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HOMELAND DEFENSE

2 SEP 2003

The Honorable Duncan Hunter
Chairman, Committee on Armed Services
House of Representatives
Washington, DC 20515-6035

Dear Mr. Chairman:

Enclosed is the Department of Defense report to Congress as requested in section 921, Public Law 107-314, the Bob Stump National Defense Authorization Act for Fiscal Year 2003.

Section 921 directs the Secretary of Defense to submit a report on the implementation plan for establishment of U.S. Northern Command. The report addresses organization of the command, the rationale for selection of its headquarters location, the budget for its establishment and maintenance, personnel levels, the legal implications of operating on U.S. territory, and the command's domestic and international relationships.

Copies of this letter have also been furnished to the Senate Committee on Armed Services, and the Senate and House Committees on Appropriations, Subcommittees on Defense.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul McHale".

Paul McHale

Enclosure

cc:

The Honorable Ike Skelton
Ranking Minority Member

**Report to Congress
on
Establishment of
U.S. Northern Command**



September 2003

**Pursuant to Section 921 of the
National Defense Authorization Act for Fiscal Year 2003**

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**Report to Congress on
Establishment of U.S. Northern Command**
required by
FY 2003 National Defense Authorization Act (NDAA), Section 921

ORGANIZATIONAL STRUCTURE

United States Northern Command (NORTHCOM) headquarters employs an organizational structure similar to the existing unified commands. This includes directorates focused on the following areas: personnel, intelligence, operations, logistics, policy and plans, architectures and integration, training and exercise, and programs and resources. The Command also has directorates to oversee interagency coordination and interagency support to law enforcement. In addition, the staff includes a political advisor, historian, inspector general, staff judge advocate, public affairs officer, protocol officer, science advisor/analyst, surgeon general, and chaplain. The Command also is studying several transformational headquarters structures, some of which may also function in a Standing Joint Force Headquarters¹ role.

NORTHCOM has few permanently assigned forces. Whenever mission requirements dictate, the Command will be assigned or attached additional forces. For day-to-day operations, NORTHCOM relies on its three subordinate commands and other organizational units:

- Joint Force Headquarters-Homeland Security (JFHQ-HLS) supports NORTHCOM in planning the land and maritime defense of the continental United States and military assistance to civil authorities.
- Joint Task Force-Civil Support (JTF-CS) provides incident management capabilities to respond to chemical, biological, nuclear, radiological, and high-yield explosive events.
- Joint Task Force-Six (JTF-6) provides Department of Defense (DoD) support to federal, regional, state, and local counterdrug law enforcement agencies.
- Joint Communications Support Center (JCSC)
- Joint Regional Medical Planner Group (JRMP)
- Combined Intelligence and Fusion Center (CIFC) provides intelligence support, threat characterization/assessment, and indications and warning. It focuses on operational intelligence and fusion of intelligence and non-traditional information from sources such as law enforcement authorities.
- Mobile Consolidated Command Center (MCCC) is a survivable command center that can be deployed outside of known target areas for an extended period of time. It has robust communications and fully integrated and networked intelligence systems.

The Service Component Commanders to NORTHCOM are as follows:

- Army Component Commander to NORTHCOM, Fort McPherson, Georgia

¹ A Standing Joint Force Headquarters is intended to provide a joint theater commander with a trained and equipped Joint Command and Control (C2) capability to reduce the time involved in setting up a Joint Task Force headquarters ready to conduct operations in small-scale contingencies.

- Navy Component Commander to NORTHCOM, Norfolk, Virginia
- Air Force Component Commander to NORTHCOM, Langley Air Force Base, Virginia
- Marine Corps Component Commander to NORTHCOM, Norfolk, Virginia

Rationale for selection of Peterson Air Force Base, Colorado, as headquarters

The process to select the location of NORTHCOM headquarters identified potential sites based on established essential criteria known to be necessary to support the requirements for an Initial Operational Capability by October 1, 2002. The Implementation Planning Team for NORTHCOM, consisting of Joint Forces Command (JFCOM), the Military Departments, and North American Aerospace Defense Command (NORAD) representatives, consolidated recommendations from Naval Facility, Atlantic Division; United States Army Corps of Engineers market surveys; and congressional and senior DoD leaders. These data, along with command and control operational considerations, were used to identify 34 possible sites. These sites were then screened based on the following criteria: Base Realignment and Closure status; available space (180,000 or more sq. ft.); force protection; organic command, control, communications, computers, intelligence, surveillance, and reconnaissance capability; and cost.

