HOUSE COMMITTEE ON DEFENSE AFFAIRS AND STATE-FEDERAL RELATIONS
TEXAS HOUSE OF REPRESENTATIVES
INTERIM REPORT 2004

A REPORT TO THE
HOUSE OF REPRESENTATIVES
79TH TEXAS LEGISLATURE

FRANK J. CORTE JR.
CHAIRMAN

COMMITTEE CLERK
DONOVAN BURTON

Committee On
Defense Affairs and State-Federal Relations

November 30, 2004

Frank J. Corte Jr.   P.O. Box 2910
Chairman   Austin, Texas 78768-2910

The Honorable Tom Craddick
Speaker, Texas House of Representatives
Members of the Texas House of Representatives
Texas State Capitol, Rm. 2W.13
Austin, Texas 78701

Dear Mr. Speaker and Fellow Members:

The Committee on Defense Affairs and State-Federal Relations of the Seventy-Eighth Legislature hereby submits its interim report including recommendations and drafted legislation for consideration by the Seventy-Ninth Legislature.

Respectfully submitted,

_____
Frank J. Corte Jr.

_____   _____
Scott Campbell, Vice-Chair   Leo Berman - CBO
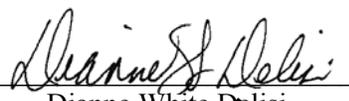
_____   _____
Dianne White Delisi   John Mabry

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Tommy Merritt   Paul Moreno
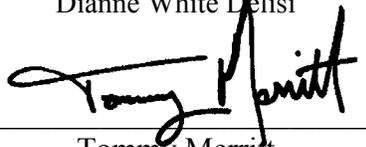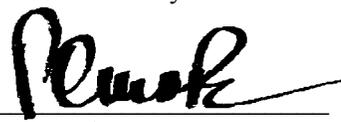
_____   _____
Rick Noriega   Gene Seaman

Scott Campbell
Vice-Chairman

Members: Leo Berman - CBO, Dianne White Delisi, John Mabry, Tommy Merritt, Paul Moreno, Rick Noriega, Gene Seaman

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INTRODUCTION

In 2003, the 78th Legislature convened in Austin for its regular legislative session. Through a House Rules resolution HR5, the House of Representatives restructured several committees, including the State, Federal and International Relations Committee. This committee's jurisdiction was altered as stated below and the name was changed to the Committee on Defense Affairs and State-Federal Relations and Representative Frank Corte Jr. was appointed Chairman. Nine members were appointed to the Committee and no changes occurred to the membership since January 2003.

In November 2003, House Speaker Tom Craddick issued a series of four charges for the Committee to study during the interim. Chairman Corte appointed three Subcommittees, which held several public hearings around the State to hear public input from the various entities responsible for implementation of homeland security matters and also from military communities. The Committee would like to specifically thank the individuals and entities that participated in the hearings through direct testimony and by hosting the Committee hearings and tours. The information received from these people has provided an invaluable resource to the members of this Committee, the Legislature and to the State of Texas.

Pursuant to House Rule 3, Section 32, the Committee on Defense Affairs and State-Federal Relations has jurisdiction over all matters pertaining to:

(1) the relations between the State of Texas and the federal government;
(2) the relations between the State of Texas and other sovereign states of the United States;
(3) the various branches of the military service of the United States;
(4) the realignment or closure of military bases;
(5) the defense of the state and nation, including terrorism response;
(6) emergency preparedness;
(7) veterans of military and related services; and
(8) the following state agencies: the Office of State-Federal
Relations, the Texas Military Facilities Commission, the Adjutant General's
Department, the Texas Veterans Commission, the Veterans Land Board, the
Texas Strategic Military Planning Commission, the Division of Emergency
Management, and the Emergency Management Council.

HOUSE COMMITTEE ON DEFENSE AFFAIRS AND STATE-FEDERAL RELATIONS

INTERIM STUDY CHARGES AND SUBCOMMITTEE ASSIGNMENTS

The following interim Study Charges were issued by Speaker Tom Craddick on November 4, 2003. Subsequently, Chairman Frank Corte Jr. appointed subcommittees for each charge and the Subcommittees held public hearings to gather information to develop the policy recommendations in this report.

**HOUSE COMMITTEE
ON
DEFENSE AND STATE-FEDERAL RELATIONS**

Charge #1 - Examine ways that Texas and other states assist local communities that are affected by military base closures. Include opportunities for Texas to benefit from Base Realignment and Closure Commission actions.

SUBCOMMITTEE OF THE WHOLE

Chairman Corte assigned a Subcommittee of the whole to address Charges 1 and 4, given the interest of every member of the Committee regarding these issues.

Public Hearings held:

April 19, 2004 - Brooks City Base - San Antonio, TX
September 23, 2004 - Ft. Hood - Killeen, TX
A Committee briefing and tour of NS Ingleside was given to members in Corpus Christi, TX. on June 21, 2004 regarding the military bases in that region.

Charge # 2 - Monitor the development of a Homeland Security Strategy as set forth in HB 9, 78th Legislature, under the Office of the Governor and identify ways to bring homeland security missions to Texas.

SUBCOMMITTEE ON HOMELAND SECURITY STRATEGY

Chair - Rep. Leo Berman, Scott Campbell, Paul Moreno

Public Hearings held:

February 13, 2004 - Austin, TX.
March 1, 2004 - Austin, TX.
July 15, 2004   - Austin, TX.

Charge # 3 - Evaluate the uses and security of the ports in the state, including optimizing their role in the deployment of military troops and what measures the state can take to minimize security risks from potential terrorist attack.

SUBCOMMITTEE ON PORT SECURITY

Chair - Rep. Gene Seaman, Rick Noriega, Dianne White Delisi

Public Hearings held:

March 22, 2004   - Corpus Christi, TX.
August 18, 2004 - Houston, TX.

Charge # 4 - Monitor the agencies and programs under the committee's jurisdiction, including the implementation of the Texas Military Preparedness Commission and other legislation by the 78th Legislature.

SUBCOMMITTEE OF THE WHOLE

See Charge # 1

SUBCOMMITTEE OF THE WHOLE

Major Military Installations 2004
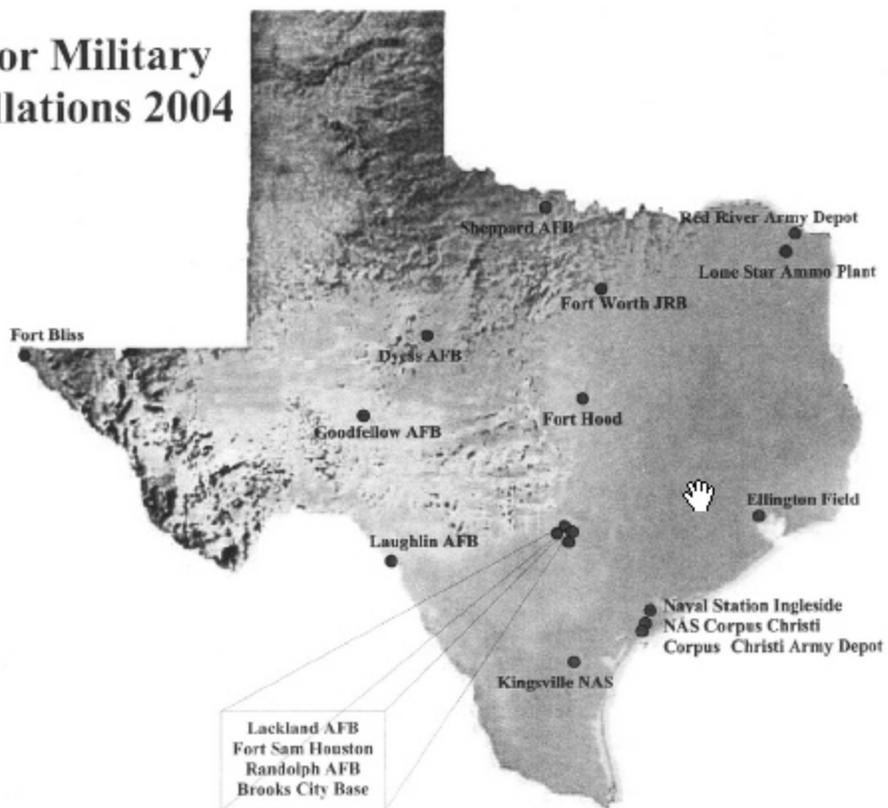
Sheppard AFB

Red River Army Depot

Lone Star Ammo Plant

Fort Worth JRB

Fort Bliss

Dyess AFB

Goodfellow AFB

Fort Hood

Ellington Field

Laughlin AFB

Naval Station Ingleside
NAS Corpus Christi
Corpus Christi Army Depot

Kingsville NAS

Lackland AFB
Fort Sam Houston
Randolph AFB
Brooks City Base

Examine ways that Texas and other states assist local communities that are affected by military base closures. Include opportunities for Texas to benefit from Base Realignment and Closure Commission actions.

Monitor the agencies and programs under the committee's jurisdiction, including the implementation of the Texas Military Preparedness Commission and other legislation by the 78th Legislature.

BRAC 2005 - TODAY AND TOMORROW

Texas is a major player in the past, present and future of the U.S. military. With 18 major military installations, 230,000 direct jobs and a $77 billion impact on our state[1], the military is a major player in Texas' past, present and future also. Base Realignment and Closure (BRAC) is a process by which the Defense Department leadership transforms the future operations of the military, often by reducing costs through base closures and moving military forces away from installations that are no longer needed. While many of the same effects will occur from BRAC 2005, the new round of BRAC is more than just a cost savings effort.

Since first taking office, the current Department of Defense (DoD) leadership has indicated that the structure of the entire military needs to be changed[2]. Because of the end of the Cold War, and the advent of new quick-strike warfare, the DoD has made it clear that their new vision of a military includes lighter forces that move on quicker deployments and will use more technologically sophisticated equipment to fight future battles. No longer are the build-ups of heavy infantry forces needed to be stationed ready to fight hand on hand combat with the Soviet Forces as they were 15, 20 and 50 years ago.

Post Cold-War BRAC began in 1988 simultaneously with a drawdown of weapons systems and troops from all over the world due to reduction in forces talks negotiated by many nations, however, primarily through the two world superpowers of the United States and the USSR, culminating in the Strategic Arms Reduction Treaty (START) of 1992. The Pentagon has gone through four previous post Cold-War BRAC rounds, in 1988, 1991, 1993 and 1995, during which defense officials picked 97 major domestic bases for closure, 55 major bases for realignment and 235 minor installations to be either closed or realigned[3].

Because of this major transformation in the military forces, even with the four previous BRAC rounds, leaders have suggested that as many as 25% of all domestic military installations will be closed down in this new round of BRAC. The thought of base closure has communities all over the nation, and in fact all over the world, searching for ways to form new partnerships with the DoD to attract new missions to their bases and avoid an economic hit to their communities. In cities with a majority economic driver being the local military base, and the offshoot industries surrounding it, the thoughts of base closure can be devastating.

In Texas, while obviously the fear of losing a military base is not pleasant, the general consensus is that BRAC 2005 will be a positive venture for our state. Plenty of unencumbered airspace, availability of unlimited open land and the vast Gulf of Mexico offer the military assets that are unmatched anywhere else in the world. The ability to train in the Gulf of Mexico for scenarios involving the Middle East, and the quick access to inland bases with training facilities, allows for the military to exercise multi-function systems, vessels and aircraft in a single event with joint purpose to train all branches of the military together. Additionally, the proximity to top notch civilian facilities, such as universities, hospitals and industry, and the dedication of local and state civilian community leaders to service members and their families all give the military a framework in Texas in which to succeed in their mission. It seems to most that Texas will likely be a major receiver of military missions from the results of BRAC 2005.

SELECTION CRITERIA FOR BRAC 2005[4]

The final criteria to be used by the Department of Defense to make recommendations for the closure or realignment of military installations inside the United States under the Defense Base Closure and Realignment Act of 1990, Public Law 101-510, as amended, 10 U.S.C. 2687, is as follows:

MILITARY VALUE

1) The current and future mission capabilities and the impact on operational readiness of the Department of Defense's total force, including the impact on joint warfighting, training, and readiness.

2) The availability and condition of land, facilities and associated airspace (including training areas suitable for maneuver by ground, naval, or air forces throughout a diversity of climate and terrain areas and staging areas for the use of the Armed Forces in homeland defense missions) at both existing and potential receiving locations.

3) The ability to accommodate contingency, mobilization, and future total force requirements at both existing and potential receiving locations to support operations and training.

4) The cost of operations and the manpower implications.

OTHER CONSIDERATIONS

5) The extent and timing of potential costs and savings, including the number of years, beginning with the date of completion of the closure or realignment, for the savings to exceed the costs.

6) The economic impact on existing communities in the vicinity of military installations.

7) The ability of both the existing and potential receiving communities' infrastructure to support forces, missions, and personnel.

8) The environmental impact, including the impact of costs related to potential environmental restoration, waste management, and environmental compliance.

FEDERAL AUTHORITIES AND PROGRAMS

The BRAC Act of 1990, as amended, specifies the selection process for the nine Commissioners, who must be nominated by the President for Senate confirmation no later than March 15, 2005. In selecting individuals for nominations for appointments to the Commission, the President will consult with the Speaker of the U.S. House of Representatives and the majority leader of the Senate concerning the appointment of two members each, and consult with the minority leaders of the U.S. House of Representatives and the Senate concerning the appointment of one member each. Texas is fortunate in this nomination process in that the House majority leader, Representative Tom Delay, is from Texas, as is, of course, the President. Additionally, several high-ranking Texans play a large part at the Pentagon in making determinations about bases around the country. While this certainly does not reduce Texas' bases' risk of closure or realignment, it does give Texas an institutional advantage of people knowing and fully understanding the capabilities of our installations.

After decisions have been made by the DoD, the Commission and ultimately by the President, there are several structures set up in the DoD to aid communities and states in their redevelopment efforts. The Office of Economic Adjustment (OEA)[5] is the Department of Defense's primary source for assisting communities that are impacted by Defense program changes, including base closures or realignments, base expansions, and contract or program cancellations. To assist affected communities, OEA manages and directs the Defense Economic Adjustment Program, and coordinates the involvement of other Federal Agencies.

Economic adjustment assistance provides a community-based context for assessing economic hardships caused by DoD program changes by identifying and evaluating alternative courses of action, identifying resource requirements, and assisting in the preparation of an adjustment strategy or action plan to help communities help themselves.

