



Highlights of [GAO-12-657T](#), a testimony before the Subcommittee on Border and Maritime Security, House Committee on Homeland Security.

Why GAO Did This Study

DHS reports that the southwest border continues to be vulnerable to cross-border illegal activity, including the smuggling of humans and illegal narcotics. Several federal agencies are involved in border security efforts, including DHS, DOD, Justice, and State. In recent years, the National Guard has played a role in helping to secure the southwest land border by providing the Border Patrol with information on the identification of individuals attempting to cross the southwest land border into the United States. Generally, the National Guard can operate in three different statuses: (1) state status—state funded under the command and control of the governor; (2) Title 32 status—federally funded under command and control of the governor; and (3) Title 10 status—federally funded under command and control of the Secretary of Defense.

This testimony discusses (1) the costs and benefits of a DOD role to help secure the southwest land border, including the deployment of the National Guard, other DOD personnel, or additional units; (2) the challenges of a DOD role at the southwest land border; and (3) considerations of an increased DOD role to help secure the southwest land border.

The information in this testimony is based on work completed in September 2011, which focused on the costs and benefits of an increased role of DOD at the southwest land border. See *Observations on the Costs and Benefits of an Increased Department of Defense Role in Helping to Secure the Southwest Land Border*, [GAO-11-856R](#) (Washington, D.C.: Sept. 12, 2011).

View [GAO-12-657T](#). For more information, contact Brian J. Lepore at (202) 512-4523 or leporeb@gao.gov.

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BORDER SECURITY

Observations on Costs, Benefits, and Challenges of a Department of Defense Role in Helping to Secure the Southwest Land Border

What GAO Found

The National Defense Authorization Act for Fiscal Year 2011 mandated that GAO examine the costs and benefits of an increased Department of Defense (DOD) role to help secure the southwest land border. This mandate directed that GAO report on, among other things, the potential deployment of additional units, increased use of ground-based mobile surveillance systems, use of mobile patrols by military personnel, and an increased deployment of unmanned aerial systems and manned aircraft in national airspace. In September 2011, GAO reported that DOD estimated a total cost of about \$1.35 billion for two separate border operations—Operation Jump Start and Operation Phalanx—conducted by National Guard forces in Title 32 status from June 2006 to July 2008 and from June 2010 through September 30, 2011, respectively. Further, DOD estimated that it has cost about \$10 million each year since 1989 to use active duty Title 10 forces nationwide, through its Joint Task Force-North, in support of drug law enforcement agencies with some additional operational costs borne by the military services. Agency officials stated multiple benefits from DOD's increased border role, such as assistance to the Department of Homeland Security (DHS) Border Patrol until newly hired Border Patrol agents are trained and deployed to the border; providing DOD personnel with training opportunities in a geographic environment similar to current combat theaters; contributing to apprehensions and seizures and deterring other illegal activity along the border; building relationships with law enforcement agencies; and strengthening military-to-military relationships with forces from Mexico.

GAO found challenges for the National Guard and for active-duty military forces in providing support to law enforcement missions. For example, under Title 32 of the United States Code, National Guard personnel are permitted to participate in law enforcement activities; however, the Secretary of Defense has precluded National Guard forces from making arrests while performing border missions because of concerns raised about militarizing the U.S. border. As a result, all arrests and seizures at the southwest border are performed by the Border Patrol. Further, DOD officials cited restraints on the direct use of active duty forces, operating under Title 10 of the United States Code in domestic civilian law enforcement, set out in the Posse Comitatus Act of 1878. In addition, GAO has reported on the varied availability of DOD units to support law enforcement missions, such as some units being regularly available while other units (e.g., ground-based surveillance teams) may be deployed abroad—making it more difficult to fulfill law enforcement requests.

Federal officials stated a number of broad issues and concerns regarding any additional DOD assistance in securing the southwest border. DOD officials expressed concerns about the absence of a comprehensive strategy for southwest border security and the resulting challenges to identify and plan a DOD role. DHS officials expressed concerns that DOD's border assistance is ad hoc in that DOD has other operational requirements. DOD assists when legal authorities allow and resources are available, whereas DHS has a continuous mission to ensure border security. Further, Department of State and DOD officials expressed concerns about the perception of a militarized U.S. border with Mexico, especially when Department of State and Justice officials are helping civilian law enforcement institutions in Mexico on border issues.