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Stopping the Flow of Illicit Drugs in Arizona by Leveraging State, Local and Federal Information Sharing

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OVERVIEW

Madame Chair, members of the committee, thank you for inviting me here today. My name is Brigadier General Jose Salinas; I am the Director of the Joint Staff for the Arizona National Guard. It is a privilege to be here today providing you information regarding the Arizona National Guard's role in stopping illicit drugs from moving into and through our state.

The National Guard has a long and honored history of service to the country. Although the present-day National Guard was established with the Militia Act of 1903, the National Guard's heritage can be traced back to December 13th, 1636, when the Massachusetts legislature ordered the formation of the first state-run militia. Since that day, the National Guard has remained ready to answer the nation's call during times of emergency and conflict. In honor of that great tradition, Soldiers and Airmen of the Arizona National Guard continue to stand ready to answer that call. Since September 11, 2001, over 9,000 of our Arizona Soldiers and Airmen have been mobilized, and served, or are currently serving in harm's way in the defense of our great nation.

The National Guard is unique in that it serves a dual mission and must be ready and capable of performing both its state and federal mission. In addition to serving the nation on a federal deployment or mobilization, members of the National Guard also serve the state, ready to be called upon by the Governor to assist our civil authorities in response to natural disaster or emergency, and to protect the lives and property of the citizens of Arizona. Our National Guard Soldiers and Airmen reflect the highest levels of professionalism and dedication. They stand ready, be it at home or abroad, to answer the call to defend our great nation.

To understand the differences and distinctions of these dual missions, it is first important to understand the various authorities that Soldiers and Airmen can operate under, as these directly impact mission sets, command and control, and ultimately organizational readiness. There are three different

statutes that a National Guard Service member can operate under while performing military duties: “State Active Duty,” “Title 32,” or “Title 10.”

Under State Active Duty status, the National Guard is, at all times, a state government entity, operating under the command and control of the Governor of Arizona and The Adjutant General. National Guard forces under State Active Duty are paid with state funds and perform duties authorized by the Governor and in accordance with state law. While National Guard forces are in a State Active Duty status, the Posse Comitatus Act (18 U.S. Code, § 1385), which restricts federalized troops from performing law enforcement duties, does not apply because they are not under the command and control of the federal government. The Posse Comitatus Act, along with its supporting legislation and regulations, precludes federal military forces from acting as a primary instrument of law enforcement. It has come to symbolize the separation of civilian affairs from military influence. Nonetheless, National Guard troops in a State Active Duty status may participate in law enforcement duties in accordance with the applicable provisions of state law and as directed by the Governor of Arizona.

The U.S. Constitution also authorizes the National Guard to operate under state control, but in the service of the federal government - “Title 32.” Title 32 of the U.S. Code, authorizes the use of, and provides federal funds to National Guard forces performing a federal mission while under the command and control of their respective Governor. For example, National Guard forces were deployed by Governors using federal funds and in compliance with prescribed federal operational standards to our nation’s airports following the terrorist attacks of September 11, 2001. Although federal appropriations were used to fund National Guard forces for a federal mission, Posse Comitatus did not apply because National Guard forces were not under the command and control of the President, but rather with their respective Governors.

In addition to State Active Duty and Title 32 Status, National Guard service members can also be in a “Title 10” status. National Guard service members under Title 10 U.S. Code are federally funded and are placed under federal control for national defense purposes. The federal government has the authority to “federalize” National Guard forces to mobilize and deploy for federal missions. These service members are commonly known to be in “Title 10 or active duty status,” meaning the President and federal government solely command and control units under this title. This approach places the federalized National Guard forces in Title 10 Status under the Command and Control of the President, the Secretary of Defense, and Combatant Commander. It severs the National Guard’s relationship with its state Governor.