OEA staff has a range of experience in economic and community development, land use planning, real estate redevelopment, federal real property programs, military programs, and

worker adjustment. Project managers also bring a working knowledge of other federal agencies and their respective programs to help communities put together an adjustment program combining Federal, State, local and private resources.

OEA also administers a Joint Land Use Study (JLUS) program, to encourage cooperative land use planning between military installations and the surrounding communities where civilian encroachment is likely to impair the operations of an installation. In these instances, OEA may provide technical and financial assistance to State and local governments to achieve compatible land use and development activities near Defense facilities.

The OEA also provides Advance Planning Grants in order to assist State or local governments in planning community adjustments and economic diversification if it is determined that a substantial portion of the economic activity or population of the area to be subject to the advance planning is dependent on defense expenditures.

BRAC TIMELINE[6]

Feb ~, 05 <u>Revisions to Force-Structure Plan and Infrastructure Inventory</u>. If the Secretary has made any revisions to the force-structure plan and infrastructure inventory, the Secretary shall submit those revisions to Congress as part of the FY 06 Budget justification documents

Mar 15, 05 <u>Nomination of Commissioners</u>. Not later than this date, the President must transmit to the Senate nominations for the appointment of new members to the Defense Base Closure and Realignment Commission.

May 16, 05 <u>Secretary of Defense Recommendations</u>. Not later than this date, the Secretary must publish in the Federal Register and transmit to the congressional defense committees and the Commission, a list of the military installations that the Secretary recommends for closure or realignment.

Jul 1, 05 <u>Comptroller General Analysis</u>. Not later than this date, the Comptroller General shall transmit to the congressional defense committees, a report containing a detailed analysis of the Secretary's recommendations and selection process.

Sep 8, 05 <u>Commission's Recommendations</u>. Not later than this date, the Commission must transmit to the President "a report containing its findings and conclusions based on a review and analysis of the Secretary's recommendations."

Sep 23, 05 <u>President's Approval or Disapproval of Commission Recommendations</u>. Not later than this date, the President shall transmit to the Commission and to the Congress, "a report containing the President's approval or disapproval of the Commission's recommendations."

If the President approves the recommendations, the recommendations are binding 45 "legislative" days after Presidential transmission or adjournment sine die, unless Congress enacts joint resolution of disapproval.

Oct 20, 05 <u>Commission's Revised Recommendations</u>. If the President disapproves the Commission's initial recommendations, the Commission must submit revised recommendations to the President not later than this date.

Nov 7, 05 <u>President's Approval or Disapproval of Revised Recommendations.</u> The President must approve the revised recommendations and transmit approval to Congress by this date or the process ends. The recommendations become binding 45 "legislative" days after Presidential transmission or adjournment sine die, unless Congress enacts joint resolution of disapproval.

Apr 15, 06 Commission terminates

HISTORY OF BRAC IN TEXAS

Texas has always been involved heavily in previous BRAC rounds. We have certainly seen our share of military base closures. As we see in the chart below, over 20 military installations have been closed or realigned in Texas since 1988. Some of these closures have resulted in economic benefits for the DoD and also for the community, while other communities are still dealing with the negative effects of base closure from more than a decade ago. The varying success of Texas' communities, and other communities nationwide underscores the fact that there is no single structure or system that leaders can put in place that will guarantee a successful community redevelopment effort every time. The one common thread, however, that is present throughout all successful base redevelopment efforts has proved to be vigilant interaction and cooperation between community, state and federal leaders to find the best solution to meet the long term goals of each particular affected area.

PREVIOUS BASE REALIGNMENTS AND CLOSURES IN TEXAS[1]

Naval Station Galveston (Galveston):	CLOSED 1988
Fort Bliss (El Paso):	REALIGNED 1988
Bergstrom Air Force Base (Austin):	CLOSED 1991
Carswell Air Force Base (Fort Worth):	CLOSED 1991
Goodfellow Air Force Base (San Angelo):	REALIGNED 1991
Naval Air Station Chase Field (Beeville):	CLOSED 1991
Naval Air Station Dallas (Dallas):	CLOSED 1993
Kelly Air Force Base (San Antonio):	CLOSED 1995
Reese Air Force Base (Lubbock):	CLOSED 1995

Red River Army Depot (Texarkana):	REALIGNED 1995

A number of smaller installations and activities were also closed:

Air Force Data Processing Center Computer Service Center (San Antonio):	CLOSED 1993
Carswell Air Force Base (Fabrication function of the 436th Training Squadron redirected from Dyess AFB to Luke AFB; Maintenance training function redirected from Dyess AFB to Hill AFB):	REDIRECT 1993
Data Processing Center Air Force Military Personnel Center, Randolph AFB:	CLOSED 1993
Data Processing Center Navy Data Automation Facility, Corpus Christi:	CLOSED 1993
Abilene Navy/Marine Reserve Center (Abilene):	CLOSED 1993
Bergstrom Air Reserve Station (Austin):	CLOSED 1995
El Dorado Air Force Station (El Dorado)	CLOSED 1995
Laredo Naval Reserve Facility (Laredo):	CLOSED 1995
Longhorn Ammunition Plant (Jefferson, Marshall):	CLOSED 1995
Midland Naval Reserve Facility (Midland):	CLOSED 1993
Naval Weapons Industrial Reserve Plant (McGregor)	CLOSED 1995

TEXAS AGENCIES AND PROGRAMS

The Texas Military Preparedness Commission (TMPC) is a nine member commission appointed by the Governor, which works in concert with defense-dependent communities, state and federal legislatures and state agencies to retain, improve and expand active military bases and missions in Texas. The Commission is charged to develop a pro-active statewide strategy to prevent future defense closures and realignments and to assist defense-dependent communities in preparing for future base realignments or closures.

The Commission coordinates the state's action intended to retain, improve and expand our

nation's defense presence in Texas. The TMPC coordinates an annual meeting with the head of each state agency and members of the Texas Legislature whose districts include active, closed, or realigned military installations to discuss the implementation of recommendations contained in the Master Plan Annual Report. This annual meeting of various state agencies allows the discussion and coordination of state programs that can best assist defense-dependent communities retain active bases and missions.

STATE PROGRAMS

TEXAS MILITARY REVOLVING VALUE LOAN FUND[7]

Created by Senate Bill 652, this is a new financial assistance loan program for communities that are adjacent to active military installations. It allows the state to issue general obligation bonds not to exceed $250 million to provide loans to defense-dependent communities for economic development projects that enhance the military value of military installations. In order to receive funding for a project, the requesting community must submit a fully detailed Military Value Enhancement Statement (MVES) explaining the project and use of the funds. The community will be responsible for repayment of the loan in accordance with the terms of the contract. The TMPC Commissioners will analyze Military Value Enhancement Statements for eligibility and they may refer the community to another state agency that has an existing financing program. If there is no existing program, the Commission may provide a loan to the defense community for the project from the Military Value Fund. When a community has multiple projects, the Commission may assist the defense community in prioritizing those projects.

The State of Texas currently offers two economic development programs to assist defense-dependent communities impacted by BRAC:

DEFENSE ECONOMIC ADJUSTMENT ASSISTANCE GRANT PROGRAM (DEAAG) [8]

The Defense Economic Adjustment Assistance Grant Program was established to assist adversely impacted defense-dependent communities in responding to or recovering from defense closures, realignments of defense installations, and reductions or termination of defense contracts. State grants are available to local municipalities, counties, or regional planning commissions representing these communities. Funding is available to these local governmental entities to meet matching requirements for federal funding or for purchase of Department of Defense property, new construction, rehabilitation of facilities, infrastructure, purchase of capital equipment, or insurance. The state grants will provide 50 percent of the amount of matching money or investment that the local governmental entity is required to provide (in some cases, special community hardship grants may be provided up to 80 percent of the local governmental entity share). The amount of the grant ranges from $50,000 to $2 million. Applications will be scored by a review panel appointed by the Executive Director of the Texas Military Preparedness Commission. The review panel will ensure that one adversely affected defense-dependent community is not disproportionably favored over another in recommending grant funding. The Chief of Staff of the Governor's Office will approve all grants. Funding is generally available only as the legislature appropriates. The Commission will make recommendations to the

Governor regarding amounts it considers appropriate in anticipation of the 2005 BRAC.

DEFENSE ECONOMIC READJUSTMENT ZONE PROGRAM (DERZ) [9]

The Defense Economic Readjustment Zone program was established as by the 75th Legislature as a tool for business recruitment and job creation in adversely impacted defense-dependent communities. It is designed to provide assistance to Texas communities, businesses, and workers impacted by or vulnerable to the closure or realignment of military installations and the reduction in federal defense contracting expenditures. The incentives offered are similar to the Texas Enterprise Zone Program. A defense dependent community may be eligible to apply for a readjustment zone if an area within their jurisdiction meets certain eligibility thresholds related to the number of dislocated defense workers. Businesses that locate within the zones may be eligible for state benefits if they are nominated by the local governmental entity that created the readjustment zone. Up to two projects per zone may be designated as eligible to receive state incentives.

OTHER STATE AGENCY PROGRAMS[10]

There are a number of programs offered by the State of Texas as incentives to grow and expand business in Texas. Some of these programs include:

SKILLS DEVELOPMENT FUND
TEXAS ENTERPRISE ZONE PROGRAM
TEXAS CAPITAL INFRASTRUCTURE PROGRAMS
TEXAS CAPITAL FUND REAL ESTATE DEVELOPMENT PROGRAM
RURAL MUNICIPAL FINANCE PROGRAM
STATE SALES AND USE TAX EXEMPTIONS
TEXAS LEVERAGE FUND
BONDS - A variety of bonds may be issued to promote economic development:
TEXAS ECONOMIC DEVELOPMENT ACT
AD VALOREM / PROPERTY TAX EXEMPTION
PROPERTY TAX RULE 9.105
FRANCHISE TAX CREDITS FOR ECONOMIC DEVELOPMENT

BASE REDEVELOPMENT IN TEXAS

There are any number of ways that a community can redevelop the land left behind by the

military after a BRAC round. The following are some brief explanations of the redevelopment effort endeavored by Texas base communities over the past decade. Some of the information is over four years old, however, the initial startup phase from closure to creation of a redevelopment authority provides potential ways to address base closure in the future.

Kelly Air Force Base
San Antonio, Texas

Kelly Air Force Base was a depot maintenance and material management support facility for the Air Force. The 1995 base closure commission found that the Air Force's five depots were operating with significant excess capacity and infrastructure and recommended the closure of two Air Force depots—the San Antonio Air Logistics Center at Kelly AFB and the Sacramento Air Logistics Center at McClellan AFB. Political concerns over the ramifications of closing or realigning Kelly inspired the concept of "privatization in place," under which private companies would take on government contracts at the former facility using the federal employees. The Air Force initially attempted to privatize a large portion of the workload in place at Kelly AFB, but its effort was thwarted by the three remaining Air Force depots and their vested Congressional delegations who insisted upon public-private competitions for two large segments of the workload and the transfer of all remaining workloads to the three remaining depots. The Air Force depots won the competitions. The C-5 maintenance, repair, and overhaul workload was transferred to the Warner Robins Air Logistics Center in Georgia, and the engine overhaul and repair workload was won by Oklahoma City Air Logistics Center in Oklahoma.

The Air Force took six years to close Kelly AFB—the maximum time period allowed by law. As a result, the Kelly Human Resources Department working in accordance with civil service personnel rules, were successful in relocating or offering early retirement to the vast majority of the 12,500 employees affected by Kelly's closure. Only 517 permanent workers were involuntarily separated. Many jobs stayed with the federal government and transferred to other nearby military installations, including next-door Lackland Air Force Base.

The San Antonio City Council and the Mayor appointed the eleven-member board of directors of the Greater Kelly Development Authority (GKDA), which is made up of both business and public interests. The Board's mission is to own, operate and develop KellyUSA for the immediate and long-term benefit of San Antonio, creating quality jobs and generating economic growth in South Texas. Ultimately, the community's vision is to use KellyUSA's significant transportation resources (an 11,500 runway, adjacent rail yard, interstate connectivity, and direct linkage to the Port of Corpus Christi) to develop KellyUSA into an international multi-modal port and world-class mixed use business and town center.

Kelly USA has been designated as a Defense Economic Readjustment Zone (DERZ), which means that any company relocating into the Zone can receive up to a ten-year tax phase-in period as well as sales tax refunds based on the number of permanent jobs created. The base was not officially closed until July 2001, and the major commercial tenants still include: Boeing

Company, Lockheed Martin (and its joint venture partner General Electric and sub contractors Standard Aero and Chromalloy), Pratt & Whitney, EG&G, and General Dynamics.

Reese Air Force Base[11]
Lubbock, Texas

Before its closure, Reese Air Force Base was an undergraduate pilot training facility with more than 1.4 million acres, a golf course, hospital and airfield. Today, the Reese Technology Center is the only "total conversion" base closure, focusing not on the use of the airfield, but designing a totally new concept for the reuse of the base.

One major problem encountered by the Lubbock Reese Redevelopment Authority was the existence of an airfield in the nearby city of Lubbock, which is 10 miles from the base. While most successful redevelopment efforts concentrate on utilizing the assets left by the departing service, the Lubbock airport hampered Reese's efforts to follow this model. A redevelopment plan that focused on the airfield would have created direct competition with the facility in Lubbock. Further hindering the efforts at Reese, neither the city of Lubbock nor the State of Texas provided financial assistance to the redevelopment authority.

Without a major source of income from the educational tenants or from state and local financial support, the authority has relied mainly on redevelopment grants. Unfortunately, many of the available grants are either aviation-based or require matching funds. Without a source of income, it has been difficult for the authority to meet the matching requirements. The income provided from the sale of personal property transferred to the redevelopment authority was far less than it could have been since the conveyance of the property took so long.

Chase Field Naval Air Station[12]
Beeville, Texas

Chase Field Naval Air Station is located five miles from Beeville, Texas, and 65 miles from Corpus Christi, Texas. Situated on 3,018 acres in Bee County, Chase Field's mission was to provide facilities, services and material to support jet pilot training. Chase Field was part of the 1991 round of base closures and was officially closed in February 1993. Although the base was smaller than some closed in Texas, its closure nonetheless had a large impact in the community. Seven hundred thirty-three military and 914 civilian jobs were lost in a city with a population of 13,500 and a county with a population of 25,000. Lost salaries totaling $27 million reduced Beeville's local economy by $25 million. Six percent unemployment rates before closure skyrocketed to 12.9 percent by the time the last military contingents left the base.

