

# Strategy Research Project

## The Long Haul: National Guard Presence on the Southwest Border

by

Lieutenant Colonel Christopher S. Baril  
United States Army National Guard



United States Army War College  
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Lieutenant Colonel Christopher S. Baril  
United States Army National Guard

Dr. Richard J. Hughbank  
Center for Strategic Leadership & Development  
Project Adviser

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U.S. Army War College  
CARLISLE BARRACKS, PENNSYLVANIA 17013



## **Abstract**

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In the wake of 9/11, strategic partnerships were further developed between interagency law enforcement authorities and the National Guard, particularly along the Southwest border. These partnerships enabled the National Guard to become a key contributor and supporter of federal law enforcement agencies who were charged with protecting the borders of the homeland. Operational requirements on the Southwest border have changed the size and scope of the National Guard presence, but not its effectiveness. Political leaders from the local to national level have voiced their continued support in recent years for the National Guard to continue its mission as a key enabler to interagency law enforcement in protecting the nation's borders. Only time will tell if the current configuration of support will remain in place in an increasingly fiscally austere environment. The United States government must review and emplace long-term funding apparatuses to ensure enduring partnerships in an effort to protect the Southwest border, U.S. persons, and the United States.



## **The Long Haul: National Guard Presence on the Southwest Border**

We must take the battle to the enemy, disrupt his plans, and confront the worst threats before they emerge. In the world we have entered, the only path to safe is the path of action. And this nation will act.

—President George W. Bush<sup>1</sup>

Since 9/11, the National Guard has had a more active role in homeland defense, providing support to interagency partners across the country. In the aftermath of 9/11, the National Guard has proven to possess the resources in manpower, equipment and experience to be a substantial combat multiplier in support of homeland defense.<sup>2</sup> This paper will focus on the use of the National Guard on the Southwest border (SWB) and how it is a valuable force in supporting homeland defense capabilities.

The National Defense Strategy (NDS) (2005) provided new initiatives and processes for safeguarding the Homeland. Specifically, the NDS outlined how to effectively achieve an “active layered defense.” The active layered defense concept is integral to detection, deterrence, and defeat of potential adversaries worldwide. Its premise provides a layered defense beginning with the Homeland, graduating to the approaches and extending to the forward regions.<sup>3</sup> Strategies for homeland defense and civil support activities focus primarily on the “US homeland and its approaches.”<sup>4</sup> The National Guard assists interagency partners in protecting the last layer of defense—the national borders.

Department of Defense (DoD) activities primarily fall into two distinct categories: (1) lead and (2) support.<sup>5</sup> The National Guard, as a DoD asset, when focused on homeland defense initiatives, provides support through defense support of civil authorities (DSCA) to state, local, and federal law enforcement at the direction of the

President or the Secretary of Defense.<sup>6</sup> In recent years, the Department of Homeland Security (DHS) and other agencies have benefitted from DoD support as they “strengthen their preparedness and response capabilities;” most notably on the SWB.<sup>7</sup> A post-9/11 landscape propelled the National Guard into the role of key enabler for DoD in providing valuable support to its interagency partners.

As the Cold War wound down, the concern for the massive inflow of illicit drugs from South America through Central America emerged as a major national security issue.<sup>8</sup> The subsequent “War on Drugs” became a catalyst for National Guard involvement, and by 1988, the National Guard had “thirty-two states with organized counter-drug programs.”<sup>9</sup> The unprecedented flow of illicit drugs continued and it was apparent that a more coordinated effort was needed to combat the growing border/drug eradication issue.<sup>10</sup> The creation of Joint Task Force-6 (JTF-6) in 1989 allowed DoD to coordinate assets which included the National Guard with local, state, and federal law enforcement agencies in a supporting role to combat counter-drug efforts.<sup>11</sup>

Following 9/11, the National Guard spread across the nation helping safeguard its borders. In the continuing evolution of providing capabilities to the nation, the National Guard provided overhead cover during “Operation Deep Freeze” along the northern U.S. Border.<sup>12</sup> During Hurricane Katrina, the National Guard deployed over 50,000 personnel and support assets which encompassed over 80% of the total military response providing much needed support after a devastating natural disaster.<sup>13</sup>

As the National Guard provided assets to the wars in Afghanistan and Iraq in addition to the domestic responses listed above, Operation Jump Start (OJS) graduated from a fledgling concept to that of an interagency force multiplier on the ground.

Operation Jump Start was a SWB support mission that deployed over 30,000 Guardsman to Texas, New Mexico, Arizona, and California from 2006-2008 in support of SWB states in an attempt to help the U.S. Border Patrol enforce immigration laws.<sup>14</sup> Soon after OJS ended, the positive effects the National Guard had produced on the SWB were soon realized by political leaders and interagency partners. National leaders, interagency partners, and SWB-state governors all agreed that the National Guard presence on the SWB had been a success and asked the federal government for an extension. They were successful in their efforts and on “May 25, 2010, President Obama announced that up to 1,200 National Guard troops would be sent to the southern border to support the Border Patrol.”<sup>15</sup> These cumulative events on the SWB, therefore, led to the National Guard becoming a key enabler for fulfilling national security interest imperatives while working alongside lead interagency partners.

### Background and Policy

In the days after 9/11, senior leaders decided the best way to protect the country was not by closing our borders and restricting air travel, but by using our armed forces to assist in securing the Homeland.<sup>16</sup> The National Guard was a visible presence, and acted as a force multiplier for partner agencies that were scrambling to grapple with the challenges presented in a post 9/11 landscape.<sup>17</sup> Asymmetric threats<sup>18</sup> demonstrated by the 9/11 attacks presented challenges that lawmakers and federal law enforcement agencies had to contend with—particularly on the SWB.