Seven locations met the initial screening criteria—Andrews Air Force Base (AFB), Ft. Belvoir, MacDill AFB, Norfolk Naval Operations Base, Offutt AFB, Peterson AFB, and Site R. MacDill AFB and Site R were not considered for the subsequent on-site survey due to operational and supporting infrastructure reasons, respectively.

Post-site survey analysis resulted in a recommendation of Peterson AFB to the Secretary of Defense, if overriding concerns were cost and ease of establishment; or Norfolk Naval Operations Base, if concerns were proximity to the National Capital Region, Service components and force providers, as well as the transition of homeland defense resources and expertise.

On June 25, 2002, the Deputy Assistant Secretary of the Air Force (Environment, Safety, and Occupational Health) issued a Finding of No Significant Impact via an Environmental Assessment for the proposed establishment of United States Northern Command headquarters at Peterson AFB, CO. Based on the Environmental Assessment, it was determined an Environmental Impact Statement was not required for the proposed action.

On June 28, 2002, the Secretary of Defense issued a memorandum designating the Peterson AFB, Colorado Springs, CO as the location for the NORTHCOM headquarters.

BUDGET AND PERSONNEL IMPLICATIONS

The required budget for standing-up and maintaining NORTHCOM over the period of the future-years defense program (through FY09) is shown in the table below.

President's budget, FY 2004 (\$ in millions)	FY02	FY03	FY04	FY05	FY06	FY07	FY08	FY09
NORTHCOM standup	20							
Operations & Maintenance		70	143	126	106	109	140	112
Procurement		15	5	4				
Military construction		25						
Total	20	110	148	130	106	109	140	112

Table 1: NORTHCOM budget through FY09

Personnel requirements and their funding status are summarized in the table below.

		<i>Military</i>	<i>Civilian</i>	<i>Total</i>
Personnel authorized		603	146	749
Currently funded personnel	<i>Officer</i>	<i>Enlisted</i>	<i>Civilian</i>	<i>Total</i>
Headquarters (1st increment of 15% HQ Reduction/Coast Guard)	112	35	45	192
Subordinate Commands (JFHQ-HLS, JTF-CS, JTF-6)	126	74	60	260
	<i>Total</i>	<i>238</i>	<i>109</i>	<i>105</i>
				<i>452</i>

Table 2: Personnel requirements

Sourcing of the full manpower requirements has yet to be determined, but it is expected to include realigning billets from the other Unified Commands as part of the remaining headquarters management reductions. The Joint Staff, OSD, Services, and the Defense Agencies have developed a course of action for SecDef approval to source the remainder of NORTHCOM for full operational capability by October 1, 2003, as well as other Unified Command Plan 02 requirements.

Implications for other combatant commands

The 2002 Unified Command Plan set the course for the transformation of the military by divesting Joint Forces Command of the Atlantic Area of Responsibility and homeland security responsibilities. This positioned JFCOM as the single joint command with a primary focus on transforming the nation's armed forces. Since the mission to plan and execute homeland defense has been given to NORTHCOM as well as PACOM, JFCOM is better able to focus on improving on future and present military capabilities, including transformation of joint forces, experimentation, interoperability, and joint training, in addition to its role as a major force provider. However, JFCOM continues to provide support to NORTHCOM.

