

CRS Report for Congress

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Homeland Security: Establishment and Implementation of Northern Command

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Summary

The Defense Department's (DoD) establishment of U.S. Northern Command (NORTHCOM) appears to be a significant organizational step toward fighting terrorism at home and protecting U.S. interests abroad. Many issues remain, however, regarding NORTHCOM's implementation. Some issues pertain to NORTHCOM'S relationships with other DoD agencies. Procedures for how NORTHCOM will interact with the Department of Homeland Security and other civilian agencies are being developed. Civil-military issues, and NORTHCOM's liaison with Canada, Mexico, and other neighboring countries, are being developed. This report will be updated.

Introduction

On April 25, 2002 President Bush approved the latest Defense Department Unified Command Plan, which among other things, established U.S. Northern Command (NORTHCOM). The creation of NORTHCOM is part of the military's largest unified command reorganization since World War II, and it is a first-of-its-kind military organization. NORTHCOM is one of the most tangible steps DoD has taken to reorganize itself to better combat terrorism abroad and to protect U.S. citizens at home. NORTHCOM began operations on October 1, 2002, but is not scheduled to reach its full capabilities until a year later. Thus, it appears likely that there will be ongoing congressional oversight of many NORTHCOM implementation issues.

Although NORTHCOM is in its embryonic stage, some facts are clear. The new commander of NORTHCOM (Air Force General Ralph "Ed" Eberhart) is responsible for defense of the United States, including land, aerospace and sea defenses.¹ Also, as directed by the President or the Secretary of Defense, NORTHCOM provides military

¹ Prior to NORTHCOM's establishment, homeland defense efforts had been coordinated among four different combatant commanders. Joint Forces Command, Pacific Command, Southern Command, and the U.S. element of the North American Aerospace Defense Command (NORAD) currently all have separate responsibilities for aspects of the defense of the United States.

assistance to civil authorities, including immediate crisis and subsequent consequence management operations.

NORTHCOM is headquartered at Peterson Air Force Base, Colorado Springs, CO, also home to NORAD and the U.S. Space Command (SPACECOM). Staff are estimated at approximately 500 active duty, reserve military, and civilian personnel. NORTHCOM controls three pre-existing homeland defense organizations: Joint Forces Headquarters Homeland Security, based at Norfolk, VA – the homeland security component of the U.S. Joint Forces Command (JFCOM) that coordinates the land and maritime defense of the continental United States and military assistance (for operations such as disaster relief) to civil authorities; Joint Task Force (JTF) for Civil Support at Ft. Monroe, VA, which provides military support to civil authorities responding to weapons of mass destruction; and JTF Six at Ft. Bliss, TX, which supports law enforcement in counter drug activities within the United States. Currently NORTHCOM has few permanently assigned forces. JFCOM will provide forces to NORTHCOM as needed.

The President's FY2003 budget included \$81 million in operations and maintenance, military construction, and procurement funds to establish NORTHCOM. Additionally, the FY02 supplemental funding request included \$10 million to support the currently operating JTF Civil Support, the Homeland Security Directorate (HLS) in JFCOM, and the NORTHCOM transition team established to meet initial operational capability requirements scheduled to be in place prior to October 1, 2003.² NORTHCOM's estimated annual budget is roughly \$70 million.³

Many issues for Congress are emerging as NORTHCOM begins operations. Generally speaking, these questions can be divided into four overlapping areas: DoD issues, intra governmental issues, civil - military issues, and international issues.

Issues for Congress

DoD Issues. DoD questions generally center on three overlapping areas: organization, manning, and training/equipment. In a broad sense all of these topics fall under a long-standing framework governed by joint doctrine and overseen by the Secretary of Defense and the Chairman of the Joint Chiefs of Staff. NORTHCOM will likely rely heavily on this framework.