The Arizona National Guard is tasked, under both state and federal authority with five additional missions: Emergency Response, Counter-Drug, Counter-Terrorism, International Programs, and Southwest Border security. Through the execution of these missions, the Arizona National Guard has developed key relationships with various federal, state, and local agencies. Having our Soldiers and Airmen working with law enforcement provides a mutually beneficial relationship. Beyond the measureable results of this combined effort, both parties stand to profit from the sharing of information and training. In addition to the opportunity to use and hone their military skills, Soldiers and Airmen gain additional skills by working with federal, state, and local law enforcement and other community organizations. This makes them better Soldiers and Airmen, and improves their units when they are mobilized for overseas deployments. Yet another quality of the National Guard is this ability to utilize their unique civilian expertise. For example, several of our Soldiers and Airmen work full-time for the very agencies we support. However, it is the Arizona National Guard's cooperative missions that provide the greatest opportunities for this mutually beneficial cross training.

ARIZONA JOINT COUNTER NARCO/TERRORISM TASK FORCE

Authorized by the National Defense Authorization Act in 1989 under Title 32, Section 112 of the U.S. Code, the National Guard Counterdrug Program authorizes up to 4,000 National Guard members to perform drug interdiction and counterdrug activities in all 54 states and territories. The Arizona National Guard's Counter Drug program, referred to as the Joint Counter Narco/Terrorism Task Force, began operations in 1989 and is currently the third largest behind California and Texas. The mission of the Joint Counter Narco/Terrorism Task Force is to provide military counterdrug and drug demand reduction support to local, state, and federal law enforcement agencies and community based organizations. For the past 22 years, the highly skilled Soldiers and Airmen of the Joint Counter Narco/Terrorism Task Force have provided unsurpassed operational counterdrug support, and continue to offer the continuity necessary to foster and maintain positive relationships with over 70 federal, state, and local drug enforcement agencies and community organizations across the State of Arizona. These relationships have resulted in significant contributions to counter-narcotic operations along the Southwest Border.

The Joint Counter Narco/Terrorism Task Force is currently staffed with 76 Army National Guard Soldiers, and 38 Air National Guard Airmen, totaling 114 personnel serving in Full Time National Guard Duty-Counter Drug status in accordance with United States Code, Title 32, Section 112. As stated earlier, Soldiers and Airmen of the National Guard serving under state control are not subject to the provisions set forth by the Posse Comitatus Act. Joint Counter Narco/Terrorism Task Force members have been given authorization to perform "Support Only" Counter Drug duties. It is this support role that brings the

greatest benefit to our partners. The Joint Counter Narco/Terrorism Task Force provides Department of Defense specific skill sets in support of civilian agencies, enhancing their capabilities, and at the same time allowing them to devote their skill sets to their primary mission.

The Joint Counter Narco/Terrorism Task Force provides support to federal agencies such as Customs and Border Protection, Homeland Security Investigations, Drug Enforcement Administration, Federal Bureau of Investigation, and the Arizona High Intensity Drug Trafficking Area Center. Along with these federal agencies, the Joint Counter Narco/Terrorism Task Force provides counter drug support to state and local agencies such as Arizona Department of Public Safety, Arizona Counter-Terrorism Information Center, Metro Intelligence Support and Technical Investigation Center, and various county and city law enforcement agencies. Currently, approved Joint Counter Narco/Terrorism Task Force support missions include the following categories:

Investigative Case and Analyst Support: Embedded analysts in law enforcement offices throughout the State of Arizona serve to improve information sharing between federal, state, and local agencies. These trained personnel assist assigned law enforcement agencies in researching and analyzing case information and producing law enforcement intelligence products. This investigative case and analyst support allows for better utilization of law enforcement resources, and enables the supported agencies to make effective strategic decisions based on accurate and reliable intelligence. During FY11, 58 personnel provided investigative case and analytical support to our law enforcement partners, resulting in \$121,986,032 in seized illicit drugs, currency, weapons, and other property.

Communications Support: Technical experts are assigned to law enforcement agencies such as Customs and Border Protection for use at their stations along the international border and to assist with command and control operations. This support requires the mastery of many complex monitoring devices, cameras, ground sensors, and voice communication equipment and directly enhances officer safety in the field. In FY11, 13 personnel provided communications support that assisted our law enforcement partners in the seizure of 10,521 pounds of marijuana valued at \$5,524,043.

