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Why More States Should Establish State Defense Forces

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Abstract

Twenty-two states currently have volunteer state guard units. These units, formally known as state defense forces (SDFs), are today's state militias. Authorized by the Constitution and built on a strong U.S. militia tradition, today's SDFs offer a vital, low-cost force multiplier and homeland security resource. In July 2011, Arizona's Senate Bill 1495 went into effect, authorizing Arizona's governor to establish an SDF. While SDFs are not necessarily required in states with low risk of natural disasters or terror attacks, several states that are at high risk for catastrophes have yet to create a modern state defense force. Such states can no longer afford to place establishment of an SDF on the sidelines.

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On July 27, 2011, Arizona's Senate Bill 1495 (S.B. 1495) went into effect, authorizing Arizona's governor to establish a state guard unit.[1] These units, formally known as state defense forces (SDFs), are today's modern state militias. Authorized under the Constitution and by state and federal law, and built on a strong U.S. militia tradition, today's volunteer state defense forces offer a vital, low-cost force multiplier and homeland security resource.[2]

It now stands with Arizona's governor to establish the force. If established, Arizona's state defense force would become the 24th active SDF of the United States (22 in other states, one in the Commonwealth of Puerto Rico). Obtaining statutory authorization to stand up the force, however, is only the first step. Arizona's state leaders must now organize and train their newly authorized SDF and assign to it those missions most critical to the state.

Historically, state defense forces were organized along traditional unit lines, usually as light infantry and military police forces.[3] This model, however, is largely a relic of past homeland security and homeland defense needs. Today's threats require a different mission. Modern SDFs now serve as auxiliaries to the

Talking Points

- In July 2011, Arizona's Senate Bill 1495 went into effect, authorizing Arizona's governor to establish a state guard unit. These volunteer units, formally known as state defense forces (SDFs), are today's modern state militias. They are authorized under the Constitution and by state and federal law.
- Historically, SDFs were organized along traditional unit lines, usually as light infantry and military police forces. Today's threats require a different mission. Modern SDFs serve as auxiliaries to the National Guard units of their states, as well as low-cost force multipliers for state homeland security missions in disaster preparation, response, and recovery.
- SDFs continually reside in their respective states and can be called up quickly and easily in times of need.
- By building on best practices throughout the nation, Arizona can establish an SDF that meets the needs of its population—and serves as an example for other states.

National Guard units of their states, as well as force multipliers for state homeland security missions in disaster preparation, response, and recovery. This mission portfolio requires a different model than has been seen in the past, one that centers on building professional units capable of contributing substantial value added to the states and augmenting the National Guard's capabilities.

Once Arizona's governor formally authorizes the establishment of the state defense force, determining how to design and build the force will be the next challenge. In building a professional SDF, Arizona could learn from the experiences of other SDFs, and, in turn, serve as a model for other states. SDFs are not necessarily required in states with low risk of natural disasters or terror attacks. But several states that *are* at high risk for catastrophes have yet to create a modern state defense force, despite the SDFs' role as cost-effective force multipliers and resources, especially when a state's National Guard units are depleted by combat deployment, peacekeeping, or homeland defense missions. Such states can no longer afford to place the valuable national security asset that an SDF embodies on the sidelines.

State Defense Force: The Modern State Militia

State militias have been seen as an essential component of the defense of America since the time of its founding. Building on English and Colonial experience, and reflecting their concerns about maintaining a large standing federal army, the Founding Fathers inscribed their belief that a well-regulated militia was "the ultimate guardian of liberty" within the Constitution, proclaiming among the enumerated powers of Congress the following:

> The Congress shall have the power...to provide for calling forth the Militia to execute the Law of the Union, suppress Insurrections and repeal Invasions;
>
> To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the states respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress.[4]

With this language, the Constitution granted the federal government the power to call forth the militia of the United States, but left the states the freedom to man and train their militias as they saw fit.

Five years after the Constitution was ratified, state militia powers were more fully addressed by the Militia Act of 1792, which provided that the adjutant general (TAG) of each state would command the militia and that state militias would receive no federal funding.[5] By 1820, the Supreme Court would further solidify the powers of the states in commanding militia units. In *Houston v. Moore*, the Court ruled that states maintained concurrent authority with the President to mobilize the militia in the event of a natural disaster, civil unrest, insurrection, or invasion.[6] This decision helped to set the basis for the modern state-apportioned militia.

