



Major General Michael T. McGuire
The Adjutant General, Arizona National Guard
Director, Arizona Department of Emergency and Military Affairs (DEMA)

STATEMENT FOR THE RECORD

On behalf of the
Arizona National Guard

before the

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Committee on Homeland Security
Subcommittee on Border and Maritime Security

on

“Boots at the Border: Examining the National Guard Deployment to the Southwest Border”

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Introduction

Good afternoon Chairwoman McSally, Ranking Member Vela, and distinguished members of the subcommittee. My name is Major General Michael T. McGuire, and I am The Adjutant General of Arizona and Director of the Arizona Department of Emergency and Military Affairs (DEMA). I appreciate the opportunity to appear before you today on behalf of the 7,800 Citizen Soldiers and Airmen of the Arizona National Guard to discuss our mission to support the U.S. Department of Homeland Security as well as our other local, state, and federal partners through a whole-of-government approach to address the various transnational issues that impact our borders.

From the Pequot War in 1634 to the current Overseas Contingency Operations around the globe and Emergency Response Deployments around the nation, this hearing today highlights a mission that the National Guard has capably executed for the past 384 years. The National Guard is the modern-day militia, and has a long and honored history of service to the country. Although the present-day National Guard was established with the Militia Act of 1903, the National Guard's heritage can be traced back to the first state-run militia regiments established by the General Court of the Massachusetts Bay Colony in 1636. Since that day, the National Guard has remained ready to answer the nation's call during times of emergency and conflict. In honor of that great tradition, Soldiers and Airmen of the Arizona National Guard continue to stand ready to answer that call.

The National Guard remains the first choice for homeland defense operations, being uniquely trained and situated as the first line of support to the nation's local, state, and federal first responder and law enforcement agencies. Consistent with the citizen-soldier model of the early militias, the present day National Guard is embedded in the local communities – policemen and firemen, small business owners, carpenters, civil engineers, plumbers, and mechanics. This fact provides intangible benefits - not only can the National Guard bring a response force with military capabilities but also civilian skills such as carpentry, mechanical, civil engineering, and business negotiation, but National Guard troops also have hometown familiarity with the geographic layout of the affected community, combined with an understanding of the most at-risk areas. Put another way, with nearly 3,300 installations in 2,700 communities around the country, the National Guard is America's "forward deployed" homeland response force.

National Guard Duty Statuses Enable Local Support

Federal and state constitutions and statutes provide the primary authority for use of military force by the federal and state governments. These provisions, in so far as they apply to the National Guard, reflect the constitutional balance of power between the sovereign states

and the central federal government. National Guard forces are unique among all other military components in that they may be used in one of three legally distinct ways:

- (1) by the Governor for a state purpose authorized by state law (State Active Duty); or
- (2) by the Governor, with the concurrence of the President or the President's designee (e.g., the Secretary of Defense), for shared state/federal purposes or for a primary federal purpose (Title 32 Duty); or
- (3) by the President for a federal purpose authorized by federal law (Title 10 duty).

Operation Guardian Support

In April 2018, President Trump directed the Department of Defense (DoD) to support the US Department of Homeland Security (DHS). The Secretary of Defense directed the National Guard to employ up to 4,000 Soldiers and Airmen to meet this mission set and provide with aviation, reconnaissance, operational, and logistical support to enable DHS to increase operational control and situational awareness of the region. This directive, though not a formal named operation, has been informally nicknamed by DHS as Operation Guardian Support (OGS).

Arizona Governor Ducey ordered the Arizona National Guard to support this presidential directive, and on April 6, 2018 a planning cell within the Arizona National Guard Joint Task Force was activated. On April 9, the Arizona National Guard deployed 225 Soldiers and Airmen to various DHS and CBP outposts along the state's border in support of this new border mission. An additional 113 Soldiers and Airmen were deployed two days later as authorized by National Guard Bureau (NGB). Today, there are 657 authorized personnel in Arizona in support of OGS.