Bergstrom Air Force Base[13]
Austin, Texas

When Bergstrom AFB appeared on the list of base closures in 1990, the City of Austin conducted a feasibility study to explore the possibility of turning the base into a civilian airport.

Ultimately, through innovative design, unique financing and use of many of the base's existing facilities, the city turned the base closure into a cost-effective solution to its airport problem. Along with 75 other military installations, Bergstrom AFB was on the Base Realignment and Closure Committee's (BRAC) list of base closures approved by President George Bush and Congress in 1990. In 1992, the U.S. Justice Department authorized the conveyance of Bergstrom to the City of Austin, which had incorporated the city of Del Valle in the years since the base was established. The base was officially closed on September 1, 1993, and in the fall of 1995 the final military presence, an Air Force Reserve fighter wing, left the site. Bergstrom is located on 3,216 acres in southeast Austin on Texas Highway 71, near the intersection of U.S. Highway 183. The location is eight miles from downtown Austin and the State Capitol and just miles from I-35, the "NAFTA Highway." Robert Mueller Municipal Airport, Austin's primary airport before the Bergstrom conversion, sits on a 711- acre tract, has 16 gates and handled more than six million passengers annually, according to Airports Council International. As Austin continued to grow, the facility was increasingly overburdened and unable to provide the travel services necessary for a burgeoning metropolitan area. In 1998, the airport ranked 50th nationally in passenger traffic and 133rd in the world according to Airports Council International.

When BRACC announced the planned closure of Bergstrom AFB, the City of Austin immediately began investigating the feasibility of transforming the base into a civilian international airport. A study concluded that such a conversion would be possible. The City of Austin was deeded the Bergstrom property in 1999. Because of the enormity of the task of overseeing the conversion, the City of Austin formed a public-private partnership with Parsons Brinckerhoff, an engineering, planning and construction management firm with an extensive background in airport design and construction management. Parsons Brinckerhoff managed construction, administered contracts and maintained comprehensive management information systems related to the project. The New Airport Project Team, which included Parsons Brinckerhoff engineers and select officials from the city and the department of aviation to oversee construction, was formed.

At the outset of the project, it was decided that no tax dollars would be used for funding. Instead, funding has and will come from the businesses and individuals using the airport. Until the year 2019, a passenger facility charge of $3 per passenger will be assessed on all airline tickets. In addition, revenue bonds totaling $400 million were sold in May 1993 to fund the project, which at that time was expected to cost $642 million. The project also was awarded federal grants. The Federal Aviation Administration provided construction grants totaling nearly $100 million and noise reduction grants totaling $30 million. Additional funding came from concession sales, federal grants and interest earnings from Robert Mueller Municipal Airport.

The Barbara Jordan Passenger Terminal at the Austin-Bergstrom International Airport is a 600,000-square-foot building with 25 gates served by two runways. The first is an upgraded military runway that was outfitted to meet commercial demands; the second runway was newly constructed. Arrivals and departures are expedited because they can occur simultaneously. A

cross-taxiway system was constructed to link the runways and terminals. A total of nine airlines currently service Bergstrom International Airport. America West, American Airlines, Austin Express, Continental, Delta, Northwest, Southwest, TWA and United have non-stop service to 34 cities around the country including Chicago, New York-Newark, Washington, D.C., San Francisco and Atlanta. A parking garage with a capacity of 3,300 cars was built in addition to several ground-level parking lots capable of holding 7,000 vehicles. Five miles of access highway was constructed, as were buildings to house fire and rescue, air cargo and general aviation facilities, a fuel tank farm and a central heating and cooling plant.

Naval Air Station Dallas[14]
Dallas & Grand Prairie, Texas

The Naval Air Station in Dallas appeared on the 1993 BRAC commission list for closure and closed on December 1, 1997. The 870-acre installation has been converted into an industrial aviation, industrial and commercial park with one million square feet of hangars, shops, offices, training spaces, recreational and other buildings, as well as an 8,000-foot runway. Athletic fields, gyms, a lake and dining halls also are located on the property.

The Naval Air Station was opened on January 1, 1942. When the military expressed interest in locating in Dallas and nearby Grand Prairie, a deal was struck allowing the Air Force to lease the land from the cities of Dallas and Grand Prairie for an indeterminate time. The agreement stipulated that once the military no longer needed the air station, the property would revert to the cities.

The Navy initially leased the Naval Air Station property from Dallas. When the air station closed, the Navy transferred the land to the Army. The Army then transferred the land to the Department of the Interior and, ultimately, the Department of the Interior plans to convey the land to the City of Grand Prairie. However, the transfer process has been stalled by a number of environmental issues described in the following section. According to the manager of the Grand Prairie Redevelopment Authority, the authority has planned to lease the acreage to a private owner for use as an airport. No plans exist for making the land available for public lease.

These Texas models provide only a snapshot of some of the efforts that have occurred over the past decade for post-BRAC Redevelopment. The pitfalls experienced by the various authorities can be instructive for future development decisions.

NATIONAL MODELS

The following excerpt is from a publication by the National Association of Installation Developers which briefly explains various forms of base reuse organizations set up around the country and their use in different installation communities. The *Community base reuse planning*

process - a layman's guide provides a very good introduction to specific case studies around the U.S. that have been both successful and unsuccessful, explaining several pitfalls that occurred and ways to avoid these pitfalls. NAID is an organization made up of community economic development entities, private sector companies and organizations, and local, state, and federal governments. Its members promote development for both active and closed military base communities. They market facilities and property, attract new interest and tenants, and revitalize bases in a myriad of other ways. [15]

Permanent Organizations – The Implementation LRA:

The most grievous error in base reuse organization is trying to create the base "governance" structure well before the final land uses are agreed upon. Premature efforts to create a permanent organization are often aimed at predetermining the eventual land uses and the base reuse plan – without a public dialogue process.

The permanent organization, or implementation Local Redevelopment Authority will differ markedly from the initial broad-based planning committee. Now, the focus must be on what type of entity will maintain the utilities, roadways and common property, and provide for the businesslike operations and financing of a major real estate holding. The former steering committee should be abolished since its purpose has been achieved.

There are seven basic principles involved in identifying the most appropriate long-term LRA implementation organization. The communities affected by the closures in the 1960s and 1970s as well as those communities affected by the four 1988-1995 BRAC rounds have generally adopted one of five types of base reuse organizational structures:

Redevelopment Managed by a City/County Department:

There are many communities, such as Glenview, IL. (NAS Glenview), Nottoway County, Va. (Fort Pickett), Tustin, Calif. (MCAS Tustin), and Philadelphia (Naval Shipyard), among others, where the city or county has incorporated the base redevelopment role – often as a special division – into its existing local governmental structure.

Development Authority or Airport Authority:

The development authority structure can provide greater independence from local governments and budget ceilings by allowing a publicly appointed board to establish operating policies for managing and marketing the property, with its own director and staff. The development authority concept has also been useful for bridging jurisdictional boundaries, such as the Joint Powers Authorities at the former Castle AFB and NAS Alameda, as well as the Inland Valley Development Authority at the former Norton AFB in California. The Williams Gateway Airport Authority in Mesa, Ariz., was created by one city, two towns, and an Indian community. The chief elected officials of these four entities sit together as the Authority's Board of Directors.

State Authorized Local Development Authority:

Sometimes it may be necessary to create a predominantly local organization through state legislation. The closure of England AFB in Alexandria, La., required local leaders to secure enabling legislation for the England Economic Development District as a "political subdivision of the State" representing Rapides Parish, the Cities of Alexandria and Pineville, and the Central Louisiana Chamber of Commerce. Similarly, the Colorado state legislature created the Pueblo Depot Development Authority – with land use and borrowing powers – to manage 34 square miles of excess Army Depot land "as a political subdivision of the State." The South Carolina state legislature authorized a 12-member redevelopment authority "to acquire and dispose of federal military installations"; i.e., the shipyard and naval base. It included the cities of North Charleston and Charleston, the three affected counties, and representatives from the state legislature.

State-Local Development Authority/Commission*:*
Financial pressures on small communities prompted a new hybrid state-local development concept for two New England bases during the 1988 and 1991 BRAC rounds. The Pease (AFB) Development Authority (PDA) was created by the state of New Hampshire, with membership from the city of Portsmouth, the town of Newington and the state. It was supported by $67 million in State bonding authority and $150 million in revenue bonds. The two local jurisdictions voted to release their local land use controls to the PDA. Similarly, the three Massachusetts towns affected by the closure of Fort Devens voted to cede land use controls to the Devens Enterprise Commission, financed with $200 million in State bonding authority.

Economic Development Corporation:
A common economic development entity with flexibility and independence has been the local economic development corporation, structured under Section 501(c)(3), or (c)(6) of the Internal Revenue Code. This approach allows communities to protect their local governmental financial posture from obligations incurred in the base reuse. The non-profit EDC approach was used extensively by communities affected by base closures during the 1960s and 1970s (see Westover, Chapter 11, Case Studies in Base Conversion, NAIDinfoseries, July 2002). During the 1988-1995 BRAC rounds DOD showed a strong preference for recognizing authorities as instrumentalities of local-state governments that would then commit the "full faith and credit" of the affected jurisdiction. DOD eventually set aside this "instrumentalities" requirement, and recognized the Watertown (Mass.) Arsenal Development Corporation and the Millington (Tenn.) Industrial Development Board – a 501(c)(3) entity – among others, as approved local redevelopment authorities.

Redevelopment Authority – Possible Transition in the Future:
The start-up "implementation LRA" board will often assume responsibility for managing the former base with a small staff. Over the long-term, the LRA board must decide whether it will perform marketing, financing and development tasks entirely with its own in-house staff or whether the LRA should seek outside "development assistance" or "master developer" support.

As the military base reuse field has matured, at least two LRAs – Mather AFB in Sacramento and
Vint Hill Farms in Fauquier County, Va. – have retained their minimum staffing levels. But, the

LRAs have competitively selected outside advisory development firms or development partners to provide a range of contract services for fee, including facility maintenance, engineering, and infrastructure design. The development advisor or partner also assists the LRA in securing longterm financing, but title to the lands and facilities remains with the LRA until resold. The development advisor or partner can also build or develop for its own account on the facility. Finally, the development advisor can also serve in a Joint Venture role with the LRA for specific projects.

The roles of the LRA and its advisor/partner need not be totally permanent. As business cycles change, especially when there may not be sufficient profit potential for a private-sector partner to move forward, it may sometimes be necessary for the LRA to take on more of the development initiatives, especially when having new job opportunities and new office-industrial facilities available for future prospects is more important to the LRA than generating a profit.

As shown in the insert in Chapter 12 on the Fort Benjamin Harrison Reuse Plan in Retrospect, the LRA may have to take on different roles over the years – largely due to changing market conditions – in order to achieve the objectives of the Plan itself.

Under the master developer concept, the LRA competitively selects an independent firm to assume all of the financial and legal responsibility for developing, marketing, and maintaining the property. The master developer also assumes ownership of the property – subject to the performance standards agreed to with the LRA and community. The master developer approach has been used at Mare Island Shipyard, San Diego Naval Training Center, Hunters Point Shipyard and MCAS-Tustin in California; NAS-South Weymouth in Massachusetts; and the Stratford engine plant in Connecticut. The master developer concept is especially useful when there may be major upfront infrastructure investments involved.

LEGISLATION AND POLICY MAKING IN TEXAS

Many efforts came out of the 78th legislative session that will prove to be very effective for pre and post BRAC 2005 decisions. In fact, the 78th legislature focused more attention on the concerns of military transformation and U.S. soldiers, both past and present, than perhaps any legislature in Texas history. With dozens of bills passed to affect every aspect of military life and service, Texas has continued to show that we are anxious and willing to take the lead role in the transformation of U.S. military forces.

Perhaps the most comprehensive legislation to address BRAC concerns was SB 652 by Senator Eliot Shapleigh. This bill, crafted in part from interim studies from the 77th Legislature, addresses many of the concerns expressed by the DoD over several years that pose a threat to cost, military training and to the quality of life of soldiers, seaman and airman in the military. From commercial development encroachment into the base boundaries and rising utility costs of

bases to education transferal issues for military families, SB652 provided a framework for the State of Texas to begin unprecedented cooperation with and attention to military concerns to allow for troops to perform their mission unencumbered from state and local regulations. In addition to the renewed cooperation, the bill also provided a means for communities to access funds to enhance the military value of their local base by adding, or upgrading infrastructure needs in and around the installation. These infrastructure needs will play a large role in the DoD decision-making process because of the ability, or inability to effectively perform the particular mission given to a particular installation.

The bill has several parts all designed on the transformation of forces and focusing the State on our military bases. Some of the highlights of the bill are:

- Created the Texas Military Preparedness Commission to work under the Governor's office and focus all military functions into one office speaking with one voice.

- Allowed for issuance of General Obligation Bonds that will fund a revolving loan program to help communities get lower interest rates to address base infrastructure projects to increase military value.

- Promoted aggregation of military base utilities to reduce utility costs

- Requires Texas Education Agency (TEA) to pursue education reciprocity agreements with other states for dependents of military families.

- Encouraged defense communities to do more planning with base commanders to avoid building neighborhoods right up to the back gate of military bases.

- Encourages tax abatements for military housing,

Legislation for Soldiers

The 78th Legislature took a number of other steps to address issues related to Reserve and National Guard soldiers that are activated into service, which has been a rule rather than an exception over the past few years due to the global war on terror since the attacks on 9/11/01. Additionally, veteran's benefits took a central role in the last legislature including passing the following legislation:

SB 173 by Sen. Nelson - Allowing active duty servicemen to delay payment of their property taxes upon activation into service.

SB 737 by Sen. Hinojosa - Exempts activated military personnel from jury service

HB 3361 by Rep. Corte - - Comprehensive overhaul of State employees military leave policy.

HB 2400 by Rep. Noriega - Allows for firefighters and police officers to pool excess leave for fellow military reservists called to duty. Also extends insurance benefits for these employees.

HB 1221 by Rep. Telford - Prevents unemployment taxes from being increased on a small business owner who is forced to close their business temporarily after being activated into military service.

HJR 68 by Rep. Hupp - Allows VLB to use excess bond money not needed for principal and interest payments, for use in veteran homes.

HB 2396 by Rep. Corte - Changes acreage requirements for VLB land loans from 5 acres to 1 acre and allows for loan amounts to be increased by $20,000 to $60,000.

HB 564 by Rep. Haggerty - Exempts certain veterans from the state TASP (College entrance exam) test.