Today, 22 states and one territory have a state defense force, with the force strength of these units totaling around 14,000 members in 2005.[7] Authorized by Congress in Title 32 of the U.S. Code, SDFs are entirely under state control—unlike the National Guard, which can serve the state under Title 32 or the federal government under Title 10[8]—both in

1. State of Arizona, Senate, "Arizona State Guard; Establishment," S.B. 1495, 2011, at *http://www.azleg.gov/legtext/50leg/1r/bills/sb1495p.pdf* (February 7, 2012).
2. 32 U.S. Code § 109, "National Guard, Maintenance of Other Troops," August 11, 1955, as amended. Congressional statutory approval of state defense forces is mandated by U.S. Constitution, Art. I, sec. 10, cl. 3.
3. Col. Martin Hershkowitz (Ret.), Col. Robert Paterson (Ret.), and Maj. Gen. James McCoskey (Ret.), "A Proposed Structure for Today's State Defense Force," *State Defense Force Monograph Series*, Fall 2009, at *http://www.sdfpubcntr.net/MissionSDFColdwarV42009.pdf* (September 22, 2011).
4. U.S. Constitution, Art. 1, § 8.
5. Michael D. Doubler, *Civilian in Peace, Soldier in War: The Army National Guard*, 1636–2000 (Lawrence, Kan.: University Press of Kansas, 2003), p. 68, at *http://www.kansaspress.ku.edu/douciv.html* (February 7, 2012).
6. *Houston v. Moore*, 18 U.S. 1 (1820).
7. U.S. Department of Defense, "Homeland Defense Forces for Homeland Defense and Homeland Security Missions," No. 3898, November 2005, at *http://www.gasdf.net/documents/DoDReportonSDFNov.20051.pdf* (February 7, 2012).
8. 10 U.S. Code § 13.

peacetime and otherwise.[9] (National Guard troops serve both in their state's militia and concurrently as reserve personnel of the Army or the Air Force, the Navy and the Marine Corps having no National Guard components.) Hence, while the National Guard is a dually appointed force that can be called to federal service under Title 10, or remain a state force under Title 32, SDFs serve solely as Title 32 forces.

This status gives SDFs two important advantages. First, SDFs are continually resident within their respective states and can be called up quickly and easily in times of need. Also, SDFs are exempt from the restrictions of the Posse Comitatus Act,[10] which prohibits troops in federal service under Title 10 from engaging in domestic law enforcement activities.[11] While the Posse Comitatus Act has never proved to be a major obstacle to deploying federal forces for domestic emergency response, and does not apply to the Army National Guard or Air National Guard while serving solely in state status under Title 32, SDFs may enforce civilian criminal law uninhibited by legal obstacles, if given that power under state law.[12]

Typically, SDFs are under the control of the state's governor, in his or her role as militia commander in chief; operational control and the chain-of-command typically run from the state's adjutant general, through the state's military department, to the commanding general of the SDF.[13] That is, the adjutant general, who is the state's senior military commander and typically a member of the governor's cabinet, commands the SDF on behalf of the governor. As the commander of the State Military Department, TAG is responsible for all training, equipment allocation, and decisions regarding the SDF's strength, activity, and mission. The adjutant general is also the commander of the state's National Guard and often directs state emergency response.[14] Through TAG and the state's joint staff, the SDF can easily coordinate with other key components of the state emergency response.

In recent years, SDFs have proved their value as vital force providers to homeland security and emergency responses. After 9/11, for instance, the New York State Guard, the New York Naval Militia, and the New Jersey Naval Militia were activated to assist in response, recovery, and critical infrastructure security.[15] An estimated 2,274 SDF personnel participated in recovery efforts after Hurricane Katrina. SDF personnel were activated in at least eight states, including Texas, Maryland, Virginia, and Tennessee.[16] They assisted directly with recovery efforts or stayed in their states to fill the roles of the state National Guard units that were deployed to assist in the recovery.[17] SDFs have also offered critical infrastructure protection. In Operation Noble Eagle, a homeland defense and civil support operation after 9/11, the Alaskan SDF helped protect the Alaska oil pipeline.[18]