The creation of NORTHCOM has had a financial impact on JFCOM. The establishment of JFHQ-HLS was funded entirely by the Defense Emergency Response Fund (DERF) appropriation. However, JFCOM continues to provide support to NORTHCOM as it works towards achieving full operating capability (FOC) by October 1, 2003. JFHQ-HLS spent the following DERF funding according to the September 30, 2002 DERF report:

	Million \$
Renovation of Building X-132, Norfolk, VA	2.355
Information technology and command & control capabilities in support of land, maritime, and civil support missions	2.166
Headquarters functions: contractor support, travel costs, supplies, facility support for daily operations	1.542
Implementation Planning Team	0.400
NORTHCOM: travel costs for augmentation cells; validation exercise support	0.595
Total	7.058

Table 3: Defense Emergency Response Fund expenditures prior to Oct. 1, 2002

Memoranda of Agreement are being developed for Personnel; Intelligence; Operations; Logistic/Engineering; Plans; Command, Control, Communications, and Computers; Joint Training/Exercises; Program/Budget; Interagency; Legal; Public Affairs; Protocol; and Security support. The estimated costs for these support activities are still being finalized.

The effect of the creation of NORTHCOM on the manpower resources for JFCOM is outlined in Tables 4 and 5.

Activity/Function	Billets Transferred				Transferred To
	Full Time			Mobilization	
	Mil	Civ	Total		
Joint Task Force – Civil Support	82	16	98	20	NORTHCOM
Joint Task Force – Six	108	43	151	0	NORTHCOM
Medical Mobility	14	0	14	0	NORTHCOM
Counter Drug	2	1	3	0	NORTHCOM
Military Assistance Civil Authority	5	0	5	0	NORTHCOM
FORSCOM Exercise	2	0	2	0	NORTHCOM
U.S. Forces Azores	18	6	24	36	European Command
Iceland Defense Force	48	9	57	72	European Command
Total Billets Transferred	279	75	354	128	

Table 4: USJFCOM Manpower Transfers as a result of UCP-02 Implementation

Activity/Function	Number of JFCOM Billets Reduced				
	Full Time			Mobilization (military only)	Grand Total
	Mil	Civ	Total		
USNORTHCOM	226	71	297	20	317
USEUCOM	107	25	132	108	240
USCENTCOM	37	4	41	0	41
USSOUTHCOM	18	1	19	0	19
Marine Corps Intelligence Agency	12	0	12	0	12
USPACOM	8	0	8	0	8
USSTRATCOM	5	0	0	0	5
USSOCOM	4	1	5	0	5
USTRANSCOM	2	1	3	0	3
Total Billets Reduced	419	103	522	128	650

Table 5: USJFCOM Manpower Reduction Summary

LEGAL AUTHORITY

Whenever military personnel of the DoD perform a domestic mission, operation, or other activity, it is important to understand the legal authority for that action. Each specific legal authority identifies the decision-maker, the requirements to invoke that authority, and the permissible scope of military action.

The core mission of the DoD is to provide the military forces needed to deter war and to protect the national security interests of the United States. Other authorities permit the DoD to use the military to engage in other than core DoD missions. These authorities include the President's constitutional authority, statutory authority vested in the President, other statutory authorities, and the authority vested in commanders to engage in immediate emergency response.

The DoD's core mission includes providing land, sea, and aerospace defense of the homeland. Routine domestic operations in this category include the continuous monitoring and patrol of U.S. airspace and the protection of DoD personnel, facilities, and assets. The President's constitutional authority provides additional legal authority, under which the President, as Commander in Chief, may order the military to perform specific domestic missions under extraordinary circumstances.

In addition to the President's constitutional authority, Congress has specifically vested the President with certain statutory authority to employ members of the Armed Forces. The insurrection statutes at 10 U.S.C. §331, *et. seq.*, and Public Law 107-40, which grants the President authority to respond to terrorist incidents, are two examples of this type of legal authority. Other statutes authorize use of the Armed Forces and its unique capabilities in domestic missions, operations, and activities. These include the Stafford Act and Chapter 18 of Title 10, United States Code, regarding military support to civilian law enforcement agencies.

Finally, immediate emergency response authority permits commanders to take prompt action to respond to requests from civil authorities to save lives, prevent human suffering or mitigate great damage to property as a result of civil disturbances, disasters, or calamities seriously endangering life and property. Immediate emergency response is authorized only when time

does not permit local commanders to seek and receive appropriate approval from the chain of command.

Legal implications of employing the National Guard

In addition to the legal implications associated with the different sources of authority to employ military personnel of the Department of Defense domestically, there are distinct legal implications when the National Guard is used to perform the same or similar missions. The National Guard may perform duties in three different statuses and each status implicates different laws.