### Threat on SWB

Threats and vulnerabilities present on the SWB include “illegal migration, illicit trafficking in arms, drugs, people, and black market goods; and drug-related impunity that permits illegal activities.”<sup>19</sup> These vulnerabilities present a threat that if left

unchecked, circumvent safeguards for the safety and security of the U.S. populace.<sup>20</sup> The SWB has unique challenges and presents threats that include “traditional customs and border policing crimes, gangs, transnational criminal organizations, and transnational terrorist organizations.”<sup>21</sup> Continued vigilance with interagency partners enables the safety and security of our populace in the effort to secure the SWB. Recognizing these threats is a challenge and ensuring the right amount of force structure is present at key locations across the SWB is critical. Effective “load sharing” by lead agencies and supporting agencies is critical for mission success and allocation of finite resources.

#### Interagency Partners on SWB

The U.S. Department of Homeland Security (DHS) continues to provide leadership and direction while coordinating directly with federal, state, local, tribal, and Mexican authorities on SWB enforcement issues.<sup>22</sup> The extended drug war in Mexico led to a reprioritization of efforts in 2009 by DHS through Secretary Janet Napolitano. The initiatives include “Guarding against violent crime spillover into the United States, supporting Mexico's crackdown campaign against drug cartels in Mexico and reducing movement of contraband in both directions across the border.”<sup>23</sup>

These initiatives came with a full complement of manpower which consisted of bolstering existing ranks by doubling the amount of U.S. Immigration and Customs Enforcement (ICE) agents and tripling the amount of intelligence analysts working on the Southwest border.<sup>24</sup> The influx of agents was designed to enhance the capabilities of the more than 16,400 Border Patrol agents that were working between ports of entry on the SWB.<sup>25</sup>

The plan was robust in its size and scope and promised to put needed “boots on the ground” where vulnerabilities existed.<sup>26</sup> However, recruiting, training and positioning of qualified personnel takes time. During this period, the severity of violence just across the border was at an all time high. Drug violence from across the border was threatening to spill over into America’s communities. Mexican border-states were experiencing violence at an unprecedented scale; 6,200 people died as a result of the drug war in 2008.<sup>27</sup> Among those killed, included top federal security officials and local police chiefs.<sup>28</sup> As federal law enforcement wrestled with the problem at hand, the National Guard emerged as a key supporting contributor as events unfolded on the SWB.

#### Guardsmen on the SWB

The events of 9/11 forced national leadership to rethink how best to provide defense of the Homeland in regard to securing the nation’s borders. President George W. Bush and President Obama endorsed initiatives to place National Guard troops on the SWB in a supporting role of DHS.<sup>29</sup> Presidential guidance placing National Guard personnel on the border was designed to support/assist existing DHS manpower and force structure in the form of the U.S. Border Patrol.<sup>30</sup> The largest of the named operations was Operation Jump Start, in place from 2006-2008. The subsequent missions—Operation Phalanx (2010), and Operation Nimbus (2012), although smaller in scope, has left a persistent National Guard presence on the SWB that is still in place today.

The Bush and Obama administrations are not the only elected leadership that envisioned a persistent long-term role for the National Guard on the SWB. Senators

McCain and Kyl of Arizona both advocated long term National Guard support in defense of our SWB through the Border Security Enforcement Act of 2011.<sup>31</sup>

According to the Department of Homeland Security, the National Guard is, 'helping to significantly drive down illicit flows of people, drugs, guns and money across our Southwest border' and 'has contributed to a significant decrease in border-wide apprehensions, meaning far fewer people are attempting to cross the border illegally.' Removing the National Guard from the border at this time would be a failure of leadership in our efforts to secure the border.<sup>32</sup>

The McCain-Kyl legislation proposal pursued the emplacement of over 6,000 National Guardsmen on the SWB and deployment of an additional 5,000 Border Patrol agents to the SWB by 2016.<sup>33</sup> Pursuing long term strategies to secure the Homeland is a vexing problem affecting the past two administrations in a post 9/11 environment. The National Guard remains a natural fit to act in a supporting role for DHS.

Although the National Guard is still serving on the SWB with its DHS partners, the mission sets have undergone significant transformation in the past few years. Recently, the focus has shifted from a “Boots on the Ground” to a “Boots in the Air” approach.<sup>34</sup> Congressman Henry Cuellar, stated in late 2011, “Now, with record-high Border Patrol agent staffing levels and low unauthorized immigrant apprehension rates, we need to start looking at more cost-effective and efficient ways to spend our homeland security dollars.”<sup>35</sup>

The strategic paradigm shift came with a change in mission requirements and force structure. National Guard personnel supporting the SWB eventually dropped from 1,200 to approximately 300 personnel.<sup>36</sup> This new philosophy translated to National Guard support forces becoming air and intelligence-centric in support of their DHS partners. The new paradigm shift also came with an allocation of resources from DoD to the tune of \$60 million dollars for aerial surveillance support.<sup>37</sup> OH-58 Kiowa and UH-72

Lakota helicopters, along with fixed-wing aircraft, were outfitted with sophisticated sensors able to communicate/interface with Border Patrol Officers on the ground.<sup>38</sup> This new shift in strategy provided the framework for DHS and the National Guard to work more effectively and efficiently as interagency partners on the SWB.