9. 32 U.S. Code § 109; and 10 U.S. Code § 13.
10. 18 U.S. Code, § 1385, Posse Comitatus Act; and J. R. Brinkerhoff, "Understanding the Posse Comitatus Act and the Insurrection Act," *State Defense Force Journal*, Vol. 3, No. 1 (Fall 2007), at *http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA494995&Location=U2&doc=GetTRDoc.pdf* (February 7, 2012).
11. James Jay Carafano, "Assessing Plans to Deploy U.S. Military on the Homeland Security Front," Heritage Foundation *WebMemo* No. 2156, December 5, 2008, at *http://www.heritage.org/Research/Reports/2008/12/Assessing-Plans-to-Deploy-US-Military-on-the-Homeland-Security-Front*.
12. James Jay Carafano, "Critics of the Hurricane Response Miss the Mark in Focusing on Posse Comitatus," Heritage Foundation *Executive Memorandum* No. 983, October 3, 2005, at *http://www.heritage.org/research/reports/2005/10/critics-of-the-hurricane-response-miss-the-mark-in-focusing-on-posse-comitatus*.
13. Col. H. Wayne Nelson, Col. Robert Barish, Brigadier Gen. Frederic Smalkin, Lt. Col. James Doyle, and Col. Martin Hershkowitz, "Developing Vibrant State Defense Forces: A Successful Medical and Health Service Model," *State Defense Force Monograph Series*, Winter 2006, at *http://www.dtic.mil/cgi-bin/GetTRDoc?Location=U2&doc=GetTRDoc.pdf&AD=ADA494466* (February 7, 2012).
14. Arthur N. Tulak, Robert W. Kraft, and Don Silbaugh, "State Defense Forces and Homeland Security," *Parameters*, Vol. 33 (Winter 2003–2004), pp. 132–146, at *http://www.carlisle.army.mil/usawc/Parameters/Articles/03winter/tulak.htm* (February 7, 2012).
15. W. E. Girardet, "The New Jersey Naval Militia," *State Defense Force Journal*, Vol. 3, No. 1 (Spring 2007), and Tulak, Kraft, and Silbaugh, "State Defense Forces and Homeland Security.".
16. Col. James L. Greenstone, "The Texas Medical Rangers in the Military Response of the Uniformed Medical Reserve Corps to Hurricane Katrina and Hurricane Rita 2005: The New and Tested Role of the Medical Reserve Corps in the United States," *State Defense Force Monograph Series*, Winter 2006, at *http://www.dtic.mil/cgi-bin/GetTRDoc?Location=U2&doc=GetTRDoc.pdf&AD=ADA494466* (February 7, 2012), and Lt. Col. Richard Colgan, Maj. Kisha Davis, and Col. Robert A. Barish, "Operation Lifeline: Health Care Professionals from Maryland Respond to Hurricane Katrina," *State Defense Force Journal*, Vol. 2, No. 1 (Spring 2006), at *http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA496627* (February 10, 2012).
17. Col. Martin Hershkowitz (Ret.), "Summary of Available State Defense Force After Action Reports from Hurricanes Katrina and Rita Deployments," *State Defense Force Journal*, Vol. 2, No. 1 (Spring 2006), at *http://www.23bn-vdf.com/s3/AARs%20of%20SDFs%20in%20Katrina.pdf* (February 7, 2012).
18. Tulak, Kraft, and Silbaugh, "State Defense Forces and Homeland Security."

The Case of Arizona

In May 2007, Arizona's state legislature passed S.B. 1132. The bill sought to create a "homeland security force" such that "after consideration of federal deployment of the national guard, if the governor determines that an emergency exists or that it is necessary to protect lives or property... ."[19] While not outwardly stated, this "homeland security force" was widely accepted to mean an Arizona SDF. Passed in the Arizona Senate by a vote of 18 to 11, and in the House of Representatives by 34 to 21, the creation of this special volunteer homeland security force received clear support from the Arizona legislature and public. S.B. 1132, however, never became law, as it was vetoed by then-Governor Janet Napolitano.

In 2011, the Arizona legislature tried again, proposing and passing S.B. 1495. The bill, sponsored by Arizona Senator Sylvia Allen (R–Fifth District) and Representative Jack Harper (R–Fourth District), was signed by Governor Jan Brewer on April 28, 2011, and became law 90 days later. With the passage of this legislation, broader in scope of authorization than its failed predecessor, Arizona's governor is now authorized to stand up a unit of the Arizona state guard, a state defense force, "if the national guard of Arizona or a major portion thereof is called into active federal service...or for any other reason the governor considers to be necessary...for the safety and protection of the lives and property of the state... ."[20] In the case of border states, border security might very well be one of those reasons. As long as any SDF border-security contingents respect the three main tenants of volunteer activity—liability, accountability, and sustainability—states should be allowed to decide which missions their SDFs will fulfill.

Taking advantage of this newly granted statutory authority and creating an SDF in Arizona would add significant value to the state, particularly in terms of disaster preparedness. In 2010 alone, Arizona experienced six major natural disasters, ranging from severe storms and flooding to wildfires and winter storms.[21] In 2011, Arizona had the largest wildfire in state history as three major blazes burned simultaneously. The Wallow Fire alone scorched an estimated 835 square miles, forced the evacuation of roughly 10,000 people, and destroyed 32 homes.[22]

While the first tier of response to natural disasters is typically composed of state and local fire and police first responders, many of them volunteers, these resources and capabilities may quickly become stressed in the event of large-scale, catastrophic disasters. In such cases, National Guard troops may be expected to be called out for Title 32 service to aid response and recovery efforts. However, National Guard troops may be unavailable to respond in sufficient numbers, due to the Guard's increasing commitments to active duty deployments. Additionally, because the Guard is typically organized along the needs of combat, sufficient expertise in particular fields (such as medical expertise and engineering) may not be available in its ranks to satisfy emergency requirements. Likewise, while direct federal support may be appropriate in the event of catastrophic disasters, such as Hurricane Katrina, federal assistance can take up to 72 hours to mobilize and arrive at the scene of the disaster.[23] SDFs, on the other hand, can be mobilized quickly to respond to disasters in their own states. SDFs are also likely to have significant "local knowledge"—intimate familiarity with the area and resources at hand—making SDFs vital for effective disaster response.