NORTHCOM unifies military command and effort within a single operational organization and may streamline DoD support to other agencies. How this arrangement for homeland defense will evolve is uncertain. Initial planning indicates NORTHCOM will establish a standard staff organization. Previously, SPACECOM and NORAD were run by the same commanding officer, and shared staffs with all but their operations and plans directorates. With NORTHCOM's responsibility to coordinate planning and operations for neighboring countries, will the operations and plans directorates of NORTHCOM and NORAD also merge? If so, will Canadian military personnel fill NORTHCOM staff billets or continue only in their present NORAD staff billets? Direct

² *Background Paper on Northern Command*. OSD Office of Legislative Liaison (undated).

³ Raquel Rutledge. "NorthCom Reinventing Defense." *Colorado Springs Gazette*. August 15, 2002.

day-to-day liaison with countries inside NORTHCOM's area of responsibility may improve relations and future operations. What positions might other nations' militaries fill in the new headquarters establishment?

Manning of DoD's unified commands is authorized by a DoD list of some 9,000 billets. Will NORTHCOM staffing require other organizations to reduce their staff? On October 1, 2002, DoD merged SPACECOM with the U.S. Strategic Command (STRATCOM). This merger will likely provide some, but not enough, billets for NORTHCOM. The Coast Guard and the National Guard can provide personnel experienced in homeland defense and interagency support. General Eberhart told the National Guard Association of the United States' 124th annual conference, "We can't have a Northern Command, we can't provide for the homeland defense and the homeland security of this great nation and this area of responsibility without the National Guard."⁴ To what extent will these two organizations be involved in NORTHCOM staff and under what budget allocation arrangements?

The joint officer training and joint duty requirements of active duty DoD military personnel are mandated by public law, P.L.99-443 (*Goldwater-Nichols Department of Defense Reorganization Act of 1986*). During peacetime, the National Guard does not fall directly under this framework. What joint training/education will National Guard personnel require to operate in the joint command environment? Will National Guard personnel be federalized during their NORTHCOM staff tours or will they remain under state control? If they operate under state control, how will that be organized? If not, how will National Guard personnel be identified for federal service? To ensure a pool of experienced staff the current joint tour is three years for DoD personnel. If Guard personnel are federalized, will their tours be limited to two years, codified by Presidential call-up rules or will they fall under different mandates?

NORTHCOM may initially be staffed with former SPACECOM personnel. These personnel tend to have primarily space-based backgrounds and specialties. How will these military specialties and services transition to meet the new command's requirements? What broad range of military specialties will comprise the final staff contingent? Will information operations play a large role in NORTHCOM? Some unified commands have combat-ready forces assigned to immediately respond to contingencies. For example, the European Command (EUCOM) "owns" the tactical air forces based in Europe, allowing it instant access to everything from F-16 and F-15 fighters to the KC-135 tankers and C-130 transports to relocate them in theater. NORTHCOM will already command three separate operating Joint Task Forces and the ongoing mission for continental air and coastal defense. Will JFCOM retain all U.S.-based forces or will NORTHCOM receive apportioned forces for rapid response? Will these tactical forces include special operations personnel?

NORTHCOM has yet to determine the exact force structure, training, and equipment required to satisfy its mission. NORTHCOM will likely begin by incorporating existing JTFs and ongoing missions in support of *Operation Noble Eagle*, the US-based homeland defense and civil support operations associated with the war on terrorism. However,

⁴ Master Sgt. Bob Haskell. "No Northern Command Without the National Guard, New Chief Says." *Armed Forces Information Service News Articles*. September 10, 2002.

NORTHCOM's tasks will be broader and more complex. What will be the complete list of NORTHCOM's "mission essential" tasks? How will National Guard tasks be incorporated? Undoubtedly, a closer relationship in the shared task of homeland defense will drive closer cooperation in day-to-day training and exercises. How will JFCOM and NORTHCOM incorporate these diverse forces in major joint exercises?

