufficient training in civilian law enforcement procedures.

Currently, it appears that the National Guard will continue to play the major role in homeland security personnel augmentation when needed. Some National Guard officials have expressed concern about increased homeland security responsibilities detracting from its current primary mission of supporting active duty forces in overseas military operations (e.g. peacekeeping in Bosnia). Today’s U.S. armed forces organization and war-fighting doctrine rely significantly upon the participation of National Guard and reserve personnel, and it has been questioned whether these requirements could still be met if the homeland security mission predominates.³ It

² There are some statutory exceptions to the prohibition, including anti-drug operations, incidents involving nuclear weapons, and suppressing civil insurrection or unlawful conspiracy. For a detailed discussion of the Posse Comitatus Act, see CRS Report 95-964, *The Posse Comitatus Act & Related Matters: The Use of the Military to Execute Civilian Law*.

³ “Officials: Homeland Defense Mission Will Mean Changes for the Guard”, *Inside* (continued...)

also must be remembered that National Guard and reserve personnel are primarily part-time “citizen soldiers”, and that significantly increased operational activations may well have a negative effect on personnel retention. Reflecting this concern, some National Guard officials have called for an increase in full-time active duty personnel. The National Guard stands at about 57% of its full-time personnel requirement, and the Army has developed a plan to bring that level up to 71% before 2011.⁴

Northern Command

In March 2002, the Department of Defense undertook, at the direction of the President, the organization of a new unified command⁵, Northern Command, to be responsible for:

- . ..providing unity of command over military efforts related to homeland security within...the continental United States, Alaska, Canada, Mexico, and the surrounding water to approximately 500 nautical miles”⁶

With regard to deterrence, the primary contribution of NORCOM will be its North American Aerospace Defense Command (NORAD). Since the September 2001 airliner attacks on the World Trade Center and the Pentagon, NORAD, whose Cold War mission focused on protection from Soviet missile and bomber attacks, has shifted significant attention to domestic airway security. It has recently improved its coordination/communication capability with the Federal Aviation Administration’s domestic air traffic control system in order to be able to respond to a potential repetition of the September 11, 2001 attacks. NORCOM may also contribute to homeland security deterrence efforts in its command of any National Guard units that are federalized for that mission. NORCOM will share with the Pacific Command responsibility for U.S. Navy homeland security operations in U.S. coastal waters. It does not appear, however, that NORCOM will have authority over the U.S. Coast Guard, which is expected to be transferred to the new Department of Homeland Security.

Response to Terrorist Incidents

Northern Command

Little information regarding the new command has been released. Though activated on October 1, 2002, it is not expected to be fully operational until October

³ (...continued)
Defense, November 19, 2001.

⁴ “Senate Budget Resolution Calls for More Full-time Guard Troops,” *Inside Defense*, April 1, 2002.

⁵ Other unified commands include: European Command, Pacific Command, Atlantic Command, Southern Command (Latin America & the Caribbean Sea), and Joint Forces Command

⁶ Memorandum, Chairman of the Joint Chiefs of Staff, March 8, 2002.

2003.⁷ Its headquarters is at Peterson Air Force Base in Colorado Springs, CO, and its commander is Air Force General Edward Eberhart. As noted, NORCOM will subsume the existing North American Aerospace Defense Command (NORAD), which the United States operates jointly with Canada. It is not yet clear what, if any, role the Canadian military will play within NORCOM, aside from its continuing participation in NORAD.

The new Northern Command does not have a large number of active duty personnel or units permanently assigned to it, but rather has units “earmarked” for potential assignment as events warrant. National Guard units, if federalized for homeland security operations, will come under NORCOM command.

Formerly, the Joint Forces Command’s Joint Force Headquarters-Homeland Security coordinated the land and maritime defense of the continental United States, and all military assistance to civilian authorities. Subordinate to this headquarters is the Joint Task Force-Civil Support (JTF-CS) which provides command and control for DOD units deployed in response to any incident involving chemical, biological, nuclear, radiological, or high-yield conventional explosives. Generally, these units are deployed only upon the request of state or local officials to the President. The JTF-CS, and the units deployed under its command, remain under the direction of the lead federal civilian agency at the incident site.⁸ These Joint Forces Command headquarters units are transferring to the new NORCOM. It is also expected that NORCOM will expand upon the efforts of the JTF-CS to establish and maintain close coordination with state and local authorities..