The relationship between the Arizona National Guard and DHS is not new, however. For nearly 30 years, the Arizona National Guard has worked with various partners across the federal government in areas along the border, specifically with the National Guard Counter Drug program as codified in the 32 USC § 112 and through various training mission sets of opportunity that present themselves to support both DHS and National Guard unit readiness, such as one of our Transportation Companies moving concrete barriers from one Customers and Border Protection (CBP) Sector to another. In addition, the National Guard has supported three prior iterations of the border mission by providing aviation, operational, logistical, and administrative support in Operation Jump Start from 2006 to 2008, and again in Operation Phalanx from 2010 to 2016. Only during Operation Jump Start and the first phase of Operation Phalanx did the National Guard provide personnel to physically patrol the border to support CBP while additional agents were recruited, trained, and deployed. I will discuss both of these previous operations and our Counter Drug program in more detail in a moment.

The current OGS mission is being accomplished through the identification of specific requests for assistance (RFA) by DHS, which then passes those RFAs to DoD/National Guard Bureau (NGB) and then to the states. These RFAs fill specific functions and duties as mentioned earlier – aviation, reconnaissance, operational, and logistical support – and the Arizona National Guard is currently filling RFAs at all of the border stations within the Tucson and Yuma border sectors in Arizona. This iteration of the border support mission is informed by our experience with the previous border missions and has evolved based on the changing nature of immigration, transnational threats, and technology. Many of these RFAs are administrative in nature, which is by design to support DHS and allow them to focus on improving situational awareness along the border while they recruit, train, and deploy additional staff and agents. Personnel authorizations issued by NGB are all based on specific RFAs that have been submitted by DHS to NGB for support. These RFAs are first validated by NGB and then approved as a force authorization. These specific RFAs and force authorizations are then passed down to the National Guard of the respective state, and working through Arizona’s current end-strength and that of other states as we meet the mission requests of DHS.

So there is no misunderstanding, the Arizona National Guard does not act in any law enforcement capacity along the border, nor have our Citizen Soldiers and Airmen been placed in a position that would come into contact with migrants. Although not constrained by the Posse Comitatus Act due to Title 32 deployment status, law enforcement is not our mission. Further, DHS has never requested the National Guard act or assist in a law enforcement capacity in any iteration of these border missions, and a long-standing Department of Defense directive specifically states that the Guard members will not act in a law enforcement capacity. The Arizona National Guard is strictly providing support, and, when done right, that support provides a training value to our military missions – in particular with the aviation, engineering, and ports of entry mission sets. National Guard aviation assets from Arizona and other states have provided over 500 flight hours in support of OGS and we have identified approximately 30 potential engineering projects that would support CBP, all of which contribute to warfighter readiness.

As stated in my opening paragraph, a whole-of-government approach is key. OGS supports DHS as a whole, but currently has only provided support to fill RFAs from CBP. The biggest threats along the border are not limited to illegal border crossings, but include violence and the trafficking of drugs, humans, and weapons. The Southwest Border appropriation provided in the FY18 DoD budget has allowed the Arizona National Guard to place an additional 21 Soldiers and Airmen on orders to support other local, state, and federal law enforcement agencies. Locally developed partnerships like the Arizona Alliance to Combat Transnational Threats is a model for local, state, and federal law enforcement coordination. As proof of this whole-of-government success, we offer the Arizona National Guard Counter-Drug mission

which partners with over 70 local, state, and federal law enforcement agencies. In our domestic role, the National Guard is always in support of another agency, whether it is responding to an emergency, combating transnational crime, or supporting greater operational control and situational awareness of the border region. Operation Guardian Support is another opportunity to provide whole-of-government support to our local, state, and federal partners.