HB 591 by Rep. Delisi -   Requires Texas Education Agency to pursue reciprocity agreements with other states to permit students to satisfy requirements by having taken a comparable exit-level assessment test administered in another state, transferring credit and also awarding credit for completed course work in another state.

HB 261 by Rep. Hupp - Allows dependents of servicemenbers entitled to pay in-state tuition and fees, to continue to pay in-state tuition after the service member retires or is transferred.

HB 3211 by Rep. Heflin - Extends Veterans Land Board (VLB) loans to people who served in the armed forces of the "Republic of Vietnam" from 1961 - 1975.

HCR 156 by Rep. Noriega -   Urges congress to enact the Citizenship For America's Troops Act to allow citizenship through service in the U.S. Armed Forces.

HCR 161 by Rep. Isset - Urges congress to change veterans' mortgage bonds to cover all veterans who have served on active duty.

Post BRAC Legislation

Statewide statutory authority can be found in the Local Government Code Chapter 379B "Defense Base Development Authorities." The 78th Legislature took a few minor steps to give

more flexibility to these Development Authorities by passing the following legislation:

HB 2540 by Rep. Menendez   -   Grants defense base development authorities the power of eminent domain.

HB 655 by Rep. Menendez - Allows a defense base development authority more authority to sell property to certain individuals to benefit long term planning of the area, and it removes certain requirements for selling property.

OVERSEAS BRAC

Preceding the domestic BRAC 2005 decisions, the DoD is taking inventory of the 721 overseas military installations and will restructure these assets, closing several facilities and relocating many of these troops to other overseas or domestic bases. This process, while an important part of the global transformation of the military, has also been a political football used by political leaders to forestall efforts that may result in the loss of a base in their community. Nevertheless, overseas BRAC is intertwined with domestic BRAC and will result in tens of thousands of troops being brought Stateside, and many into Texas. Texas has already seen the announcement of 8,800 troops being slated to be added to the Army forces in Ft. Hood and Ft. Bliss through this process. The Army's restructuring process will create the 4th Brigade of the 4th Infantry Division and will add 5,000 troops at Fort Hood in 2005. Fort Bliss will receive an additional 3,800 troops through the creation of the 4th Brigade of the 1st Cavalry Division in 2006.[16]

We will likely see other troops sent to Texas in the future as the decisions regarding overseas BRAC come to light.

IDEAS FOR FUTURE MILITARY MISSIONS IN TEXAS

There are dozens of ideas on how to expand military missions across Texas. Every community in Texas with a military installation has a core group of very aggressive planners that have developed forward-thinking ideas of how their particular base can be expanded and used in the new transformation efforts by the DoD. In fact, community and state leaders are continually in Washington D.C. speaking with Congressional members, DoD officials, branch service officials and anyone else who will listen to promote new ideas that the military leadership may not have thought of before. Just as one example, the South Texas Military Facilities Task Force has developed a very comprehensive long range transformation plan for a military role that includes joint use for military facilities in six states along the Gulf of Mexico.[17] This plan highlights the similarities to the Middle East, the unencumbered air space available for flight training and bombing exercises throughout South and West Texas, and a launch site from war ships able to be stationed in the deepwater Port in Corpus Christi.

While this is only one example of the many forward-thinking proposals throughout the State, the Committee has found a deep commitment by community leaders all over Texas to assist the DoD to find Texas-based solutions to transform the military. This is in direct contrast to the history of defense communities focused mainly on saving a base, or just reducing costs to avoid base closure. Again, the idea for BRAC 2005 is about transformation of the military concepts that have been in place for 50 years, rather than solely on monetary savings. Further ideas for Texas'base mission expansion can be found in the Texas Military Preparedness Commission's Annual Report (Master Plan) for 2004 -2005.

A Comparable Joint Training Space
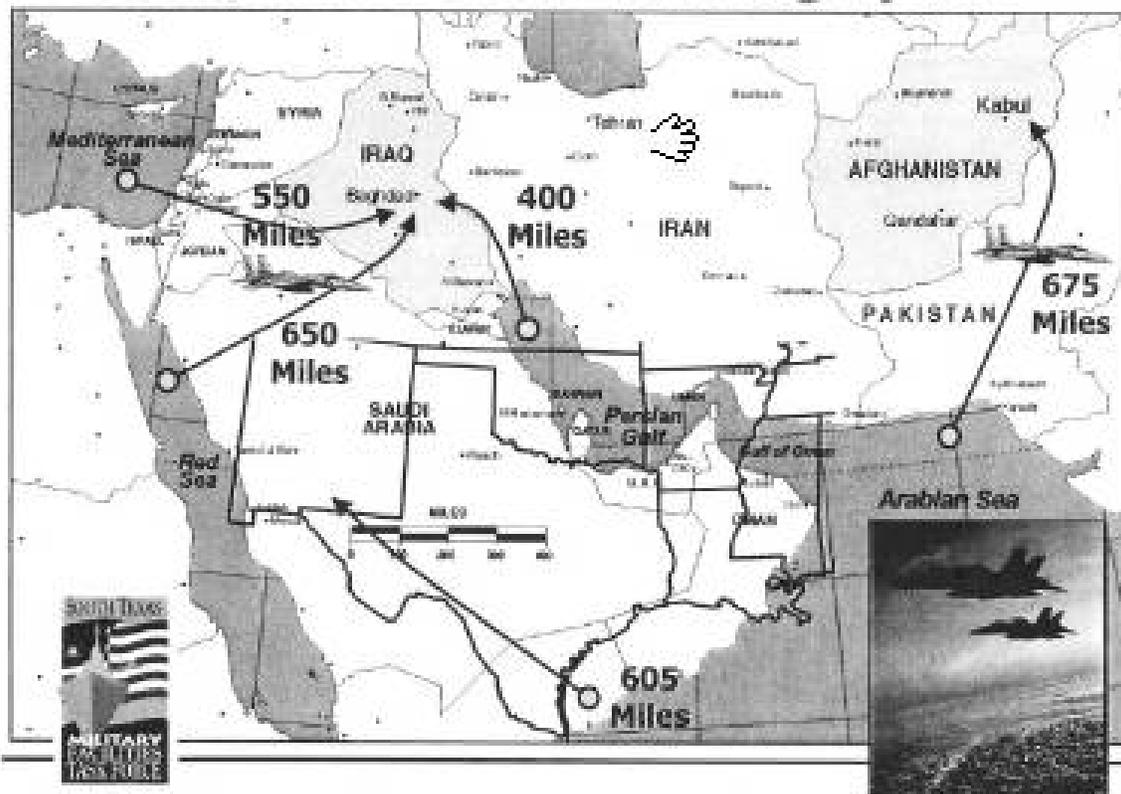
Taken from the South Texas Military Task Force's Joint National Training Capability Report (Pg. 3) to show the relative size of Texas compared to the Middle East.

COMMITTEE RECOMMENDATIONS

1) The Legislature should consider revising the statute to allow for the use of 4A/4B money to allow for communities to use this outlet to attract military missions to their community, or to redevelop areas that have been slated for base closure.

2) The Legislature should change the Revolving Loan Fund established in SB 652 to be accessible for post-BRAC projects. The State should also consider the use of low-interest, or even no-interest loans to these defense communities.

3) The legislature should work to expand the Defense Economic Adjustment Assistance (DEAAG) Grant Fund to prepare to address post-BRAC issues, including advance planning for base closure or realignment.

4) Encourage communities to take advantage of the OEA Advance Planning Grants to begin planning for base property in the event of a closure of some, or all the missions on the base in their community.

5) The State should continue to monitor TEA's progress to push for reciprocity agreements nationwide, especially starting with Florida, Georgia, North Carolina, and Virginia.

6) The Legislature should support the addition of personnel at the TMPC to provide a liaison between the Commission and the base redevelopment authorities to help communities find locally-based solutions to post-BRAC 2005 redevelopment issues.

7) All State Agencies should begin assessing potential post-BRAC issues that will likely occur and make outreach efforts to begin cooperative planning with defense communities on the various infrastructure needs that will be required of them.

ANALYSIS OF RECOMMENDATIONS

Recommendation # 1

The Legislature should consider revising the statute to allow for the use of 4A/4B money to allow for communities to use this outlet to attract military missions to their community, or to redevelop areas that have been slated for base closure.

Since 1989, 475 Texas cities have levied an economic development sales tax using the 4A/4B provisions in the Development Corporation Act.[18] This Act allows municipalities to create non-profit corporations that promote the creation of new and expanded industry and manufacturing activity within the municipality and its vicinity. In the 78th Legislature, HB 2912 overhauled the provisions in this code and as a result, these funds are no longer authorized to be used for military dependant communities that have been affected by BRAC. This provision should be restored to the Development Corporation Act so that communities can have this tool to fund infrastructure projects to either attract new military missions, or to redevelop their community should a base closure occur.

Recommendation # 2

The Legislature should change the Revolving Loan Fund established in SB 652 to be accessible for post-BRAC projects. The State should also consider the use of low-interest, or even no-interest loans to these defense communities.

As expanded upon in this report, the 78th Legislature passed SB 652 which, among other things, created the Military Value Revolving Loan Program. This loan program allowed for obligation bonds to fund up to $250 million in infrastructure projects to add military value to a base in preparation for BRAC. As the 2005 BRAC round passes, this Program should be altered to also allow communities affected by BRAC, either negatively or positively, to access these funds to deal with redevelopment issues. Additionally, the State should consider allowing these funds to be accessed at a lower than market value rate, or even to provide no interest loans.

Recommendation # 3

The legislature should work to expand the Defense Economic Adjustment Assistance (DEAAG) Grant Fund to prepare to address post-BRAC issues, including advance planning for base closure or realignment.

The Defense Economic Adjustment Assistance Grant Program (DEAAG)[19] was established by the 75th Texas Legislature to assist adversely impacted defense-dependent communities recovering from defense closures or realignments of defense installations, or reductions or termination of defense contracts. The 75th Texas Legislature appropriated $20 million for the DEAAG program to assist installations that have been closed or realigned during the previous base realignment and closure rounds. The 76th and 77th Texas Legislature each appropriated $1 million for the defense economic adjustment assistance grant program. In FY 2003 the Office of the Governor allocated $1 million dollars for the DEAAG program.

State grants are available to local municipalities, counties or regional planning commissions representing these communities. Funding is available to these local governmental entities to meet matching requirements for federal funding or for the purchase of Department of Defense property, new construction, rehabilitation of facilities or infrastructure, or the purchase of capital equipment or insurance. The state grants provides 50 percent of the amount of matching money or investment that the local governmental entity is required to provide (in some cases, special community hardship grants may be provided up to 80 percent of the local governmental entity share). The total amount of the grant may range from $50,000 to $2 million.

As 2005 will be perhaps the largest round of BRAC the country has seen, states all over America will be dealing with the consequences. Texas will have to be prepared to respond to the major changes that may take effect in Texas and the DEAAG Grant Fund is one tool able to be used and should be expanded to allow communities immediate access for advance planning use.

Recommendation # 4

Encourage communities to take advantage of the OEA Advance Planning Grants to begin planning for base property in the event of a closure of some, or all the missions on the base in their community.

After the decisions of BRAC 2005 become final, there will be a move by the DoD to move very fast to close the bases to be closed and to transfer property as soon as possible. This has been a trouble spot for the DoD in the past as they have not been able to realize the intended savings soon enough. Given the expedited pace that we will see after 2005 to implement the new transformation, the State should encourage communities, and assist them as much as possible, to begin preparations for potential changes in their communities so that they will not be behind the curve after 2005.

Recommendation # 5

The State should continue to monitor TEA's progress to push for reciprocity agreements nationwide, especially starting with Florida, Georgia, North Carolina, and Virginia.

Two bills were passed in the 78th Legislature (SB 652 and HB 591) that call for the Texas Education Agency to pursue reciprocity agreements to expedite the transfer of military dependents to Texas' schools. From transfer credits, exit level exams to recognition of course work, military dependants are being penalized educationally as they transfer into and out of Texas schools. Similar legislation was passed in the 77th Legislature, however, no progress was made at the agency level. The TEA has made contact with at least the four priority States and has identified several ways that they can improve transferal policies. The Legislature should continue to monitor the progress at TEA and ensure that vigilant efforts and tangible steps are taken toward this overall goal.

Recommendation # 6

The Legislature should support the addition of personnel at the TMPC to provide a liaison between the Commission and the base redevelopment authorities to help communities find locally-based solutions to post-BRAC 2005 redevelopment issues.

As this report points out, there are any number of ways to establish redevelopment authorities across the nation and State. As communities all across the state begin to discuss ways to redevelop property in and around a closed or realigned base, they will need frequent assistance from the State regarding a number of issues. The TMPC will be the primary vehicle to provide this assistance, however, their staffing levels only include 2 FTEs. The increased burden that will be placed on this staff during and after 2005 will require additional personnel. Additionally, the State will likely need to play a part in these discussions at all bases around the State. The Legislature should support the additional personnel at the TMPC to provide economic development advice to communities and to advise the appropriate State leaders on the base development process.

Recommendation # 7

All State Agencies should begin assessing potential post-BRAC issues that will likely occur and make outreach efforts to begin cooperative planning with defense communities on the various infrastructure and human needs that will be required of them.

Given the already-announced plans to add new troops to Ft. Hood and Ft. Bliss, the great potential for even additional troops at other bases after realignment and the potential loss of troops at any closed installations in Texas, all of the surrounding communities will have

infrastructure needs that affect almost every State agency. Transportation and roads, higher and lower-level education, workforce and health needs are only a few of the broad-ranging issues that have been brought to the attention of the Committee and will immediately surface post-BRAC. Several of these issues need to be addressed, and solutions need to be in place prior to troop movements; therefore it is critical that State agencies begin immediately to pro-actively identify defense communities' needs associated with their jurisdiction and committing resources to deal with these needs. Furthermore, agencies should communicate their progress to the Legislature so that we are better able to approach legislative solutions as early as the 79th legislative session.

SUBCOMMITTEE ON HOMELAND SECURITY

CHARGE 2.   Monitor the development of a Homeland Security Strategy as set forth in HB 9, 78th Legislature, under the Office of the Governor and identify ways to bring homeland security missions to Texas.

INTRODUCTION

On September 11, 2001, an unimaginable terror threat hit the United States in the form of commercial airlines used as an improvised bomb. Four jets were hijacked by radical Al Qaeda Muslim terrorists from different parts of the Middle East and were purposely crashed into the World Trade Center in New York City, the Pentagon in Washington D.C., and one was crashed into a remote open field in Stony Creek Township, Pennsylvania. The combined death toll from the four terrorist incidents amounted to 2,783 innocent people, and 19 terrorists.[20] This incident sparked a major focus and policy change nationwide from political leaders at all levels of government.

