

# California State Auditor

BUREAU OF STATE AUDITS

## Military Department:

*It Has Had Problems With Inadequate Personnel Management and Improper Organizational Structure and Has Not Met Recruiting and Facility Maintenance Requirements*



June 2006  
2005-136

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# CALIFORNIA STATE AUDITOR

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June 6, 2006

2005-136

The Governor of California  
President pro Tempore of the Senate  
Speaker of the Assembly  
State Capitol  
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As requested by the Joint Legislative Audit Committee, the Bureau of State Audits presents its audit report concerning the California Military Department (department), including the California National Guard (Guard), and its resource management and recruitment and retention practices.

This report concludes that the department is reviewing its state active duty positions to determine whether they can be converted to other less costly positions and is also reviewing its hiring practices, some of which we found to be questionable. Deficiencies in its management of federal Guard members caused the department to use these personnel in positions and for duties that are not federally authorized. We could not confirm that Guard members who are called to active service are briefed on the benefits available to them, and the department does not provide state active duty members adequate whistleblower protection. In the absence of a strategic planning process, the former adjutant general reorganized the department to meet his perception of the mission, but failed to gain state approval, used federal resources for unauthorized purposes, and subsequently the department failed to ensure all such misused funds were reimbursed. In recent years, the Guard has not met force strength goals, citing a lack of effective state incentives as a partial cause, and does not maintain adequate procedures to demonstrate it accurately reports training attendance or addresses members with excessive absences. Ninety-five of the department's 109 armories are in need of repair or improvement, contributing to a \$32 million backlog.

Respectfully submitted,

ELAINE M. HOWLE  
State Auditor

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# SUMMARY

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## Audit Highlights . . .

*Our review of the California Military Department (department) revealed that:*

- It has not effectively reviewed its state active duty positions, and as a result may be paying more for some positions than if they were converted to state civil service or federal position classifications.*
- It has convened a panel to review the propriety of its 210 state active duty positions and estimates it will take three to five years to implement the panel's recommendations.*
- It did not follow its regulations when it temporarily appointed many state active duty members to positions that do not appear to be temporary, failed to advertise some vacant positions as required, and inappropriately granted an indefinite appointment to one state active duty member after he reached the mandatory retirement age.*
- It is deficient in its management of federal employees by using them in positions and for duties that are not federally authorized.*

*continued on next page . . .*

## RESULTS IN BRIEF

The California Military Department (department) is responsible for the command, leadership, and management of the California National Guard (Guard), including its army and air force components, and related programs, such as the State Military Reserve and the Guard's youth programs. The Guard provides military service to California and the nation and serves a threefold mission: as a reserve component of the U.S. Army and Air Force, the Guard provides mission-ready forces to the federal government, as directed by the president; it supports the public safety efforts of civil authorities during emergencies, as directed by the governor; and it provides military support to communities, as approved by the proper authorities. The state adjutant general, who is appointed by the governor and confirmed by the state Senate, serves as director of the department and commander of the Guard.

The Guard comprises the Joint Staff, the Army National Guard (Army Guard), and the Air National Guard (Air Guard). The Joint Staff provides planning and operations, logistics, and support functions for the Army Guard and Air Guard. The federal National Guard Bureau—a joint bureau of the Department of the Army and the Department of the Air Force—allocates funds to the states for the equipment and training necessary to provide military reserve capabilities.

State and federal military personnel and civilians staff the Guard. Most members of the Guard are part-time federal personnel who train in monthly and annual sessions to maintain their military occupational skills. As of September 2005, the Army Guard had a strength of 15,489 part-time members and the Air Guard employed 4,525 part-time members. State law allows the adjutant general, subject to budget act authorization, to appoint state military staff to help meet the department's mission. These military staff appointments are referred to as state active duty positions and members.

The department has not effectively reviewed its state active duty positions, as required by its regulations, to determine whether those positions could be filled with state civil service employees. These state active duty positions are staffed with military personnel who receive federal military pay and allowances that in some cases greatly exceed the costs to employ state civil

- State active duty members who become whistleblowers do not have access to an independent authority to resolve complaints of alleged retaliation.*
- Although the department's strategic planning process was interrupted by the events following September 11, 2001, and ultimately abandoned by the former adjutant general, the department has recently revived the process.*
- In establishing new headquarters' divisions and an intelligence unit, the former adjutant general failed to obtain state approval.*
- The department used federal troop commands and counterdrug program funds for unauthorized purposes when it formed a field command for operations to support civil authorities and established additional weapons of mass destruction response teams.*
- The department was unable to demonstrate that it ensured all misused counterdrug funds were reimbursed from other federal sources.*
- In recent years, the Army National Guard and Air National Guard did not meet their respective goals for force strength.*
- The department does not maintain adequate procedures to demonstrate it accurately reports training attendance or monitors and addresses Guard members with excessive absences.*

service employees. For example, a colonel responsible for records management, printing, mail services, and supplies management receives an annual salary of about \$125,500, while a civil service counterpart in another state department with similar responsibilities receives an annual salary of \$62,300.

The department's adjutant general has recently convened the State Active Duty Reform Panel (panel) to review the department's use of state active duty members. The panel's tasks include reviewing the state active duty positions to determine if the responsibilities of those positions could be performed by other state or federal position classifications available to the department. The panel is also addressing other past personnel practices of the department, such as creating more state active duty positions than the budget authorized. The department estimates it will take three to five years to implement any changes the panel recommends.

The department engaged in questionable practices related to its state active duty workforce. For example, the department temporarily appointed numerous state active duty members to positions that do not appear to be temporary in nature. In many cases, the department repeatedly extended temporary appointments for set periods—usually one year—which in effect converted them into appointments of indefinite duration. The department's regulations define temporary appointments as those with specified end dates. Further, the department has not always followed its requirement of announcing a vacant state active duty position before filling it. Also, the department did not follow state law and its regulations when, in September 2001, it granted an indefinite appointment to a state active duty employee who had reached the mandatory retirement age. State law sets the mandatory retirement age for most state active duty members at 60. For an employee to remain in a state active duty position beyond age 60, he or she must obtain approval from the adjutant general and then can hold only a temporary position.

Moreover, the department's overall management of its federal employees is deficient. The National Guard Bureau pays for the federal full-time military members and civilian employees the department uses to support the department's large part-time force. Yet the department does not always use those federal personnel in the positions and for the duties authorized by the National Guard Bureau. In addition, although regulations and department procedures require the department to inform all members who are called to active duty and deployed for service of the benefits available to them as active members of the Guard, the department could not

- The State Military Reserve has not met its force strength goals in recent years; and the department has not identified the role for the State Military Reserve, allowing it to identify its force strength needs.*
  - Ninety-five of the department's 109 armories are in need of repair or improvement, contributing to a \$32 million backlog. The department's allocations of state and federal funding, including a relatively small amount of money from the Armory Fund, have not been adequate to maintain the armories.*
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provide evidence that it had done so. Nevertheless, nothing came to our attention that led us to believe these members did not receive benefits briefings. Further, state active duty members who become whistleblowers do not have access to an independent authority to resolve complaints regarding retaliation. Finally, because the Staff Judge Advocate's Office does not keep logs of the requests for outside activities it reviews or records of the recommendations it provides to leadership, it cannot demonstrate, nor can we confirm, that the department consistently follows the guidance issued by the Department of Defense.

The Guard's strategic planning process was interrupted after the events of 9/11 and was subsequently abandoned altogether by the former adjutant general. Without a current strategic plan and a formal strategic planning process for identifying and analyzing threats and opportunities, the department cannot measure how well it is accomplishing its federal and state missions. In the absence of a properly prepared strategic plan, the former adjutant general chose to place a greater emphasis on providing military support to civil authorities. In doing so, he sponsored the creation of unauthorized entities, such as a new headquarters division, an expanded intelligence unit, and a field brigade to command military support to civil authorities. However, because the department at that time did not have a strategic planning process that would have justified the need for those entities, we cannot conclude that the former adjutant general's change in emphasis was warranted. Although the department recently took steps to reimplement a strategic planning process, had it adhered to the principles of strategic planning in the past, many of the problems associated with the former adjutant general's organizational changes might have been avoided.

In its efforts to implement the former adjutant general's perception of the organizational mission, the department violated various state and federal laws and regulations. First, the department established organizational entities without obtaining state and federal approval. For example, the department did not obtain the required state approval to establish two new divisions within the headquarters and create a large intelligence unit within one of the divisions. Second, the department used federal troop command units for unauthorized purposes when it combined the resources assigned to the units and formed a field command headquarters to support civil authorities. Lastly, the department directed the use of resources from the federal counterdrug program to operate the field command headquarters and to establish weapons of mass destruction response teams beyond what was federally authorized and funded. We believe this misuse

of resources violated federal counterdrug laws and regulations, and the department could not prove that it ensured that all the misused funds were reimbursed from other federal sources.