Ground Reconnaissance: The Joint Counter Narco/Terrorism Task Force's ground reconnaissance teams support local, state, and federal law enforcement agencies with uniquely suited advanced optical technology. These teams operate covertly, and always in support of law enforcement in field conditions to provide military specific skills to supported agencies' interdiction efforts against the flow of illegal drugs that enter the United States between Arizona's Ports of Entry. In FY11, the 21 members of Arizona's Ground Reconnaissance teams were instrumental in the seizure of over 27,370

pounds of marijuana, 20 weapons, and assorted confiscated equipment and currency with a total value of \$17,867,578.

Aerial Reconnaissance: The Joint Counter Narco/Terrorism Task Force employs both the OH-58 helicopter and RC-26 fixed-wing aircraft as aerial observation assets. Arizona Army National Guard OH-58 helicopters are available to support law enforcement during both day and night operations using forward looking infrared systems, thermal imaging reconnaissance, Aviator's Night Vision Imaging System, live video downlink, and illumination systems. The Arizona Air National Guard RC-26 aircraft is employed as a regional asset for high value counter drug and narco-terrorism cases. This fixed-wing platform provides superior standoff capability for covert operations. Both aerial assets provide enhanced officer safety, improved interdiction operations in remote drug corridors, and other forms of valuable aerial command and control capabilities. During FY11, Aerial Reconnaissance support resulted in the seizure of illicit drugs, currency, weapons, and other property valued at \$30,231,477.

Civil Operations, formerly known as Drug Demand Reduction Support: Civil Operations/Drug Demand Reduction teams work closely with community based organizations and support the specific needs of local communities and school systems. All Civil Operations/Drug Demand Reduction support efforts are focused on identifying, supporting, educating, and mentoring/coaching Arizona youth in collaboration with local community organizations. Whereas other Joint Counter Narco/Terrorism Task Force missions focus on combatting illicit drugs through drug trafficking interdiction, Civil Operations/Drug Demand Reduction focuses on reducing the demand for those drugs. Operating in line with the 2012 National Drug Control Strategy, the Joint Counter Narco/Terrorism Task Force utilizes Civil Operations/ Drug Demand Reduction support to assist those community organizations that have opened a second front against the drug traffickers moving through our State. Civil Operations/Drug Demand Reduction Support places some of our nation's heroes in front of our children and young adults. Our Soldiers and Airmen come from a variety of backgrounds, and as National Guard members, live in the communities they support. This shared background allows our Civil Operations/Drug Demand Reduction Soldiers and Airmen to relate to the children they mentor. It allows them to not just see random children, but children who are from the same places they live and work in everyday. The Soldiers and Airmen of Civil Operations/Drug Demand Reduction are trained leaders and mentors.

The nature of the Civil Operations/Drug Demand Reduction mission makes it difficult to measure success. There is no way to track the decisions that these children will make in the future. However, in FY11, Civil Operations/Drug Demand Reduction, through their involvement in over 200

community events, was able to engage, educate and mentor 52,200 of Arizona's children. Despite the vital role Drug Demand Reduction has played in the drug prevention education of our children, this mission is currently projected to be eliminated, given the resource constraints of the Department of Defense's proposed FY13 budget.

The combined capabilities of the Arizona Joint Counter Narco/Terrorism Task Force have made significant contributions to the drug interdiction efforts of the federal, state, and local law enforcement agencies working together to stop the flow of illicit drugs into Arizona. In FY11, Joint Counter Narco/Terrorism Task Force missions directly contributed to law enforcement operations resulting in seizures of 145,759 pounds of marijuana (\$93,394,817), 1,918 pounds of cocaine (\$15,633,625), and 1,872 pounds of methamphetamine (\$27,152,337). A total value of all seized drugs (including those not listed) resulted in \$140,887,700 in drug seizures. The addition of \$35,607,723 in non-drug seizures (guns, vehicles, illicit cash) combined to equal a total of \$176,495,423 that did not reach the hands of drug traffickers as a result of the combined effort of the Joint Counter Narco/Terrorism Task Force and their supported agencies. Given the Joint Counter Narco/Terrorism Task Force's FY11 budget of \$9,344,745.00, the amount in seizures represents a 1,889% return on investment.

