

**FUNDAMENTALS OF
HOMELAND SECURITY**

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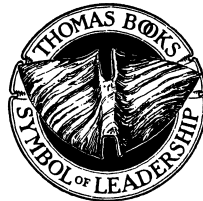
FUNDAMENTALS OF HOMELAND SECURITY

An Operations Perspective

By

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*This text is dedicated to the passengers aboard Flight
93 on September 11, 2001; they opted
to stand and act rather than sit and cry.
Their launching words, "Let's Roll", describe
the motivation, the driving power that propels actions
to secure the homeland.*

PREFACE

Homeland security is a term that most Americans had never heard at the beginning of this century. The term had only occasionally surfaced in American military planning prior to that time, usually in the context of an analysis of military and police forces in another country. This began to change in the 1990s and by early 2001, documents were circulating in both the civilian and military planning circles which visualized six “homeland security” missions. These six missions were seen as mostly separate from, but complementing and overlapping, the usual military and police tasks assigned to various organizations within the governmental structures of the United States. This planning and analysis process was still in progress when the attacks on the World Trade Center and the Pentagon occurred in September of that year. The planning process was interrupted; implementation had to begin immediately. Homeland security actions started and it suddenly became a term that everyone heard and spoke, but few really understood. Since 2001, a radical reorganization of federal, state and local government agencies has produced departments of homeland security; a variety of similar governmental departments oriented on emergency operations, intelligence analysis or terrorism; and a multitude of laws, budgets, grants, training standards, and so forth. Some of these lasted barely long enough for the ink to dry on their implementing documents before being changed again. The result has been confusing to the average planner; the average citizen trying to understand this phenomena is guaranteed to get a headache. However, the rate of change is slowing; the concepts and organizations for homeland security are stabilizing. It is now possible to lay out the fundamentals in a reasonably reliable fashion to increase the comprehen-

sion for both the interested citizen and the person entering the professional arena encompassing homeland security.

This text introduces the fundamental terminology, missions, authorities, organizations, roles, functions, concepts, and so forth that affect what is currently called homeland security in the United States. It takes an operations perspective throughout the examination and attempts to identify the essential knowledge and skills needed by someone who intends to deal with homeland security issues and operations. In one respect, this is a formidable task; the scope of homeland security defies simplification. It is truly a multidisciplinary field. Typical operations cross boundary lines of all types in a variety of ways. A broad base of knowledge of both the private and public sectors is required to operate effectively. The ability to identify basic operational flow and apply it in varied situations is critical to success as is the ability to recognize the overlaps, linkages, intersections, or commonality of activities. A practitioner in this field must know the authority of an organization, its structural strengths and limitations, its operational patterns, and its influences or impacts upon other organizations and upon the public. The effective practitioner must know how to think both “inside the box” and “outside the box,” and when to do each. It is a tall order. Homeland security demands quick, effective organization to operate in emergencies and simultaneously defies it by the limited time frame and sheer scope of the problem. Only a solid understanding of the fundamentals allows a practitioner to develop the critical ability to analyze and implement homeland security operations effectively. This text is intended to be the first step in acquiring that critical operational ability.

J.W.E.

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Chapter 1

INTRODUCTION TO HOMELAND SECURITY

Homeland security is a term of somewhat ambiguous meaning. If you attempt to “look it up” in the dictionary or on the internet, you will find no clear definition. The term developed from discussions within national defense planning groups. Originally, the term was “homeland defense” which was used in reference to planning for defense of the interior of the United States. As the scope of the defense of the interior was expanded and clarified, the term was changed to homeland security. This recognized that it incorporated what had been referred to as civil defense and industrial security in planning circles, both public and private sector actions, disaster planning, emergency response, and so forth. To understand the true meaning of the term, it is necessary to examine its constitutional basis, its development in the U.S. legal code, and its mission and purpose outlined in various executive orders and documents.¹

THE LEGAL FOUNDATION OF THE COMMON DEFENSE SERVICES

Since the inception of the United States, the government has operated “. . . to form a more perfect union, establish justice, insure domestic tranquility, provide the common defense, promote the general welfare, and ensure the blessings of liberty . . .”² to the people as its basic