The department in recent years has not met the force strength goals issued by the U.S. armed forces. Although California's Army Guard met its goal for federal fiscal year 2003, its performance in meeting its goals for federal fiscal years 2004 and 2005 declined. According to the Army Guard, maintaining prescribed force levels has become increasingly difficult because of several factors, including a perceived lack of state incentives. However, if the department does not meet its force strength targets, the National Guard Bureau may redistribute federal resources to states that do meet their targets—resources the department needs to achieve its state mission of providing military assistance to California's civil authorities in times of insurgence or catastrophic events.

Like the Army Guard, the Air Guard has not met its force strength targets, and its performance in meeting those targets has slipped over the past three years. Although the Air Guard achieved 93 percent of its force strength goal in federal fiscal year 2005, it ranked 38<sup>th</sup> among the 54 jurisdictions (states, territories, and the District of Columbia). The Air Guard attributes its diminished ability to meet force strength goals to the fact that goals are consciously set high to achieve optimum force strength, the ongoing war, and a smaller pool of personnel with prior service to recruit from.

In addition, the department does not have adequate procedures to report and monitor Guard members' attendance at training sessions. We found discrepancies in the attendance data reported by the Army Guard units, and neither the Army Guard nor the Air Guard fully responded to our requests for evidence of actions taken for members with excessive unexcused absences from training. By retaining on its rosters members who do not meet their training obligations, the Guard could report an inflated number of members adequately trained and prepared to meet its missions.

The State Military Reserve—a corps of volunteers, most with military experience, who support the Guard—also has not met its force strength goals in recent years. For calendar years 2003 through 2005, the State Military Reserve achieved only 56 percent to 65 percent of its goals. More importantly, as of April 2006, the department has not yet formally identified its mission for the State Military Reserve through its strategic planning process.

Finally, of the department's 109 armories, 95 (about 87 percent) are in need of repair and improvement. As of March 2006, the department had identified about \$32 million in backlogged repairs, maintenance, and improvements it could not fund. Funding to maintain the armories is provided primarily through appropriations from the State's General Fund and matching funds through cooperative agreements with the federal government. Some additional funding comes from the Armory Fund and the Armory Discretionary Improvement Account through the sale or lease of unneeded armories and the receipts from renting armories when not in use, but those amounts are minor compared with the armories' overall needs. Moreover, as a result of a ballot initiative passed by the voters in 2004, most Armory Fund revenue will be used to reduce the outstanding Economic Recovery Bond debt and will no longer be available to the department.

## RECOMMENDATIONS

To reform its use of state active duty personnel and comply with its senior leadership's wishes in the use of state active duty personnel, the department should ensure that the State Active Duty Reform Panel completes the tasks assigned to it by the adjutant general and follows through with the panel's recommendations. In addition, the department should review its hiring policy and practices for state active duty members, as directed by the adjutant general, and make the necessary changes in its policy and regulations to provide adequate guidance to its commanders and directors.

The department should develop and implement procedures to ensure that it complies with authorizations for federal full-time military personnel to support its part-time Guard forces. Those procedures should include designating the responsibility for issuing orders for full-time personnel to a single entity.

Because the department has a responsibility under federal regulations to inform deploying members of the benefits available to them while on active duty, the department should consider implementing a procedure for both the Army Guard and the Air Guard to demonstrate that it complies with that requirement.

To ensure that its state active duty personnel can report any alleged violations of statutes, regulations, or rules without fear of retaliation, the department should establish a process independent of the chain of command to protect those state active duty personnel who wish to file complaints alleging retaliation by a superior.

To avoid public concern and promote transparency and to comply with state and federal laws, regulations, and administrative policies, the department should continue its efforts to reimplement a strategic planning process. This process should include the in-depth analyses of the threats and opportunities facing the department, including changes in the environment and leadership. Further, the department should obtain appropriate approvals from the state Department of Finance and the federal National Guard Bureau before making organizational changes in the future.

To ensure that all federal counterdrug program funds used for non-counterdrug activities are properly reimbursed, the department should work with the U.S. fiscal officer to identify all the non-counterdrug costs that have yet to be reimbursed and to ensure that the transfer of costs from the appropriate accounts occurs. In the future, the department should not use counterdrug program funds for non-counterdrug activities.

The department should identify and pursue the steps necessary to meet the force strength goals set by the National Guard Bureau, including but not limited to, identifying the most effective manner to use the additional recruiting resources provided by the National Guard Bureau and continuing to pursue, through the State's legislative process, incentives it believes will encourage citizens to join the Guard.

The department should develop and implement procedures to monitor training attendance by its Guard members to ensure that it can verify the accuracy of reported training attendance. It should also ensure that it does not retain on its rosters members who qualify as unsatisfactory participants because they are not meeting their training obligations.

The department should include the State Military Reserve in its current strategic planning process and ensure that it defines the State Military Reserve's role and responsibilities so as to maximize the support it provides to the Guard. Once its role and responsibilities are identified, the State Military Reserve should target its recruiting goals and efforts accordingly.

To help ensure that the department works toward improved maintenance of its armories, the department should pursue the balanced program for replacement, modernization, and maintenance and repair advocated by its facilities director.

In addition, the department should continue to work with the Department of Finance and the Legislature to establish a baseline budget for the maintenance and repair of its armories.

#### **AGENCY COMMENTS**

The adjutant general stated that the report would receive the utmost attention, and those areas where corrective action is needed, if it is not already underway or complete, will be initiated. The adjutant general further stated that he looks forward to providing updates on the status of those items identified as needing attention. Finally, the adjutant general believes that some of the items identified in our report either do not require action or are outside his authority. ■

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# INTRODUCTION

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## BACKGROUND

The California Military Department (department) is responsible for the command, leadership, and management of the California National Guard (Guard), including its army and air force components, and related programs, such as the State Military Reserve and the Guard's youth programs. The purpose of the Guard is to provide military service to California and the nation. As a reserve component of the U.S. Army and Air Force, the Guard provides mission-ready forces to the federal government as directed by the president. In addition, the Guard provides emergency military support to civil authorities as directed by the governor and to communities as approved by the proper authorities. The state adjutant general, who is appointed by the governor and confirmed by the state Senate, serves as director of the department and commander of the Guard.

The Guard comprises three entities: the Joint Staff, the Army National Guard (Army Guard), and the Air National Guard (Air Guard). The Joint Staff provides planning and operations, logistics, and support functions for both the Army Guard and the Air Guard. The Army Guard comprises two senior commands: the 40<sup>th</sup> Mechanized Infantry Division and the headquarters detachment. These senior commands include capabilities like engineering, military intelligence, field artillery, and infantry. The Army Guard maintains several types of activities and installations, including 109 active armories located throughout the State, training facilities at Camp Roberts and Camp San Luis Obispo, and a joint training facility at Los Alamitos. Under previous organizational structures, the State Military Reserve has been aligned both under the Army Guard and as a separate division of the department. As of April 2006, the department had not yet determined the placement of the State Military Reserve in the department's new structure as a joint force headquarters. The Air Guard consists of a combat communications group and four large mission-specific groups, called wings, each with a distinct mission: rescue, fighting, airlift, and air refueling. Air Guard personnel are located at air bases and communications stations throughout the State.

The Guard is undergoing an organizational transition to meet U.S. Department of Defense directives for joint armed forces that can be deployed more rapidly. For example, under the guidance of the federal National Guard Bureau,<sup>1</sup> the department's headquarters is transitioning to a configuration involving joint force headquarters to better facilitate joint operations by the armed forces. The Army Guard is transitioning from a configuration of two main headquarters commands to a force comprising smaller groups, known as brigades, that can respond more quickly to threats around the globe. In addition, as a result of actions by the Base Realignment and Closure Commission, the Air Guard will reorganize its 163<sup>rd</sup> Air Refueling Wing to operate the MQ-1 Predator unmanned aircraft.

## **UNIT ORGANIZATION AND STAFFING OF THE NATIONAL GUARD**

As a reserve component of the U.S. armed forces, the Guard has a federal mission to make trained units and qualified personnel available for active duty when needed to augment the regular components of the armed forces. Thus, federal law calls for Guard units from 54 jurisdictions (states, territories, and the District of Columbia) to be organized and staffed in a manner that is the same as or similar to the staffing and organization of the U.S. Army or Air Force. The National Guard Bureau allocates resources and authorizes personnel to ensure that the states train members of the Army Guard and Air Guard in accordance with the approved programs and policies of the U.S. Army and Air Force. Authorization documents issued by the Army and the Air Force through the National Guard Bureau stipulate how jurisdictions should organize, staff, and equip their Guard units. The Army and the Air Force inspect and approve Guard units to ensure that they have been properly established.

The Guard is made up of a combination of state and federal military and civilian personnel. Most Guard personnel are members of the public who enlist in the Army Guard or Air Guard for terms of either six or eight years and participate in monthly and annual training sessions to ensure individual and unit readiness. When these part-time personnel are needed for federal missions, they are activated, or called to active duty or full-time status, and deployed for military service lasting up

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<sup>1</sup> The National Guard Bureau is a joint bureau of the Department of Army and the Department of the Air Force.

to 24 months. As of September 2005, the Army Guard had a force strength of 15,489 part-time members, and the Air Guard's part-time force numbered 4,525.