When members of the National Guard serve in a state status, they serve under the authority, direction and control of their state governor. Each state is responsible for paying the salaries, benefits, and costs associated with any missions and duties performed. Applicable state law is implicated in this status.

When authorized under Title 32, United States Code, members of the National Guard may be ordered by the governor to perform certain duties in a Title 32 status. In this status, members of the National Guard are paid with federal funds, and the costs associated with their duty are federally funded, but the members remain under the authority, direction, and control of their respective state governors. State law is implicated when National Guard personnel perform duties in Title 32 status. For example, the National Guard Weapons of Mass Destruction Civil Support Teams normally perform duties in a Title 32 status. The teams are authorized by federal statute, and federally funded and trained, but they remain subject to the authority, direction, and control of their state governor while performing duties in a Title 32 status.

Under constitutional and statutory authority, the President may call or order National Guard members into federal service. Members of the National Guard are subject to the authority, direction and control of the President and the DoD when in federal service. They are paid with federal funds and subject to all applicable federal laws, including the Posse Comitatus Act discussed below. In this status, there must be legal authority for the call or order to active duty and for their missions while on active duty.

Posse Comitatus

One final legal implication of employing military personnel of the DoD on U.S. territory is consideration of the Posse Comitatus Act, which is codified at 18 U.S.C. §1385. While the express terms of the law place restrictions on use of the Army and Air Force to execute civilian laws, DoD policy applies those same restrictions to the Navy and Marine Corps. The potential applicability of the Posse Comitatus Act is evaluated and resolved before military personnel undertake any mission, operation, or activity on U.S. territory, especially when providing support to civil law enforcement authorities. It is the Department's position that no change to the Act is required. The Act would not impede the President's authority to order the Armed Forces to support civil authorities in responding to emergencies requiring military intervention.

DOMESTIC RELATIONSHIPS

Relationship of the command to federal authorities

The Commander, USNORTHCOM reports to the President and the Secretary of Defense and will execute missions in accordance with orders received from them. The chain of command for NORTHCOM, like all combatant commands, runs from the President, to the Secretary of Defense, to the commander of the combatant command.

When directed by the Secretary of Defense, NORTHCOM has the responsibility to provide military assistance to U.S. civil authorities that are designated as lead federal agencies. NORTHCOM will develop appropriate working relationships to facilitate planning for employment of DoD units in support of the Command's assigned missions. If DoD Reserve assets are mobilized in Title 10 (Federal Active Duty) status, and assigned or attached to NORTHCOM, the Commander, NORTHCOM may have direct tasking authority, depending on the mission.

The Secretary of Defense has made a public commitment to work closely with the Department of Homeland Security (DHS) in order to coordinate responsibilities. The Secretary of Defense and the Secretary of Homeland Security will establish appropriate planning and functional relationships between DoD and DHS organizations, as directed by the President. This will result in the establishment of appropriate working relationships with lead federal agencies or other homeland security elements that support NORTHCOM's planning, exercises, consequence management and civil support operations, or information sharing and dissemination, all consistent with existing laws, policy, and regulations.

To facilitate interaction with other federal agencies, the Secretary of Defense is a permanent member of the Homeland Security Council, as specified in Executive Order 13228. Other senior DoD officials, such as the Assistant Secretary of Defense for Homeland Defense (ASD(HD)), may represent the Secretary of Defense in Council meetings on an as-needed basis. The ASD(HD) is the principal representative for the Secretary of Defense in interagency and intergovernmental matters as they pertain to homeland security issues. The CJCS provides military advice on homeland security issues as the principal military advisor to the President and Secretary of Defense.

The ASD(HD) provides overall supervision for all DoD homeland defense activities, including NORTHCOM's homeland defense and civil support activities. The ASD(HD) coordinates all requests for assistance and cooperative activities between DoD and DHS.

Relationship of the command to state and local authorities

NORTHCOM is not a first responder. It normally will act in a supporting role to a lead federal agency to provide support to state and local authorities. When appropriate and as authorized by the Secretary of Defense, NORTHCOM will coordinate with civilian agencies on operational and planning issues. The ASD(HD) represents the Department on all homeland defense-related

matters with designated lead federal agencies, the Executive Office of the President, DHS, other executive departments and federal agencies, and state and local entities, as appropriate.

