

Call Out the National Guard!

**The historic basis and future options for employing America's unique
State/federal military force**

By

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The National Guard is a unique American military organization. Its dual State and federal existence frequently causes confusion among those without significant direct experience with the National Guard. It even occasionally confuses National Guardsmen themselves. Sometimes the National Guard is paid for and commanded by the federal government. Sometimes it is paid for and commanded by State governments. Most of the time it is federally funded but State controlled. While this may at first appear to be a jumble of crossing authorities, it is important for military planners, national security policy makers, and the American people in general to recognize the National Guard's State/federal construct as a flexible and responsive asset for America.

After a brief historical overview, this article will explore the three different duty statuses under which the National Guard operates and ways in which these options have served the Nation both here at home and overseas. The flexibility and responsiveness resulting from these three duty options are potent tools for both military and civilian decision makers as America moves into the new realities heralded by the terrorist attacks of September 11, 2001.

Like their counterparts in the other reserve components, members of the Army and Air National Guard are Citizen Soldiers. The vast majority of them hold full-time civilian jobs but dedicate one weekend each month and at least two weeks each year to wearing a military uniform and training to augment the United States Army or the United States Air Force when called upon to do so. Unlike reservists, National Guardsmen do nearly all training and some operations under the command and control of State governments. In 54 States and Territories including the District of Columbia, National Guard forces are under the command of a two-star Adjutant General usually appointed by the State governor. State governors are the Commanders-in-Chief of the National Guard forces in their states. Unless and until mobilized to federal active duty, a National Guardsman's chain of command stops at the governor's mansion.

In this capacity they are immediately available to states for support in domestic emergencies. As a practical matter, however, governors only call up parts of their National Guard for such missions a few times each year. Consequently, National Guardsmen spend nearly all of their duty time training to Army or Air Force standards, in order to be ready to mobilize to augment the active military components when called to do so. For this reason, most of the funding for the National Guard comes from the federal government.

While this training is almost exclusively focused on achieving performance standards for federal wartime missions, it simultaneously supports performance of State missions. Warfighting skills like leadership, communication and disciplined teamwork as well as technical skills like operating vehicles and aircraft are honed in training for combat but are equally useful when State governors call for help.

The reasons behind this unique State/federal institution lie amidst some of the fundamental threads of American history. The National Guard is America's oldest military force. It traces its roots to 1636 when the Massachusetts Bay colony first organized the existing militia companies of several towns into larger regiments. That tradition of the American Citizen Soldier continues today in the form of the National Guard and is reflected in the Guard's symbol: a revolutionary war patriot, musket in hand, stepping away from his plough to take up arms.

Readers interested in a complete exploration of National Guard history should get the recently published book, *I am the Guard: A History of the Army National Guard, 1636-2000* by Michael D. Doubler. It has been published as Department of the Army Pamphlet 130-1 and is for sale by the Government Printing Office.

After the American Revolution, the Founding Fathers explicitly recognized the importance of maintaining the Citizen Soldier tradition and codified it and the attendant State and federal authorities into the Militia Clause of the Constitution. This fact has tremendous relevance today. Much of the rationale for the modern day structure of the National Guard is based in the fact that America, rather than being strictly a single, centrally governed state, is by design a union of sovereign states. The Constitution preserves the rights and powers of States explicitly by enumerating the powers of the federal government and declaring that all others are reserved to the States. In military matters, the constitution is very specific about the State/federal division of authorities with regard to the militia.

The Congress shall have power...

To provide for calling forth the militia to execute the laws of the union, suppress insurrections and repel invasions;

To provide for organizing, arming, and disciplining, the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;

-- U.S. Constitution, Article I, Section 8

In modern times the organized militia has been known as The National Guard. This apportionment of authority over the National Guard between the States and the federal government works to the great benefit of both. This State/federal construct benefits States by preserving their authority and providing them with immediate access to a trained, disciplined, organized and well-equipped military force for employment during domestic emergencies such as civil disturbances, natural disasters or terrorist attack.

It is a benefit to the federal government in several important ways. First, it provides a strong, cost-effective military reserve capability with State and community ties. At a time when fewer Americans have had any direct personal experience in the military, the National Guard's State and local connections help to assure broad-based support for a robust national defense through a visible presence and direct community involvement at the hometown level. There are about 3,200 National Guard facilities in over 2,700 communities. The hometown National Guard armories are potent "bricks and mortar" connections between local communities and national defense. There is at least one National Guard facility for almost every one of the 3,000 counties in America. The average congressional district is home to about 1,000 National Guardsmen. The Guard thus forms a strong linkage between hometown America and the Pentagon.