The National Guard Bureau also authorizes federal full-time military and civilian positions to support the Guard's part-time military personnel through administrative functions, such as organizing, training, and working on short-term projects. These full-time support personnel are either members of the Guard who have been activated to provide training support, referred to as active guard reserves, or Guard members who are temporarily activated to full-time status for short-term projects, referred to as active duty special work. In addition, the National Guard Bureau authorizes federal technicians to serve full time in support of the Guard. Their duties may include administration, training, or equipment maintenance. Federal technicians may or may not be members of the military. However, those that are military have dual status, meaning that they must maintain military membership to hold their federal jobs.

In addition to federal personnel, state military and civil service personnel are authorized through the state budget process to work for the department. These state military personnel—referred to as state active duty—support the Guard's state mission: to assist civilian authorities in case of war, insurrection, rebellion, tumult, riot, breach of the peace, public calamity, or catastrophe, including fires or other emergencies or imminent danger, and to augment federal personnel as requested by the president. With the consideration and recommendation of the adjutant general, the governor can appoint commissioned and warrant officers and enlisted personnel from the Guard or State Military Reserve to permanent state active duty status with the Office of the Adjutant General. The duties of the personnel appointed to state active duty must conform as closely as practicable to the duties for like personnel in the U.S. Army or Air Force. In addition, the pay and allowances for state active duty members must be the same as the pay and allowances received by their counterparts in the Army and Air Force. Table 1 on the following page shows the number of full-time state and federal military and civilian personnel employed in the Guard as of March 2006.

**TABLE 1****Full-Time State and Federal Military and Civilian Personnel in the Guard as of March 2006**

Type of Position	Army Guard		Air Guard		Joint Staff		Totals	
	Authorized	Assigned	Authorized	Assigned	Authorized	Assigned	Authorized	Assigned
State active duty	200	181	112	88	234	202	546	471
State civil service	186	165	32	30	39	33	257	228
Federal technician	1,234	1,051	987	927	175	170	2,396	2,148
Active guard reserve	1,076	1,064	388	370	48	76	1,512	1,510
Active duty special work	269*	269	5*	5	308*	308	582*	582
<b>Totals</b>	<b>2,965*</b>	<b>2,730</b>	<b>1,524*</b>	<b>1,420</b>	<b>804*</b>	<b>789</b>	<b>5,293*</b>	<b>4,939</b>

Source: California National Guard, Human Resources Office, March 2006 Full-Time Manning Report.

\* According to the Army Guard's planning, operations, and training officer, active duty special work employees are authorized using blanket authority, not by the number of positions. For the purposes of this table, we derived the number of authorized active duty special work positions using the number of positions assigned.

**DEPARTMENT FUNDING**

The department is funded through the State's General Fund and cooperative agreements between the department and the federal government, for which the funds flow through the State's Federal Trust Fund. Bypassing the state treasury, the federal government makes direct payments that make up the primary source of funding for personnel, training, equipment, and facilities. Table 2 shows the amounts of the various funding sources for fiscal years 2003–04 through 2005–06.

**TABLE 2**
**Funding for the California Military Department  
Fiscal Years 2003–04 Through 2005–06  
(in Thousands)**

	2003–04 (Actual)	2004–05 (Actual)	2005–06 (Estimate)
State General Fund	\$ 35,165	\$ 31,765	\$ 33,931
Federal agreements	54,417	54,657	60,304
Direct federal payments	552,188	610,480	631,429
<b>Totals</b>	<b>\$641,770</b>	<b>\$696,902</b>	<b>\$725,664</b>

Source: Governor's Budget for fiscal years 2003–04 through 2005–06.

## STATE MILITARY RESERVE

State and federal law authorize the governor to organize and maintain a force in addition to the Guard for the security and defense of the State. This force, the State Military Reserve, is a volunteer operational force subject to call to state active duty by the governor; it can also assume Guard duties in an emergency when the Guard is not available or as directed by the governor. The State Military Reserve focuses on training Guard members, assisting with Guard mobilizations, and providing military support to civil authorities.

In addition to its headquarters in Sacramento, the State Military Reserve maintains the Center for Military History and four subordinate units. Membership is voluntary and includes former military services personnel as well as individuals with no military background. Membership in the State Military Reserve has been increasing since January 2004, and as of January 2006, it had 582 members. According to its commander, the State Military Reserve has two missions: (1) support the Guard in its missions involving homeland defense, homeland security, and response to natural disasters; and (2) increase the number of reserve military personnel available for state needs.

In addition, state law authorizes a State Naval Militia; however, according to the State Military Reserve's executive officer, none is currently in operation. The executive officer stated that department leadership has discussed reactivating the State Naval Militia, but no timetable has been established.

## SCOPE AND METHODOLOGY

The Joint Legislative Audit Committee (audit committee) requested that the Bureau of State Audits (bureau) review the department's resource management and recruitment and retention practices. The audit committee asked that we review the department's operations and practices, specifying that we do the following:

- Identify and evaluate the department's strategic planning process.
- Determine whether the department appropriately used state and federal funds when it created the following:<sup>2</sup>
  - Military Assistance to Civilian Authority Brigade

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<sup>2</sup> The names listed here are those that appeared in the press or in correspondence between the department and the Legislature. The names we use in the text are based on the evidence we gathered during the audit.

- Chemical, Biological, Radiological, Nuclear, or High Yield Explosive Enhanced Response Force Package
  - Theater-Specific Individual Readiness Training Site
  - Information Synchronization, Knowledge Management, and Intelligence Fusion Program
  - 49<sup>th</sup> Joint Combat Support Command
- Review and assess the department's process for ensuring that personnel are used only for allowable activities.
  - Evaluate the current condition of the department's armories, and review its use of the Armory Fund for the armories' upkeep. At the time of our review, the department had used the money in the Armory Fund primarily for a new armory; therefore, we could not analyze the ratio of expenditures on physical maintenance and rehabilitation of armories to expenditures for personnel at state headquarters.
  - Review and assess the department's hiring and promotion practices.
  - Review and assess the department's process for handling complaints about retribution and retaliation against whistleblowers.
  - Examine the department's recruitment and retention practices to determine whether it is achieving its goals.
  - Review and assess the department's procedures to ensure the accurate reporting of its members' attendance to training to maintain their military skills.

To evaluate the department's strategic planning process, we obtained documents describing past planning efforts and the proposed strategic planning process, and we interviewed the department's strategic planner to assess the department's progress in reimplementing a strategic planning process.

We performed various audit procedures to determine whether the department inappropriately used state and federal funds to create the entities previously listed. For example, we reviewed the California Military and Veterans Code and the regulations and policies of the U.S. Army, the National Guard Bureau, and the department to understand the requirements and restrictions placed on the department when organizing and using state

and federal resources. In addition, we interviewed department leadership and staff to comprehend the department's decision-making process in establishing the new entities. Finally, we reviewed selected records of the expenditure of state and federal funds to determine their appropriateness.

To assess the department's procedures for ensuring that personnel are used only for allowable activities, we reviewed Army and National Guard Bureau regulations regarding the use of Guard members and equipment for activities related to community relations and support of nongovernmental entities. Further, we reviewed a sample of activities to determine whether the department had complied with those regulations.

We reviewed records of the department's facilities to identify the current condition of its armories. To determine the availability of funds to maintain, renovate, and modernize the armories, we obtained financial records for the Armory Fund, the Armory Discretionary Improvement Account, armory maintenance allocations made from the General Fund, and awards of federal funds for facilities maintenance. We reviewed the revenues of the Armory Fund and the Armory Discretionary Improvement Account to determine the potential for these funds to be a viable source of money to maintain the armories. Finally, we reviewed the department's priorities in allocating state and federal funds for the maintenance, renovation, and modernization of its armories and other facilities.

To review the department's hiring and promotion practices, we examined many of its actions and activities regarding its state active duty members, including mandatory retirement and vacant-position announcements. We also looked at the department's use of established and temporary positions and members temporarily appointed to them and compared selected state active duty positions with state civil service position classifications.

Our procedures to identify the department's process for handling complaints about retribution or retaliation against whistleblowers included inquiries about whether the department notified its members of their rights to freely report certain acts, as provided by law. In addition, we reviewed the types of complaints submitted to the department's personnel office by state active duty staff to determine whether the department handled those complaints in accordance with its procedures. Finally, we inquired about how the department acted to protect complainants from alleged retribution.

To examine the department's practices for achieving its recruiting and retention goals, we evaluated its efforts to meet its force strength goals by doing the following:

- Comparing force strength goals with actual achievements and inquiring about the reasons for variances.
- Comparing the department's performance to that of other selected states.
- Inquiring about the incentives provided by the State and those that the department believes are helpful in recruiting and retaining members.
- Determining the effect of stop-loss regulations on the department's roster of soldiers.
- Asking about the strategic purpose defined for the State Military Reserve.