National Guard Bureau. NORTHCOM's command and control relationship with the National Guard Bureau is the same as that of any other combatant commander. Title 10, sec 10501(b), defines the National Guard Bureau as the channel of communications on all matters pertaining to the National Guard, Army National Guard of the United States, and Air National Guard of the United States between (1) the Department of the Army and Air Force, and (2) the several states. The Army and Air National Guard have primary responsibility for providing military assistance to state and local government agencies in civil emergencies within their respective states. Through the National Guard Bureau, NORTHCOM coordinates with state headquarters for planning purposes and maintains situational awareness of National Guard actions and commitments.

State National Guard Headquarters and state and local agencies. There is no formal, direct linkage between NORTHCOM and individual State National Guard Headquarters or state and local officials. The Army National Guard State Area Command (STARC) is currently the focal point for the delivery of National Guard support. Accordingly, the Adjutants General of the 50 states, District of Columbia, Guam, Puerto Rico, and the Virgin Islands, through their respective STARCs, serve as the primary military interface between the National Guard and state and local authorities. The STARCs provide daily executive summaries on military support to civil authorities, and other Title 32 and state active duty activities, to the National Guard Bureau. In addition to the Army and Air Force, the National Guard Bureau provides the Joint Staff, JFCOM, NORTHCOM, Pacific Command (PACOM), and OSD situational awareness of those missions performed in Title 32 and state active duty by the various states and territories, as well as provide state homeland security planning and exercise information.

INTERNATIONAL RELATIONSHIPS

Status of DoD consultations with Canada regarding NORAD

On December 5, 2002, the U.S. and Canadian governments exchanged diplomatic notes that formally reaffirmed the value of bi-national cooperation to address emerging homeland security threats. While respecting the national interests and sovereignty of each other, both governments sought to broaden bi-national defense arrangements to prevent or mitigate threats or attacks by terrorists or others on Canada or the U.S.; and to ensure a cooperative and well-coordinated response to national requests for military assistance in relation to terrorist, or other, threats or attacks, natural disasters, or other major emergencies in Canada or the U.S.

In light of this affirmation, both governments agreed to establish, for a period of two years, a bi-national planning group to address the maritime, land, and civil support elements of North American security. This group, tasked with developing contingency plans that will be submitted to both governments for approval, will have neither forces assigned nor any operational mission. Currently, the planning group is developing its terms of reference under the leadership of the Deputy Commander of NORAD and the Deputy Commander of NORTHCOM. Senior officials

of relevant Canadian and U.S. federal departments and/or agencies shall be consulting with the planning group, in accordance with agreed procedures between the two governments.

Under Unified Command Plan 02, Change 02, NORTHCOM has responsibility for execution of the missile defense mission in defense of the U.S. and its territories within its area of responsibility.

Status of DoD consultations with Mexico

DoD enjoys a positive relationship with the Mexican military based on a long history of professional military exchanges. Current Mexican political circumstances, as well as the Mexican Constitution which prohibits combined military operations in peacetime, suggest that an incremental approach to cooperation on the security and defense of North America is appropriate. The DoD will discuss with the Mexican government a cooperative relationship with NORTHCOM at a mutually acceptable time. In the meantime, NORTHCOM participate in high-level U.S.-Mexican defense bilateral discussions, as appropriate.

Status of U.S. consultations with NATO on new chain of command

At present, NATO's operational responsibilities are geographically split between two Strategic Commands, Allied Command Atlantic (ACLANT) and Allied Command Europe (ACE). At the November 2002 NATO Summit in Prague, heads of state and government approved a broad outline of a new streamlined and more effective command structure that assigns all operational responsibility to one Strategic Commander and includes the creation of a Strategic Command for Transformation. This new command will be responsible for directing the Alliance's transformation efforts and will better enable NATO to overcome emerging challenges. ACLANT and ACE will stand down as they transfer their operational responsibilities to the new Allied Commander for Operations.

At the June 2003 Defense Ministerial, ministers finalized the details of the new command structure. They agreed on locations for specific headquarters as well as a delineation of responsibilities between the two Strategic Commands. Allied Command Operations will be located in Mons, Belgium and the Allied Command Transformation (ACT) will be located in Norfolk, Virginia.