In the aftermath of Hurricane Katrina, at least eight states activated their SDFs to aid in the recovery efforts and to fill in for National Guard members deployed to Louisiana and Mississippi. State defense force personnel were involved in the operation and management of shelters, distribution centers, and warehouses; housing and transportation of victims; unarmed police assistance; and religious services. There was even an unprecedented swearing-in of over 100 emergency medical personnel on an Air Guard base tarmac to allow

19. Homeland Security Force, S.B. 1132.
20. Establishing Arizona State Guard, S.B. 1495.
21. FEMA, "Arizona Disaster History: 2010," at *http://www.fema.gov/news/disasters_state.fema?id=4* (February 7, 2012).
22. "Cousins Charged in Ariz. Wildfire Appear in Court," *USA Today*, September 19, 2011, at *http://www.usatoday.com/weather/wildfires/story/2011-09-19/arizona-wildfire-charges/50470372/1?csp=34news* (February 7, 2012).
23. James Jay Carafano, "Homeland Security in the Next Administration," Heritage Foundation *Lecture* No. 1085, April 9, 2008, at *http://www.heritage.org/Research/Lecture/Homeland-Security-in-the-Next-Administration*.

them to practice in the disaster areas, as allowed by multi-state Emergency Management Assistance Compacts.[24]

As another example, when flooding from Hurricane Alex in 2010 forced 850 south Texas residents to evacuate their homes, more than 750 Texas SDF members were mobilized to staff shelters.[25] An Arizona SDF could aid its state in disaster response in much the same way, quickly supplying boots on the ground to aid victims and help begin local recovery work.

Arizona could further benefit from an SDF after a terrorist attack. While none of the 43 publicly known thwarted terrorist plots against the U.S. since 9/11 has been aimed at Arizona, Phoenix has consistently been rated by the federal government as an urban area with one of the highest risks of a terror attack. This rating stems from the Urban Area Security Initiative (UASI) program, which is intended to provide funding to high-risk, high-density urban areas in order to help them build the capacity "to prevent, protect against, respond to, and recover from acts of terrorism."[26] Phoenix has received a UASI grant every year since the program began in 2003, even after the program was scaled back from 63 to 31 cities in 2011.

The Need for the SDF

Today's modern militia, the state defense force, has a long history in the United States, although its scope and design have changed over time, as the threats to the United States and each state have evolved. Throughout World War II, the Korean War, and the Cold War, the modern state defense force was organized to serve in traditional military roles, such as light infantry or military police. The initial SDF mission was largely to support the National Guard by protecting armories whenever the assigned state National Guard unit was not in attendance (when the Guard was mobilized *en masse*, as happened in World Wars I and II), to perform burial honors, to support local events as Color Guards in parades, to provide ushers and parking monitors for local events, and, when available, to provide first aid at local events. These were tasks, albeit of value, that obviously required minimal training and qualifications.

With the Cold War over, the nation and the states face different threats. Rather than preparing to fight Communism, the United States is now faced with an entirely different threat, that of radical Islamists who use terror as a weapon. This threat, coupled with the ever-present risk of natural disasters, has created an increased need among the states to strengthen and augment their homeland security capabilities. With the recent high mobilization rates among the nation's National Guard forces, both as units and as individuals, due to the wars in Iraq and Afghanistan, forward-thinking governors and TAGs have begun looking to their SDFs as force multipliers, providing key elements of all-hazards homeland security for their states.

Force Design. Meeting this redefined mission set has required a new model. This model should rest on creating professional units within an SDF, units which add to existing capabilities and create a force that adds greater value to the TAG, National Guard, and state as a whole. Likewise, force design largely depends on the type and level of the missions and the extent to which the TAG is willing to integrate the SDF with the National Guard. In implementing force design, states should consider the risks posed by the following threat scenarios:

- Natural disasters and their aftermaths;
- Terrorist attacks against population, infrastructure, or facilities; and
- Other hazards to public health and safety, such as outbreaks of contagious diseases.

Typically, a modern SDF is organized as a brigade, with a brigadier general in command, structured as follows:

- commanding general (the brigadier general)
- deputy commander
- chief of staff

24. Hershkowitz, "Summary of Available State Defense Force After Action Reports."
25. Capt. Morgan Montalvo, "Authorities Brace for Threat of Renewed Flooding as Hurricane Alex Moves Inland, Texas State Guard Wraps up Hurricane Shelter Duties," Texas State Guard, July 1, 2010, at *http://www.txsg.state.tx.us/news/article.aspx?id=20100701* (February 7, 2012).
26. Federal Emergency Management Agency, "FY 2011 Homeland Security Grant Program (HSGP)," August 23, 2011, at *http://www.fema.gov/government/grant/hsgp/#2* (February 7, 2012).

- Between two and five battalions
- Specialized professional components (directorates)
  - medical regiment
  - engineer regiment
  - judge advocate general (JAG)
  - chaplaincy
  - band
  - cavalry
  - constabulary training

Under the chief of staff are up to nine specialized staff functions providing organizational or operational input, bearing the letter and number designations commonly used for general staff elements of Army units:

- G1 – personnel and administration;
- G2 – intelligence and security;
- G3 – operations;
- G4 – logistics;
- G5 – plans;
- G6 – signal, communications, information technology;
- G7 – training;
- G8 – finance, contracts, and resource management; and
- G9 – civil–military co-operation (CIMC), civil affairs.