Current Arizona National Guard Partnerships – Counter Drug Task Force

Through the Arizona National Guard Counter Drug Task Force, we partner with over 70 local, state, and federal law enforcement agencies. Authorized by the National Defense Authorization Act in 1989 under 32 USC § 112, the National Guard Counterdrug Program authorizes up to 4,000 National Guard members to perform drug interdiction and counterdrug activities in all 54 states and territories. The Arizona National Guard's Counter Drug program, referred to as the Counter Drug Task Force, began operations in 1989 and is currently the third largest behind California and Texas. The mission of the Counter Drug Task Force is based in law and provides military counterdrug and drug demand reduction support to local, state, and federal law enforcement agencies and community-based organizations. For the past 29 years, the highly skilled Soldiers and Airmen of the Counter Drug Task Force have provided unsurpassed operational counterdrug support, and continue to offer the continuity necessary to foster and maintain positive relationships with over 70 federal, state, and local drug enforcement agencies and community organizations across the state of Arizona, including: Customs and Border Protection, Homeland Security Investigations, Drug Enforcement Administration, Federal Bureau of Investigation, Arizona High Intensity Drug Trafficking Area Center, Arizona Department of Public Safety, Arizona Counter-Terrorism Information Center, Metro Intelligence Support and Technical Investigation Center, Arizona Alliance to Combat Transnational Threats, USNORTHCOM, Joint Task Force North, and various county and city law enforcement agencies.

Serving in Full Time National Guard Duty-Counter Drug status in accordance with 32 USC § 112, these Soldiers and Airmen are under state control and are not subject to the provisions set forth by the Posse Comitatus Act. Counter Drug Task Force members have been given authorization to perform "Support Only" Counter Drug duties. It is this support role that brings the greatest benefit to our partners. The Counter Drug Task Force provides specific skill sets in support of civilian agencies, enhancing their capabilities and at the same time allowing them to devote their skill sets to their primary mission. These skill sets include: Investigative Case and Analyst Support, Communications Support, Ground Reconnaissance, Aerial Reconnaissance, and Civil Operations, formerly known as Drug Demand Reduction. These skills exercised through the Counter Drug Task Force in turn keep National Guard members in ready form when they are needed for other operations under the Governor's or the President's command.

Past Support to DHS and CBP

Arizona has a total land area of just over 113,998 square miles and is the sixth largest state in the Union. Arizona has an estimated population of well over seven million. Arizona shares 389 miles of international border with Mexico and has seven major ports of entry. Found between Arizona's ports of entry are a variety and combination of barriers that include pedestrian fencing, vehicle fencing, Normandy barriers, triple strand barbed wire fencing and cattle guard crossings located on the Tohono O'odham Indian Reservation only. The sovereign territory of the Tohono O'odham Nation consumes 75 miles (28%) of the Arizona/Mexico border. Nearly one third of this reservation extends south directly into Mexico. The Tohono O'odham Nation does not acknowledge the international border between the United States and Mexico, and residents living on tribal lands in Mexico can traverse freely at any time.

Operation Jump Start (June 2006 – July 2008)

On May 15, 2006, President George W. Bush declared Operation Jump Start as a two-year, \$1.2 billion program spread across the four Southwest Border States. The mission required 6,000 National Guard members the first year, and 3,000 the second year. The Department of Homeland Security and Customs and Border Protection were allocated forces based on their assessed needs that resulted in Arizona receiving 40% of the forces; the largest percentage of the four Southwest Border States. The goal of Operation Jump Start was to augment Customs and Border Protection with additional manpower for administrative and operational assistance missions, alleviating Border Protection agents of these responsibilities and allowing those agents to be sent back out to the field where they were needed most. Guard members from 51 of the 54 States and territories served in Arizona performing duties that included Entry Identification Teams, camera operators, logistical support, aviation support and engineering support. In total, 17,750 personnel participated on the mission. These personnel were comprised of individual volunteers, sourced unit rotations, and unit annual training rotations. During the first year of Operation Jump Start, an average of 2,400 National Guard personnel conducted operations in support of law enforcement efforts in Arizona. That number was reduced to 1,200 personnel during the second year.

Operation Phalanx Phase One (July 2010 - February 2012)

On May 25, 2010, President Obama directed the temporary use of up to 1,200 National Guard personnel on the Southwest Border to support Department of Homeland Security requirements. Arizona was authorized 560 of the 1,200 personnel for the mission which equates to 46% of total mission personnel. Like Operation Jump Start, National Guard personnel are funded under U.S. Code Title 32 § 502(f), in accordance with the published Department of Defense order. Operation Phalanx supports both Customs and Border Protection

and Homeland Security Investigations by supporting three key mission sets; Entry Identification Teams, Video Surveillance System support, and Intelligence Analysis.

