

INTRODUCTION and DISCLAIMER

Good morning, thank you for joining us at this meeting of the AGAUS. My name is Don Dunbar and I am Wisconsin's Adjutant General. Today, I am speaking on behalf of the state of Wisconsin and the AGAUS. I am not on active duty orders and no one in the Defense Department has seen, reviewed or approved my remarks.

I command over 7,700 soldiers in the Wisconsin Army National Guard and I have sent the vast majority into combat operations since becoming Wisconsin's Adjutant General in 2007. Many of these units and soldiers have deployed multiple times.

I am not a soldier, but I know this - there is simply no substitute for land power in the joint fight of the 21st century. Only the active duty Army can provide the leadership necessary to assure effective land power for the joint fight.

- 1) However, one of the cornerstones of the total force Army is the ARNG, which is foundational to the defense of this nation. The purpose of this briefing is to share with you how we are foundational to the defense of this nation and how we are essential to the total force. It is an unfortunate truth that the vast majority of men and women who serve our nation in the military do not understand the legal framework under which the National Guard was created and operates.
- 2) Our constitution created a limited, but powerful central government that is focused on a few simple missions – none of which is a higher priority than national defense as can be seen in the Constitution's preamble.

- **U.S. Constitution - Preamble:** We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, **provide for the common defense**, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

- 3) To provide for the common defense, the founding framers debated at length whether to defend the nation with a large standing army or a militia. The debate was similar to the comments – some of them ugly – being heard today. Things have changed. The National Guard is no substitute for the professional active duty army. The National Guard and active duty aren't interchangeable, etc. In the end,

AGAUS Presentation on National Guard framework

to reach a constitutional compromise, our founding framers settled on both - an active duty force and a national guard (modern day militia). This can be seen in the constitution's enumerated powers with respect to defense for the Congress and the President.

- **Art I, §8** – Scope of legislative powers:

Congress shall have the power:

- To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

- To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

- To provide and maintain a navy;

- To make rules for the government and regulation of the land and naval forces;

- To provide for calling forth the militia to execute the laws of the union, suppress insurrections and repel 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;

- **Art II, §2** – Presidential powers:

The President shall be commander in chief of the Army and Navy of the United States, and of the militia of the several states, when called into the actual service of the United States

4) For the first 115 years of the republic, the states operated under the militia act of 1792, which allowed states to determine their own training standards and unit strength, which caused challenges when the nation called upon them for active duty. This came to a head during the Spanish American war and Congress subsequently passed the militia act of 1903 (Dick Act) which provided federal

AGAUS Presentation on National Guard framework

funding to the states and set a common federal training standard for the National Guard, which was organized consistent with the U.S. Army. Despite providing federal funding for a specific purpose, the state character of the National Guard remained unchanged. The state's role in commanding, administering, and conducting the actual training of the National Guard remained in effect consistent with the constitution.

This legislation was amended several times and updated in the National Defense Act of 1916, which was amended in 1933, following World War I, when Congress required that all persons enlisting in the National Guard also enlist in the National Guard of the United States, a federal reserve of the United States Army. These organizations – the National Guard of the Several States and the National Guard of the United States are legally distinct but overlapping. When mobilized for federal service, members or units of the National Guard are discharged from state command and control and are subject to the rules and regulations of the active duty. Upon being relieved from active duty in the military service of the United States, all individuals and units revert to their status in the National Guard of the respective states.

5) Today, we find these foundational concepts codified in U.S. Code, in Title 10 (Armed Forces) and Title 32 (National Guard). I will highlight key aspects of these laws.

10 USC 101 (definitions):

- The term “**armed forces**” means the Army, Navy, Air Force, Marine Corps, and Coast Guard.
- The term “**department**”, when used with respect to a military department, means the executive part of the department and all field headquarters, forces, **reserve components**, installations, activities, and **functions under the control or supervision of the Secretary of the department**.

10 USC 1003: (Reserve Components generally)

- The **reserve components** of the armed forces are:
 - (1) The Army National Guard of the United States.
 - (2) The Army Reserve.
 - (3) The Navy Reserve.
 - (4) The Marine Corps Reserve.

AGAUS Presentation on National Guard framework

- (5) The Air National Guard of the United States.
- (6) The Air Force Reserve.
- (7) The Coast Guard Reserve.

10 USC 101(c) Reserve Components: The following definitions relating to the reserve components apply in this title:

(1) The term “National Guard” means the Army National Guard and the Air National Guard.

(2) The term “Army National Guard” means that part of the organized militia of the several States and Territories, Puerto Rico, and the District of Columbia, active and inactive, that

(A) is a land force;

(B) **is trained, and has its officers appointed, under the sixteenth clause of section 8, article I, of the Constitution;**

(C) is organized, armed, and equipped **wholly or partly at Federal expense;** and

(D) is federally recognized.

(3) The term “Army National Guard of the United States” means **the reserve component of the Army** all of whose members are members of the Army National Guard.

10 USC § 10105: ARMY NATIONAL GUARD OF THE UNITED STATES: COMPOSITION

The **Army National Guard of the United States** is the reserve component of the Army that consists of—

(1) federally recognized units and organizations of the Army National Guard; and

(2) members of the Army National Guard who are also Reserves of the Army.

10 USC § 10106: ARMY NATIONAL GUARD: WHEN A COMPONENT OF THE ARMY

The Army National Guard **while in the service of the United States** is a component of the Army.