1. Nicholson, *Homeland Security Law and Policy*, Chapter 1.

2. Constitution of the United States, Preamble.

purpose. The founding documents laid out basic guidelines and structures which affect the provision of these common goals and the development of the services necessary to provide them to the American society. The provision of the included common defense goals (justice, tranquility, common defense) occurs, primarily, through the military services, the civilian public sector emergency services, and the private sector emergency or security services. Each of these services has limited, different authority and a consequent limited, different scope of activity with all generally working to fulfill the same purpose. These different limitations have influenced the development of each service and its primary components: organizational structure (personnel and equipment), operational patterns, and support requirements. Simultaneously, the common purpose has worked to produce similarities among the three services. This dual-influence process has created a more refined set of parameters within which each service operates, but has also confused when, how, where, and why the three services operate, overlap, and interact in support of the common purpose. In order to understand their interrelationship and its impact, let us examine the pertinent basic authority structures, historical development, and current parameters. The result can be used as a basis for projecting the limitations and capabilities for each of these services in furtherance of justice, domestic tranquility, and common defense to achieve homeland security.

The authority and structure of the military services is founded clearly in the Constitution. The President is delegated the responsibility to command the army and navy as well as to appoint its officers.³ The Congress is delegated the responsibility to raise and support armies, to provide and maintain a navy, to regulate the land and naval forces, to declare war, to finance the common defense, to define offenses against the laws of nations, and to make laws necessary to carry out these powers.⁴ This basic structure has been furthered in the United States Code by the creation of the Department of Defense with its various military departments, personnel regulations, acquisitions regulations, and so forth. The only other significant limitation of the military services is that contained in the Posse Comitatus Act⁵ which prohibits members of the Army and Air Forces from being used for civilian law enforce-

3. Constitution of the United States, Article II, Section 2, Paragraphs 1 & 3 and Section 3.

4. Constitution of the United States, Article I, Section 8, Paragraphs 1, 11-14, & 18.

5. 18 USC 1385.

ment. Its initial purpose is presumed to have been to prevent local sheriffs from summoning soldiers as a posse, but it is used and interpreted differently in this era. Now it is widely presumed by the average person that military personnel are totally prohibited from enforcing civilian law, a presumption which is not accurate. There are circumstances where it is appropriate and legal for them to do so.⁶

The second group to examine is the militia. The U.S. Constitution does not directly authorize or establish a militia; it simply assumes that the militia already exists. It authorizes Congress to provide for calling the militia forth; organizing, arming and disciplining it; and for governing such part of it as is in federal service (as happens when the militia is called forth).⁷ The Constitution reserves the appointment of militia officers and the actual training of the militia to the States, but specifies that the Congress shall prescribe the discipline for the militia.⁸ The actual legal foundation of the militia structure is in the United States Code.⁹ This legal foundation is repeated, and, in some cases, amplified in the constitutions and statutes of the various states within the union. Basically, the legally-defined militia of the United States consists of an organized militia (National Guard and Naval Militia) and an unorganized militia (all other able-bodied males aged 17–45 except those specially exempted).¹⁰ Most states retain this structure in their individual Constitutions and statutes with some adding other classifications such as a military reserve (retired members of the Armed Services, etc.). The organized militia is included in the definition of the Reserve Components of the Armed Forces,¹¹ but the unorganized militia is not. This distinction is important when examining other portions of the United States Code or state statutes.

The basic constitutional authority to call forth the militia is delineated in the United States Code¹² and supplemental federal regulations. The organization, location and command of the organized militia is basically established within the United States Code.¹³ The training of the organized militia is also addressed¹⁴ by the United States

6. 10 USC 331-335, 10 USC 375, 10 USC 382, and 18 USC 831.

7. Constitution of the United States, Article I, Section 8 Paragraphs 15 & 16.

8. Constitution of the United States, Article I, Section 8, Paragraph 16.

9. 10 USC 311.

10. 10 USC 332.

11. 10 USC 261.

12. 32 USC 102.

13. 32 USC 103–104.

14. 32 USC 501.