Subject to confirmation by the Senate and approval by the North Atlantic Council, the Commander of U.S. Joint Forces Command will be dual-hatted as the Supreme Allied Commander of ACT and, when exercising his NATO responsibilities, will report to NATO's Military Committee.

CONCLUSION

The establishment of NORTHCOM places homeland defense missions under a single command. This will eliminate gaps among the DoD organizations that traditionally have had homeland defense responsibilities. It also enhances military support to civilian agencies and improves DoD's ability to anticipate and plan for threats against the U.S. and its territories.

NORTHCOM's efforts to date include combat air patrols over U.S. cities, provision of military assistance to civil authorities (e.g., recovery from the Shuttle Columbia accident, forest fire-fighting in the western U.S.), and establishment of organizations to enhance response capabilities (e.g., Standing Joint Forces Headquarters for the National Capital Region, Joint Integrated Task Force-North for drug interdiction). NORTHCOM recently completed the Determined Promise-03 exercise (August 2003) to evaluate its ability to execute its homeland defense and civil support missions upon full operational capability on October 1, 2003.

The Department is establishing working relationships with lead federal agencies and other homeland security elements that can strengthen NORTHCOM's capacity to support state and local authorities, consistent with existing laws and regulations. Paramount in the interagency process is the establishment of a strategic partnership between DHS and DoD. Particular areas of emphasis include planning, exercises and training, consequence management and civil support operations, and information sharing and dissemination.

The current environment includes threats from conventional enemy forces and also from potential adversaries that are likely to employ new technologies, weapons of mass destruction, and nontraditional tactics that exploit our nation's freedoms. It is NORTHCOM's mission to conduct operations to deter, prevent, and defeat threats and aggression aimed at the U.S., its territories, and interests. NORTHCOM's domestic and international relationships are vital for achieving this mission.

ANNEX

FY 2003 BOB STUMP NATIONAL DEFENSE AUTHORIZATION ACT (NDAA)
HOMELAND SECURITY CONGRESSIONAL REPORTING REQUIREMENTS
Public Law 107-314, Section 921

SEC. 921. REPORT ON ESTABLISHMENT OF UNITED STATES NORTHERN COMMAND.

Not later than March 1, 2003, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report providing an implementation plan for the establishment of the United States Northern Command, which is established effective October 1, 2002. The report shall address the following:

- (1) The required budget for standing-up and maintaining that command over the period of the future-years defense program.
- (2) The rationale for the selection of Peterson Air Force Base, Colorado, as the headquarters of that command, the criteria used in the selection of Peterson Air Force Base, and the alternative locations considered for that headquarters.
- (3) The required military and civilian personnel levels for the headquarters of that command and a specification of the combatant commands and other Department of Defense sources from which such headquarters personnel will be transferred, shown by the number of military and civilian personnel from each such command or other Department of Defense source.
- (4) The organization of the command, a justification of any components of the command, and a review of organizations and units permanently assigned or tasked to the command.
- (5) The relationship of that command (A) to the Office of Homeland Security, the Department of Homeland Security, the Homeland Security Council, and any other Federal coordinating entity, (B) to other Federal departments and agencies, and (C) to State and local law enforcement agencies.
- (6) The relationship of that command with the National Guard Bureau, individual State National Guard Headquarters, and State and local officials the command may be called upon to provide support.
- (7) The legal implications of members of the Armed Forces, including the National Guard in both Federal and State status, operating on United States territory pursuant to missions, operations, or activities of that command.
- (8) The status of Department of Defense consultations--
 - (A) with Canada regarding Canada's role in, or relationship with, and any expansion of mission for, the North American Air Defense Command; and
 - (B) with Mexico regarding Mexico's role in, or relationship with, the United States Northern Command.

(9) The status of United States consultations with the North Atlantic Treaty Organization relating to the position of Supreme Allied Commander, Atlantic, and the new chain of command for that position.

(10) The effect of the creation of the United States Northern Command on the mission, budget, and resource levels of other combatant commands, particularly the United States Joint Forces Command.