**10 USC § 10107: ARMY NATIONAL GUARD OF THE UNITED STATES:
STATUS WHEN NOT IN FEDERAL SERVICE**

When **not on active duty**, members of the Army National Guard of the United States **shall be administered, armed, equipped, and trained in their status as members of the Army National Guard.**

32 USC § 102 (General Policy)

In accordance with the traditional military policy of the United States, **it is essential that the strength and organization of the Army National Guard and the Air National Guard as an integral part of the first line defenses of the United States be maintained and assured at all times.**

32 USC § 314 (Adjutant General)

(a) There shall be an adjutant general in each State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands. **He shall perform the duties prescribed by the laws of that jurisdiction.**

(d) The adjutant general of each State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands, and officers of the National Guard, **shall make such returns and reports as the Secretary of the Army or the Secretary of the Air Force may prescribe, and shall make those returns and reports to the Secretary concerned or to any officer designated by him.**

32 USC § 501 (Training Generally)

(a) The discipline, including training, of the Army National Guard **shall conform to that of the Army.** The discipline, including training, of the Air National Guard shall conform to that of the Air Force.

(b) The training of the National Guard **shall be conducted by the several States,** the Commonwealth of Puerto Rico, the District of Columbia, Guam, and the Virgin Islands **in conformity with this title.**

10 USC 1011 – NATIONAL GUARD BUREAU

10 USC 10501:

(a) National Guard Bureau. — There is in the Department of Defense the National Guard Bureau, which is a joint activity of the Department of Defense.

(b) Purposes. — The National Guard Bureau is the **channel of communications on all matters pertaining to the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States between**

- (1)** The Department of the Army and Department of the Air Force, and
- (2)** The several States.

10 USC 10503: Functions of the National Guard Bureau (Charter):

- The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, the Secretary of the Army, and the Secretary of the Air Force, **shall develop and prescribe a charter for the National Guard Bureau. The charter shall reflect the full scope of the duties and activities of the Bureau, including the following matters:**

(1) Allocating unit structure, strength authorizations, and other resources to the Army National Guard of the United States and the Air National Guard of the United States.

(2) The role of the National Guard Bureau in support of the Secretary of the Army and the Secretary of the Air Force.

(3) Prescribing the training discipline and training requirements for the Army National Guard and the Air National Guard and the allocation of Federal funds for the training of the Army National Guard and the Air National Guard.

(4) Ensuring that units and members of the Army National Guard and the Air National Guard are trained by the States in accordance with approved programs and policies of, and guidance from, the Chief, the Secretary of the Army, and the Secretary of the Air Force.

AGAUS Presentation on National Guard framework

(5) **Monitoring and assisting the States** in the organization, maintenance, and operation of National Guard units so as to provide well-trained and well-equipped units capable of augmenting the active forces in time of war or national emergency.

(8) **Granting and withdrawing, in accordance with applicable laws and regulations, Federal recognition of**

(A) **National Guard units, and**

(B) **Officers of the National Guard.**

6) Clearly, the National Guard is constitutionally unique – it is the only military force fully available to the Governors and citizens of the respective states, territories and the District and fully available to the President or Congress when required.

Our mission is two-fold:

- We are the primary combat reserve of the U.S. Army and U.S. Air Force, and
- We are the first military responder in the homeland.

It is also important to note that there is no conflict between the federal and state governments in the law. The federal government is preeminent. Some will argue that they cannot access the National Guard – that is nonsense – over the past 13 years, access has not been an issue.

We generate foundational readiness by being forward deployed in America's communities with personnel living largely in those communities, which assures unit cohesion and essential military skills. This structure assures our ability to meet the Army and Air Force training standards and fulfill our responsibility as the primary combat reserve role and allows us to provide highly skilled and disciplined forces to the Governor for domestic emergencies.

7) Which brings us to today. The National Guard is still the militia codified in the Constitution and our legacy endures. However, what we have seen in our total force Army since 9-11 is substantive – nothing short of the fulfillment and validation of the Abrams doctrine. The Army National Guard has mobilized repeatedly, performed every required mission and maintained record recruiting and retention numbers. The ARNG has connected the Army to America in ways the Army simply cannot accomplish on its own and this has increased public support for required missions.

AGAUS Presentation on National Guard framework

The ARNG has already proven its capability and reliability over a sustained period of expeditionary combat operations. The ARNG meets or exceeds the USA readiness standard and is prepared to fight today if needed. Our nation has the requisite laws and policy in place to access the ARNG using mobilization and/or volunteerism – laws and policy that have a proven track record. The ARNG is fully capable of supporting the USA by meeting or exceeding the 5:1 dwell-to-deploy ratio.

Today, the ARNG is at a level of readiness, reliability, accessibility, and combat experience never before seen in our nation's history. It is a national treasure.

Going forward, we believe that the National Guard must remain an operational force. Our readiness must be assured through an Army approved and validated force generation model that includes all National Guard units. While some categories of forces may rotate from reset to available more frequently, our nation's security demands that all National Guard units cycle from lower to higher readiness statuses consistent with real world requirements.

The Army must balance its operating and generating forces to ensure that 1st Army or the appropriate entity has sufficient resources to validate this force generation model – even if units are not assigned a mission and simply reset after reaching the available year. The net result is better soldiers, better units, and better preparedness for unforeseen contingencies.

In closing, we do not possess a crystal ball. We do not know when the next Pearl Harbor or September 11th will occur - but it will occur. We can never be fully prepared as a nation, but we can and must mitigate risk. The best framework for defense of this nation is the one we inherited from our founding framers. A total force Army led by the active duty and supported by an operational National Guard capable of achieving both core missions – primary combat reserve and first military responder in the homeland.

Thank you.