Secondly, the dual State and federal access to the National Guard provides the American taxpayer with an additional leveraged return on Defense investment. Military personnel and equipment in the National Guard stand ready for two different contingencies – domestic emergency or overseas mission -- rather than one. Finally, the State connection provides a means by which federal military assets can be employed to address issues of joint State/federal interest such as fighting drugs or being prepared to counter the effects of WMD.

The federal government’s benefits and its constitutionally mandated role in “organizing, arming...disciplining” and “governing” the National Guard are, in practice, accomplished by the National Guard Bureau, a joint organization of the Department of the Army and the Department of the Air Force. By statute, NGB is the channel by which these services communicate with the States and territories on all matters pertaining to the National Guard.

Beyond these intergovernmental and community relations aspects, however, joint force commanders are more likely to be interested in the training and operational responsiveness and National Guard flexibility. Understanding this requires an understanding of the National Guard’s three different duty statuses. National Guard activities tend to fall into three categories: State Active Duty, Federal Mobilization/CinC Support, and Normal Training and Operations.

[DUTY STATUS COMPARISON TABLE]

	State Active Duty	Title 32	Title 10
Cmd & Control	Governor	Governor	President
Where	IAW State Law	CONUS	Worldwide
Pay	State	Federal	Federal
Mission types	IAW State Law (Riot control, Emergency Response, etc.)	Training and other federally authorized.	Overseas Training and as assigned after mobilization
Discipline	State Military Code	State Military Code	UCMJ
Support Law Enforcement	Yes	Yes	No

Emergency Response Missions – State Active Duty

In American popular language the cliché “Call out the National Guard” has come to mean any extraordinary efforts to deal with a problem. People know that when something threatens life and property, that is what governors do; call out the National Guard. In the average State this happens about six times each year. As a result, State National Guard headquarters, known as State Area Commands or STARCs, have a tremendous level of experience in calling and employing forces large and small for domestic operations in support to civil authorities. When operating in this status, National Guardsmen are funded solely by the State and they are governed by their State’s military laws. If they make use of federally owned military equipment,

the United State Property and Fiscal Officer for that State, an officer reporting to the National Guard Bureau, ensures that the State reimburses the federal government accordingly.

Most frequently the event which precipitates National Guard activations for State emergency response missions is some form of natural disaster. A tornado strikes and National Guard bulldozers are clearing streets. Hurricanes threaten and the Guard assists evacuation before and recovery afterward. Rivers flood and Guardsmen organize sand-bag teams at key points and rescue people from rooftops by helicopter. These can be large operations. In the Spring and Summer of 2001, West Virginia battled recurring floods. At one point, the Adjutant General had over 4,000 National Guardsmen from four different States employed throughout the mountainous State for several weeks.

Unlike their federal military counterparts, National Guardsmen operating under the command and control of State authorities can, and often do, help directly to enforce the law. Under the federal "Posse Comitatus" law, United State federal military forces cannot, as a general rule, be employed for that purpose. State-controlled forces can. This ranges from providing an extra visible security presence at large events to working aggressively with police to quell riots and restore order. When protesters opposing the World Trade Organization rioted in Seattle, Washington in 1999, a force of over 400 National Guardsmen helped restore order.

By far, the largest recent emergency response mission performed under state active duty has been the recovery and security operations mounted by the New York and New Jersey National Guard in the aftermath of the September 11, 2001 terrorist attack on the World Trade Center. Virtually all of the military support needs of the civil authorities of the State and City of New York were met by the National Guard. National Guard heavy construction equipment arrived at Ground Zero almost immediately. National Guard soldiers deployed throughout the city to help police maintain order and secure key locations. The ability of the National Guard to immediately respond to the needs of the Governor of New York put assets where they were needed very quickly.

Across the Nation the governors of several other States also called upon their National Guard to enter state active duty to bolster security in the wake of the terrorist attacks. California Guardsmen secured the Golden Gate Bridge. Florida Guardsmen secured ports. Guardsmen in several States were deployed to secure nuclear power plants and many other key assets deemed by governors to face possible threat.

While this ability to respond to State governors is a powerful asset for the protection of American lives and property it also has an implication for military readiness. A unit coming off of a long and arduous tour of state active duty may not have the same level of readiness to perform its federal wartime mission as one that was not called by the governor. For this reason, the National Guard Bureau carefully monitors both State call-ups of National Guard assets and unit's readiness reports. In addition, the National Guard Bureau's oversight of the forces and equipment present in each State allows it to be a valuable coordination center when assets are needed across State lines. As a result, the National Guard Bureau is able to maintain DoD awareness of National Guard capabilities and operations in each State.