Chemical, Biological, Radiological, and Nuclear Incident Response

The Department of Defense remains the greatest federal repository of resources for responding to a chemical, biological, radiological, or Nuclear (CBRN) incident. It is anticipated that civilian authorities will eventually develop better capabilities to deal with CBRN incidents, however for the foreseeable future there will be continued reliance upon DOD assets.

U.S. Army Soldier and Biological-Chemical Command. In 1996, Congress directed the Department of Defense to organize a joint service Chemical and Biological Rapid Response Team (CB-RRT) to support civilian authorities (P.L. 104-201, Sec. 1414). This team was established in 1997 under the U.S. Army Soldier and Biological-Chemical Command. CB-RRT’s mission is to deploy and coordinate DOD’s technical assistance in support of the federal lead agency (FBI or FEMA) in both crisis and consequence management of an incident involving chemical or biological agents. The CB-RRT may also deploy for designated National Security Special Events (e.g. the Olympics, presidential inaugurations, etc.).

⁷ “Command Merger Likely to Leave Behind Staff for U.S. NORTHCOM”, *Inside Defense*, August 29, 2002.

⁸ For crisis response, the lead federal agency is the Federal Bureau of Investigation, and for consequence management it is the Federal Emergency Management Agency..

Headquartered at Aberdeen Proving Ground, MD, the CB-RTT would coordinate the CB incident response activities of the following DOD assets:

- ! U.S. Army Technical Escort Unit
- ! U.S. Army Edgewood Chemical and Biological Center
- ! U.S. Army Medical Command Special Medical Augmentation Response Teams and Regional Medical Commands
- ! U.S. Army Medical Research Institute for Infectious Diseases
- ! U.S. Navy Environmental Health Center
- ! U.S. Marine Corps Chemical-Biological Incident Response Force
- ! National Guard Weapons of Mass Destruction-Civil Support Teams
- ! U.S. Army 52nd Ordnance Group (explosive ordnance disposal)

Brief descriptions of the units most likely to be deployed to a chemical or biological incident are provided below.

National Guard Weapons of Mass Destruction-Civil Support Teams.

The National Guard Weapons of Mass Destruction Civil Support Teams (WMD-CST) are full-time active duty personnel whose mission is to assess a suspected CBRN incident, advise civilian authorities, and expedite the arrival of additional military personnel. Each team consists of 22 personnel and is equipped with CBRN detection, analysis, and protective equipment. Congress has authorized 32 WMD-CSTs, and the FY2003 Defense Authorization Act, as passed by House (H.R. 4546, Sec. 1026), would authorize an additional 23 teams to ensure that each state and territory would have a team. The Senate did not have such provision in its version of the legislation, which is currently in House-Senate conference.

Of the 35 teams authorized, 27 have received certification of the requisite training and equipment. The remainder are still being staffed and equipped. The certified teams are located in : Colorado, Georgia, Illinois, California, Massachusetts, Missouri, New York, Pennsylvania, Texas, Washington, Alaska, Arizona, Arkansas, California, Florida, Hawaii, Idaho, Iowa, Kentucky, Louisiana, Maine, Minnesota, New Mexico, Ohio, Oklahoma, South Carolina, and Virginia.

U.S. Army Technical Escort Unit. Established in 1944, the Technical Escort Unit is the longest-standing chemical and biological weapons unit in DOD. Its mission is to conduct rapid deployment to provide chemical and biological advice, verification, detection, mitigation, decontamination, escort, and remediation of chemical and biological devices or hazards worldwide. In accomplishing this mission, it has provided support to, among others, the Federal Bureau of Investigation, the Federal Emergency Management Agency, the Environmental Protection Agency, and the United Nations. The Technical Escort unit has also deployed in the United States as part of security operations at national political conventions, NATO conferences, presidential inaugurations and State of the Union addresses, and the Olympics. Headquartered at Aberdeen Proving Ground, MD, it has

subordinate units stationed at Dugway Proving Ground, UT, Fort Belvoir, VA, and Pine Bluff Arsenal, AR.⁹

U.S. Marine Corps Chemical-Biological Incident Response Force.

The Marines' Chemical-Biological Incident Response Force (CBIRF) was established in 1996, and is currently headquartered outside Washington, DC. CBIRF's primary mission is to provide chemical-biological force protection and defensive training for the Marine Corps, however since its inception it has placed significant emphasis upon preparation to assist state and local authorities in the event of a domestic chemical-biological incident, participating in over 120 "table-top" and field exercises with first-responders around the country. The capabilities which CBIRF can bring to bear include: CBW agent detection and identification, decontamination, emergency medical treatment and triage, search and rescue, and casualty evacuation assistance.