To identify the number of Guard members who filed for unemployment benefits after their discharge from active duty, we obtained listings of recently discharged Army Guard and Air Guard members from the department and provided them to the Employment Development Department who then identified those discharged Guard members that had filed for unemployment benefits.

We also reviewed department procedures and supporting documents to determine whether the department made federally deployed Guard members aware of their benefits.

To assess the department's procedures for ensuring the accurate reporting of its members' training attendance, we interviewed key staff to identify its procedures for reporting attendance at monthly training events and reviewed supporting documents. In addition, we reviewed the department's procedures for identifying, investigating, and dealing with Guard members who do not attend scheduled training and who may become unsatisfactory participants, subject to disciplinary actions or discharge. We also identified Guard members who reportedly missed a substantial amount of training and asked the department what actions it had taken in these cases.

To perform these procedures, we used data from several computerized information systems used by the department to conduct its activities. The standards from the U.S. General

Accountability Office (GAO) require us to assess the reliability of computer-processed data. The GAO asserts that data are reliable when accurate, reflecting the data from source documents, and complete, containing all data elements and records necessary for the audit. However, we were able to determine the data to be sufficiently reliable for only some of the audit procedures we performed. For others, the computerized systems and documents were outside the jurisdiction of our statutory authority and, as such, were not available to us for review. Nonetheless, we relied on these data in varying degrees to accomplish the above audit objectives. In some cases, this data was the only data available to us that was related to the audit objectives, yet are widely relied upon by entities within the U.S. Department of Defense. In other cases, we extracted data that we used for informational purposes only and they did not result in significant findings, conclusions, or recommendations. ■

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# CHAPTER 1

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## ***The Military Department Is Attempting to Reform Its Use of State Active Duty Members and Needs to Improve Its Personnel Administration***

### **CHAPTER SUMMARY**

**T**he California Military Department (department) is in the process of reforming its use of state active duty members. In February 2006, the department's adjutant general created the State Active Duty Reform Panel (panel) to review several aspects of the department's use of state active duty members. The panel will assess the appropriateness of using state active duty members in department positions and evaluate the policies and practices used in hiring those members. After the panel completes its tasks in September 2006, the adjutant general expects the department to take three to five years to implement the panel's recommendations because of the potential need to change the law and receive approval to establish civil service positions and because of the extent, nature, and complexity of the services that state active duty members provide.

In addition to the adjutant general's concerns, our review of the department's use of state active duty members revealed some questionable practices. For example, the department hires many state active duty members using temporary appointments and then often awards one-year extensions to those same members, effectively turning temporary appointments into appointments with indefinite durations. The department's regulations require that a temporary appointment have a specified end date.

We also found that the department appoints state active duty members to positions that other departments fill with state civil service employees. Because state active duty members, by law, receive the same pay and allowances for housing and subsistence that their federal counterparts receive, state active duty members sometimes receive higher salaries than do civil service employees who perform similar duties.

Moreover, the department has not always followed its regulations regarding the advertisement of vacant positions. For the 41 appointments and promotions we reviewed, the department could not produce evidence that it had followed its regulations for 14 positions. When the department does not advertise its vacant positions before filling them, it limits the competition from other qualified applicants. Further, state law and the department's regulations require that state active duty members retire from their indefinite appointments at age 60. However, the department appointed one state active duty member after his 60<sup>th</sup> birthday and assigned him to an indefinite appointment that went unnoticed for more than three years.

The department is not complying with authorizations for the use of federal full-time military and civilian employees to support its part-time inactive duty members. In addition, the department could not provide evidence that it informs all deploying members of the benefits available to them as active members of the California National Guard (Guard). Finally, state active duty members who become whistleblowers do not have access to an independent authority to resolve complaints regarding allegations of retaliation.

## THE DEPARTMENT IS CURRENTLY REVIEWING ITS USE OF STATE ACTIVE DUTY MEMBERS

### Tasks Assigned to the Panel

- Review the description and mission for every state active duty position and determine the appropriateness of using military personnel for those positions instead of employees from state civil service, federal civil service, or active guard reserve.
- Identify all state active duty positions created in excess of those authorized by the budget.
- Identify all appointments to state active duty positions made over the past eight years without the vacancy being announced.
- Recommend procedures for transitioning state active duty employees out of positions deemed inappropriate for state active duty employees.
- Review the hiring policies and practices for the state active duty program and suggest necessary changes to the department's regulations to conform to the Military and Veterans Code.

Source: State Active Duty Reform Panel.

In February 2006, the department's adjutant general created the panel to review several aspects of the department's use of state active duty members. The review is intended to reform the department's classification of 210 state active duty positions, affecting 441 temporary and permanent members as of December 2005. The department's regulations require that it review all permanent state active duty positions at least annually or when they are reclassified, retitled, or become vacant to determine whether the position is properly classified or should be converted to state civil service. The deputy adjutants general and a representative of the department's command section are required to submit a statement by July 15 of each year certifying that the reviews have been completed.

As required by department regulations, in July and August 2005, the department's deputy adjutants general certified that all state active duty positions in

the Army National Guard (Army Guard), the Air National Guard (Air Guard), and the Resource Services Division (later reorganized into the Joint Staff) had been reviewed, and they reported that none of these positions were recommended for conversion. Nevertheless, the current adjutant general directed the panel to perform its additional review of the department's state active duty positions. According to the chief of staff of the Joint Staff, the adjutant general's decision to perform this comprehensive review of the department's use of state active duty members was an essential step in rebuilding the department in light of the myriad news articles criticizing the department's use of state active duty members. According to the chief of staff, by conducting this top-to-bottom review, the adjutant general is resetting the standards throughout the department to ensure an unbiased analysis of state active duty positions as he prepares the department for the future. The text box on the previous page shows the tasks the adjutant general assigned to the panel.

In addition to reviewing the appropriateness of using military personnel to fill state active duty positions, the panel is assessing the appropriateness of the grade and pay assigned to each position with respect to the responsibilities and duties assigned.

#### **Criteria for Reviewing State Active Duty Positions**

- Does the position require technical or operational knowledge of military administration, operations, logistics, programs, or equipment that must be acquired through military training and/or schooling?
- Do the military skills required for the position demand professional level competency because of the importance of the position in training for or conducting emergency operations?
- Does the position require substantial authority over military personnel?
- Is there no state civil service, federal technician, or active guard reserve classification for this position?
- Are there appropriate U.S. Army or Air Force occupational specialties consistent with the duties of the position under review?

Source: State Active Duty Reform Panel.

The panel applies the review criteria shown in the text box and a numeric scoring system to determine whether each state active duty classification is appropriate for the duties performed by the position. According to the chair of the panel, the evaluation criteria are based on numerous state and federal laws and regulations. After discussing each position, individual panel members vote on whether the position discussed should continue to be a state active duty position.

By March 10, 2006, the panel had reviewed 38 of the department's 210 state active duty positions, affecting a total of 137 members. The panel concluded that six of the positions should temporarily remain as state active duty positions and then later be reclassified as state or federal civil service or federal technician positions.

Additionally, the panel concluded that 16 other state active duty positions should keep their current classifications and be reevaluated when they become vacant. Nine positions were judged to be appropriately classified as state active duty positions and five were determined to be appropriate as either

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***After completion of the panel's tasks, estimated to occur in September 2006, the adjutant general believes the panel should use a timeline of three to five years to effect the changes because of the extent, nature, and complexity of the functions performed by state active duty personnel and the potential need to obtain approval for establishing civil service positions and the need to make changes in the Military and Veterans Code.***

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state active duty or non-state active duty positions. The panel concluded that it needed more information for the remaining two positions it reviewed.

After completion of the panel's tasks, estimated to occur in September 2006, the adjutant general believes the panel should use a timeline of three to five years to effect the changes. According to the adjutant general, the length of this period reflects the extent, nature, and complexity of the functions performed by state active duty personnel and the potential need to obtain approval for establishing civil service positions and the need to make changes in the Military and Veterans Code. According to the chair of the panel, its recommendations may need to be spread over a fairly long period to allow for equitable treatment of the affected members, who may not qualify for their current jobs if they were converted to state civil service, federal technician, or active guard reserve. To achieve equity, the department plans to wait until the positions become vacant through retirement, resignation, or transfer before converting some of its state active duty positions to non-state active duty positions.

## **SOME OF THE DEPARTMENT'S PRACTICES FOR HIRING STATE ACTIVE DUTY MEMBERS ARE QUESTIONABLE**

In addition to the problems that the adjutant general is concerned with regarding the department's use of state active duty members, our review revealed some questionable departmental practices. For example, the department temporarily appoints many state active duty members to positions that do not appear to be temporary in nature. In many cases, the department repeatedly extends temporary appointments for set periods—usually one year—effectively converting them into appointments of indefinite duration. The department's regulations define temporary appointments as those with specified end dates. However, because of the repeated extensions, these appointments effectively do not have specified end dates and thus do not appear to conform to the department's regulations. We identified 48 of the department's 280 temporary state active duty members who had been in temporary appointments for two years or more as of December 31, 2005, with 25 of them working in the department's youth programs.