Defining roles and responsibilities is challenging in this interagency effort. In a letter to President Obama in 2011, legislators made the following request:

Border security is a federal responsibility and the burden should be shared by other states, as necessary to sustain the mission. To that end, we request that in the future, the National Guard not be limited in their role to assist civilian law enforcement and be able to function to the full extent allowed under Title 32, Section 502 (f) duty status.<sup>39</sup>

Current efforts do not point to a militarized SWB.<sup>40</sup> This is an important distinction, as the roles and responsibilities of the National Guard have been, and should remain, in a support role to DHS. In regard to the Posse Comitatus Act (PCA): “The PCA’s prohibitions do not apply to members of the National Guard when not in federal status or when National Guard members are acting under the control of their state governors, either pursuant to Title 32 or in state active duty.”<sup>41</sup>

Although the National Guard, under certain circumstances, can circumvent the PCA, decisions must be made that facilitate a positive end state. Defining roles and responsibilities at the forefront have enabled the law enforcement partnership to not come in contact with Posse Comitatus limitations. National Guard policies and regulations have stipulated that National Guardsmen in Title 32 status will not participate directly in the arrest or search of suspects except in “exigent circumstances.”<sup>42</sup> Leaving the National Guard in a strictly “support role” defines authorities, expectations, roles, and responsibilities.

The National Guard has transformed, in its image and capabilities, both domestically and in overseas contingency operations since 9/11. It has been an incremental process brought on by excellent leadership and shared experiences. Southwest Border operations have served to continue the evolution of the National Guard in a post 9/11 landscape. The shaping mechanisms and evolution that transformed the National Guard to present day are evaluated through the lens of named operations.

#### Named Operations (1989–Present)

Current high profile National Guard operations on the SWB have garnered the attention of lawmakers, the media, and the public at large. However, this is not the first time the National Guard has worked with its interagency partners on the SWB. Chief David Aguilar of the Border Patrol reiterated:

Let me first state that National Guard support and coordination with DHS and the Border Patrol is nothing new. While this new infusion will be on a larger scale, the Border patrol has a history of nearly two decades working with National Guard units to utilize their unique expertise, manpower, technology and assets in support of our mission and as a force multiplier.<sup>43</sup>

A significantly coordinated effort between agencies came in the formulation and implementation of Joint Task Force 6 (JTF-6) in 1989.<sup>44</sup> Although this was an active duty headquarters element, the Army National Guard (ARNG) did augment operations during their two-week annual training periods.<sup>45</sup> Joint Task Force 6's mission was to coordinate resources between the U.S. Border Patrol and DoD assets to stem the tide of illegal narcotics flowing across the SWB.<sup>46</sup>

Joint Task Force 6 and its interagency partners were riding a crest of popular support as well as legislative power when tragedy struck in 1997.<sup>47</sup> “On the evening of May 20, 1997, eighteen-year-old Ezequiel Hernandez was herding goats when he was

mistakenly shot by the leader of a Marine rifle team that was observing an area of the Rio Grande known for its illegal drug trafficking.”<sup>48</sup> Although the shooting was deemed an unfortunate accident, its affects reverberated across the region, prompting DoD to reevaluate the roles, duties, and responsibilities of DoD personnel in support of SWB interdiction activities.<sup>49</sup>

This fateful act proved to scale back significant gains made by interagency partners under the political fallout. Inevitably, roles and responsibilities were addressed and revised in an effort to prevent future mishaps. In the years that followed, JTF-6 became Joint Task Force North and the amount of “Boots on the Ground” was scaled back significantly, replaced by “ground sensors, radar, airborne platforms, and thermal imagery.”<sup>50</sup>

The shock of 9/11 swiftly transformed the efforts on the SWB from that of counter drug to that of counter terrorism.<sup>51</sup> Transnational terrorist infiltration was seen as a credible threat along the porous SWB region. Customs and Border Protection apprehended “59,017 individuals other than Mexicans in 2010, most of whom were apprehended along the Southwest border.”<sup>52</sup> The number of “special interest” apprehensions during the same time frame was 663 coming from countries to include “Iran, Syria, Cuba, Saudi Arabia, Afghanistan, Somalia, Sudan, Pakistan, and Yemen.”<sup>53</sup> Apprehensions do not in themselves translate to ill intent, but in a post 9/11 world, the sheer volume of those apprehended from special interest countries<sup>54</sup> are of concern to those charged with the safety of the United States. Dennis Steele of *Army* magazine perhaps said it best when covering a typical night with the Border Patrol: “Nobody knows exactly how many made it through, but everybody knows it is a lot because no

matter whose estimate you use, night after night, year after year it adds up to one number: staggering.”<sup>55</sup>

In 2005, a perfect storm was culminating as America’s booming economy lured the disenfranchised from south of the border to attempt a better way of life in the continental United States. The massive influx of border crossers, coupled with heightened fears produced from 9/11, are change agents that reinforced relationships with DHS and the National Guard. Those manifestations are rooted in Operation Jump Start.<sup>56</sup>

### Operation Jump Start

Operation Jump Start was the culmination of many political forces at work that resulted in an executive decision by President Bush to send National Guard troops to the border to assist Customs and Border Protection (CBP). By 2006, the combined effects of “a surging tide” of illegal immigration, mid-term elections focused on illegal immigration, and southwest border governors demanding action forced the nation to act.<sup>57</sup>