The Arizona Joint Counter Narco/Terrorism Task Force has shrunk over the years from a program consisting of well over 300 personnel in the early 1990s, to a program of approximately 115 today. Many of these reductions have been the result of reduced funding, and redefined mission sets; however the recent economic challenges facing the nation have begun to have a major effect as well. According to the President's Fiscal Year 2013 budget request, the Department of Defense Counter Narcotics budget of \$1.1 Billion represents a loss of \$100 million in OCONUS and CONUS drug interdiction activities. \$75 million of the \$100 million reduction is projected to come out of the National Guard Counterdrug State Plan's budget. This \$75 million reduction represents a 42% loss of the National Guard's Fiscal Year 2012 budget.

The Department of Defense's counter narcotic support to the National Guard Counterdrug Program decreased gradually from 2003 to 2012. These gradual reductions were small enough that the Joint Counter Narco/Terrorism Task Force leadership could realign resources to gain optimum strategic advantage. In FY13, proposed budget support to the National Guard Counterdrug Program was reduced dramatically to a historic low of 9% of the Department of Defense's counter narcotic budget from 24% in FY12. This reduction will significantly degrade the National Guard's ability to support its congressionally mandated mission in support of the National Drug Control Strategy. The projected reduction in funding will result in over 1,100 fewer National Guard members across all 54 states and

territories. This reduction translates to approximately 4,100 fewer missions and 4,000 fewer flying hours supporting counter-narcotic operations against the sizable, highly adaptive, organized drug cartels and transnational criminal organizations, aiming to exploit America's borders and communities.

The impact to the Arizona Joint Counter Narco/Terrorism Task Force is devastating and will result in a 47% reduction in force from 114 personnel in FY12, to 60 personnel in FY13. This represents a 60% reduction from 2011 personnel levels.

Potential loss of personnel in FY2013 by mission set:

- Intelligence Analyst - Loss of 14 personnel (30% reduction)
- Communications support - Loss of 9 (100% reduction)
- Ground Reconnaissance - Loss of 9 (39% reduction)
- Aerial Reconnaissance - Loss of 3 (33% reduction)
- Drug Demand Reduction - Loss of 11 (92% reduction)

A potential loss of \$62,248,318 in seizures of drugs, weapons, vehicles, cash, and other property as a result of a \$3,793,529 reduction in funding from FY12 to FY13.

ARIZONA BORDER OPERATIONS - HISTORICAL PERSPECTIVE

Geographically speaking, Arizona has a total area of just over 113,998 square miles and is the sixth largest state in the union. Arizona has an estimated population of well over six million. Arizona shares 389 miles of international border with Mexico and has seven major ports of entry. Found between Arizona's ports of entry are a variety and combination of barriers that include pedestrian fencing, vehicle fencing, Normandy barriers, triple strand barbed wire fencing and cattle guard crossings located on the Tohono O'odham Indian Reservation only. The sovereign territory of the Tohono O'odham Nation consumes 75 miles (28%) of the Arizona/Mexico border. Nearly one third of this reservation extends south directly into Mexico. The Tohono O'odham Nation does not acknowledge the international border between the United States and Mexico, and residents living on tribal lands in Mexico can traverse freely at any time.