This capability at the National Guard Bureau becomes a particularly valuable commodity to any US military joint force commander tasked to lead federal military operations as part of a homeland security mission here in the continental United States. As a result of their constitutionally secured prerogatives, every State in the union is possessed of the authority and capacity to conduct domestic military operations inside the United States and quite frequently does so. Indeed, as elected officials, State governors have a powerful political incentive to respond visibly and decisively to any threat to lives and property. Consequently, in the case of an incident involving the use of WMD for example, any active-duty joint force deployed to help manage the consequences of such an attack will almost certainly arrive into an area in which an existing military operation by that State's National Guard has been ordered by the governor and is, in fact, already under way. With its many years of working with states on National Guard matters, the National Guard Bureau can help avoid conflicts, enhance unity of effort and contribute to accomplishing the mission.

Federal Active Duty – Mobilization

Being ready for possible mobilization has been the primary focus of National Guardsmen for over 90 years. They give up weekends, weeknights and even weeks out of already full civilian professional and family lives to do the training, administration, leadership and maintenance necessary to achieve this readiness. The major reason the federal government pays for the National Guard is to have access to a trained and ready resource for war or other missions in support of national security. Once a National Guard unit is mobilized under Title 10 of the US Code all State command relationships are severed and it becomes a part of the active component, resourced by the gaining service. In recent years this has become an increasingly frequent occurrence.

In World War I and World War II, the Army called 18 and 19 National Guard Divisions respectively. All served with distinction. Nearly all of them saw combat. Some, like the 29th Infantry Division in the first wave on Omaha beach, did so in heroic measure. For the Korean War, 8 Army National Guard divisions and 67 Air National Guard squadrons were mobilized. For Vietnam, only 34 Army National Guard units (none larger than a brigade) and only 5 Air National Guard squadrons were mobilized for federal service. After the War, General Creighton Abrams recognized this as a mistake and sought to tie employment of the National Guard to future American overseas troop commitments.

Throughout the Cold War, the men and women of the Army and Air National Guard trained under the almost daily anticipation of being called to reinforce their active duty counterparts to turn back a numerically superior Soviet stab at the heart of Europe through the Fulda Gap. That call never came but the training, equipping and Total Force integration those preparations brought yielded a potent capability.

For the Gulf War the Army mobilized nearly 400 Army National Guard units consisting of over 60,000 citizen-soldiers. The Air Force mobilized about 12,000 members of the Air National Guard. In many ways, this began the trend of increasing mobilization and deployment

of National Guard as well as other reserve forces for participation in just about every major American military action over the past decade.

Shortly after the Gulf War, Operations Northern Watch and Southern Watch began enforcing no-fly zones over Iraq. Air National Guard fighter, transport and other units were rotated through the theater and this continues up to the present. In a reprise of its success in the Gulf War, the Air National Guard was a major participant in the Kosovo Air Campaign in 1999. Similarly, the Army National Guard saw increasing mobilizations for service in Bosnia. By the time of SFOR-7 in 1999, an Army National Guard division headquarters, the 49th Armored Division from Texas, was deployed to command the American sector. The National Guard's famed 29th Infantry Division returned to Europe to hold the command during SFOR-10 and the schedule calls for all rotations beginning with Fall 2002 to be under National Guard command.

Outside of outright mobilization per se, both the Army and the Air Force have other mechanisms for accessing National Guard forces into Title 10 federal active service to help meet their global OPTEMPO requirements. The Air Force has done this by making the Air National Guard full partners in its Air Expeditionary Force concept. Two of the ten rotations into the Air Forces operational hot seat are Air National Guard responsibilities. The Army has made increasing use of Overseas Duty Training to match up collective training needs of Guard units with the requirements of the Commanders-in-Chief of the Unified Commands. Guard Military Police units have rotated through Europe to temporarily relieve active duty units. Armored units have held exercises and Engineer units have built roads in Central America.

Prior to the Gulf War, National Guard mobilization officers thought in terms of big plans to mobilize big units for big wars. After the Gulf War everything changed. Over the past 10 years, so many small units have been mobilized for various operations that the National Guard State Area Commands in every State have become quite adept at the mobilization and overseas deployment processes.

These well-exercised muscles have allowed the large number of unit mobilizations for Operations Noble Eagle and Enduring Freedom to take place rapidly and with few glitches. In the first six months of the two operations, the Army National Guard mobilized 285 different units for a total of 13,000 soldiers. The Air National Guard mobilized a total of 17,000 airmen; almost twice the number mobilized during the Gulf War. These Guardsmen have performed federal service flying Combat Air Patrols over American cities, guarding key Army installations, reinforcing border security, as well as support to operations in and around Afghanistan.

All of this recent experience in transitioning ready units rapidly and effectively into active federal service has accelerated the accessibility of National Guard units to their Services. The Air Force and the Air National Guard in particular have developed innovative ways to bring Guard assets into federal Title 10 service quickly and easily. Using short rotations, allocating individual man-day funds, and "rainbowing" units from different elements has made the Air National Guard a particularly agile component. As a consequence, today the processes for transitioning National Guard units into active federal service are better and faster so that accessibility to the force by the services is likewise greatly improved.