After discussing how the department is using its temporary state active duty members with its director of state personnel, he provided us a list of 16 more temporary state active duty members who had been repeatedly reassigned to temporary positions—four of these members also appeared on the list of 48 state active duty personnel

we identified. Among the additional temporary state active duty members the director identified as having been assigned long-term are three we consider to be key: the acting director of public affairs, the director of governmental and international affairs, and the deputy director of information management.

According to the department's director of state personnel, several factors have, in the past, led the department to assign temporary state active duty members to temporary positions for long periods of time. Among the factors are the need to maintain flexibility while filling critical positions that are vacant because other state active duty members have been deployed to federal active service and the limited-term expansion of operations associated with homeland security.

As a result, the department's personnel practices appear to have reduced its control over some of its appointments. To correct this condition, the director of state personnel told us that the department will review its vacant positions to identify those that can be reclassified to provide permanent positions for these temporary state active duty members.

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***We also noted one temporary appointment for a program coordinator in the Guard's youth program whose appointment to this position began in 1996, violating departmental regulations requiring a specified end date.***

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We also noted that among the 25 members who spent two or more years in temporary appointments in the Guard's youth programs, one was a youth program coordinator whose temporary assignment to this position began in 1996, violating the department's regulations requiring a specified end date. According to the department's director of state personnel, the department uses temporary appointments to staff its youth programs because they depend on federal funds and funds from agreements that at times have been interrupted for some of the programs. We do not believe that this reason explains the department's actions in repeatedly extending temporary state active duty assignments—some for up to 10 years.

The department's director of state personnel told us the department's policy has been to appoint all new state active duty members on a temporary basis—a policy we could not find in the department's regulations. The director also stated that he anticipates issuing policy memorandums to clarify the department's hiring policy and practices. The policy memorandums will specify that all new state active duty members will be hired for a one-year term and that decisions to extend temporary appointments or provide indefinite appointments will be made by the deputy adjutants general or the chief of staff of the Joint Staff. Moreover, he stated that the department's use of temporary appointments and subsequent extensions are two of the subjects scheduled for review by the panel created by the adjutant general.

As previously mentioned, the department is reviewing its state active duty positions to determine whether they can be converted to less costly state civil service positions or federally funded positions. The department also appears to have used state active duty members in positions that could have been filled with less costly civil service employees. State law requires that officers and enlisted personnel on state active duty receive the same pay and other compensation as their counterparts in the U.S. Army and Air Force. In addition to their pay, officers and enlisted personnel in the federal armed forces are eligible to receive allowances for housing and subsistence. For some positions, this can result in the department paying more for state active duty members than it would otherwise pay if the duties for these positions are suitable for state civil service classifications.

We compared some of the department's state active duty positions and their respective annual costs with the costs of similar civil service positions in other state departments having responsibilities requiring 24-hour response. The departments in our comparison included the Office of Emergency Services, the Department of Transportation, the California Highway Patrol, and the Department of Water Resources. We found that for some of the positions we compared, the department pays higher annual salaries for state active duty members who have fewer responsibilities than those in other departments. In other instances, the department pays more for its state active duty members who have responsibilities similar to those of civil service employees working in other departments.

For example, for fiscal year 2005–06, the department budgeted roughly \$125,500 for the annual salary of the colonel who serves as its comptroller and supervises 26 positions in the budgeting, accounting, purchasing, and contracting units. In contrast, the administrative services division chief for the California Highway Patrol is responsible for 235 positions and oversees budgets, accounting, fleet operations, business services, and facilities at a budgeted annual salary of just over \$101,200. In another example, a colonel who serves as the department's director of administration receives an annual salary of about \$125,500 for directing a staff of 21 positions and overseeing records management, printing, mail services, and supplies management. In contrast, the imaging and records manager at the Department of Water Resources has similar responsibilities and staff supervision requirements yet receives an annual salary of just over \$62,300. In the course of its assessment of the department's state active duty positions, the panel has recommended that the position of director of administration receive a lower pay grade and more responsibilities.

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***The department has not always followed its regulations requiring that vacant state active duty positions be announced prior to filling them.***

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Further, the department has not always followed its regulations requiring that vacant state active duty positions be announced prior to filling them. Department regulations mandate announcing job vacancies in Guard memorandums and through Army Guard and Air Guard organizations and other components of the active militia, thereby allowing all qualified individuals the opportunity to apply for the open positions. According to the department's regulations, vacancies in permanent positions and temporary positions with terms longer than six months must be announced. The adjutant general can authorize exceptions to the vacancy announcement policy, but these exceptions must be fully justified and documented in writing. However, the department did not follow its regulations for 14 of the 41 new hires and promotions we reviewed: seven had no indication that the requirement to announce vacancies had been waived and seven had vacancy announcement waivers but no written justification for the waiver on file.

According to the department's director of state personnel, some appointments did not need vacancy announcements because they were temporary appointments of less than six months or were designated as "key staff" positions. However, for the three temporary appointments without vacancy announcements we reviewed, the department extended the members' original appointments beyond the six-month term, making the appointments subject to the vacancy announcement requirement.

In addition, the department's "key staff" positions are no longer exempt from the vacancy announcement requirement. These positions were exempt from the vacancy announcement requirements under the department's 1990 regulations but were removed from exempt status when the regulations were revised in 2003. According to the department's director of state personnel, he was not aware the regulations had changed.

Finally, the department did not follow state law and its regulations when, in September 2001, it granted one state active duty member an indefinite appointment although the member had reached the mandatory retirement age. State law sets the mandatory retirement age for state active duty members at 60. For a member to remain in a state active duty position beyond age 60, he or she must obtain approval from the adjutant general and then can hold only a temporary position. However, the state active duty member in question served in an indefinite appointment, unnoticed by the department, for nearly three years, until July 2004. According to the director of state personnel, the member's age was overlooked

when he was given indefinite status. After noticing the error, the department's state personnel office placed the member on temporary status, effective November 2004.

We reviewed the personnel records of 41 state active duty members over age 60 who received temporary appointments and found that three were appointed to permanently established positions. We asked the department whether it might be impeding the careers of others by placing these service members into permanent positions that could be filled by permanently appointed members. According to the director of state personnel, such appointments do not affect the careers of others because the skills of these state active duty members are in high demand as a result of Guard members who could have performed the same duties before being deployed to Iraq. For instance, two state active duty members over age 60 repair helicopters at an air base in Fresno, filling the positions of Guard members with that skill who have been deployed.

### **THE DEPARTMENT'S CONTROLS OVER FEDERALLY FUNDED POSITIONS ARE INEFFECTIVE**

The department has inadequate controls over its use of full-time federal military personnel. Federal law and regulations provide the Guard with full-time military and civilian staff to support the large number of part-time Guard members. Federal regulations state that the National Guard Bureau will distribute full-time staff guidelines to the department, reflecting the maximum number of required full-time staff positions and the maximum number of personnel by rank, unit, and position. We refer to this as a federal authorizing document. The department is then required to assign full-time staff only to authorized positions. As we discussed in the Introduction, the department has three basic types of federal full-time military staff: active guard reserve, federal technicians, and part-time Guard members activated full time for special work.

The department has assigned many full-time staff to unauthorized positions. For example, the department's analysis identified at least 25 active guard reserve personnel in the joint force headquarters working in unauthorized positions as of January 26, 2006. Our analysis of the three federal full-time personnel working within the Information Synchronization Center (discussed in Chapter 2) found that an active guard reserve and a federal technician were assigned to unauthorized positions. In addition, the Guard member activated to full-time status and assigned to special duty was working in a position for longer than regulations allow. Because the department has

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personnel working in unauthorized positions, it is unable to effectively track where full-time military personnel are actually assigned, ensure the accomplishment of their intended missions, and determine whether assignments are in compliance with regulations. Further, because the Department of the Army uses federal authorizing documents to help standardize units, by not assigning staff to authorized positions, the department is circumventing the Army's efforts.

The department recently embarked on a project to help ensure that it assigns personnel to authorized positions, starting with the active guard reserve category. The department created spreadsheets to identify where all the active guard reserve members are supposed to be assigned, based on the federal authorizing documents, and where they are actually working. One spreadsheet was created for each unit throughout the State, including the joint force headquarters. On completing the headquarters spreadsheet, the department found that the joint force headquarters has more active guard reserve personnel than it is authorized to have. Specifically, as of March 1, 2006, the State was authorized to have 48 active guard reserve personnel in its joint force headquarters, yet 76 were actually assigned and working there. Therefore, according to the chief of staff of the Joint Staff and active guard reserve branch manager, the next step will be to move excess active guard reserve personnel to the field where those positions are authorized; they estimate this transition will be 95 percent complete by February 2007. The other units are still in the process of completing their reviews.