Of the 560 personnel initially authorized for Operation Phalanx in Arizona, 504 personnel were tasked to support entry identification sites that operated on a 24-hour basis in close proximity to Arizona's southern border. Soldiers and Airmen staffed 25 overt Entry Identification Team sites across four stations in the Tucson sector. Due to increased threat and violence along the international border, Arizona National Guard personnel were armed and assumed a higher arming status than similar missions during OPERATION Jump Start. Rules for the use of force were clearly defined, published, and provided to each service member on the mission.

Operation Phalanx Phase Two (March 2012 – December 2016)

In December 2011, the Department of Defense announced National Guard personnel supporting the Department of Homeland Security would be reduced from 1,200 to no more than 300 personnel and included a change in mission. In addition to continuing the intelligence analyst mission, the National Guard transitioned from a ground observation role to an aerial reconnaissance mission.

Ways to Improve Operation Guardian Support

- Make OGS and other Domestic Support Missions an officially named operation by DoD to enable accrual of federal benefits and ability to recruit National Guard members for this voluntary activation.
 - While informally named by DHS, OGS and other similar domestic response missions are not official DoD named operations. Service to an unofficially named mission, under training authorities, prevents National Guard members from accruing benefits typically provided under federal service, including credit towards the Post 9/11 GI Bill. The border is a federal responsibility; therefore, this is a federal mission that should draw federal benefits.
 - Official operation status would improve the ability to source National Guard members nationally as well.
- NGB should work with DHS to identify continuous specific opportunities to meet an RFA through annual training, as NORTHCOM does with reserve or federal units (e.g., reserves have built a forward operation base for CBP, identified engineering projects could be sourced to states' National Guards to meet training needs). Currently, we are only funded for border activities through 1 October 2018. This makes it impossible to schedule any long lead time activities, like engineering projects, without funding that crosses fiscal year boundaries.

- Facilitate CBP's hiring more administrative and logistics personnel. With "badges" working these administrative duties, they are prevented from performing law enforcement duties on the border and at stations throughout the region. Additionally, some logistical RFA taskings being fulfilled by National Guard members, such as vehicle maintenance and engineering projects, could potentially be furnished through local contractors until CBP is sufficiently staffed. The National Guard has provided over ten years of supplementation for these administrative and logistical duties, while a longer-term solution should include hiring both "badges" for the border as well as administrative and logistical support personnel.
- Improve the cueing for helicopter, light fixed wing, and lighter-than-air assets. Right now, we are using several hundreds of aircraft across the southwest border to detect illegal and illicit activity without any advanced cueing systems. These small infrared and electro-optical resources are somewhat effective by themselves, but are like looking through a soda-straw to try to find resources. The addition of a radar cueing that detects movement can increase the likelihood of successfully finding and tracking activity by tenfold. There are three ways to enhance this mission set:
 - (1) Enable our National Guard crews to assist and supplement the CBP's Air and Marine crews flying the DHS MQ-9s that are extremely undermanned along the border until they can organize, train, and recruit to full capacity. At the Fort Huachuca MQ-9 station, for example, CBP's Air and Marine Operations (AMO) is only able to produce two of the needed five flights per day due to crew limitations.
 - (2) Authorize use of Air National Guard MQ-9s in domestic operations along the border. CA, AZ and TX each have Launch and Recovery Elements (LREs) and domestically sourced airframes available for the mission, but the DoD has expressed concerns that the use of these stateside LREs will affect the combat missions. The use of the LREs in AZ and TX are not currently allocated to anything other than peacetime stateside continuation training, and can successfully support domestic border missions if so authorized.
 - (3) Enhance the currently utilized RC-26 program with semi-active radar mapping pods. These pods are already used on other military aircraft, and for a small procurement and testing cost would greatly enhance the use of the National Guard's only domestic aircraft mission. We could utilize these pods along the border within just a few months of funding appropriation and authorization.
 - (4) Return AH-64 Apache helicopters to the Arizona National Guard. The return of Apache helicopters to Arizona would provide significant night vision capability to the National Guard's aviation support of Operation Guardian Shield.