OPERATION JUMP START (JUNE 2006 - JULY2008)

Operation Jump Start was a presidentially declared, two-year, 1.2 billion dollar program, spread across the four Southwest Border States. The mission required 6,000 National Guard members the first

year, and 3,000 the second year. The Department of Homeland Security and Customs and Border Protection were allocated forces based on their assessed needs that resulted in Arizona receiving 40% of the forces; the largest percentage of the four Southwest Border States. The goal of Operation Jump Start was to augment Customs and Border Protection with additional manpower for administrative and operational assistance missions, alleviating Border Protection agents of these responsibilities and allowing those agents to be sent back out to the field where they were needed most. Guard members from 51 of the 54 States and territories served in Arizona performing duties that included Entry Identification Teams, camera operators, logistical support, aviation support and engineering support. In total, 17,750 personnel participated on the mission. These personnel were comprised of individual volunteers, sourced unit rotations, and unit annual training rotations. During the first year of Operation Jump Start, an average of 2,400 National Guard personnel conducted operations in support of law enforcement efforts in Arizona. That number was reduced to 1,200 personnel during the second year.

From data collected from all four Southwest Border States, Operation Jump Start resulted in the seizure of approximately 321,625 pounds of marijuana and cocaine worth nearly \$900,000,000. The mission was also responsible for 176,721 alien apprehensions, 1,116 vehicle seizures, and \$80,688 in currency seizures. In Arizona, engineering support created 23.5 miles of permanent vehicle barriers, 43 miles of temporary barriers, 24.5 miles of primary fence, 9.1 miles of secondary fence, 5 miles of road construction, and 57 miles of road improvement. The mission ended in July, 2008.

OPERATION PHALANX PHASE ONE (JULY 2010 - FEBRUARY 2012)

On May 25, 2010, the President directed the temporary use of up to 1,200 National Guard personnel on the Southwest Border to support Department of Homeland Security requirements. Arizona was authorized 560 of the 1,200 personnel for the mission which equates to 46% of total mission personnel. Like Operation Jump Start, National Guard personnel are funded under U.S. Code Title 32 § 502(f), in accordance with the published Department of Defense order. Operation Phalanx supports both Customs and Border Protection and Homeland Security Investigations by supporting three key mission sets; Entry Identification Teams, Video Surveillance System support, and Intelligence Analysis.

Of the 560 personnel initially authorized for Operation Phalanx in Arizona, 504 personnel were tasked to support entry identification sites that operated on a 24-hour basis in close proximity to Arizona's Southern border. Soldiers and Airmen staffed 25 overt Entry Identification Team sites across four stations in the Tucson sector. Due to increased threat and violence along the international border,

Arizona National Guard personnel were armed and assumed a higher arming status than similar missions during Operations Jump Start. Rules for the use of force were clearly defined, published, and provided to each service member on the mission.

Phase One of Operation Phalanx continued through 29 February 2012, with operations in Arizona costing \$48.7 million. The mission resulted in 35,628 observations leading to 19,778 apprehension assists with 87,035.49 pounds of marijuana being seized. The value of the marijuana seized exceeded the cost of Arizona's portion of the mission by \$30 million. As a result of the mission, Homeland Security Investigations saved an estimated 83,160 manpower hours, representing an estimated \$3.2 million in savings to the agency.

OPERATION PHALANX PHASE TWO (MARCH 2012 - PRESENT)

In December 2011, the Department of Defense announced National Guard personnel supporting the Department of Homeland Security would be reduced from 1,200 to no more than 300 personnel, and included a change in mission. In addition to continuing the intelligence analyst mission, the National Guard transitioned from a ground observation role to an aerial reconnaissance mission. Given the new mission scope, there are currently 52 personnel conducting aerial surveillance operations in support of Customs and Border Protection. This aerial task force utilizes six OH-58 helicopters equipped with advanced aerial surveillance capabilities organic to the military. In addition to National Guard aviation assets, there are 15 personnel assigned as intelligence analyst providing support to Homeland Security Investigations at offices in Phoenix, Tucson, and Yuma. For the current portion of Operation Phalanx, Arizona has an authorized strength of 77 personnel.

The Soldiers and Airmen of Operation Phalanx continue to work closely with supported agencies to better integrate efforts and resources. Through interagency collaboration, greater information sharing is emerging, enabling the employment of assets in a more deliberate manner with higher levels of effectiveness. The development of techniques, tactics, and procedures is ongoing and is producing favorable results.