The four SWB border-state governors implored the federal government to act on illegal immigration and, in the same breath, sought to solve their individual state problems as best they could.<sup>58</sup> In May 2006, President Bush publicly stated the security of the border was a “basic responsibility of a sovereign nation and an urgent requirement for national security.”<sup>59</sup> To that end, the nearly 2,000 mile wide SWB responsibility actively grew in manpower from 12,000 to 18,000 agents, and received an influx of 6,000 new border patrol agents by 2008.<sup>60</sup>

Accompanying the mass recruiting, hiring, and training effort by CBP was the increase of funds allocated for improved border barriers at strategic locations,

construction improvements to existing roads, and high tech improvements to include “motion sensors, infrared cameras, and unmanned aerial vehicles (UAV).”<sup>61</sup> Even with all the proposed improvements to manning, infrastructure and improved technologies, immediate action was needed in the interim as CBP bolstered its ranks. President Bush promptly informed the American public that over 6,000 National Guardsmen were assigned to the SWB in coordination with the SWB governors to assist CBP during their time of transition.<sup>62</sup>

President Bush realized the SWB should resist the impression of that of a militarized border. To achieve that goal, CBP remained the lead agency and no National Guardsmen “would be involved in direct law enforcement activities.”<sup>63</sup> National Guard mission sets were comprised to “support the Border Patrol by operating surveillance systems, analyzing intelligence, installing fences and vehicle barriers, building patrol roads and providing training.”<sup>64</sup>

In an effort to define roles, responsibilities and authorities, DHS identified five mission categories that ensure the National Guard would stay in a helpful supporting role but also remain clear of direct law enforcement duties.<sup>65</sup>

These five missions, in order of priority, were:

1. Relief of Border Patrol agents performing duties that are not law enforcement in nature, such as general, vehicle and facilities maintenance, control room operations, administrative support, training and information technology support;

2. Enhancing surveillance and reconnaissance capabilities to provide increased detection and tracking capabilities. These operations include operation of mobile, fixed and airborne sensor systems;
3. Enhanced intelligence, command and control, and communications capability to increase the effectiveness of the border enforcement forces;
4. Providing transportation services, including ground and air, to provide efficient processing and removal of apprehended aliens; and
5. Construction support for tactical infrastructure (barriers, fences, roads, light/sensor towers) and facilities (detention facilities, temporary remote base camps, and engineering missions).<sup>66</sup>

It was important to have the mission sets named and prioritized so National Guard leadership could properly identify which units/Guardsmen would participate to maximize resources in support of CBP. The prioritization of effort was geared to synthesize manpower, technology, and infrastructure in which Border Patrol chief, David Aguilar, acknowledged on 25 July 2006 that “the Guard is now playing a part.”<sup>67</sup>

During the onset of OJS, the chief of National Guard Bureau, LTG Steven Blum stated:

the biggest thing that we bring in terms of numbers and capability to the game are the additional eyes and ears of the initial entry teams that the National Guard will be providing to Customs and Border Patrol so that they have greater situational awareness of what is going on in places where they could not go, or could not see, or could not hear what was happening before. We are going to provide that capability.<sup>68</sup>

LTG Blum’s comments helped to clarify the roles and responsibilities of participating Guardsmen as OJS began. It was important for the chief of NGB to set the conditions for success as the two inter-agencies began their two-year partnership together.

As OJS gained traction and became a reality, questions arose about the National Guard becoming spread “to thin,” in regard to continuing Title 10 obligations in Iraq and Afghanistan, a massive response to Hurricane Katrina, and now, OJS.<sup>69</sup> LTG Blum countered by stating, “Our recruiting is at an all-time high, our retention is at an all-time high, and up-tempo is at an all-time high. In other words, how busy we are is at an all-time high, and what we're doing is everything that we could be asked to do simultaneously. We're doing the overseas war fight, the at-home mission, and the military support to Customs and Border Patrol.”<sup>70</sup> The National Guard was thriving in an environment with numerous challenges. Leaders were finding that resources tied to commitments were producing a National Guard force that was exceeding expectations. LTG Blum’s comments pointed to a new National Guard construct that provides National Guard active participation in urgent national security matters.

To assist the newly infused man-power on the SWB, \$1.2 billion was allocated in which some of the funds were used to erect 700 miles of fencing along the SWB.<sup>71</sup> Additionally, under DHS’s “secure border initiative,” 1,800 advanced cameras / sensor towers were purchased with the main effort being the SWB, specifically Arizona.<sup>72</sup> These combined efforts on the physical and technical side of border security helped the man power efforts already underway. The ability to combine physical, technical, and manpower capabilities helped OJS personnel gain confidence in their interagency partnership during the initial phases of OJS.

Operation Jump Start’s main effort was focused on the Arizona border and relied on the Border Patrol’s “defense-in-depth strategy.”<sup>73</sup> The strategy involved large amounts of personnel, technology, and infrastructure at the border, but had layers that

could reach 100 miles into the interior for effective border enforcement.<sup>74</sup> National Guard troops were integrated as entry identification teams (EIT) that enabled more “eyes and ears” on the border using static observation posts.<sup>75</sup> Early on, after only a few months of implementation, these EIT teams were credited with over 1,300 arrests.<sup>76</sup> Additionally, some border crossing areas had half the number of historical border crossing events; “fewer were trying, more were getting caught.”<sup>77</sup> As the first summer of OJS came to a close, it was apparent that National Guard troops were making a significant difference in the Border Patrol’s “close-fight strategy.”<sup>78</sup>