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According to the chief of staff of the Joint Staff and the chief of staff of the Army Guard, numerous factors explain why the department has exercised poor position control over its full-time staff. One factor is the undocumented movement of personnel over a long period under the command of many past adjutants general. For example, as we discuss in the next chapter, the creation of temporary task forces and the movement of resources to support the former adjutant general's perception of the mission occurred without regard to federal authorizing documents. According to the chiefs of staff, another factor is the Army's frequent changes in its force structure reallocation over the last eight years, which has caused the department to move people around each year to comply with the changes. Because these moves happen so often, the documentation process cannot keep pace. In addition, we found that an outdated federal authorizing document from 1998 was being used to assign full-time staff until 2004. According to the director of the human resources office, this may have been done because the old document offered more opportunities to promote full-time staff.

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***The department has historically split the responsibility for issuing orders for full-time staff between the Joint Staff's human resources office and the military personnel unit in the Army Guard, sometimes leading to the same position being filled by both.***

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Lastly, confusion over whether the Joint Staff or the Army Guard is responsible for issuing orders for full-time personnel also contributed to the problem. For example, the department has historically split the responsibility for issuing orders for full-time staff between the Joint Staff's human resources office and the military personnel unit in the Army Guard, sometimes leading to the same position being filled by both. To eliminate this confusion, according to the chief of staff of the Joint Staff, the Joint Staff and Army Guard recently agreed that the Joint Staff would be responsible for issuing orders for full-time personnel, such as active guard reserves. However, he acknowledged that this process has not yet been officially implemented or formalized.

All these reasons likely contributed to the poor position control exercised by the department over its federal full-time staff over the years. However, according to the chief of staff of the Joint Staff, the creation of these active guard reserve spreadsheets is the first step toward "right-sizing" the organization by aligning resources against the appropriate federal authorizing document. Further, the new adjutant general has taken steps to ensure better position control in the future by incorporating the realignment of personnel into the department's larger reorganizational and strategic planning effort. Although the department is in the process of trying to properly align all full-time staff against federal authorizing documents, it estimates that this project will not be complete until early 2007.

#### **WE COULD NOT CONFIRM THAT THE DEPARTMENT DISSEMINATES INFORMATION ON BENEFITS TO DEPLOYING GUARD MEMBERS**

Federal regulations and the Army Guard's standing operating procedures for deployment require the department to participate in activities to prepare members for deployment—known as soldier readiness processing. These activities include briefings to inform members and their families of benefits available to members on active duty. Although we could not confirm that Army Guard and Air Guard members who are activated and mobilized for military service were briefed concerning their benefit rights, nothing came to our attention that led us to believe members did not receive benefits briefings. Among the benefits included are medical, dental, life, and unemployment insurance and reemployment rights. The department provided descriptions and handbooks containing evidence that the department has processes that offer multiple opportunities to inform deploying Guard members and their families of the

benefits available to them during members' active duty status. However, the department's checklists and other records are not sufficient to allow us to confirm who has received these benefits briefings, and the records are not kept for all deploying Guard members. Because the department does not retain written evidence of who has received a briefing, we could not confirm that Guard members are aware of their benefits.

### We Could Not Confirm That All Deployed Army Guard Members Received Benefits Briefings

The process of preparing activated Army Guard members for mobilization, including informing them of the benefits available to them as a result of active service, is handled both by the department at one of its facilities and by the U.S. Army at the federal installation from which the members are deployed. We reviewed only the department's activities to inform mobilized members of their benefits. U.S. Army regulations state that part of the soldier readiness processing conducted at federal facilities is ensuring that all aspects of the process are accomplished, either at the members' station in their home state or at the federal installation where the final processing is performed. Therefore, we cannot conclude that members are not made aware of their benefits if the department fails to do so.

Deployed Army Guard members and their families are given multiple opportunities to receive benefit information. The department conducts briefings when preparing members for deployment and another briefing when members return from deployment. Army regulations require soldiers, including activated Army Guard members, to participate in soldier readiness processing before being deployed. This processing is required to take place in the facility where the deployed Army Guard members are based—their home station—and again at the federal installation from which they embark for active duty.

The department conducts preliminary soldier readiness processing briefings before transferring the Army Guard units to their federal mobilizing/deploying station, which conducts the final soldier readiness processing briefings. California uses its facilities at Camp Roberts to conduct soldier readiness processing for Army Guard members when they deploy as a unit. The Army Guard and the federal mobilizing/deploying station both use a standard Army checklist for soldier readiness processing to ensure that all deploying soldiers are thoroughly processed. This checklist includes topics such as personnel matters; legal issues;

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***The process of preparing activated Army Guard members for mobilization, including informing them of the benefits available to them as a result of active service, is handled both by the department at one of its facilities and by the U.S. Army at the federal installation from which the members are deployed.***

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supply and logistics items; security clearances; training; medical, dental, and visual evaluations; and personal finance matters. Additionally, the checklist includes signature blocks for officials and commanders to validate that the briefings occurred. The department maintains a copy of the checklist for each member briefed at the home station. For members who receive briefings at the federal mobilization station only, the checklists are maintained at that location.

One of the items on the checklist is an acknowledgment that the deploying Army Guard member received a briefing from the Family Readiness Group. According to its handbook, the Family Readiness Group conducts a presentation that includes a briefing on the federal TRICARE military health and dental care system, which is available to Army Guard members who are ordered to active duty for more than 30 days. A representative of the Family Readiness Group indicated to us that, as part of the presentation, she is required to give out handbooks covering all the benefits available to deployed members and their families. However, the representative also told us that she does not keep a record of the names of the deploying members she briefs. As a result, we could not use her records to confirm the individual members that were briefed.

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***The department does not provide benefits briefings to deployed Army Guard members who do not attend preliminary soldier readiness processing as a unit.***

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The department does not provide benefits briefings to deployed Army Guard members who do not attend preliminary soldier readiness processing as a unit. According to Army regulations and staff responsible for mobilization, soldier readiness processing for these members occurs at a federal mobilization installation, but the department does not receive copies of the checklists. From the deployed units we sampled, representing a population of 680 Army Guard members, we found 64 members who did not attend preliminary soldier readiness processing conducted by the department. Typically, these members were replacements for unit members who did not pass the preliminary soldier readiness processing requirements.

Although deploying soldiers who do not attend preliminary soldier readiness processing are not briefed on their benefits by the department, they must go through several phases of demobilization when they return. Each Army Guard member has a demobilization checklist that describes these phases. According to the department's mobilization staff, the last phase of demobilization occurs at the home station and is therefore the department's responsibility. Included in the checklist the department uses for demobilization briefings is a presentation on the TRICARE health and dental insurance. Members who

do not attend the group briefings are given a digital videodisc containing information about TRICARE benefits, according to the department's mobilization staff. However, the department does not keep in its records any copies of the completed checklists for the Guard members who have been demobilized. Therefore, we were unable to confirm that the department briefed demobilized Army Guard members about their benefits.

Although our testing found that some Army Guard members did not have completed checklists in their deployment files providing evidence that they received benefit information before deployment, we have no cause to think that those members did not receive information regarding their benefits. Army Guard members who do not receive the information at the preliminary soldier readiness processing briefings will, if the U.S. Army carries out its soldier readiness processing briefings as required by its regulations, receive the same information during the formal soldier readiness processing briefings conducted by the Army at the deployment stations. In addition, the benefits information that is made available to Army Guard members and their families through the Family Readiness Group during soldier readiness processing briefings is also available over the Internet.

#### **The Air Guard Also Lacked Complete Records of Benefits Briefings to Deployed Members**

We were also unable to confirm that the Air Guard units we visited had briefed deployed members on their benefits. Even though the Air Guard could not provide evidence that it briefed each deployed member on the benefits available to him or her, nothing came to our attention that led us to believe that the units did not brief the members about their benefits. As with the U.S. Army, U.S. Air Force instructions for deployment require that the Air Guard establish a personnel deployment function to ensure that its deploying members are accounted for and prepared for deployment. Deployment installations are given the option of using group processing for group deployment or a deployment checklist for individuals or small groups to ensure that Air Guard members have received the necessary briefings and are ready to deploy. The deployment checklist includes many items that members must complete before deployment and requires that each member being deployed for 30 days or longer meet with a Family Readiness Group representative to be briefed on the benefits available to deployed members. Copies of the checklists may be kept on file at the air base from which the members deploy. When a large group of members deploy, part of

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***The Air Guard is organized into wings (located at air bases), with each wing responsible for deploying members assigned to it and maintaining the documentation associated with that deployment.***

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the process requires members to form a personnel deployment processing line. These members are deployed with a letter certifying that they have gone through the processing line.

The Air Guard is organized into wings (located at air bases), with each wing responsible for deploying members assigned to it and maintaining the documentation associated with that deployment. As such, there is no centralized source for the documentation, as there is for Army Guard deployments. The Air Guard uses a deployment checklist to ensure that each member deploying overseas has received information on required topics. Each member is required to carry a copy of the checklist to his or her destination. To review the checklist that provides evidence that the Air Guard conducted these briefings, it was necessary to contact the wings individually. We chose to focus our testing on a sample of deployed Air Guard members from Moffett Field and Fresno Air Base.