In the modern SDF, attention must be paid to the special professional components that will best meet the needs of the state. There are no field manuals or other set publications that describe "best practices" for an SDF. Nonetheless, interchanges among SDF personnel do occur, and an analysis of existing literature illustrates some specific "professional components" that form part of vibrant SDFs throughout the United States. These include:

- **Medical units.** SDFs throughout the nation draw on the professional experience and qualifications of many medically trained personnel, who are organized into specialized medical units. In terms of disaster response, SDF medical units have been used to provide care for trauma victims, mental health support, and sanitary and other public health assistance, adding to states' medical surge capacity.[27] Outside of disaster situations, SDF medical units have provided health care services to SDF and National Guard personnel, as well as to local residents.

The Medical Brigade of the Texas State Guard (TXSG), for instance, runs free medical clinics as part of its training operation: Each year, Operation Lone Star provides medical care consisting of basic dental care, medical exams, blood pressure and diabetes screening, and child immunizations to roughly 12,000 patients.[28]

The Maryland State Defense Force (MDDF) 10th Medical Regiment made a significant impact after Hurricane Katrina, and serves as an example to other states of the benefit of SDF medical units. Professionals from the Maryland Department of Health and Mental Hygiene, the Maryland Institute for Emergency Medical Services Systems, and the Maryland Emergency Management Agency were ready and willing to serve, but Maryland was without an effective means for transporting them to, and supporting them in, the disaster area. The solution was to induct each individual into the MDDF on the tarmac, which facilitated transportation and deployment under relevant legal authority.[29] The MDDF Medical regiment then arrived at an abandoned hospital, in which it set up headquarters. The mission, Operation Lifeline, with only 250 MDDF volunteers lasted for 18 days and aided 6,300

27. Nelson *et al.*, "Developing Vibrant State Defense Forces," and Col. Martin Hershkowitz and Col. H. Wayne Nelson, "Maryland Defense Force 10th Medical Regiment: Past, Present and Future," *State Defense Force Journal*, Vol. 3, No. 1 (Fall 2007), at *http://www.sdfpubcntr.net/docs/sdfjvol4.pdf* (February 7, 2012).
28. Sgt. First Class Brenda Benner, "The Texas Medical Rangers and Thousands of Patients," *State Defense Force Monograph Series*, Winter 2006, at *http://www.dtic.mil/cgi-bin/GetTRDoc?Location=U2&doc=GetTRDoc.pdf&AD=ADA497328* (February 7, 2011), and Col. Robert Morecook, "Medical Brigade Reaches Across Texas Providing Care for Citizens and Guard," *Guidon*, Vol. 1, No. 2 (Spring 2011), p. 16, at *http://www.txsg.state.tx.us/guidon/docs/2011AprGuidon.pdf* (November 17, 2011).
29. Colgan, Davis, and Barish, "Operation Lifeline: Health Care Professionals from Maryland Respond to Hurricane Katrina."

patients.[30] More than a hundred of these personnel remained in the MDDF after returning home, and form the core of its strong medical regiment. Among the many current missions of the MDDF's medical regiment is the conduct of post-deployment health assessments of National Guard personnel returning from overseas, in an attempt to make sure that latent physical or psychological needs from their deployments do not go unmet.

- **Engineering units.** In terms of engineering, the Maryland Defense Force has once again found itself a leader among the nation's SDFs. Established in 2006, the MDDF engineer directorate, the 121st Engineer Regiment, has grown exponentially in size. By 2009, the regiment was executing 100 percent of all inspections of state military facilities across Maryland for the Maryland Army National Guard (MDARNG). Similarly, other SDFs could aid their states' military department and emergency management agency through the creation of engineering units, not only through inspection of facilities, but also through critical infrastructure and disaster assessments.[31] These units can draw on the professional experience of members with graduate-level studies or professional engineering experience, as well as seek to recruit members to meet this need. All personnel are screened to make sure they have the level of state licensure and experience commensurate with their SDF billets, and like other professional personnel must maintain proper licensure.

- **JAG units.** Another key area of specialization is found in the legal profession. Whether working quietly in advising the commanding general and his staff, or representing and advising individuals, JAG units are today considered indispensable by commanders. Brigadier General Roland Candee provides insight into the legal status of the militia and how the militia fits into the total force, but does not detail the role of SDF lawyers.[32] Because SDF lawyers and allied professional personnel (such as paralegals) are licensed to practice in their SDF's state, they can represent members of the National Guard and their families *pro bono* in civil matters that are not able to be addressed by active duty JAGs. These matters have included, for the MDDF, helping deployed personnel with child custody issues, home foreclosures, and a myriad of other legal matters about which a deployed National Guard member and his or her family should not have to worry. Also, the complexity of the constitutional and statutory framework within which SDFs operate, as noted earlier in this paper, requires that commanders have access to expert legal advice, which can be furnished only by lawyers who have a firm grasp of both lawyering and soldiering.