Significant to OJS’s early success was the CBP’s identification of specific mission support packages to include “Badges Back to the Border” (administrative and logistical support), creation and formulation of the EIT’s, and engineering and aviation support.<sup>79</sup> These mission sets helped the four different SWB states task organize into Joint Task Forces (JTF).<sup>80</sup> Each SWB state used different methods in which to man their respective areas of responsibility. Arizona, having the relatively lowest density of Guardsmen (7,400), but the highest amount of illicit border traffic, elected to infuse their JTF with Guardsmen volunteers from across the nation, while California (20,500) and Texas (21,000) primarily used their own organic Guardsmen to man their OJS forces.<sup>81</sup>

By the spring of 2007, Border Patrol statistics pointed to OJS having a significant impact. In the Yuma, Arizona sector, one of the traditionally busiest sectors in the SWB region, apprehensions were down 62 percent from the previous year. Likewise, the Deming, New Mexico sector was down 61 percent over the same period.<sup>82</sup> Through the summer of 2007 and into 2008, mandatory draw-downs occurred in the size of the force. By mid-July 2007, OJS numbers were down to 4,000 and by October 1, 2007,

their numbers were reduced to 3,000.<sup>83</sup> The successive draw-downs took place as SWB governors and legislators asked that the forces removed be restored to previous levels.<sup>84</sup>

As OJS ended in July 2008, it was important to take stock in what OJS had accomplished in the SWB region. The use of National Guard troops on the SWB had allowed CBP the time for hiring and training of 4,500 personnel as well as the installation of 182 miles of fencing/barriers.<sup>85</sup> Governors Napolitano (AZ), Richardson (NM), and Schwarzenegger (CA) called on the federal government to extend the OJS mission in order to complete additional border security goals.<sup>86</sup>

The Yuma, Arizona sector effort was pointed to as a success of the program: “In the year before the National Guard was deployed, the Border Patrol made 147,000 arrests Yuma. In the past 12 months, agents arrested fewer than 13,000.”<sup>87</sup> Apprehensions had diminished dramatically, but deterrence had spiked. Predictably, despite all the political wrangling for continuation of the program, OJS came to an end.

As Sean Holstege of the *Arizona Republic* reported:

Operation Jump Start accomplished what it set out to do, - said Michael Friel, a Customs and Border Protection spokesman. Time will tell if the gains made in the past two years will be temporary or sustained and if the other parts of the government's border strategy will fall into place on time.<sup>88</sup>

Acknowledgment that the interagency partnership was successful was a good sign. It paved the way for a more refined partnership in the time that followed. The comments from Mr. Friel cracked the door on the possibility of a continued partnership and the emergence of a newer and better version of OJS.

For nearly two years following the end of OJS, the federal government and SWB state governors waged a “war of wills” in regard to the National Guard on the SWB. The

governors, along with some members of congress, wanted new legislation in the likeness of the original OJS to compliment existing Border Patrol activities in the wake of renewed efforts to “combat illegal immigration, drug and alien smuggling, and violent activity.”<sup>89</sup> In the Spring of 2009, Rep. Ed Royce (R-CA) and colleagues wrote President Obama and DHS Secretary Napolitano urging them to renew OJS: “At a time when drug violence from Mexico threatens to spill over the border and expose our communities and families to the consequences, we strongly encourage you to resume Operation Jump Start. We look forward to working with you to ensure the security of our borders.”<sup>90</sup>

On May 25, 2010, President Obama announced “1,200 National Guard troops would be sent to the southern border to support the Border Patrol.”<sup>91</sup> This was significant for the National Guard in that it validated initial OJS success. Politically, it also signaled that the National Guard was a key enabling partner on the SWB in support of local, state, and federal law enforcement agencies. The endorsement of the National Guard working on the SWB was backed by legislators, and now, by two consecutive sitting Presidents.

### Operation Phalanx

Operation Phalanx was intended to serve as a bridge to more long-term solutions in border protection along the SWB.<sup>92</sup> Operation Jump Start had succeeded in providing deterrence by the metrics listed previously, but the renewed threat of border violence spilling over the SWB caused national leadership to act once more. Building on the successes of OJS, Operation Phalanx was different in three fundamental ways. First, the amount of Guardsmen was capped at 1,200 making it a more surgical force. Second, it was initially allowed to remain in operation for approximately one year.

Finally, unlike OJS, initially Guardsmen were derived from each SWB state participating in Operation Phalanx.<sup>93</sup>

Operation Phalanx was more refined in scope and procedure as prescribed by the administrations SWB initiative. The focus for Guardsmen along the border became one of “detection, monitoring, and criminal analysis support to law enforcement on the ground.”<sup>94</sup> The lead time in manpower taskings was a bonus for individual Guardsman and their JTF leadership as they received up to an additional four weeks of training prior to their assignment on the border.<sup>95</sup>

As Operation Phalanx drew to a close, legislators tried to ensure the efforts of the National Guard on the SWB are quantifiable as having sustained long-term benefits to national security. Rep. Henry Cuellar (D-TX) noted that in December 2011, CBP had achieved record breaking staffing levels and that unauthorized illegal immigrant apprehension rates were taking a downturn.<sup>96</sup> It appeared that a new way of operationalizing the National Guard was just around the corner. Rep Cuellar stated: “I applaud the Department of Homeland Security and the Department of Defense for approaching the Guard's mission in a multi-layered approach by shifting to aerial surveillance support.”<sup>97</sup> Building on the cost effectiveness and results generated by Operation Phalanx, the new strategy placed “Boots in the Sky” using aerial surveillance in support of CBP.<sup>98</sup>