Since initiation of the second phase of Operation Phalanx, Aviation operations in Arizona have executed a total of 953 flight hours. Additionally, the task force has been credited by Customs and Border Protection in assisting with 2,457 observations, leading to 1,875 apprehension assists resulting in the seizure of 22,720 pounds of marijuana.

USNORTHCOM AND JOINT TASK FORCE NORTH

USNORTHCOM was established on October 1, 2002 to provide command and control of Department of Defense homeland defense efforts, and to coordinate Defense Support of Civil Authorities. Operating under the control of USNORTHCOM is Joint Task Force North. Joint Task Force North's mission is to support our nation's federal law enforcement agencies in the identification and interdiction of suspected transnational threats within and along approaches to the continental United States. In the execution of this mission, Joint Task Force North has designated the Southwest Border as an area of high priority, and has designated Arizona's border area as a primary focus.

Like the Joint Counter Narco/Terrorism Task Force and other National Guard Southwest Border initiatives, Joint Task Force North supports federal law enforcement agencies by providing Department of Defense capabilities. However, Joint Task Force North forces are restricted by the Posse Comitatus Act to only operate in a civil support role. The performance of these support roles offer tremendous training opportunities for federal active duty and reserve units, allowing them to hone military skills while providing valuable support to our federal law enforcement agencies.

Given the similarities in mission, the Arizona National Guard and Joint Task Force North continue to develop their partnership. Recent discussions with Joint Task Force North have brought to light several possible benefits of a closer working partnership. Such a partnership could serve to create valuable training opportunities for our Soldiers and Airmen, while providing much needed support to our federal, state, and local law enforcement agencies. This dialog serves to show that all military organizations will continue to pursue avenues that will ensure the highest level of service and support to the nation.

The National Guard in a Title 32 status is the only Department of Defense provider capable of fully supporting domestic law enforcement agencies in the fight against illicit drugs and transnational threats to the homeland due to its exemption from the Posse Comitatus Act. Congress has repeatedly demonstrated its recognition of both the capabilities and efficiencies that the National Guard brings to the counterdrug fight, while simultaneously providing training and operational experience for National Guard personnel. The National Guard has played a crucial role in securing our borders and stopping the flow of illegal drugs into Arizona and our nation. Throughout Operation Jump Start and Operation Phalanx, our Soldiers and Airmen displayed dedication and professionalism in their support of federal law

enforcement. The Arizona National Guard is proud to have had the opportunities to serve our nation and our state during these border security missions, and will always be ready to continue this service.

Before closing, I must impress upon you again, the significant experience and strategic capabilities that Arizona's Joint Counter Narco/Terrorism Task Force can offer to our federal, state, and local law enforcement agencies. The Joint Counter Narco/Terrorism Task Force's abilities and the high quality of support they provide is the result of a partnership built over 22 years. In a testimony to your committee on March 15, 2011, the Arizona Adjutant General, Major General Hugo Salazar stated that military support of law enforcement would be best served by increased funding to the Joint Counter Narco/Terrorism Task Force in lieu of temporary border security missions like Operations Jump Start and Phalanx; providing adequate funding to the Joint Counter Narco/Terrorism Task Force is far more economical. General Salazar argued that increased support would allow law enforcement elements to more effectively synchronize, plan, and integrate National Guard resources and personnel, knowing they will have a sustained and predictable level of support for an extended period of time. The Arizona Joint Counter Narco/Terrorism Task Force offers proven effective and efficient support of our law enforcement agencies, and does so by presenting a very limited military presence. Only through continued and consistent funding will our law enforcement partners continue to be able to trust in and utilize a powerful resource such as the Joint Counter Narco/Terrorism Task Force. For our federal, state, and local law enforcement agencies to continue to effectively combat the movement of illicit drugs into and through Arizona, they must do so with a united front and consistent resources.

Once again, I appreciate the opportunity to be here today. The Arizona National Guard is an organization committed to our nation's safety. More importantly, it is an organization whose citizen Soldiers and Airmen will continue to train, prepare, and stand ready to serve the President of the United States, the Governor of Arizona, and to bring continued pride to the people of this great nation.