- **Communications units.** After Hurricane Katrina, the communications infrastructure was one of the most heavily hit critical infrastructures. Some 2,000 cell towers were destroyed, land mobile radio communications were crippled, and 911 emergency phone access was debilitated. While the severity of the damage was great, at landfall Hurricane Katrina was only measured as a category 3 storm. Although the catastrophe was exacerbated by the strong surge, levee breach, and flooding in the wake of the storm, it is likely the area will experience another storm of the same, or greater, magnitude.[33]

  SDFs can help prepare state communications systems for future disasters by building mobile communications systems to add to state capabilities during response and recovery work. The South Carolina State Guard (SCSG), for instance, contains a Division Communications Section. This section consists of two mobile communications trailers, containing radios capable of high frequency, VHF/UHF, and general mobile radio service (GMRS)

30. *Ibid.*
31. Col. Brian R. Kelm and Col. Martin Hershkowitz, "Maryland Defense Force Establishes an Engineer Capability," *State Defense Force Journal*, Vol. 3, No. 1 (Fall 2007), at *http://www.sdfpubcntr.net/docs/sdfjvol4.pdf* (February 7, 2012), and Col. Martin Hershkowitz and Col. Brian Kelm, "On Planning a Damage Assessment," *State Defense Force Monograph Series*, Fall 2009, at *http://www.sdfpubcntr.net/docs/MissionSDFColdwarV42009.pdf* (February 7, 2012).
32. Brigadier Gen. Roland L. Candee, "Forward to the Past: The Legal Status of the Militia and How the Militia Fits Into the Total Force," *State Defense Force Monograph Series* (forthcoming in 2012).
33. Robert Miller, "Hurricane Katrina: Communications and Infrastructure Impacts," *State Defense Force Monograph Series*, Winter 2006, at *http://www.carlisle.army.mil/DIME/documents/Hurricane%20Katrina%20Communications%20&%20Infrastructure%20Impacts.pdf* (February 7, 2012).

transmission, in addition to air-to-ground radio capabilities, repeater systems, and an assigned Federal Communications Commission (FCC) frequency. The SCSG has reached out to amateur-radio clubs to coordinate communication and to recruit club members for State Guard membership, even establishing its own South Carolina State Guard Amateur Radio Club and applying for an FCC club license.[34] Maryland is also developing a signals unit along these lines.

- **Chaplaincy units.** Another way that SDFs can add significant value to the states and their National Guard units is through the provision of chaplains. Military chaplains not only conduct services, they also provide counseling services and cultural and religious education.[35]

  The U.S. Army Reserve and National Guard employ approximately 1,200 chaplains, yet as of July 2011, the Reserve Components of the Army were still short roughly 300 chaplains. While the Army estimates that the Chaplain Corps' billets will be completely filled by 2014, SDFs can help the National Guard fill this gap.[36] Chaplains at SDFs do not only serve the spiritual needs at their own SDFs, but aid the National Guard by providing temporary additional duty (TAD) chaplains to National Guard units that either lack a chaplain or whose chaplain has been transferred to a deploying unit.[37] In emergencies, chaplains can also provide nondenominational counseling to affected responders and citizens.

Recruitment. Of course, force structure means nothing without the effective recruitment of members. Typically, SDF recruiting is a collection of approaches put together by the G1 staff element responsible for personnel matters, based on input from its own staff and others on the general staff. Any recruiting plan becomes unique to the SDF unit itself. It cannot be overemphasized, however, that the key to building a strong professional force is to recruit a "key" person as its commander. This person may be a leader in his or her professional field and in the community, such as a prominent physician, a judge or well-known lawyer, or a leading cleric or engineer. These people are connected with the network needed to effectively communicate the SDF story to their peers and have access to the channels and language essential to reach out broadly to potential recruits.

An SDF recruiting plan is typically aimed at:

- Retired military—looking for a way to continue serving their country and communities, and retain a sense of military camaraderie;
- Military personnel electing not to serve further in the active or reserve forces, but wanting to retain that sense of camaraderie;
- Those who choose not to serve in the active or reserve forces, but want to provide some form of service for their state and community;
- Veterans' associations, such as the American Ex-Prisoners of War, the American Legion, AMVETS, Catholic War Veterans, Disabled American Veterans, Jewish War Veterans of the USA, Military Officers Association of America, Non-Commissioned Officers Association, Retired Enlisted Association, and Veterans of Foreign Wars (VFW);
- Recruiting advertisements and brief civilian style "after action" articles on completed missions in support of the state or local community in community newspapers;
- Recruiting by means of visits to professional organizations (such as those for lawyers, engineers,