### Operation Nimbus

Operation Nimbus further narrowed the size and scope of Guardsman on the SWB reducing the number of required troops from 1,200 to 300.<sup>99</sup> Operation Nimbus was moving Guardsman from a role of “Boots on the Ground” to that of “Boots in the Air.”<sup>100</sup> Paul Stockton, Assistant Secretary of Defense for Homeland Defense told

Congress, "Fewer than 300 National Guardsmen have been providing aerial detection and analysis along the international borders of Arizona, California, New Mexico and Texas. Although Operation Nimbus involves fewer guardsmen, they can be just as effective as the larger number in Operation Phalanx."<sup>101</sup>

The price tag for the "air centric" Operation Nimbus was billed as significantly lower, estimated at \$55.6 million in 2012. By contrast, Operation Phalanx cost DoD about \$158 million during a year and a half of operations.<sup>102</sup> As the funded year came to a close, DoD announced that it would extend the deployment of the 300 Guardsman on the SWB through Dec 31, 2013.<sup>103</sup> This extension pleased Sen. John McCain (R-Ariz.) who has been a champion of National Guardsmen on the border in support of DHS.<sup>104</sup> The Pentagon estimated the cost for extending Operation Nimbus in an intelligence/aviation -centric role would cost an estimated \$60 million.<sup>105</sup>

#### Political Backdrop

As early as 2008, legislators recognized the DHS/National Guard partnership was making a significant contribution to SWB security and needed to be protected.<sup>106</sup> With Operation Jump Start winding down, lawmakers scrambled to be heard on behalf of their constituents in the SWB region. Bipartisan efforts by Arizona lawmakers pushed for the continuation of OJS in the face of border protection uncertainties. The Bipartisan group from Arizona told President Bush that they "fear the combined effect of a delay in virtual fencing and a further drawdown of National Guard along the border will make matters even worse."<sup>107</sup>

Rep. Harry Mitchell, D-Ariz. (5<sup>th</sup> CD) was even more poignant when he wrote to President Bush stating "Knowing that we are facing a delay in virtual border protection, I believe it is even more critical that we keep as much human border protection as

possible, and I want to urge you again to stop the drawdown of National Guard troops along the border."<sup>108</sup> Continued political pressure to maintain National Guard operations on the SWB was evident through 2011 as Rep. Candice S. Miller, R-Mich. (10<sup>th</sup> CD) reiterated her request that President Obama extend National Guard troops on the SWB.<sup>109</sup> Rep Miller reiterated:

While the Department of Homeland Security continues to recruit and train additional Customs and Border Protection Officers and Border Patrol Agents, it is my hope that the National Guard's mission is extended to support these important operations. With the extra support remaining, our Border Patrol will be able to proceed with a more effective strategy to gain control of the border.<sup>110</sup>

The comments echoed by these legislators pointed to a more long lasting presence of the National Guard on the SWB in support of its interagency partners. Frustrated, some legislators backed initiatives that called for a more militarized border.<sup>111</sup>

Rep. Miller, who was the chairwoman of the House Homeland Security Subcommittee on Border and Maritime Security at the time, proposed sending a Stryker brigade to the SWB to prevent Mexican drug cartels from gaining access to the US.<sup>112</sup> The idea of sending a Stryker Brigade Combat Team (BCT) did not gain enough traction for implementation most notably because of the cost factor.<sup>113</sup> A Stryker BCT usually has over 300 vehicles which cost over \$4 million per vehicle depending on the type of vehicle and gets less than 6 miles to a gallon on fuel.<sup>114</sup> Still, the idea demonstrates that lawmakers were actively attempting to find new and innovative ways to solve SWB security issues. Regardless of the method, the National Guard continued to serve as a key contributor to SWB security initiatives.

Former Secretary of DHS, Janet Napolitano, testified in 2012 in regard to the continued support of the National Guard on the SWB:

In 2010, President Obama authorized the temporary deployment of up to 1,200 National Guard troops to the Southwest Border to contribute additional capabilities and capacity to assist law enforcement agencies as a bridge to longer-term deployment of border surveillance technology and equipment that will strengthen our ability to identify and interdict the smuggling of people, drugs, illegal weapons, and money.<sup>115</sup>

Secretary Napolitano made it clear that in March 2012, the National Guard support to CBP would begin a transition from ground support to air support.<sup>116</sup> The “boots on the ground to boots in the air” strategy was designed to place state of the art aerial assets with the latest detection and monitoring capabilities within reach of CBP counterparts on the ground.<sup>117</sup> “Boots in the air” is the current strategy used by the National Guard in support of interagency partners on the SWB. Political backings of SWB initiatives that include the National Guard are important, but to prove truly viable, the utilization of the National Guard on the SWB needs to be an endearing part of the national policy and security strategy.

#### Link to Policy and Strategy

The National Security Strategy (NSS) of 2010 outlines broad steps necessary to preserve U.S. national security interests. The effects of 9/11 demonstrated a need to develop “strong and durable approaches to defend our homeland.”<sup>118</sup> The NSS also provides guidance to ensure the integration of homeland security and national security efforts to include “Seamless coordination among federal, state, and local governments to prevent, protect against, and respond to threats and natural disasters.”<sup>119</sup> That said, the administration “has no greater responsibility than the safety and security of the American people.”<sup>120</sup>

President Obama reiterated that the security of the nation is not merely a government endeavor but relies on the collective strength of the country.<sup>121</sup> In reference to border security, the NSS reminded readers:

Our approach relies on our shared efforts to identify and interdict threats; deny hostile actors the ability to operate within our borders; maintain effective control of our physical borders; safeguard lawful trade and travel into and out of the United States; disrupt and dismantle transnational terrorist, and criminal organizations; and ensure our national resilience in the face of the threat and hazards.<sup>122</sup>