Interoperability is the watch word for both training and equipment for homeland defense. This interoperability must extend beyond fielded forces to their interagency counterparts, as civil support activities transition to defense or crisis management, then back to civil support. Equipment from communications to medical and transportation assistance has to be interoperable, and run by military personnel trained to work with local, state, and federal authorities. Will DoD and NORTHCOM bear the burden for this interoperability or will the cost be shared across agencies? Operations within America's borders dictate much more operational restraint with regard to use of deadly force. Will non-lethal weaponry play a greater role? If so, will the training focus shift to non-lethal weapons impact a unit's war-time readiness? Does this issue drive DoD toward apportioning forces for non-lethal operations?

Intra governmental Issues. The creation of NORTHCOM also raises important questions about how the command will interact with other federal agencies, as well as with state and local government entities. For example, in order to effectively help prevent terrorist attacks from occurring – whether by land, sea, or air – NORTHCOM will need to develop relationships with the Coast Guard, the Federal Aviation Administration, the Border Patrol, the U.S. Customs Service, the Immigration and Naturalization Service, and the Central Intelligence Agency. In order to effectively respond to terrorist threats or attacks in the United States, NORTHCOM will need strong ties with the Federal Bureau of Investigation (FBI), the Federal Emergency Management Agency (FEMA), and state and local emergency response agencies.⁵

Congress may be interested in the way in which these working relationships are structured. In defining the precise nature of these relationships, there is an inherent tension between competing values and interests. For example, there is a tension between the desire to make decisions rapidly while also ensuring that the decisions are based on accurate information and appropriate input from subject matter experts; between the desire to ensure necessary resources are available on short notice, while also ensuring that government efforts are not duplicative and wasteful; and between the desire to ensure a robust response by multiple governmental agencies, while also ensuring that those agencies don't overstep their respective authorities. Issues which might arise out of these tensions include: What role should the NORTHCOM commander have in the homeland security decision making process? To what extent will existing plans and procedures for

⁵ The current U.S. government plan for responding to terrorist threats or incidents which occur within the United States is the *United States Government Interagency Domestic Terrorism Concept of Operations Plan (CONPLAN)*, January, 2001. The CONPLAN designates DoD as a supporting agency to the FBI during the crisis management phase of a terrorist threat, and as a supporting agency to FEMA during the consequence management phase of a terrorist attack. See CRS Report RL30938, *Terrorism and the Military's Role in Domestic Crisis Management: Background and Issues for Congress*, by Jeffrey Brake, for a discussion of this subject. If Congress creates a new Department of Homeland Security, this relationship could change.

military assistance to civil authorities (such as FEMA, the FBI, and the proposed Department of Homeland Security) need to change?

How well do civilian agencies allocate resources to ensure coordinated training and interoperability of equipment with each other and DoD? How much control should these agencies have over military assets provided for their support? How much access should NORTHCOM have to information in the possession of other agencies? The answers to these questions will likely change over time, with the mechanisms put in place adjusted periodically in response to new experiences, threats, attitudes, and operational concepts.

Civil Military Issues. The mission of NORTHCOM also raises questions about the impact the command might have on civil-military relations, including legal, political, and cultural boundaries on the role of the military in American society. For example, in order to defend the U.S. from attack, NORTHCOM has a strong rationale for access to information collected by various intelligence and law enforcement agencies. However, at a certain point, such access could create the perception – or the reality – that the military is spying on U.S. citizens. What type of access should NORTHCOM be given to various types of sensitive data? What types of safeguards need to be established to ensure that this data is used properly?

There are also concerns regarding the longstanding restrictions on the use of military personnel for law enforcement purposes.⁶ Do these restrictions unduly limit the federal government's ability to prevent terrorist attacks? Should Congress modify these laws? On the other hand, wouldn't loosening the restrictions on military involvement in law enforcement be an affront to deeply held American beliefs about the proper role of the military? Couldn't this undermine popular support for the military as an institution, and thus inhibit the military's ability to defend the United States in more traditional ways? Indeed, is there a danger that even the currently permissible level of military support to civilian agencies might affect civil-military relations in a negative way? For example, if America were to suffer an ongoing stream of smaller scale terrorist attacks, would the regular participation of military personnel in consequence management efforts give Americans the sense that they were living in a militarized society? Might that perception lower public support for the military? On the other hand, is there any precedent for a more active role for the military in domestic affairs? If so, to what extent are those experiences relevant to contemporary events?