Over the past several years, state, federal and local jurisdictions all over the nation, as well as private sector businesses, have focused untold hours, money and other resources toward the prevention of another attack on U.S. soil. Additionally, huge focus has been concentrated on the response and recovery efforts that might be required should another attack unfortunately hit us again. The nation has seen unprecedented coordination between governmental jurisdictions and local entities, and even private citizens to develop new solutions to potential risks that they have identified in all areas of the U.S.

With every major type of potential threat risk identified by the new Department of Homeland Security (DHS) located inside our borders, Texas has a huge duty to protect 21 million people, dozens of large stadiums for sporting events, 29 seaports along 367 miles of coastline, a 1200 mile border with Mexico, 227,000 farms, the residence of the current President George W. Bush, chemical and nuclear power plants, major international airports, etc…[21]   This undertaking is served by thousands of individuals at all levels of government.

This report is clearly not an exhaustive report of all state, federal or local capabilities or efforts, rather it is a quick snapshot of the broad homeland security structure in the State. Additionally, this report will provide recommendations to be used to guide State policy makers in crafting solutions to Texas' security risks and the response to homeland security incidents.

HOMELAND SECURITY POLICY

On the Federal level, Congress passed the National Strategy for Homeland Security and the Homeland Security Act of 2002, which established the Department of Homeland Security. This Department was created to provide the unifying core for the vast national network of organizations and institutions involved in efforts to secure our nation. This huge new federal agency encompassed various existing federal departments including the Immigration and

Naturalization Service, the U.S. Coast Guard, U.S. Customs and many other federal agencies and offices. This agency, headed by former Pennsylvania Governor Tom Ridge, is responsible for preventing terrorist attacks within the United States, reducing America's vulnerability to terrorism, and minimizing the damage and recover from attacks that do occur.

From a Texas policy perspective, this terrorist attack occurred after the 77th Regular Session of the Legislature and therefore the agency structures that were in place remained in place to deal with potential prevention and response issues. In October 2001, Governor Rick Perry formally announced the formation of the Governor's Task Force on Homeland Security.[22] This Task Force, chaired by then Texas Land Commissioner David Dewhurst, was made up of both elected officials and other private citizens that had relevant perspective that the State could use to form an immediate homeland security plan. The Task Force met in four public meetings between October and December 2001 and presented a report to the Governor in January 2002 with 44 recommendations. The recommendations varied from pushing for changes at the federal and local levels, plans for State agencies to develop programs to deal with terrorism risk aversion, improvements of communication networks and changes to state law for better coordination and cooperation around the State. Many of the recommendations for the State were implemented at various state agencies. The complete report can be found on line at:

http://www.governor.state.tx.us/divisions/press/initiatives/homesec2002/files/homesec2002.pdf

Additionally, former State Attorney General John Cornyn also formed an advisory committee called the State Infrastructure Protection Advisory Committee (SIPAC)[23] to work with various entities to help develop a strategy to address state infrastructure and minimize disruption to critical services in the case of some form of incident that would compromise this infrastructure. SIPAC also submitted a report which included two primary recommendations and 16 secondary recommendations. This report can also be found on line at

 http://www.mccombs.utexas.edu/e-security/TIPC/sipac/sipac_toc.htm.

Since the Legislature was out of session after the attacks, there was no one specific legislative committee designated to develop legislative solutions to address the proposals put forth by the Task Force, or to develop independent proposals. Then House Speaker Pete Laney assigned interim charges, related to some form of terrorism, in November 2001 to seven different House committees that would address terrorism issues, including water security, transportation, emergency response, public health, energy infrastructure, state owned facilities and border traffic.[24] The various committees submitted interim reports to the 78th Legislature regarding their findings, making dozens of recommendations for different changes in State law and policy.

When the 78th Legislature convened in January 2003 under Speaker Tom Craddick, the House and Senate both proposed and passed rule changes to alter the structure of several committees.[25] The House Committee on State Federal and International Relations was changed to the Defense Affairs and State-Federal Relations Committee. The jurisdiction of this Committee is laid out on page 5 of this report. Rep. Frank Corte Jr. of San Antonio became the Chairman of this new

nine-member committee and several bills were referred to this committee regarding homeland security. The main homeland security provisions that were introduced and passed were the following:

78R HB 11 by Rep. Keel -   Increases penalty for terroristic threats and allows for capitol punishment for someone committing murder during the commission, or attempted commission of a terroristic threat.

78R HB 627 by Rep. Reyna - Allows Health Commissioner to quarantine an area that has been attacked by bioterrorism.

78R SB 1517 by Sen. Armbrister - authorizes security personnel trained and qualified under a Nuclear Regulatory Commission (NRC) -approved security plan, to perform certain activities, including arrest and search and seizure, while in the performance of their duties at a commercial nuclear power plant, licensed by NRC.

78R HB 2650 by Rep. Kuempel -   Sets up the Public Safety Radio Communications Council to study and report on the best methods to achieve interoperable radio communications between local and state emergency personnel.

78R HB 9 by Rep. Flores - This legislation is an omnibus homeland security bill with several functions.

> ➢ Establishes that the Governor is to direct Homeland Security for the State of Texas and requires the Governor to set a homeland security strategy to detect, deter and respond to homeland security threats and emergencies. Also, it is to help coordinate homeland security activities between federal, state and local agencies, and the private sector.

> ➢ Sets up the Critical Infrastructure Protection Council (CIPC) made up of representatives from 14 different state agencies. The CIPC is to advise the Governor on development and implementation of the statewide homeland security strategy.

> ➢ HB 9 provides for civil liability immunity for volunteers and state officials working in a homeland security capacity under the direction of appropriate authorities.

> ➢ The bill also overhauls sections of the Open Records Act making certain records confidential that would give away information regarding critical infrastructure used to protect against threats.

> ➢ The bill sets up September 11 as "Texas First Responders Day" to be observed by schools and agencies as they see fit.

➢   HB 9 also establishes the Texas Infrastructure Protection Communications Center in the Department of Public Safety, which serves as the State's primary entity for planning, coordination and integration of government communications, including collection and analysis of intelligence.

In short, HB 9 mostly provided for State structures to address homeland security missions regarding deterring, detecting, preventing, responding and recovering from homeland security incidents. These structures are necessarily commingled with the same types of functions that are emergency or criminal related duties. Securing infrastructure is not exclusively linked to terrorist threats.

Protecting Critical Infrastructure and Assets

Sector	Lead Agency
Air Quality	Texas Commission on Environmental Quality
Agriculture	Department of Agriculture
Criminal Intelligence	Department of Public Safety
Electricity	Public Utility Commission of Texas
Emergency Services	Governor's Division of Emergency Management
Food Safety	Texas Department of Health
Government	Governor's Office
Information Service	Department of Information Resources
Military	Texas National Guard
Oil and Gas	Railroad Commission of Texas
Public Health	Texas Department of Public Safety
Telecommunications	Public Utility Commission
Transportation	Texas Department of Transportation
Water	Texas Commission on Environmental Quality

POST 78th LEGISLATIVE SESSION ACTIVITIES

Following the legislative session, the Governor's office and staff within the Department of Public Safety began immediately implementing the provisions of HB 9. Governor Perry appointed Mr. Jay Kimbrough to serve as the Texas Director of Homeland Security in November 2003, after he had served a similar function in the Office of the Attorney General. Recently in August 2004, Governor Perry appointed Mr. Steve McCraw to the position of Director of Homeland Security[26] and Mr. Kimbrough moved into another position within the Governor's office.

The Office of Homeland Security works under the direction of the Governor and they have a number of responsibilities. Under direction of the Governor, the Office is primarily responsible for creating the Homeland Security Strategy for the State, which is directed by HB 9 and also by federal direction in order to receive funds. This Plan was submitted to the federal Department of Homeland Security in January 2004, nine months ahead of schedule and was the first in the nation to be submitted and approved by the Department.

The Office also gives policy direction for homeland security grant funding that comes into the State from the federal Office of Domestic Preparedness. Additionally, the Homeland Security Director oversees the meetings of the CIPC, which has met either in person or by telecommunications on numerous occasions to discuss general risk preparations and to address the specific threats to Texas, or increased national threat levels. These CIPC meetings, and other information gathered from a myriad of sources is used to advise the Governor on both long term homeland security strategies, as well as short-term and immediate threat management responses. The Office is also responsible for the Governor's Division of Emergency Management, which is tasked with administering a program of all-hazards emergency management, designed to reduce the vulnerability of the citizens and communities to damage, injury, and loss of life and property by providing a system for the mitigation of, preparedness for, response to and recovery from natural or man-made disasters.

The Public Safety Radio Communications Council (PSRCC), led by the DPS and set up by 78R HB 2650, has met several times in a continuing effort to advise the State on a plan for a course of action for a statewide public safety interoperable communication infrastructure to support first responders throughout the state. In September 2004, the PSRCC released a legislatively mandated report[27] which lays out various issues regarding public safety radio communications. The most notable step taken toward establishing statewide interoperable radio communications is a pilot-project underway, funded by nineteen private companies interested in participating. This pilot project will demonstrate many systems that meet specific criteria and show an open and shared architecture. This project is scheduled to begin in November 2004 and will go through May 2005.

HOW DO WE ADDRESS HOMELAND SECURITY IN TEXAS

Prevention and Preparedness

The federal government, through several agencies, serves as the primary point of intelligence data collection, analysis and dissemination regarding terrorist threats. Information gathered both at home and overseas is analyzed at the appropriate federal collecting agency and, in the case of actionable intelligence, is investigated through the Federal Bureau of Investigations FBI, generally at the JTTF level, or by one of the several investigating federal agencies involved in that particular information piece.

Joint Terrorism Task Forces (JTTF) serve as an investigation arm in various regions. JTTFs are teams of state and local law enforcement officers, FBI Agents and other federal agents and personnel who work together to investigate and prevent acts of terrorism. These task forces are important "force multipliers" by pooling multi-agency expertise and ensuring the timely collection and sharing of intelligence absolutely critical to prevention efforts. There are 66 major JTTFs nationwide and six in Texas - Houston, Dallas, Austin, McAllen-Brownsville, San Antonio and El Paso.[28] Texas also has a number of equally important smaller annex JTTFs around the state that provide useful information and investigation. Local law enforcement authorities also have methods of information collection and as they develop intelligence, local officers make the determination as to the appropriate action to pass the information on to a fellow local jurisdiction, or other homeland security authorities at the federal or state level.

At the State level, the Department of Public Safety has recently established the Texas Security Alert and Analysis Center (TSAAC). TSAAC is a state-of-the-art facility, which is part of the State Operations Center. The Center serves as the focal point for planning, coordinating, and integrating government communications regarding the state's Homeland Defense Strategy. The TSAAC receives information 24 hours a day, seven days a week from many sources, including calls from individual citizens, tips from law enforcement officials at various levels, including intel gathered by the DPS, and various information exchange systems such as the Joint Regional Intelligence Exchange System (JRIES). JRIES is a digital network connection between the U.S. DHS and more than 60 law enforcement partners who agree to share and respond to information.[29] TSAAC is the central facility for fulfilling the Department's responsibility to collect, analyze, and disseminate intelligence information related to terrorist activities

As information is analyzed at TSAAC, it is disseminated to various appropriate entities and citizens by various statewide alert systems:

Emergency Alert System: This system allows broadcast stations, cable operators and designated government officials in Texas to disseminate information and instructions in potential or actual emergencies to alert the public and provide continuous communications services during an emergency. This has recently been upgraded to allow for execution of this system to happen within minutes, rather that the hours that it could take previously.

Federal threat assessment system: Texas is using the federal color-coded threat assessment system on the Texas homeland security Internet site, www.texashomelandsecurity.com.

Health Alert Network: The Texas Department of Health has implemented a secure Internet connection that links the state's health resources and provides information and warnings about bioterrorism and other health issues.

Statewide Education Notification System: The Texas Education Agency has established an Internet-based network that can deliver alerts to the state's 1,200 school districts by pager, e-mail, phone and fax.

While not generally used by TSAAC, another information dissemination network exists also:

2-1-1 Texas: 2-1-1 Texas serves as a centralized information referral network for accurate information regarding health risks and services. In case of an emergency incident, it can be used to take pressure off of 9-1-1 systems to provide information regarding threat risks, victim information, blood and monetary donations, and any other pertinent emergency information that needs to be disseminated.

Emergency Response to Homeland Security Event

Texas is uniquely prepared to deal with a terrorist attack in Texas. The all-hazards approach taken by the Governor's Division of Emergency Management, in coordination with the 24 Emergency Management Council members has proven effective time and time again in dealing with both natural disasters as well as man-made disasters. Hurricanes, tornadoes, forest fires, health emergencies in humans and in animals, large-scale fires and explosions, and many other forms of disasters are somewhat commonplace in Texas given the vast land, population and infrastructure. In fact, in 2003, the DEM fielded 2573 requests for some form of disaster-related assistance from all over the State and provided this assistance to over 227,000 individuals.[30] While none of these requests have been in response to a terrorist attack, many of the emergency response elements are oftentimes the same.

While there are certainly new threats since 9/11 that have not specifically been thought of or planned, the state and local structures in place have proven effective even in unforeseen disasters. As pointed out by Mr. Jack Colley, State Emergency Management Coordinator, in a recent Subcommittee hearing; there was no plan on February 1, 2003 for a Space Shuttle on route to Florida to break up in the skies of East Texas and fall over numerous counties. In this effort, over 5000 responders participated in 97 days of continuous searching in the largest air, land and water search ever conducted in America. In fact, the element of hazardous materials was also a factor in the search, as residents were urged not to go near wreckage from the crash. The elements of coordinating numerous counties, dozens of state and federal agencies and keeping in continuous communication with all affected citizens in the area are very probable in case of a large-scale terrorist attack.

The key to the State's Emergency Management Plan, which can be found at ftp://ftp.txdps.state.tx.us/dem/plan_state/state_plan_20040211.pdf, is in the State's 22 DPS Disaster Districts all over the State. These interlocking districts, based off the 24 COG regions, serve as a regional approach to disaster preparedness and response. This system serves as a complement to the regional approach in the overall Homeland Security Strategy for the State.