In an effort to prevent future attacks on the U.S., the NSS provides guidance to enhance information sharing across the inter-agencies to better enable intelligence, law enforcement, and homeland security capabilities.<sup>123</sup> Improved information sharing through the linking of networks with domestic and international partners was deemed essential to a strategy that protects domestic and transnational security options.<sup>124</sup>

Additionally, the NSS recognizes strategic partnerships and relationships with Canada and Mexico are “critical to U.S. national security and have a direct effect on the security of our homeland.”<sup>125</sup> Additionally, the NSS recognizes the stability and security in Mexico “are indispensable to building a strong economic partnership, fighting the illicit drug and arms trade, and promoting sound immigration policy.”<sup>126</sup> The NSS lays the groundwork for more specific national security documents which point to a whole-of-government approach in defending U.S. borders and projecting national interests.

In support of the NSS, the National Defense Strategy (NDS) (2008) lists “defending the homeland” as its number one key objective.<sup>127</sup> The NDS also recognizes DoD’s core responsibility is to protect the U.S. from attack and the method involves an “active layered defense.”<sup>128</sup> Furthermore, the NDS recognizes the challenges of providing security for its citizens and the need for “openness in commerce and civil

liberties.”<sup>129</sup> It also articulated how “DoD, in partnership with DHS, will continue to develop habitual relationships with state and local authorities to ensure we are positioned to respond when necessary and support civil authorities in times of emergency, where allowable by law.”<sup>130</sup> The NDS correctly ascertains that combining efforts with interagency partners will significantly enhance “collective abilities to defend the homeland.”<sup>131</sup> Additionally, the NDS serves as a bridge to the National Military Strategy (NMS) and provides broad guidance to its agencies in support of national security strategies.

The NMS further defines roles, responsibilities, and authorities in regard to DoD’s importance in supporting homeland security. It also echoes previously mentioned national security documents and notes “Our foremost priority is the security of the American people, our territory, and our way of life.”<sup>132</sup> As a key supporting partner, DoD will work with DHS and other interagency partners to “improve air, maritime, space, cyberspace and land domain awareness to help secure the approaches to our continent and Nation.”<sup>133</sup> The NMS (2011) further promises to continue to “dedicate, fund and train a portion of the National Guard for homeland defense and defense support of civil authorities. The Department of Defense realized the importance of U.S. agencies co-partnered with Mexican authorities in order to build capacity in combating trans-national criminal organizations.<sup>134</sup> Joint partnerships, therefore, exist to disrupt “illicit trafficking sources and transit zones” and provide unity of effort on both sides of the border.<sup>135</sup>

Additional guidance in February, 2013 emerged with the release of the *Strategy for Homeland Defense and Defense Support of Civil Authorities*. Its goal is to ensure DoD and its partner inter-agencies are synchronized and postured for mutual success

through 2020.<sup>136</sup> The long-term strategy seeks increased efficiencies, collaboration, and innovativeness between DoD and its various external partners.<sup>137</sup> The document specifically references the need to balance capabilities between the active and reserve components “to make the nation more secure and resilient.”<sup>138</sup> Particularly of interest was the realization that under existing DoD budget austerities, “rigorous mission needs analysis and risk-based decision making” were needed to fulfill DoD’s mission priorities when defending the homeland.<sup>139</sup>

The new guidance reiterates the need for an active, layered global defense, with the capabilities in place to “detect, deter, deny and defeat threats.”<sup>140</sup> In addition, collaboration efforts with DHS partners are designed to maximize “dual effect” military training opportunities when possible.<sup>141</sup> During certain mission sets, DoD should “consider law enforcement needs in the planning and execution of military training.”<sup>142</sup> This legally supported construct is what, in essence is, occurring on the SWB; in particular with the use of the National Guard.

### The Way Ahead

As Operation Nimbus drew to a close in December 2013, an agreement between Secretary of Defense Chuck Hagel and acting Secretary of Homeland Security Rand Beers ensured continuation of DoD-funded National Guard support on the SWB for an additional year.<sup>143</sup> The Department of Homeland Security had requested a similar extension to Operation Nimbus that would not exceed \$60 million for calendar year 2014.<sup>144</sup> However, DoD agreed to fund National Guard activities in support of DHS SWB activities at a dollar amount not to exceed \$35 million.<sup>145</sup> The manpower and aerial assets from the National Guard through DoD to DHS will consist of a smaller package of

criminal investigative analysts coupled with 7,600 flight hours executed by National Guard aviation assets.<sup>146</sup>

Support from DoD to DHS since 2006 has historically not been reimbursed.<sup>147</sup>

The current 2014 plan was explained in this way:

Section 377 of title 10, U.S. Code, requires reimbursement for support provided to law enforcement agencies under Chapter 18 of title 10, but authorizes the Secretary of Defense to waive reimbursement of costs associated with such support if support results in a benefit to the forces providing the support that is 'substantially equivalent to that which would otherwise be obtained from military operations or training.' The Chief, National Guard Bureau, has determined that these activities will provide such a benefit.<sup>148</sup>

The National Guard is currently completing the additional SWB mission within its operating budget for FY14.<sup>149</sup> It is unclear whether this unforecasted funding activity will occur in the future. The Department of Defense and its interagency partners are attempting to balance border security requirements against an increasingly smaller fiduciary spending cap. It is too early to tell if the National Guard will continue to contribute to SWB support beyond 2014 in its current condition due to fiscal uncertainties.