International Issues. NORTHCOM is charged with defense of all approaches – air, land, and sea – to the United States. Will NORTHCOM's mission require new relationships and increased coordination with U.S. neighbors? Through NORAD, DoD has had a long history of cooperation with Canada in terms of air and space surveillance and defense. Due to the former Cold War threat, much equipment and attention has been focused on a northern approach to the United States. Are the existing military-to-military relationships with Caribbean and Mexican authorities adequate to protect the United States from attacks originating from the south? Will the transition of responsibility from SOUTHCOM to NORTHCOM or JFCOM to NORTHCOM cause any problems? Do

⁶ For a detailed examination of these restrictions, see CRS Report 95-964 *The Posse Comitatus Act & Related Matters: The Use of the Military to Execute Civilian Law*, by Charles Doyle.

these countries adequately monitor their national airspace, considering the new threat environment? Can they effectively share information with NORTHCOM? Will new training and exercises be required with Mexican and Caribbean armed forces? How feasible, and what are the pros and cons of including these entities in NORAD?⁷

Defense Department leaders have said that NORTHCOM's geographic responsibility will include the contiguous waters of the Atlantic Ocean, Pacific Ocean, and the Caribbean Sea "out to a minimum of 500 miles" so it can defend in depth.⁸ This suggests that NORTHCOM will be interested in developments occurring in the territorial waters of both Canada, Mexico, and various Caribbean countries. How will NORTHCOM maximize visibility into these areas, minimize tension with foreign governments, and ensure unimpeded access? Adm. Vern Clark, Chief of Naval Operations, has said that maritime security for the United States requires a centralized command responsible for patrolling U.S and Canadian waters. "I'm convinced" he said, "we need a NORAD for maritime forces."⁹ The Canadian government, however, does not currently see the need for such an arrangement.¹⁰ What are the implications of these divergent opinions?

NORTHCOM's mission also brings it into contact with countries that are not contiguous to the United States. NATO's Supreme Allied Commander Atlantic (SACLANT) is tasked to "preserve the peace, security and territorial integrity of Alliance member states," in Atlantic waters.¹¹ NORTHCOM will be responsible for protecting Atlantic waters between the east coast of the United States and 45°W longitude, and EUCOM will be responsible for Atlantic waters east of this point. What coordination is required between NORTHCOM, EUCOM and SACLANT? May tension arise from their sometimes differing responsibilities? As NATO's only strategic commander based in the United States (Norfolk, VA), SACLANT today plays an important role in maintaining a strong politico-military link between Europe and North America. With NORTHCOM's creation, SACLANT will move to EUCOM. How will that relationship be affected?

Radiological, chemical, and biological attacks can transcend national boundaries. The consequences of such attacks on Canadian or Mexican cities could be experienced in U.S. border towns such as Buffalo, El Paso, San Diego, and Detroit. What should NORTHCOM do to plan, train, conduct exercises, help monitor diseases, and effectively respond to such incidents at the international level? Are mechanisms currently in place to ensure seamless cooperation with U.S. neighbors to address such attacks?

Many of these issues will continue to unfold as NORTHCOM matures. In the meantime, DoD has asked the Defense Science Board to provide some clarity and study DoD's role in homeland defense. This report may be of interest to Congress.

⁷ The NORAD Command Agreement is renegotiated every five years. The next negotiation is scheduled for 2005, which may be an opportunity for exploring adding new countries to the pact.

⁸ U.S. Department of Defense News Transcript. "Special Briefing on the Unified Command Plan." *Federal News Service*. April 17, 2002.

⁹ "NORAD At Sea." *Aerospace Daily* August 19, 2002.(un-attributed)

¹⁰ Rick Mofina. "Canada Won't Join NORAD-like Land-Sea Force." *Ottawa Citizen*. August 15, 2002. p.1.

¹¹ NATO Handbook. NATO Office of Information and Press. Brussels, Belgium.P.264-265.