In a local emergency, the literal first responders are the emergency resources from each city or county. These local responders are in constant communication with State and federal emergency agencies and in the circumstance that a local response effort does not have adequate capability to deal with the entire incident, assistance can be requested from the Division of Emergency Management through the local DPS Disaster District Chairman. The DDC is usually a Captain, or commanding Lieutenant with the DPS and all DDCs are fully prepared and trained to bring in State Resources necessary depending on the emergency need. The DDC speaks directly for the Governor on these occasions, including directing the National Guard in the case that the Governor calls them up for an incident.

Since 9/11, the DEM has brought on line the new State operations center, which serves as the hub for State emergency response outside of the local incident command centers. This new state of the art facility houses the TSAAC and a highly secure virtual teleconferencing network to see images and video in the case of an event. This Austin based SOC is also the primary command center for the Emergency Management Council. While this is true for all emergency response, in terms of terrorism, this facility brings together into one place all planning, information, training, and response and recovery efforts needed to handle large and small scale attacks.

Additional notable emergency response resources available to the State are:

Texas Task Force I,[31] based in College Station, is an urban search and rescue team designed to provide a coordinated response to disasters in urban environments. The task force specializes in locating and extricating victims trapped in collapsed structures, confined spaces or trenches in largely populated areas. Texas Task Force I aided the recovery efforts at the World Trade Center and has responded after floods in Del Rio and Houston, a tornado in Jarrell and the bonfire collapse at Texas A&M University.

The Texas National Guard's 6th Civil Support Team is stationed at Austin-Bergstrom International Airport. This unit is trained and equipped to respond to biological, chemical or nuclear incidents. Texas was among the first states to get a Civil Support Team when 10 such teams were authorized by the federal government in 1998. Today, 32 Civil Support Teams have been authorized. The Texas team's mission is to go into an affected area, assess the incident, advise the civilian emergency responders, and bring in additional resources to assist with the problem. The Civil Support Team has sophisticated detection, communication and assessment equipment, including a mobile laboratory that gives the team the capability of identifying more than 125,000 chemicals or determine the genetic blueprint of a biological contamination.

HOMELAND SECURITY FUNDING

Given the relatively new massive attention to homeland security threats, enormous expenditures have been needed all over the nation and world to help deter, prepare, respond and recover from a potential terrorist threat or attack. This is certainly the case in Texas where we have seen billions of dollars spent here since 2001 at all levels with funding sources including state, federal and local governments, and private sector spending on infrastructure. In fact, between May 2002 and the first quarter of FY 2004, state agencies and institutions of higher learning alone reported a total of $854 million in new homeland security funding received.[32] There are various methods of funding homeland security projects across the State.

Direct grants from one federal agency to a single jurisdiction or company fund a huge portion of homeland security funding in Texas, perhaps as much as 40%. These are grants that are offered from one of several federal agencies regarding a specific capability that they would like to see local political subdivisions, or even private companies develop. In the case of a direct grant, the federal agency offering the grant will announce the grant specifications and a local entity will apply for the grant directly with the agency. If approved, the federal agency manages the expenditure in cooperation with the local entity, however, the State Homeland Security Coordinator is not necessarily notified of the transaction. Because of this lack of notification, Texas officials are still trying to get a handle on total homeland security expenditures from this method.

The State Homeland Security Grant Program from the Office for Domestic Preparedness, U.S. Department of Homeland Security, has evolved from a small program, designed to support purchases of basic defense equipment for a Weapons of Mass Destruction incident, into a robust program that incorporates planning, training exercises, reimbursement, prevention equipment, mitigation, response and recovery. The Urban Area Security Initiative (UASI), began in 2003 and provides funding to help metropolitan areas improve capabilities. We have seen an explosion in expenditures through the Homeland Security Grant Program, which can be seen in the graph on page 46 of this report. From less than $3 million in 1999 to now over $150 million in 2004 going to 933 jurisdictions across Texas, a huge influx of money has entered Texas to beef up homeland security efforts in Texas.

Funding from these programs is approved by Congress for a specific overall national amount and they are allocated to the States based on a funding formula geared to proportionalize funding as much as possible. The Governors of the States then are responsible for further allocating these funds to state and local jurisdictions. Policy direction for these grants in Texas is through the Governor's Director of Homeland Security and they are allocated and administered by the Texas Engineering Extension Service (TEEX), who serves as the State Administrative Agency. By federal mandate, a maximum of 20% of grant funding through these ODP programs can be used for state level activities. At least 80% of the funding must go to the local level.[33] Texas has averaged approximately 96% of all funds going out to the local jurisdictions since 1999. The State has used its portion of the money for a variety of efforts, including the TSAAC, bioterrorism preparedness, TEEX training and exercises and cyber security through the Department of Information Resources.**[34]** At the local level, this money has largely been used for

first responder equipment and for regional response efforts.[35]

The Homeland Security Grant Program consists of three components:[36]

The State Homeland Security Program (SHSP) provides equipment, training, exercise, planning and grant administration funding to assist a wide range of emergency response disciplines to prevent, mitigate, respond and assist in recovery from a potential terrorist incident.

The Law Enforcement Terrorism Prevention Program (LETPP) focuses on prevention and warning.

The Citizen Corps Program provides funding for Citizen Councils, public outreach and education, plus funding to support Citizen Emergency Response Teams (CERT), Neighborhood Watch, Volunteers in Police Service (VIPS) and Medical Reserve Corps.

Current allocation of funding from the Homeland Security Grant Program is calculated for each of the 24 COG regions based on the population of the region and the number of incorporated municipalities in the region. This is done by dividing 50% of the available funding by the population of Texas to obtain a population factor, and dividing 50% of the funding by the number of jurisdictions in the state to obtain a jurisdiction factor. The factors are multiplied by the population and number of jurisdictions in the region. The sum of the results is the funding available for distribution in a particular region. When a calculated base grant is less than $15,000, or the jurisdiction is less than 25,000, and the jurisdiction has received grants under 2002 - 2003II programs, the calculated base amount is added to the amount that the COG will use for allocation. 50% of the allocation from the State goes directly to the local jurisdiction and 50% of the money goes to the COG for a regional allocation. While this method can seem complex, the purpose is to try to equalize spending across the State and to promote regional planning efforts.[37]

Funding from the Office for Domestic Preparedness (ODP) Through the State Administrative Agency (SAA)
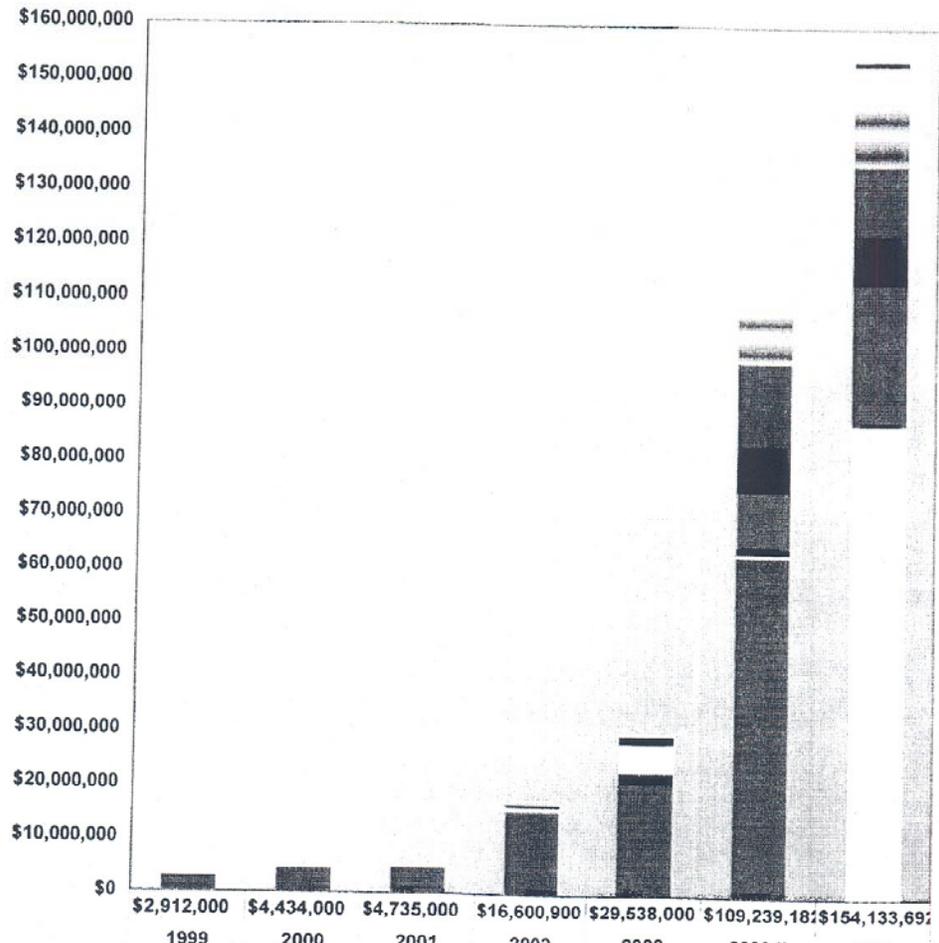
	1999	2000	2001	2002	2003	2003 II	2004
	$2,912,000	$4,434,000	$4,735,000	$16,600,900	$29,538,000	$109,239,18:	$154,133,69:

						2003 II	2004
■ Trinity Rail UASI							
San Antonio UASI							$795,280
= Dallas UASI							$6,263,976
■ Houston UASI						$10,398,583	$12,126,689
■ Citizen Corps						$23,766,700	$19,837,747
■ Law Enforcement Terr.Prevention Program							$1,815,000
State Homeland Security Program							$25,926,000
■ Alert Level Orange							$87,369,000
■ Admin						$10,432,000	
■ Training					$404,900	$1,120,433	
Exercises					$1,555,000		
■ Planning	$384,000			$718,000	$5,182,000	$500,000	
■ Equipment	$2,528,000	$4,434,000	$4,735,000	$15,478,000	$2,073,000 $20,728,000	$63,021,466	

COMMITTEE RECOMMENDATIONS:

1) The State should authorize and fund the DPS to develop a system of automatic identity verification based on biometric identifiers such as facial recognition technology.

2) The State should encourage the creation of a Texas Network Security Operations Center through a public/private partnership to provide a unified protection capability of State computer networks.

3) The State should continue funding for the 2-1-1 communications network infrastructure through the State and fund a portion of the operations of 2-1-1.

4) Encourage Texas' Congressional delegation to continue supporting a federal formula change so that federal grant monies are distributed based on risk, rather than on state equalization methods.

5) The State should look into future homeland security grant funding by the State to ensure that spending is based on identifiable state threat risks rather than on an equalization formula.

6) The State should work with the Department of Public Safety to increase their counter - terrorism investigation and threat assessment capabilities by providing a more permanent funding for an increased counter-intelligence office.

7) The Governor and our federal delegation should encourage the Department of Defense to allow for another Civil Support Team to be stationed in Texas.

8) Work with Texas' federal delegation and the U.S. Department of Homeland Security to attract a Regional DHS Office to be set up in Texas.

9) The State should develop a plan to coordinate and implement interoperable radio communications for first responders throughout the State.

ANALYSIS OF RECOMMENDATIONS

Recommendation #1

The State should authorize and fund the DPS to develop a system of automatic identity verification based on biometric identifiers such as facial recognition technology.

While the Committee realizes the controversial nature of this issue in the last legislative session, and acknowledges that even certain members of this Committee oppose recommendation #1, the Subcommittee feels that this policy direction is right for the State and will add protection not only for terrorism, but also for standard fraudulent individuals and against identity theft.

Recent advances in technology have proven facial recognition technology to be effective in identifying and verifying applicants. The system works from a standard digitized facial image that is stored on a dedicated server, ensuring restricted access and privacy. When an applicant requests a driver license or ID card, the DPS operator is able to take a picture, just as they currently do and the image is run immediately through a facial recognition software database and compares the image to the previous images stored on file. This technology will prevent people from illegally obtaining a valid driver license under false pretenses, and it would further keep them from obtaining other "valid" documents to establish a "legitimate" identity. The system should have the capability to compare "one to many faceprints" which will aid investigators in identifying a number of factors including, an individual holding two or more licenses under different names, different individuals holding a common identity and license number, operator error - such as assigning a new license to a person who already holds a license, patterns of error that might indicate collusion, known offenders returning for a new and fraudulent licenses and perpetrators "shopping" for multiple licenses on a single day.

Recommendation #2

The State should encourage the creation of a Texas Network Security Operations Center through a public/private partnership to provide a unified protection capability of State computer networks.

Currently, State computer networks are protected by a piecemeal approach at each State agency. A centralized Texas Network Security Operation Center (TNSOC) and Computer Incidence Response Capability (CIRC) are ideally suited to supporting the State's current drive toward an integrated IT infrastructure called for in 78R SB 1701. A team of cyber defense specialists operating 24/7 would provide near real-time detection and incident response for the entire State at a lower overall cost compared to duplicating this capability for individual agencies. The TNSOC will identify and alert agencies to threats gained from correlation and analysis of State network activity and real-time information exchange with other Computer Emergency Readiness Teams (CERT), law enforcement, intelligence activities, and vendors. The state can spread the cost of service over multiple agencies, fully leveraging the state's purchasing power.

Additionally, given the frequency and cost of downtime for state networks, the State loses money each time there is an IT shutdown. A shared IT infrastructure allows for development of deeper IT security skills and provides better services with less risk of intrusion or hacking. By forming a public private partnership, the State can benefit from similar current structures already in place, share some of the costs with other political jurisdictions that may want to join, and encourage higher education in the IT field by partnering with an institution of higher learning. An additional benefit of the TNSOC could come by providing a first-in-the-nation model for CyberSecurity. Our Texas Congressional delegation should approach the Department of Homeland Security to help fund this model approach.

Recommendation #3

The State should continue funding for the 2-1-1 communications network infrastructure through the State and fund a portion of the operations of 2-1-1.

In 1997, the Texas Information and Referral Network was designated by the Texas Legislature as the program at the Texas Health and Human Services Commission responsible for the development of a statewide information and referral network. In 2000, the Federal Communications Commission assigned 2-1-1 for access to community information and referral. Today, Texas has statewide coverage through 2-1-1. While 2-1-1 Texas is overseen by the THHSC, it is truly a public-private partnership which aids citizens statewide in finding much-needed services in their community. In a Homeland Security event, or any emergency incident, 2-1-1 is an easily accessible way for citizens to obtain accurate information regarding health risks and services, information about how to look for victims, how to donate blood, money or goods, or any other relevant emergency information. This statewide tool is currently being used all over the State for various forms of information sharing, and this committee feels that the program can provide a tremendous service to the State and local communities in case of a terrorist attack or other emergencies. Recent budget constraints halted funding for the operational side of the 211 system and some of this is being picked up by non-profit and other community partners. The committee feels that the State should restore funding for the operational side of 2-1-1. The THHSC should look at the possibility of rolling other telephone information services into 2-1-1 and using some of this funding as one potential source.