U.S. Special Operations Command

Both the U.S. Army and the U.S. Navy have dedicated counterterrorist units whose primary focus is overseas operations. They could be called upon to advise/assist civilian law enforcement officials, although the FBI'S Hostage Rescue Team would normally be the first federal counterterrorist responders in domestic situations. Official open source information on the organization and mission of these DOD units is not available. Generally, even official acknowledgment of their existence is not forthcoming. From unofficial sources, a few details can be provided.

The Army's 1st Special Forces Operational Detachment-Delta, also known as Delta Force, is based at Ft. Bragg, NC and the Naval Special Warfare Development Group (formerly SEAL Team 6) is based at Dam Neck, VA. Both units number several hundred personnel, and undergo very rigorous and constant training in marksmanship, close combat, urban combat, SCUBA diving, and high-altitude parachuting, among other skills. Cross-training with other national counterterrorist units such as the British Special Air Services and the German Grenzschutz Polizei (GSG-9) is frequent. Both units have reportedly participated in every significant U.S. military operation over the last two decades.

Technology Research and Development

The Department of Defense's primary research & development activities related to homeland security are in chemical and biological defense. In the FY2003 budget request, the Bush Administration identified approximately \$602 million as DOD funding for homeland security biodefense: bioweapons defense and countermeasures – \$120 million; agent detection, identification, and monitoring – \$300 million; and other unspecified biodefense research – \$182 million.¹⁰ This represents approximately 64% of DOD's total chemical and biological defense R&D budget of

⁹ For further information, see [<http://teu.sbcom.army.mil/factsheet>].

¹⁰ *Securing the Homeland-Strengthening the Nation*, The White House. 2002.

\$932 million.¹¹ These budget statistics do not necessarily mean that resources are being diverted from military chemical-biological R&D programs, but rather reflect the extent to which many of these programs can have civilian applications also. For FY2003, Congress appropriated the full Administration request for these programs. Congress also provided an additional \$25 million for a Chem-Bio Defense Initiative Fund, directing that the Secretary of Defense to allocate these funds “in a manner which yields the greatest gain in our chem-bio defensive posture” among the following specified programs

- ! The National Center for Biodefense
- ! Chem-bio Threat Mitigation technologies
- ! Global Pathogen Science Portal
- ! Advanced Sensors for Chem-bio Agents
- ! Rapid Sensitive Biowarfare Protection
- ! Diagnostic Tool for Biowarfare
- ! Ultra-High Field Instrumentation
- ! Urban Security Initiative
- ! Chemical Imaging Biothreat Detection
- ! Biological Agent Sensor/Detection System
- ! Chem-bio Air Filtration System
- ! Food Safety and Security Sensors
- ! Bioinformatics
- ! Phylogenetic- and PCR-based Detector System
- ! Field Portable Nucleic Acid Bioterrorism Detection
- ! LISA-Inspector Transportable Chem-bio Detection System
- ! Distributed Chemical Agent Sensing and Transmission
- ! Wide-Area Standoff Chem-bio Agent Detection System
- ! Air Purification for Protection System
- ! Rapid Antibody-based Countermeasures
- ! Oral Anthrax Antibiotic
- ! Plant Vaccine Development
- ! Rapid Response Sensor Networking for Multiple Applications
- ! Chemical Biological Incident Response Force (CBIRF).

Though both legislative proposals to create a new Department of Homeland Security address the importance of research and development, and establish offices to coordinate government and private sector research related to homeland security, (H.R. 5005, Sec 301; S. 2452, Sec. 103-104) neither directly addresses the R&D efforts under the Department of Defense. The House version of the Department of Homeland Security legislation (H.R. 5005) would transfer to the new department two DOD programs: the Biological Defense Homeland Security Support Program and the Biological Counter-Terrorism Research Program. In fact, these are programs that were first included in the Administration’s FY2003 budget request. As they do not yet exist, their transfer to the new DHS should have little impact on DOD’s research and development efforts.

¹¹ *Department of Defense Chemical and Biological Defense Program: Annual Report to Congress*. April 2002.

DOD's Chemical and Biological Defense Program maintains coordination with over 80 other government agencies through the Technical Support Working Group (TSWG) under the leadership of both the Department of Defense and the Department of State. Within the TSWG, a CBRN subgroup co-chaired by the FBI and the CIA seeks to identify and prioritize requirements for combating CBRN terrorism, focusing on detection, protective measures, decontamination, mitigation, and disposal.