34. Kenneth Price, "Communication Systems for Emergency Operations," *State Defense Force Monograph Series*, Winter 2006, at *http://www.dtic.mil/docs/citations/ADA497640* (February 7, 2012).
35. Col. Martin Hershkowitz and Chesky Tenenbaum, "The Critical Shortage of Military Chaplains: One Possible Solution," *State Defense Force Monograph Series*, Winter 2006, at *http://www.dtic.mil/cgi-bin/GetTRDoc?Location=U2&doc=GetTRDoc.pdf&AD=ADA494808* (February 7, 2012).
36. Gary Sheftick, "Chaplain Corps Turns 236 with New Strength," Army.mil, July 28, 2011, at *http://www.army.mil/article/62568/* (February 10, 2012).
37. Hershkowitz and Tenenbaum, "The Critical Shortage of Military Chaplains."

medical personnel, or chaplains) whose members—especially those with former military service—are often very willing to join an SDF;

- States may also offer state tax exemptions or state tuition reimbursement as an added incentive for service in the SDF;[38] and
- A strong and inviting website, with easy-to-access links, including a link for use by potential recruits to obtain more information, talk with a recruiter, or to obtain an application. The website should clearly spell out qualifications for membership and the opportunities in the SDF.

Age and physical health requirements for joining an SDF differ from those required for federal service, whether active duty or not. Strict active-duty standards are not necessary, as SDF members are not expected to be able to perform the full range of military duties in a combat environment. Appropriate weight and grooming standards are typically set by regulation, while state law may establish age requirements in the SDF-enabling legislation. When setting age and physical health requirements, it is important to take into account that SDFs are composed largely of retired military personnel and other seasoned professionals who tend to be older than deployable National Guard troops, and, hence, cannot be expected to meet the same physical (today, essentially "active duty") standards. Nonetheless, their years of professional and military experience can be absolutely invaluable and must not be discounted. "In many cases it is not uncommon in a group of four or five SDF officers to find 100 plus years of military experience."[39] Thus, allowances are typically made to customary military standards of weight and fitness, but members who wish to wear military uniforms are customarily required to meet physical and grooming standards that assure their military appearance in uniform. Some SDFs (such as Maryland's) may allow members who do not conform to their military uniform-wearing criteria to wear a "non-military uniform," such as khaki slacks and a logo polo shirt, or logo "scrubs" for medical personnel.

Background Screening. Due to the nature of the state defense force in terms of its representation of the governor and TAG (and the fact that members of some SDFs may be armed while on duty) it is usually required that, at a minimum, a criminal background check be performed prior to induction. Thus, states should consider a requirement that both federal and local criminal record checks be conducted, as well as a local background check in the localities surrounding the individual's home and work locations. It is essential to obtain the recruit's consent to this screening beforehand.

Finance. The SDF is a volunteer military organization. There is no general requirement for a budget to cover such costs as salaries, facilities, equipment, training, travel, and general and administrative expenses. Each state legislature determines precisely what will be covered, at what cost, and for how long. For example, some SDFs:

- Offer payment for activated troops according to their grade, some pay them a fixed amount for all grades, some do not pay their troops anything unless they have been activated for a specific event;
- Cover transportation costs (although most do not); some also arrange for passes to permit free use of state-owned toll highways, bridges, and tunnels;
- Use federal surplus warehouses for uniforms and equipment (many do not); some also accept state surplus enlisted uniforms and office equipment; and
- Use National Guard armories as their drill sites.[40]

While states are not required to budget for SDFs, there are ways in which SDFs can obtain support funds or equipment:

- Establish a chapter supporting the State Guard Association of the United States. Approximately one-half of the SDFs have such a chapter. Since these chapters are IRS 501(c)(3)-certified, they can seek donations and grants to provide a

38. The South Carolina State Guard offered a $3,000 state-tax exemption, provided a guardsman has completed at least 192 hours of service. Texas provides tuition reimbursement for up to 12 credit hours per semester for members of the Texas State Guard and the Texas National Guard. Maryland provides state passes to permit free travel on toll roads and bridges for mission purposes and, starting in 2012, will allow state income tax relief of up to $3,500 for MDDF service.
39. Nelson *et al.*, "Developing Vibrant State Defense Forces."
40. Author conversations with different SDFs.

variety of support for their SDFs. Maryland has such a chapter, as well as its own dedicated 501(c)(3) foundation, which has proved immensely useful.

- Petition their National Guard for access to surplus equipment, training material, and training facilities.

- Prepare grant requests for special purposes, such as medical supplies and equipment, training material and audio-visual equipment, communication equipment, or a trailer to house a disaster mobile communication center.

- Establish a working relationship with selected state agencies requiring technical support that the SDF can provide. Under these conditions the SDF can use the agency's material and equipment for itself for the duration of their working relationship.

- Associate with a local Medical Reserve Corps, receiving visibility, recognition, and temporary additional medical staff and needed medical resources.

Training. The backbone of any professional military force is training, both general military training and job-specific training. A well-run SDF is no exception. Therefore, there must be an established schedule of training for all personnel who want to be active members of their assigned units. Each member should undergo basic SDF coaching before starting duty. This will include general education in military customs and courtesies, as well as in SDF roles and responsibilities. Specialized professional directorates, such as chaplaincy, JAG, and medical regiment, have memberships that are already accustomed to continuing professional education, and they should be required to participate in continuing professional education unique to SDFs, as well. It is also vital that *all* SDF personnel be trained in the National Incident Management System's (NIMS) Incident Command System (ICS) for command and control of emergency situations, which is readily available through FEMA or a state's emergency management agency. This will allow SDF personnel to fit seamlessly into a larger strategy for handling a domestic emergency.