Recommendations # 4 & 5

Encourage Texas' Congressional delegation to continue supporting a federal formula change so that federal grant monies are distributed based on risk, rather than on state equalization methods.

The State should look into future homeland security grant funding by the State to ensure that spending is based on identifiable state threat risks rather than on an equalization formula.

4) Since 2001, $23 billion has been made available to state and local governments for first responders.[38] First responder grants are distributed to states based on a federal formula, which guarantees that all 50 states, regardless of risk or need, will receive federal assistance. In some cases, state and local governments that have not requested assistance because they don't believe they are vulnerable have still received funds. In federal funding per capita for first responders, Texas ranks fiftieth of the fifty states. We are slightly ahead of that other small state, California. Wyoming, the least populated state, leads the nation. Given the major metropolitan areas of Houston, Dallas, San Antonio and Austin, a 1,200 mile porous border with Mexico, 29 maritime ports, and the home of the current President, clearly the threat we face is graver than many other parts of the country. This Committee feels that we should support our Congressional Delegation's move to base first responder funding on threat risks.

5) While not the same formula, State Homeland Security funding, coming from DHS, has been granted to communities based mostly on an equalization type of funding formula. While the formula encourages regional planning, and the funding is conditional based on risk assessments done by the regions and jurisdictions, we have seen several abuses around the State with a small portion of these funds.[39] Additionally, these assessments are based on inventory of threat risks and hard assets available to protect them, rather than on specific identifiable weaknesses to the particular threat risk. It is impossible to second guess where a terrorist cell may strike and against what infrastructure, however, funds are limited and will likely only shrink in the coming years. For similar reasons for that of the federal funding formula, the State may want to consider setting specific priorities for local homeland security funding goals and assist the regions in planning for more specific identifiable threats.

Additionally, this money has been disproportionately geared toward emergency response, rather than prevention. The State should target more money toward prevention of attacks rather than post-incident response. The State should encourage the concept of "Red Teaming" in the local and State risk assessment process to identify actual potential vulnerabilities. Red Teaming is a professionally controlled simulation of an attack against a certain facility, or other target, to achieve a predetermined goal. Similar to the heavy reliance on emergency management exercises to identify weaknesses in post-incident response, the same effort should go into identifying actual weaknesses and vulnerabilities pre-incident so that we can better avoid attacks. Similar approaches are currently being implemented statewide for computer networks, including State computer networks, however this concept should be extended to other hard targets.

Recommendation #6

The State should work with the Department of Public Safety to increase their counter -terrorism investigation and threat assessment capabilities by providing a more permanent funding for an increased counter-intelligence office.

Currently the DPS has six analysts that work round the clock in Austin manning the TSAAC and analyzing terrorist threat information that comes in to the facility. Criminal investigative and intelligence gathering responsibility for terrorism has been assigned to the Special Crimes Service.[40] This Service is also responsible for other crimes, including pari-mutuel racing, sex offender civil commitment, fugitive apprehension, missing person's clearinghouse and other types of sensitive and confidential investigations. The increased focus on terrorism in the Special Crimes Service has spread this department thin and decreased the ability for these agents to effectively gather and analyze terrorism intelligence and properly assess the state's risks. The Committee would like to see the Legislature support an increase in terrorism analysts and investigators at the Department of Public Safety specifically dedicated to this task. An Exceptional Items request has been submitted to the Legislature by the Department for review and we agree that an increase in this effort is in the long-term security interest of our State.

Recommendation #7

The Governor and our federal delegation should encourage the Department of Defense to allow for another Civil Support Team to be stationed in Texas.

As pointed out on page 43, the TNG Sixth Civil Support Team stationed in Texas provides a unique capability that is used for detection and analysis of an emergency incident. A correct on-scene assessment of the threat and incident is essential for emergency management personnel to properly and promptly implement strategies to deal with an emergency. An incorrect assessment of the incident can result in loss of life. 254 local counties across the state cannot possibly have the capabilities that a CST has to detect chemical, radiological or nuclear presence, nor would this be efficient. These teams are designed to respond on the scene within 12 hours, which can be a challenge to Texas given the vast distances between potential critical infrastructure targets. By concentrating on 2 Civil Support Teams, and immediately deploying them in case of an emergency, a second CST can provide a tremendous asset throughout Texas. This decision is one made at the Department of Defense and would be funded and supported through the National Guard. Governor Rick Perry requested a second CST in November 2001, but was denied by the DOD because there were several states without even one team.[41] We should urge the Governor, and our federal delegation to continue pushing for a second Civil Support Team in Texas.

Recommendation #8

Work with Texas' federal delegation and the U.S. Department of Homeland Security to attract a Regional DHS Office to be set up in Texas.

Given the size of the Department of Homeland Security, the vast scope of their responsibilities and their continual interaction with political and private sector jurisdictions all over the nation, Texas entities can find the DHS infrastructure difficult to navigate. This often results in physical trips to Washington D.C. by Texans, and other neighboring states alike. Additionally, in case of an emergency incident, the DHS emergency management agency (FEMA) has an enormous task of coordination efforts. The Committee would like to see the DHS establish a network of regional offices around the States and locate one in Texas. The DHS should look at combining FEMA personnel, based in Texas, with other DHS staff focused on homeland security threats and assessments and station them at a location that provides the best coordination possibilities.

Recommendations #9

The State should develop a plan to coordinate and implement interoperable radio communications for first responders throughout the State.

The issue of interoperable radio communications is not new to the field of first responders. A new vigor was brought to finding a solution in each state after several failures of communications between New York first responders in response to the 9/11 tragedy. In Texas, there are several differing radio systems in use by federal, state, and local emergency responders and law enforcement officials. These overlapping systems fail to communicate due to several reasons, including frequency variations (VHF, UHF, 800 Mhz, 700 Mhz, etc..), age, incompatible vendor equipment or simple lack of coordination among interested parties. Given the increased focus and the influx of federal money to address this issue, many local jurisdictions have purchased new radio systems with limited coordination with potential regional partners. Several new systems have been deployed throughout the State over the past few years and many of them are not interoperable with the other new or older systems. While one short term solution would be to purchase new radios for every single jurisdiction, this would not be feasible or recommended by almost anyone. Another potential solution would be to mandate that a particular radio frequency or type be purchased by all local jurisdictions that would make them interoperable throughout the State. This also has several drawbacks, including a large infrastructure investment throughout the State. Given the differing regional needs and differing technical needs for various first responders, the Committee feels that it is not appropriate for the Legislature to force an unfunded mandate of a particular radio system on local and regional governments, rather the Committee recommends that through the Office of Homeland Security, the DPS and the PRSCC, the State continue searching for a cost effective permanent solution to link various existing radio systems together with radio systems that will be purchased in the future. The State should use some of the Homeland Security Grant Program money to help link systems together regionally and throughout the State.

SUBCOMMITTEE ON PORT SECURITY

CHARGE 3. Evaluate the uses and security of the ports in the state, including optimizing their role in the deployment of military troops and what measures the state can take to minimize security risks from potential terrorist attack.

INTRODUCTION

Seaports all across the nation are vulnerable to terrorist attacks because of their economic importance, size, accessibility by water and land, their location in metropolitan areas and the amount and content of material being transported through ports. Although some ports have developed in such a way that security can be tightened relatively easily, many ports are extensive in size and have enterprises intertwined with security concerns such as public roadways and bridges, large petrochemical facilities, unguarded access points, and a need for ready access by thousands of workers and customers.

Seaports are critical gateways for the movement of international commerce. More than 95 percent of our non-North American foreign trade (and 100 percent of certain commodities, such as foreign oil, on which we are heavily dependent) arrives by ship. Approximately 7,500 foreign ships[42] carrying multinational crews and cargoes from around the globe made more than 60,000 U.S. port calls each year.[43] More than nine million containers enter the country annually. [44] Particularly with "just-in-time" deliveries of goods, the expeditious flow of commerce through these ports is so essential that the Coast Guard Commandant stated after September 11, "even slowing the flow long enough to inspect either all or a statistically significant random selection of imports would be economically intolerable."

Texas leads the nation in marine commerce, with 12 deep-draft ports, 16 shallow–draft ports, extensive barge facilities and 423 miles of the Gulf Intracoastal Waterway.[45] The upper Texas coastal region includes an estimated 250 chemical plants, 26 oil refineries and 74 gas processing plants. These facilities supply nearly two-thirds of the nation's petrochemical needs and 26 percent of the United States' oil refining capacity. The state also boasts a thriving recreational fishing industry that contributes to the economic vitality of coastal communities and inspires the estimated $11.4 billion marine and coastal tourist trade making the Texas coast the state's second most popular destination.[46]

TEXAS PORTS

Deep Draft Cargo Ports

Beaumont
Brownsville
Corpus Christi
Freeport
Galveston
Houston
Port Isabel

Orange
Port Arthur
Port Lavaca
Texas City
Ingleside

Deep Draft Non-Cargo Ports

Sabine Pass

Shallow Draft Ports

Anahuac
Aransas Pass
Bay City
Cedar Bayou
Fulton
Harlingen

Liberty

Mansfield
Palacios
Port Aransas
Port O'Connor
Red Bluff
Rockport
Seadrift
Sweeney
Victoria

Additionally in Texas, the Ports are widely used for shipping and receiving of military combat equipment and supplies. The Port of Corpus Christi, alone, in 2003 saw 5,429 rail cars, over 1,950 commercial trucks and 22,188 pieces of military cargo from 17 forts and bases in Texas, Louisiana, Oklahoma, New Mexico, Colorado and Washington, all being shipped out to the Middle East.[47] The Port of Beaumont also handled large amounts of military equipment shipped through the Port coming from Ft. Hood and Ft. Bliss. Furthermore, this equipment, such as the Bradley Fighting Vehicles, military helicopters, etc. will all return to Texas through the same ports to be returned by rail or truck to the base from which it originated, or to one of the depot-level maintenance facilities located in Texas. With the 18 major military installations across Texas, three Navy bases in the immediate Corpus Christi area and the major deployment of soldiers and equipment from Ft. Hood from Beaumont and Corpus Christi, in addition to the major flow of commercial goods, a major portion of the nation's security relies on Texas' 29 ports.

Given the petrochemical and nuclear infrastructure, the enormous flow of civilian and military goods through Texas' ports and the potential colossal impact and consequences on lives and the world's economy from a terrorist attack, it is critically important to Texas, the United States, and in fact the entire world, that our Ports are deploying the safest and most effective security methods available to ensure that terrorists will not execute a successful attack on port facilities in Texas.

Since September 11, state, federal and local authorities, and private sector stakeholders have done a lot to address vulnerabilities in the security of the nation's ports. As one can imagine, Port security upgrades, will be extremely costly. Some U.S. Coast Guard estimates show that port facilities all over the nation will need to spend $5.4 billion on enhanced security over the next ten years to meet the new Maritime Transportation Security Act (MTSA) requirements.[48] This cost takes money directly away form other infrastructure improvements, which are needed due to the expectations of doubling, or even tripling trade across the nation. Given the fact that ports are a business, in competition with each other, some of this cost can be counter -productive in a competitive environment. The costs will also surely affect the final cost of retail goods in our country as companies pay higher prices to use port facilities.

SECURITY

In an effort to standardize international maritime security, the U.S. Coast Guard, in its role as the Department of Homeland Security's lead agency for maritime security, helped develop the International Ship and Port Facility Security Code (ISPS).[49] The ISPS Code, adopted in December 2002 has an "entry-into-force" date of July 1, 2004. This Code brings over 100 nations together to require security assessments and security plans for each facility. It requires that a security officer must be designated and that a port must conduct periodic drills, training and exercises.

At the same time as the ISPS Code changes, Congress enacted the MTSA requirements, signed in November 2002. These requirements on U.S. Ports have several components and many of its requirements must be approved and implemented by July 1, 2004. The MTSA also requires area security assessments and plans for each port, and for certain vessels and waterfront and offshore facilities. These plans are to be developed and implemented by an Area Maritime Security Committee with representatives from federal, state and local governments as well as industry and the private sector. The MTSA also requires Automatic Identification System (AIS) technology on certain vessels that are on international voyages.

Two other federal agencies immediately involved in the security of ports are the Customs and Border Protection (CBP) agency and the Immigration & Customs Enforcement (ICE) agency. ICE, the largest investigative force within DHS, enforces the nation's immigration and customs laws, provides commercial air security and protects federal facilities. Among their many duties, ICE is responsible for protecting the nation's borders and the American people from the smuggling of people, narcotics, and other contraband and for detecting and deterring terrorist activity with an integrated and coordinated air and marine interdiction force. Where ports are concerned, CPB enforces the import and export laws and regulations of the U.S. federal

government and conducts immigration policy and programs. CBP also performs agriculture inspections to protect from potential carriers of animal and plant pests or diseases that could cause serious damage to America's crops, livestock, pets, and the environment.

Additionally, the Transportation Security Administration in conjunction with CBP is conducting the Operation Safe Commerce (OSC) pilot project. The goal of OSC is to verify the contents of containers at their point of loading, ensure the physical integrity of containers in transit, and track their movement through each mode of transport from origin to final destination. TSA is field-testing a Transportation Worker Identification Credential (TWIC) for workers in all modes of transportation that will be used to control access to secure areas of cargo and passenger facilities. The agency has developed a "Maritime Self-Assessment Risk Module" to assist port terminal and vessel owners in developing their security plans as required by MTSA.

Security of ports is a multi-layered effort by as many as dozens of entities, often augmented by other outside parties. The various threats of a port come from the water, air, land or particular vessels. The Coast Guard is the lead agency in charge of security of waterways and incoming vessels. This includes tracking ships, using the Vessel Traffic Service (VTS), aerial patrols at sea and investigating suspicious vessels at sea or arriving or departing a port. This VTS system will be further aided by the implementation of the Automated Identification System (AIS), which will be required in certain international-bound vessels. This AIS system will amount to having transponders on board, similar to what is required in airplanes.

Additionally, the Office of Naval Intelligence in Maryland tracks worldwide every single commercial ship over a certain (unidentified) size. The Coast Guard also has a presence at this facility and they share information on a real-time basis. Ships are also required to give the Port and Coast Guard 96 hour advanced notice of arrival, with a crew and cargo list. This increase from 24 hours allows the authorities more time to better identify ship traffic and to investigate any vessels "of interest." The Coast Guard also relies on other information and tips from private boaters, such as commercial fishermen, and even the State's General Land Office.