At Moffett Field, the Personnel Readiness Function was able to supply us with only six checklists from our sample of 20 Air Guard members who deployed in federal fiscal year 2005. We assumed that the others had gone through a processing line before deploying, but without witnessing the deployment, we were unable to ascertain whether this was the case. In addition, although Moffett Field has examples of slide shows that include benefits information for certain briefings, these briefings are not tied to specific items on the deployment checklist. Therefore, even for Air Guard members with completed checklists, we could not confirm that they were briefed on their benefits because the checklist does not have a line that specifies a benefits briefing.

At Fresno Air Base, Air Guard members are deployed as individuals or in very small groups. We reviewed the files at Fresno Air Base for 20 members deployed in federal fiscal year 2005 to determine whether they had completed checklists on file. Of the 20 members tested, 18 had checklists on file at the base. Like Moffett Field, Fresno Air Base has examples of slide shows and other information that discusses benefits. However, the briefings that include this information are not directly tied to the deployment checklist. Therefore, even though the information is available and may have been disseminated to members before deployment, Fresno Air Base could not provide evidence of which members reviewed the slide show and, as a result, were briefed on their benefits.

## **FEW GUARD MEMBERS FILED FOR UNEMPLOYMENT BENEFITS**

The State offers unemployment insurance benefits to Guard members who meet income eligibility requirements. Because the department does not track the number of members released from active duty who applied for unemployment insurance benefits, we requested the information from the Employment Development Department. The department provided data on the Army Guard members released from active duty from January 2002 through January 2006 and a list of Air Guard members released from active duty from calendar years 2003 through 2005. Using that information and data on unemployment insurance benefits, the Employment Development Department determined that 47 of the 11,355 Guard members released from active duty during those periods applied for unemployment insurance benefits. However, because the Employment Development Department was not able to provide us with information on how many of the 11,355 members were eligible for unemployment insurance benefits, we were not able to perform any further analysis.

## **STATE ACTIVE DUTY MEMBERS DO NOT HAVE ACCESS TO AN INDEPENDENT PROCESS TO RESOLVE COMPLAINTS OF RETALIATION AGAINST WHISTLEBLOWERS**

In contrast to the legal protections for federal employees who act as whistleblowers, the department does not have procedures to monitor and resolve state active duty members' complaints of retaliation from superiors. Federal personnel are protected against retaliation aimed at whistleblowers by federal laws, regulations, and directives that allow federal employees to lodge complaints with the federal inspector general. The inspector general must consider such complaints to be "protected communication" and must maintain the complainant's confidentiality. The final approval authority for cases involving allegations of reprisal against a whistleblower is the federal Department of Defense.

In contrast, state regulations require that state active duty personnel attempt to resolve their complaints through the lowest level of supervision or state active duty chain of command before filing an official complaint with the department's State Personnel Office. As a result, a state active duty member lodging a complaint of retaliation is forced to first lodge a grievance with the same commander who allegedly engaged in retaliation. If the member is not in agreement with the decision reached by the superior officer, he or she can file

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***A state active duty member lodging a complaint of retaliation is forced to first lodge a grievance with the same commander who allegedly engaged in retaliation.***

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a complaint in writing with the department's State Personnel Office. Following a series of reviews, if the member is still not satisfied with the decision made, the adjutant general will issue a final ruling on a complaint appeal. Therefore, unlike federal employees, state active duty personnel do not have an avenue for filing a complaint with an independent party, nor are the complaints they file considered protected or confidential communications. This regulatory process creates a disincentive for state active duty personnel to file complaints alleging retaliation.

Moreover, state active duty personnel are not eligible to file complaints with an independent agency the way state civil service personnel can. For example, the state constitution and state law allow state civil service personnel to lodge complaints of retaliation with the State Personnel Board. However, state active duty personnel are barred from this entitlement because they are considered military personnel and are therefore exempt from state civil service.

We believe that, because state active duty personnel are not eligible to lodge complaints with an independent agency, there is a regulatory disincentive to lodge complaints through the department's internal processes. Recent legislation was proposed that would create an inspector general position, to be appointed by the governor and confirmed by the state Senate. This position would be independent of the department's chain of command and would have the authority to investigate complaints and allegations of wrongdoing by military personnel on state active duty, including allegations of misconduct by the adjutant general. The bill also proposed that the inspector general have a process for referring complaints involving violations of federal military laws or regulations to the federal inspector general's office. As of June 1, 2006, this bill is still pending.

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***For complaints lodged by state active duty personnel and the complaint resolutions, the department does not maintain complete files or have an organized filing system that could provide a historical perspective on the volume of the complaints filed.***

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In addition, for complaints lodged by state active duty personnel and the complaint resolutions, the department does not maintain complete files or have an organized filing system that could provide a historical perspective on the volume of the complaints filed. Our review of the department's complaint files found that it does not have a system for filing, tracking, or monitoring the complaints it receives. Files were informal and were not organized according to any particular system, and some did not even contain an official state active duty complaint form. We asked the department to provide a log of all complaints filed and attempted to trace each complaint documented in the log back to the original complaint file.

However, although the department maintained a tracking log of complaints, the log was unreliable because it did not list all the complaints filed and did not document any complaints filed after June 2001. Because the log was unreliable, we reviewed all the state active duty complaint files and found that of the 25 complaints on file, only 13 had official state active duty complaint forms. Further, of the 25 complaints, we found only one that officially alleged retaliation and two that could potentially have been categorized as retaliation. Most of the other complaints involved issues such as discrimination and sexual harassment.

According to the department, it is in the process of improving its complaint-filing process. However, without modifying the state regulation, state active duty personnel will continue to have a disincentive to report complaints alleging retaliation. The new director of the department's State Personnel Office stated that he is committed to establishing a better process for managing state active duty complaints, including ensuring compliance with regulations and revising them if necessary. The director acknowledged that until now the process for handling state active duty complaints has been inadequate, and he indicated that he is taking the initial steps to improve the process.

## **THE DEPARTMENT DOES NOT ADEQUATELY MAINTAIN FILES TO DEMONSTRATE THAT IT COMPLIES WITH REGULATIONS CONCERNING ALLOWABLE ACTIVITIES**

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***Because the Staff Judge Advocate's Office does not keep logs of the requests for outside activities it reviews or records of the recommendations it provides to leadership, it cannot demonstrate, nor can we confirm, that the department consistently follows the guidance issued by the Department of Defense.***

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The department's processes for reviewing requests for its participation in outside activities, including community relations events and events sponsored by nongovernmental entities, if followed, appear sufficient to ensure that personnel are used only for allowable activities. However, because the Staff Judge Advocate's Office does not keep logs of the requests for outside activities it reviews or records of the recommendations it provides to leadership, it cannot demonstrate, nor can we confirm, that the department consistently follows the guidance issued by the Department of Defense. Nevertheless, depending on whether the activity is determined to be allowed based on community relations policy or on legal or ethical issues, the request is reviewed for appropriateness by either the Public Affairs Office or the Staff Judge Advocate's Office. These requests can originate from department staff or from outside the department. After review, these offices make their recommendations to senior leadership for approval or disapproval.

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***The department uses regulations to determine the appropriateness of requests for its involvement in community relations events. The department employs a public affairs officer who is responsible for making these determinations.***

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The department uses regulations issued by the Army, the Air Force, and the National Guard Bureau to determine the appropriateness of requests for its involvement in community relations events. The department employs a public affairs officer who is responsible for making these determinations. The public affairs officer is a position established by Army regulation. National Guard Bureau guidelines enumerate the types of activities in which Guard members can and cannot participate. In addition, the guidelines specify the types of activities that must be coordinated through the National Guard Bureau—such as participation in events outside the continental United States, most aerial demonstrations, and television programs or advertisements—and the types of activities that can be approved by the adjutant general through the public affairs officer. Guard leadership can approve events not otherwise reserved for the National Guard Bureau or other defense agencies and events such as flyovers during holidays like Armed Forces Day, Memorial Day, and Veterans Day. Our review of the public affairs officer's files revealed nothing to indicate that the department did not follow the Army or Air Force regulations or National Guard Bureau policy.

Reviews and recommendations regarding legal or ethical conduct are supplied by the Staff Judge Advocate's Office using the Standards of Ethical Conduct (ethics standards) issued by the Department of Defense.

The files the staff judge advocate was able to provide demonstrated the diverse activities on which the office is asked to provide opinions. For example, the staff judge advocate has provided guidance to department and Guard staff regarding assisting the secretary of the Air Force during a ceremony at the Ronald Reagan Presidential Library, whether the adjutant general could travel using military aircraft, and how extensively Guard staff could interact after hours with vendors with whom they conduct business.