Enhancing the Strength of the Nation's SDFs

Despite the tremendous advances in the role and stature of SDFs in recent years, forward thinking shows that more can be done to solidify and strengthen SDFs. Suggested future actions for states and Congress include:

- **States should promote the creation of SDFs in high-risk states.** Presently, 28 states have chosen not to authorize an SDF, including several states at high risk of natural disasters or terror attacks. The hesitation of many states to create an SDF makes little sense, given that SDFs offer near-zero-cost force multipliers for homeland security efforts. There are, as outlined herein, a number of vibrant SDFs that can serve as models for new ones throughout the states, and whose command and staff elements could act as valuable advisors in the start-up process.

- **States and federal policymakers should integrate SDF units into state and federal emergency management planning.** States, the Department of Defense, and the Department of Homeland Security should seek to integrate SDFs into existing and future emergency management plans to ensure that all players in state emergency response are aware of the resources provided by their state's SDF. Further, emergency management plans and exercises will provide the SDF with greater guidance on its role in state response in the event of a disaster. It is essential that all SDF personnel be drilled in NIMS-ICS protocols, both upon entry into service and on a continuing basis.

- **Congress should amend Title 32 of the U.S. Code to provide unmistakable permission for joint training between the National Guard and the SDF.** In November 2011, the National Guard Bureau (NGB) revised its principal regulation covering SDFs, NGB Reg. 10–4, to eliminate many antiquated provisions. Contained in the revised version was a provision recognizing that "state [National Guard] may train or conduct exercises and maneuvers in conjunction with SDFs," provided that no federal funds or equipment are used.[41] While this is a good first step in facilitating joint training between National Guard and SDF units, more can

41. National Guard Regulation 10–4, "Organization and Functions: National Guard Interaction with State Defense Forces," November 2, 2011, at *http://www.vdf.virginia.gov/images/Regulations/ngr10_4.pdf* (February 7, 2012).

be done. Congress should amend Title 32 to provide unmistakable authority for joint training between National Guard and SDF units. Specifically, the law should be amended to allow the National Guard to provide assistance to all auxiliary forces, including the SDF, the Civil Air Patrol, and Coast Guard Auxiliary.[42] Such an amendment would not only allow the National Guard to provide assistance in the form of technical training, administrative support, and equipment, but also allow the National Guard and the SDF to better share best practices for emergency management and state homeland defense.

- **State and federal policymakers should enhance state resource allocation and federal in-kind support.** One of the many merits of the SDF is its nature as a near-zero-cost homeland security resource for its state. With states not required to fund their state defense forces, SDFs themselves often seek funds and support through such activities as the creation of 501(c)(3) foundations. Yet, adequate state support and resources would increase the quality and capability of the SDF. Additionally, while SDFs, by their nature as state military forces, should remain primarily funded by the states, these forces would greatly benefit from receiving federal in-kind support, such as excess federal equipment and supplies, from the Department of Defense.

- **States should develop the State Defense Force Intelligence Mission.** The intelligence function, falling within the G2 staff area, is often overlooked by a SDF, with the exception of its own security needs. Strictly military intelligence (in the sense of ascertaining national defense information) is obviously an exclusively federal function. There are, however, intelligence-related missions that would benefit the command of the SDF. Most SDFs have at least one activity that provides excellent support to their National Guard or their governor in critical-infrastructure risk assessment, disaster mitigation, emergency management, use of technology, and knowledge of where to obtain additional resources, both human and materiel. These activities provide essential information to commanders in emergency situations, which is the kind of "local knowledge" operational intelligence that can be a huge boost making emergency missions successful.

A related, emerging area for SDF utilization is their potential as resource-providers for combating cyberwarfare, an increasingly grave threat that would not only affect the defense and defense-related industrial assets of the nation, but also ordinary citizens and businesses, whose activities could become paralyzed. SDFs have the potential to attract computer experts who could, at a minimum, assist in recovery operations in their states after a cyberattack.

Arizona: The Chance to Be an Example

With the passage of S.B. 1495, Arizona stands ready to authorize and establish a state defense force unit. Once authorized, Arizona's state leaders will be faced with determining how best to organize and train their newly authorized SDF. By building on best practices throughout the nation and seeking to establish a force focused on creating professional units, Arizona can establish a state defense force that meets the needs of its population—and serves as an example and an inspiration to states across the country.

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42. 32 U.S. Code § 508. Section 508 lists the Boy and Girl Scouts of America, the Young Men's and Women's Christian Association, the Police Athletic League, and the Civil Air Patrol, but not the Coast Guard Auxiliary or the State Defense Force, among the organizations authorized to use National Guard facilities and equipment, as well as receive technical training and administrative support.

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