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The National Guard and Homeland Security

Bernard Rostker

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The National Guard and Homeland Security

**Statement of
Bernard Rostker*
Senior Fellow
RAND Washington Office**

**Before the
U.S. Senate Judiciary Committee
Subcommittee on Technology, Terrorism and Government
Information
United States Senate
December 13, 2001**

Madam Chairman and members of the committee it is my pleasure and honor to be here today to discuss the important topic of the National Guard and homeland security. While my remarks are based upon observations made during my tenure as a senior official of the Department of Defense, and as a senior researcher at RAND, they are my own and do not necessarily represent the views of the Department of Defense or RAND.

During 1994, I was a member of a team at RAND that carried out a congressionally mandated study concerning the ability of the National Guard “to fulfill both its State and Federal missions.” The study was mandated under Public law 103-160, 107 Stat. 1655, November 30, 1993. As part of that study we visited a number of states that had recently employed their National Guard in support of “consequence management” activities resulting from domestic emergencies and disasters, as well as civic action activities ranging from work with at risk youths to drug interdiction. During our field work we met with State Adjutants General and emergency coordinators. We interviewed unit commanders and ordinary Guardsmen. We met with officials of the Army, the Air Force, and the National Guard Bureau and visited their readiness centers in

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Arlington, Virginia and at Andrews Air Force Base. In one State we even met with the Governor. RAND published the results of this study as a report, MR-557-OSD, *Assessing the State and Federal Missions of the National Guard*.

I came away from this project with a deeper understanding and appreciation of the value of the National Guard, and for the dedication of the men and women who serve their State and Nation. The National Guard is an asset in both war and peace.

Several years later I found myself serving as the Under Secretary of the Army. In that capacity I assisted the Secretary of the Army with his responsibilities as the Defense Department's executive agent for military support to civil authorities. My field visits in 1994 served me well, giving me a much better appreciation for the use of the National Guard and the Federal Reserves in support of operations other than war in the United States.

As I noted the National Guard is a valuable asset in both war and peace. Today's missions for homeland security, while supporting our world wide effort to combat terrorism are more like traditional State missions under Title 32, than they are like combat missions under Title 10. Based upon my experience here are a number of points that I can recommend to you and the Committee as you consider the role of the National Guard and the need for any new legislation.

- The best solutions are local. My best advice is solve the problem at the lowest possible level. Federal authorities must remember that the National Guard is not the regular Army or Air Force. Guardsmen have chosen to be part-time soldiers and airmen, respect their decision.
- The National Guard is federalism at work, make the most of it. Don't cut the Governors or their State Adjutants General out of the action, use them. The National Guard is a unique asset, particularly when it remains in State status under Title 32.

As agents of their State they are not subject to the provisions of the federal *posse comitatus* statute, and can be granted police powers by their Governors.

- The mission should be given to the State Adjutant General. He or she is in the best position to determine how to use effectively and efficiently the manpower of his or her State National Guard. In my field visits I was impressed by how well the State Adjutants General moved Guardsmen in and out of active service to facilitate the mission and meet the other responsibilities of their part time soldiers and airmen.
- The commanders of the National Guard are experts in working with State and local government and organizations. They know the people and can relate to local conditions better than a federal force.
- The National Guard organizations of the states have learned to work together in mutual aid compacts. This could be strengthened with national compacts, rather than just regional compacts. However, the system of compacts makes the whole greater than the sum of its parts.
- Coordination and standardization can and should be accomplished through the National Guard Bureau and its readiness centers.
- Individual Guardsmen called to State active duty should have the full protection of the Soldiers and Sailors Relief Act. However, the best way to protect a Guardsman is to give the State Adjutant General the flexibility to employ his personnel as he sees fit. He is in the best position to protect his troops. Relying on statute will, in the long run only antagonize employers. Flexibility is the answer. The State Adjutants General are the key.

Again, thank you for the opportunity to present my views. I am ready to answer any questions you may have.