Normal Training and Operations – (Title 32 Duty).

Mobilizations to federal active duty and call-ups to State active duty are relatively infrequent occurrences in the career of a Guardsman. A National Guardsman spends the vast majority of his or her time engaged in normal training and operations. These are governed under Title 32 of the US Code. National Guardsmen are all required to perform 39 days of training each year. This typically breaks down to two days a month plus 15 days of annual training. Many Guardsmen perform more days than this for additional training, training preparation, maintenance and so on. In this capacity, the National Guard in each State remains under the command and control of their State chain of command. The State's governor is the commander and chief. The State's Adjutant General is its top commander.

The federal government – the Army and the Air Force – sets the individual and collective training standards, assesses performance, and provides the money and equipment with which to train. This is in accordance with the militia clause of the Constitution, under which the federal government is empowered to do the “arming” and “disciplining” (proscribing doctrine and standards) of the militia. States execute the training.

As a side note, States also appoint the officers albeit subject to the required federal recognition extended through the National Guard Bureau. As a consequence, National Guard officers hold two commissions: a federal commission and a State commission. And all National Guardsmen take an oath to uphold both the constitution of the United States and that of the State in which they serve.

Because, the National Guard remains under State command and control, it is able to do law enforcement tasks free of the restrictions imposed on active duty military units by the Posse Comitatus law. On the other hand, Title 32 duty is funded by the federal government. As a result, in addition to training, this federally-funded/State-executed status has been successfully used for the employment of the National Guard for missions in which both States and the federal government have interests and responsibilities.

This ability comes into practical operational application in the execution of National Guard counter-drug operations. Congress has explicitly authorized these operations under Title 32 by which States are able to employ National Guard military assets in support to civilian law enforcement actions in the war on drugs. This support includes ground reconnaissance and surveillance operations, aerial observation with FLIR and enhanced communications equipped helicopters, and information analysis.

Title 32 duty also was the tool of choice for employing the National Guard in its mission to provide security at 442 commercial airports in 52 of the 54 States and territories following the September 11 attacks. Citing a need to enhance security and reassure the traveling public for the good of the economy, the President requested and authorized State governors to employ the National Guard for this purpose. Some were on duty the next day. Within just a week, some 7,000 Army and Air National Guardsmen were on duty at airports, operating with federal funding but under the command and control of State governors. Scheduled to end in late March,

2002 the mission has been extended to the end of May pending the ability of the Department of Transportation to field a permanent force to do the job.

Maryland National Guard military police forces also helped secure the Pentagon while under State control. Shortly after the airliner hit the pentagon, two Military Police companies from the Maryland National Guard were requested for security. The State headquarters immediately ordered them to duty under Annual Training orders (Title 10). The MPs arrived at the Pentagon the next morning to execute a security operation there.

National Guard Weapons of Mass Destruction Civil Support Teams (CSTs) also operate as federally resourced, State controlled assets under Title 32. These full-time 22-person joint Army and Air National Guard units are trained and equipped with modern technology to assess a chemical, biological, or radiological attack, advise the on-scene incident commander, and facilitating the arrival of additional assets.

The National Guard also has a track record of contributing to the strategic defense of the United States while remaining under a State chain of command. From the 1950s through the early 1970s, up to 82 batteries of Army National Guardsmen manned anti-aircraft artillery and, later, Nike missile sites ready to shoot down any Soviet bombers that penetrated into US airspace. Up until September 11, First Air Force employed 10 Air National Guard Wings ready to scramble fighters to intercept unidentified aircraft entering the airspace of the United States. In order to get the most flexible use of the assets, pilots and aircraft remain in their State-controlled training status unless they are actually scrambled for an intercept.

Service under Title 32, in which a National Guardsman remains under the command and control of State governments but conducts federally prescribed and resourced training, has traditionally been exclusively for that purpose. The increasing use of it for operational purposes in recent years however, has evolved a unique and effective optional tool for decision-makers in meeting certain requirements.

Summary & Conclusion

Based in the Citizen Soldier tradition rooted in the founding of the Nation and codified into the Militia Clause of the Constitution, today's modern National Guard remains a unique State/federal construct. Rather than creating a hindrance, this construct actually gives decision-makers a highly flexible and responsive set of tools in the form of its three possible duty statuses: State active duty, federal Title 10 mobilization, or State controlled, federally resourced duty under Title 32. These various duty statuses for employing the National Guard provide civilian and military decision-makers with a range of options with which to address national security challenges – especially those here in the homeland. As America fights the war and terrorism and generally moves into a changing world of asymmetric threats, having this range of options is unquestionably a good thing.