As an additional safeguard, a system completely unrelated to security provides an institutional safety piece for large vessels. Large vessels are brought into port waterways by harbor pilots, not the regular ship captain. Ship pilots not from the local area are unfamiliar with the topography of the waterways and therefore are unable to pilot their own boats near port infrastructure. Local harbor pilots are able to board a ship five miles off shore, determine whether they see any suspicious activity and, in the case of apparent suspicious cargo or crew, the pilot is able to signal that risk to the proper authorities without letting the ship's crew know. While certainly not impossible, the monitoring systems in place, restricted access to the ship channels, the new notice of arrival and the other institutional safeguards, threats of attack from large vessels is perhaps the lowest port security risk.

On land, various parties are involved in the security of ports. Local police departments or Port police departments often serve as the lead security force inside the Port boundaries. Currently, only five Texas ports have a Port police force, and many contract with the local police or Sheriff's departments for security of the land in and around port facilities. Most ports in Texas have focused their effort highly over the past few years, putting in state-of-the-art surveillance systems, monitored both by personnel and high tech software systems, electronic fences and other emerging security technologies to ensure that the boundaries of the port are not breached by outside threats. The immediate surroundings outside of port boundaries are monitored by port authorities, however, local police departments and sheriffs are the lead forces to guard against criminal activities. Additionally, most private companies with infrastructure in and around ports often have their own security officers. Joint Terrorism Task Forces (JTTF) also keep in close communication with the various port authorities and share relevant information gathered through investigations of potential terrorist threats to ports all along the coast.

Air traffic is monitored by more than one agency, however, North American Aerospace Defense Command, or NORAD, monitors all air traffic in the nation and is responsible for detecting and combating any aerial threats. In case of a suspicious aircraft, military aircraft can be scrambled from a nearby military base to confront the aircraft. NORAD will notify the appropriate authority that may be at risk, often through the Coast Guard in order for them to take appropriate action. All of these entities must work together in an attempt to thwart all potential threats.

USS COLE [50]

> *On October 12, 2000, two suicide pilots of a small bomb-laden boat pulled alongside of the USS Cole at midship, offered friendly gestures to several crew members, and detonated their explosives. The U.S. destroyer. en route to the*

CONTAINER SECURITY

Almost 500 million tons of cargo moved through Texas ports in 2002.[51] Major commodities which move through Texas ports include forest products, petroleum, grain, steel, chemicals fruit, bagged agricultural commodities, rice coffee, bulk minerals and ore, edible oils and containerized cargo. Containers that come off of vessels, or that come into the port from land are monitored by several methods. The widely thought belief that 95% of containers coming into ports are not inspected needs to be addressed. Obviously, inspection of 100% of cargo coming into our country at ports of entry is an impossible goal that would destroy our economy and as a result make us vulnerable not only to attacks from terrorists, but also to other nations. As a result, the Customs and Border Protection attempts to rule out most cargo as a potential threat by looking at the company's past history, the originating nation's port safeguards and through use of smart-container technologies that are available in many cases. Through use of intelligence methods, both foreign and domestic, suspicious activities of a crew

or vessel and cooperation with other federal agencies, the National Targeting Center (NTC) is able to identify potential terrorist container threats before they arrive at U.S. seaports.[52]

Suspicious containers, and also randomly, some containers that are not identified as suspicious, are inspected by several methods. Radiation Portal Monitors, Isotope Identifiers, and Personal Radiation Monitors allow for inspections for nuclear material. Chemical and explosive detector dogs are also being used in the inspection process. Additionally, teams of CBP personnel are being assigned to foreign ports to target and screen potential container threat risks overseas.

EMERGENCY RESPONSE

Emergency response at various port facilities is a similar structure to that of law enforcement. Depending on the emergency incident, regardless of the origination, private companies have many response infrastructures in place to address disasters, including fires, gas leaks, etc.. Private companies also often band together in their response efforts by supplying personnel and materials to both prepare for and respond to an incident among their members. This "mutual aid" network allows for lower costs to the companies and keeps from duplicating efforts that may prove unnecessary. Often the port authority emergency response teams will be called in to supplement the response effort too. Depending on their abilities, the port can provide a centralized communications network, as well as specialization in the knowledge of additional resources. To this end, City, County, State and Federal resources are also called on frequently to fill in any gaps needed in case of an incident that is beyond the capabilities of the port, or industry responders. {*State resources are delineated in the Homeland Security Strategy Report.*}

FUNDING

As stated before, the cost for security upgrades have been estimated in the billions of dollars nationwide over the next ten years. In Texas, ports and industries have spent tens of millions of dollars since 9/11 and the trend will likely continue. The funds to implement these upgrades come from various sources, including millions from the associated port industries themselves. Most of the funds to pay for security at ports comes from the federal Port Security Grant Program. This program, based out of the Department of Homeland Security, provides resources for projects to improve perimeter and dockside security upgrades such as surveillance equipment, access controls to restricted areas, communications equipment and new command and control facilities. The grant applications are evaluated by several agencies, including the Office of Domestic Preparedness, Transportation Security Administration, Customs and Border Protection, U.S. Coast Guard, and the DOT Maritime Administration. Since 2002, almost $500 million has been awarded from this program, including $40 million going to eight Texas ports.[53] These grants have funded everything from fiber optic links to lowlight/infrared remote

controlled TV waterway surveillance cameras. The Urban Area Security Initiative also provides some funding for port security, including $75 million in 2003 nationwide.[54] These figures do not take into account the money spent to equip and staff the new requirements of the various leading federal agencies, such as the Coast Guard, ICE, CBP, TSA and others.

"With over 95 percent of our nation's international cargo carried by ship, port security is critical to ensuring our Nation's homeland and economic security,"

Secretary of Homeland Security Tom Ridge - July 2003.

TEXAS PORT SECURITY LEGISLATION

78RHB 3588 - This comprehensive transportation bill includes a provision establishing the Port Authority Advisory Committee and the Port Access Account Fund which is to fund port security, transportation or facility projects, port studies and a number of other port-related projects (Section 55.002, Transportation Code). The Committee will review each project eligible for funding and make recommendations for approval or disapproval to TXDOT. The Fund was not funded in the appropriations process.

78R HB 9 - This bill requires that the State Homeland Security Strategy address ways to secure the State's ports. It also includes discretion to port authorities to keep certain critical infrastructure information and documents confidential and it also addresses ways that they can share this information with other appropriate parties. (See Homeland Security Strategy Report for full explanation of provisions of this bill)

The Texas Legislature established Texas Transportation Institute's (TTI) Center for Ports and Waterways (CPW) in 1995. The CPW provides valuable applied research at the local, regional, and national level, benefiting both the nation and the State of Texas. The CPW is a consortium of universities with extensive expertise in maritime issues who work together as a team in research and development activities. Consortium members include: Lamar University, Texas A&M University, Texas A&M at Galveston, Texas A&M-Corpus Christi, and The University of Texas at Brownsville. Homeland Security is among the many policy areas about which the CPW researches.

COMMITTEE RECOMMENDATIONS

1) The State should develop a program to retain key private sector emergency responder companies to ensure timely availability of experts and services during a crisis. Involvement of these companies should extend to the state's emergency planning processes. Federal grants available to the state should be considered for these services.

2) The State through the retention of private emergency responders, or otherwise, should develop a program for the pre-positioning of critical equipment and supplies.

3) The Legislature should revise Texas' statutes to allow for port authorities to use the magnetic strip on the back of a driver's license to identify and credential visitor and truckers to ports.

4) The State should allow port authorities with integral police departments to utilize reserve police officers.

5) Encourage TXDOT to give priority to projects that would upgrade military deployment routes and their security, including highway, rail and seaport infrastructure.

6) The Committee recommends that additional funding be appropriated to increase railroad infrastructure and basic infrastructure in around Texas' ports.

7) The Governor's Office of Homeland Security should ensure that all ports in Texas are aware of the various grant programs at the State and Federal level and provide assistance to the ports in applying for them.

ANALYSIS OF RECOMMENDATIONS

Recommendations # 1 & 2

The State should develop a program to retain key private sector emergency responder companies to ensure timely availability of experts and services during a crisis. Involvement of these companies should extend to the state's emergency planning processes. Federal grants available to the state should be considered for these services.

The State through the retention of private emergency responders, or otherwise, should develop a program for the pre-positioning of critical equipment and supplies.

Texas has many energy, chemical, and shipping assets that could be the target of a terrorist attack, and the assets are geographically spread over a large area. Private sector emergency responders and investigators provide resources and experience to handle large-scale catastrophes beyond local and state capabilities. As such, private sector companies will play an important role in responding to terrorist attacks against petrochemical and shipping facilities. The hierarchy of response starts with the local first responders, but responsibility will quickly

escalate to the State if the first responders become casualties or cannot effectively deal with the event. What is lacking is a mechanism to quickly enlist the support of qualified private sector companies when there is an emergency. An arrangement between the State and key private sector companies would ensure appropriate services and resources when and where they are needed to minimize injury and damage, and determine if an event was accidental or intentional. The State's Emergency Management Plan and Homeland Security Plan should reference expanded state services to be provided by the private sector in this regard.

Recommendation # 3

The Legislature should revise Texas' statutes to allow for port authorities to use the magnetic strip on the back of a driver's license to identify and credential visitor and truckers to ports.

Provisions included in the U.S. Maritime Transportation Security Act of 2002, the International Maritime Organization's International Ship and Port-Facility Security Code (ISPS) and federal regulations contained in 33CFR part 105 require all ports to control access and maintain an accounting of who is on the property. Violation of either the act or code could result in fines or immediate shut down of the port by the U.S. Coast Guard.

78R SB1445 was passed last session which limited the use of the magnetic strip to law enforcement agencies and banks. The Texas Attorney General issued an opinion on this matter stating that a private security guard could swipe the drivers' license without being considered as compiling information. This opinion permits law enforcement to maintain the database and private security guards to swipe the cards; however, many ports in Texas do not have commissioned law enforcement departments, so they would not be able to take advantage of this program.

Ports have a number of employees, truckers, labor, vendors, stevedores, and other maritime professionals that come to work at the port every day. These regular visitors would be credentialed with port-issued security cards. However, the ports also get many first time visitors or visitors that infrequently come to that Texas port. For example, the Port of Houston Authority's Barbours Cut Terminal may get hundreds of truckers a day that are first time or rare visitors to the port. Many of the truckers are even from out-of-state. During Operation Iraq Freedom load out operations at the Ports of Beaumont and Corpus Christi, International Longshoremen's Association workers came from all over the state, as well as other Gulf Coast ports, to work on the deployment of military goods from these ports.

Additionally, many ports lease their property to private operators that should also use this same system. To protect the security of the port, the privacy of the visitors to the port and to prevent commercial usage of the information in the database, the bill will need to create an exemption from the Texas Open Records Act and include it as confidential information under Chapter 418 of the Texas Government Code. This would prevent the release of the information and provide for a criminal penalty that may be assessed for releasing the information to an unauthorized person or for an unauthorized use.

Recommendation # 4

The State should allow port authorities with integral police departments to utilize reserve police officers.

Reserve officers for police departments must be legislatively authorized. Currently, only municipalities, counties, DFW Police Department and Sabine River Water Authority are authorized to have reserve police officers. Reserve police officers must hold a peace officer license issued by the Texas Commission on Law Enforcement Officers' Standards and Education (TCLEOSE). Reserve officers generally are required to work at least 8-16 hours a month to be in good standing as a reserve officer. Liability for reserve officers is limited to actions taken while they are on duty. Reserve officers are not permitted to carry firearms while off duty in a police officer capacity, though they may carry a concealed firearm if they have a concealed carry license. Generally, reserve officers not on duty, are considered citizens, not police officers. Port authority police departments should be allowed to obtain the benefits of a reserve police force.

Recommendation # 5

Encourage TXDOT to give priority to projects that would upgrade military deployment routes and their security, including highway, rail and seaport infrastructure.

It is clear that Texas' military bases will continue to be used at increasing levels and be called upon to ship equipment to foreign soils. Given recent priority time frames surrounding the various battlefields in the War on Terrorism, it is urgent to national security that the military be given the tools necessary to meet these demands. Given the population growth in Texas, especially across the central Texas region, and the increased troop levels that we will likely soon be seeing, the routes in and out of Texas, to and from military bases continue to be inadequate. The State of Texas, and the affected local communities, should make military deployment routes to the strategic seaports and critical intermodal seaport infrastructure a priority. Additionally, as the DoD makes decisions regarding BRAC 2005, lack of adequate infrastructure to rapidly deploy troops and equipment can prove to be very costly and can mean the difference of keeping or losing a military base. Not only is this proposal good for national security, but also it will be a benefit to Texas' economy.

Recommendation # 6

The Committee recommends that additional funding be appropriated to increase railroad infrastructure and basic infrastructure in and around Texas' ports.

In 2003 and 2004, seaports in the State of Texas were challenged with the job to rapidly deploy our military forces to conduct Operation Iraqi Freedom. For the most part, this task was done at a high rate of speed and efficiency. Currently, inadequate port infrastructure limits the number of rail cars that can be received and unloaded daily. This restricts the number of rail cars that can be handled and causes unexpected delays whenever inoperable equipment is encountered or when railcars are improperly loaded. Increased rail capacity through the development and use of flexible military-designed railheads will result in faster and more responsive unit deployments throughout the seaports and lower overall operational costs per railcar handled. Although there were fewer glitches in the latest round of unit rotations, we believe the State of Texas should participate in the funding of critical military useful seaport infrastructure to improve and speed up future deployments. Given the reliance by Texas' military bases on railroad infrastructure and the announced growth of combat units at Ft. Hood and Ft. Bliss, this project will aid the military in the overall War on Terror and help solidify Texas' position in the upcoming, and future BRAC process.

Recommendation # 7

The Governor's Office of Homeland Security should ensure that all ports in Texas are aware of the various grant programs at the State and Federal level and provide assistance to the ports in applying for them.

As we have seen in the above discussion of funding, only eight Texas ports benefited from the federal Port Security Grant program between 2002 and 2004. Anecdotally, the committee has heard that the non-receiving ports were either unaware of the program, or that their abilities for writing grant applications were limited. The security of a Texas port should not be compromised by grant-writing abilities or by not knowing about the potential revenue sources. Therefore, the Governor's Office of Homeland Security, and the regional Councils of Government should increase their outreach to the ports that have not received security funding.

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