On December 19, 2013, Secretary Hagel approved a plan through 2014 that allows National Guard assets to support DHS with caveats that it "not exceed 175 personnel, \$35 million, or 7,600 flying hours."<sup>150</sup> The memorandum signed by Secretary Hagel directed the Joint Staff to:

issue a planning order and task the Commander, U.S. Northern Command, to facilitate, in coordination with the Chief, National Guard Bureau and the heads of other appropriate DoD Components, the total force planning efforts for DoD activities in support of DHS and other Federal law enforcement requirements along the Southwest Border, with the goal of maximizing the effective use of limited resources.<sup>151</sup>

The decision cycle discussed above is a great example of the linking of strategy documents, beginning with the NSS, NDS, NMS, and others that allow high profile leaders the latitude to make decisions that affect positive outcomes at the organizational level. In an era of shrinking monetary assets, and increasingly complex national security issues, working as a productive interagency team member improves effectiveness and efficiencies for all parties involved in the process.

### Conclusion

The ability to make long-term commitments to interagency partners along the SWB is essential in maintaining efficiencies and providing effectiveness in border security. The National Guard continues to serve as a key enabling national security partner in supporting local, state, and federal law enforcement agencies along the SWB. The National Guard's role and mission sets along the SWB have changed significantly over the years, particularly in size and scope. Its ability to adapt to the changing needs of the nation makes it a persistent presence on the SWB, regardless of mission design changes. Providing capabilities and support packages tailored to support the homeland security enterprise along the SWB is integral in producing results and ensuring mutual trust within the interagency.

The National Guard has a long history on the SWB in support of its interagency partners. Roles, responsibilities and authorities have developed over time, creating trust, synergy, and unity of effort in a very dangerous environment. Lawmakers understand this and are working to ensure the collaboration that currently exists between the different agencies continues to provide the required safety and protection necessary along the SWB. Political pressures and focus will ebb and flow, but the

constant theme underpinning border security must provide the proper balance of ends, ways, and means to protect U.S. national interests.

The National Guard is comfortable in providing scalable packages to assist law enforcement agencies in their continued SWB security efforts. The National Guard has successfully moved from a “boots on the ground to a boots in the sky” strategy focusing on air interdiction and intelligence nodes on the ground. It is just another example of the evolving mission and role the National Guard fulfills in support of SWB interagency missions. The nature of border security and protection is such that it is a never ending cycle of prevention, deterrence, detection, and apprehension. Recognizing this unfortunate fact about border security will provide lawmakers the option to make long-term decisions about the use of the National Guard.

The current fiscally constrained environment may cause continued friction between different components of the armed forces; specifically the Active Army and National Guard. Senior leaders must not allow inter-service rivalries to dismantle the relationships and effective teamwork that has developed over shared years of conflict. Recognizing the unique partnerships enjoyed by the Active Army, National Guard, and its interagency partners will preserve the network of shared capabilities and serve to hold the interagency team together during times of fiscal austerity.

Currently, the patchwork of National Guard assets continues to shrink and pay for its presence out of its annual appropriated budget. Real change must not be tied to “dual effect military training.” For the National Guard to continue providing valuable assistance to its interagency partners, long-term planning and funding processes must remain at the forefront of future policy and strategy. Whatever the final outcome, the

National Guard is poised to support its interagency partners on the SWB helping ensure the protection and safety of the American people and democracy.

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<sup>3</sup> U.S. Department of Defense, *Strategy for Homeland Defense and Civil Support*, 11.

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<sup>5</sup> *Ibid.*

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<sup>8</sup> Michael Doubler, "Operation Jump Start: The National Guard on the South West Border, 2006-2008," October 2008, 9, [http://www.nationalguard.mil/features/Border/factsheets/NGB\\_JumpStart.pdf](http://www.nationalguard.mil/features/Border/factsheets/NGB_JumpStart.pdf) (accessed October 12, 2013).

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<sup>26</sup> Lawson, "A.R.N.G. MISSION ON THE SOUTHWEST BORDER," 44-49.

<sup>27</sup> "Border Violence Prompts Troop Plan; the U.S. may Call on the National Guard Or Army as a Last Resort if Mexico's Drug War Gets Worse, an Official Says," *Los Angeles Times*, March 13, 2009.

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<sup>29</sup> Lawson, "A.R.N.G. MISSION ON THE SOUTHWEST BORDER," 44-49.

<sup>30</sup> Ibid.

<sup>31</sup> McCain-Kyl Statement, "Regarding The National Guard On The Southwest Border," *Lanham: Federal Information & News Dispatch, Inc.*, 2011.

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<sup>46</sup> Tussing, "New Requirements for a New Challenge: The Military's Role in Border Security."

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<sup>49</sup> Ibid.

<sup>50</sup> Ibid.

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<sup>52</sup> Lawson, "A.R.N.G. MISSION ON THE SOUTHWEST BORDER," 44-49.

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<sup>55</sup> Dennis Steele, "Operation Jump Start: National Guard Aids Border Patrol Mission," *Army* 56, no. 11 (Fall 2006): 16-20,22,24-26,28,30-32,34,36-37.

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<sup>60</sup> Ibid., 17.

<sup>61</sup> Ibid., 18.

<sup>62</sup> Ibid.

<sup>63</sup> Ibid.

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<sup>71</sup> Steele, "Operation Jump Start: National Guard Aids Border Patrol Mission," 28.

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<sup>75</sup> Ibid.

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<sup>79</sup> Doubler, "Operation Jump Start: The National Guard on the South West Border, 2006-2008," 24.

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