However, our review of legal and ethical issues was limited because the Staff Judge Advocate's Office could not provide a file of all of the opinions it had rendered. According to the staff judge advocate, many of the opinions were rendered verbally and not filed in written form because of a lack of time and resources. He also stated that there is no one complete file of written ethics opinions on questions of the appropriateness of activities to support nongovernmental entities. These opinions are filed by the name of the activity and not necessarily identified as ethics opinions. According to the staff judge advocate, his office has historically been short staffed and thus has not placed importance on maintaining a comprehensive cross-referenced filing system. As a result, the department

could not provide all its opinions to demonstrate, nor could we confirm, that it consistently follows the ethics standards. Without a written record of ethics opinions and the means to locate them, the Staff Judge Advocate's Office may spend time needlessly rendering more than one opinion on the same subject matter or render inconsistent opinions.

## RECOMMENDATIONS

To reform its use of state active duty personnel and comply with its senior leadership's wishes in the use of state active duty personnel, the department should ensure that the panel completes the tasks assigned to it by the adjutant general and follows through with the panel's recommendations. In addition, the department should review its hiring policy and practices for state active duty members, as directed by the adjutant general, and make the necessary changes in its policy and regulations to provide adequate guidance to its commanders and directors.

The department should develop and implement procedures to ensure that it complies with authorizations for federal full-time military personnel to support its part-time Guard members. Those procedures should include designating the responsibility for issuing orders for full-time personnel to a single entity.

Because the department has a responsibility under federal regulations and its procedures to conduct soldier readiness activities and inform deploying members of the benefits available to them while on active duty, the department should consider implementing a procedure for both the Army Guard and the Air Guard to document that they comply with those requirements.

To ensure that its state active duty personnel can report any alleged violations of statutes, regulations, or rules without fear of retaliation, the department should establish a process independent of the chain of command to protect state active duty personnel who wish to file complaints alleging retaliation by a superior.

To allow it to demonstrate compliance with the Standards of Ethical Conduct, the department's Staff Judge Advocate's Office should implement a system to log the activities it reviews and to maintain files of the opinions it provides to department leadership on questions of compliance with those ethics standards. ■

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# CHAPTER 2

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## ***The Military Department Has Not Always Employed Strategic Planning or Obtained Approval for Organizational Changes***

### CHAPTER SUMMARY

The strategic planning process used by the California Military Department (department) was interrupted and refocused after the events of 9/11 and was later abandoned altogether by the former adjutant general. An effective strategic planning process would have allowed the department to develop a mission that took into consideration an assessment of the external and internal factors influencing the department and to allocate resources accordingly. Instead, the former adjutant general redefined the California National Guard's (Guard) organizational mission to place a greater emphasis on providing military support to civil authorities. In doing so, he sponsored the creation of unauthorized entities, such as a new headquarters division, an expanded intelligence unit, and a field brigade to command military support to civil authorities. Because the department at that time did not have a strategic planning process that would have justified the need for those entities, there is no basis to conclude that the former adjutant general's perception of the mission was warranted. The department has recently taken steps to reimplement a strategic planning process.

In its efforts to implement the former adjutant general's perceived organizational mission, the department violated state and federal laws and regulations. First, the department established organizational entities without obtaining proper state approval and did not follow standard military doctrine. For example, the department did not obtain the required state approval to establish a new division within its headquarters and an expanded intelligence unit within the new division. Second, the department used federal troop command units for unauthorized purposes when it combined the resources assigned to the units and formed a field command headquarters to support civil authorities. Third, the department violated federal counterdrug law and regulations by inappropriately using resources from the federal counterdrug program to operate the field command headquarters and to

establish additional teams with special training to respond to weapons of mass destruction, even though only one team was federally authorized and funded.

## THE DEPARTMENT HAS NOT MAINTAINED AN ADEQUATE STRATEGIC PLANNING PROCESS

According to the department's strategic planner, the former adjutant general abandoned the traditional strategic planning process in 2004, soon after he was appointed, but the department has recently begun to reimplement it. A strategic plan is a practical, action-oriented guide that directs an organization's goal setting and resource allocation to achieve meaningful results over time. The State requires all state agencies to have a strategic plan and to revise it whenever an agency's goals or objectives change, yet the department has not complied with this requirement since 2002, when it last evaluated its strategic plan. Although the department, under the leadership of the new adjutant general, is in the process of reimplementing a strategic planning process, these efforts were still in the early stages when we finished our audit fieldwork. Without a strategic plan, the department cannot measure how well it is meeting its mission.

### Components of a Strategic Planning Process

- Assessment of external and internal data and factors that can influence the agency's success in achieving its mission.
- Mission statement that describes the agency's unique reason for existence.
- Principles that summarize the agency's philosophies and values.
- Vision of what management wants the agency to be in the future.
- Goals that identify the result the agency desires from planning, generally after three or more years.
- Objectives that are specific and measurable targets to achieve goals.
- Action plans that provide a detailed description of the strategies to implement each objective. Action plans include staff assignments, resource allocations, and completion dates.
- Performance measures that gauge work performed and results achieved.
- Monitoring and tracking systems to follow progress and keep the plan on track.
- Allocation of resources to carry out strategies and objectives.

Source: California Department of Finance Strategic Planning Guidelines.

Strategic planning is a long-term, future-oriented process of assessment, goal setting, and decision making that maps an explicit path between the present and a vision of the future. As described in the text box, essential elements of sound strategic planning include analyzing the environment, defining a mission and goals, establishing priorities among goals, allocating resources, and measuring actual performance against predefined benchmarks. A successful planning process provides many benefits to both the agency and the clients the agency serves. It improves an agency's ability to anticipate and adapt to the future by identifying issues, opportunities, and problems. It also enhances decision making at both the operational and executive management levels because it focuses on results, provides information to guide managers in making decisions regarding resource allocation, and establishes a basis for measuring the success of an agency's activities. Most importantly, the planning process is not a one-time project that, once completed, remains static. Instead,

it should be an interactive process that is refined and refocused as performance is measured, targets are reset, and new information becomes available.

Had the department continuously pursued a strategic planning process, it could have used the process to accommodate the shift in strategy that occurred after 9/11 and the appointment of new adjutants general. The department implemented a strategic planning process and published its first strategic plan in December 1999. The plan was updated again in August 2000 before being interrupted by the events of 9/11. Following 9/11, rather than updating the existing strategic plan, the department created smaller, more focused plans to cover specific areas, such as a homeland security strategy published in 2002.

In 2004, the department's strategic planning process was abandoned altogether because, according to the department's strategic planner, the former adjutant general was not a proponent of strategic planning. In fact, according to the department's strategic planner, the former adjutant general did not provide a budget for strategic planning because he wanted to retain the flexibility to make decisions and shape the organization as events unfolded. The strategic planner also stated that he believes the department failed to comply with the state strategic planning requirement under the former adjutant general because it began to undertake major organizational and mission shifts that were not addressed in the prior strategic plan and were not developed in accordance with the strategic planning process. These organizational and mission changes are discussed in more detail throughout this chapter. Without a strategic planning process, the department could not effectively measure its progress toward meeting its changing missions, nor could it effectively manage its resources. For example, as we discussed in Chapter 1, the department lost position control over its full-time federal staff, in part because of the undocumented movement of personnel to meet the former adjutant general's perception of the mission.

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***The department is now in the process of reimplementing a strategic planning process as part of a larger three-phase effort the new leadership has undertaken to reorganize the Guard headquarters consistent with the National Guard Bureau's guidance to transform into a joint force headquarters.***

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The department is now in the process of reimplementing a strategic planning process under the leadership of the new adjutant general. This effort is part of a larger three-phase effort the new leadership has undertaken to reorganize the Guard headquarters, consistent with the National Guard Bureau's guidance to transform into a joint force headquarters, as discussed in the Introduction. The first phase created a large-scale reorganization of the divisions within headquarters to reflect a joint force structure, with a Joint Staff, an Army National Guard

(Army Guard), and an Air National Guard (Air Guard). The second phase aligned all the functions within the appropriate staff or Guard component, and the third will allocate adequate resources for each function so that all personnel are assigned against appropriate federal authorizing documents. For example, the department wants to make sure that all functions are allocated appropriately to the Air Guard, Army Guard, or Joint Staff. Once that is done, staff will need to be reassigned to the correct location and assigned against the appropriate federal authorizing document. For example, Air Guard staff are assigned against a different federal authorizing document than are Army Guard staff.

Concurrent with this process, the department reinitiated the strategic planning process by participating in a one-week

off-site strategic planning meeting. Although the department had not formalized a strategic plan by the end of our fieldwork, as a result of the off-site meeting, it had developed a vision, mission statements, and goals.

#### **Entities Created or Embellished by the Former Adjutant General**

**Civil Support Division**—Created to manage operations in support of the adjutant general to deter, prevent, defeat, and mitigate threats and aggression aimed at the State; on order, provides military assistance to civil authorities.

**Information Synchronization Center**—Creates and maintains a collaborative information network by establishing data processing and analysis capabilities and developing interagency disclosure requirements; collects information from traditional news media sources and receives and analyzes intelligence information from military and government sources. The resources to support this unit were never authorized and the unit, as envisioned, never materialized.

**Military Assistance to Civil Authority Brigade**—A brigade-level unit informally established by combining the resources from three federally authorized troop command units for the purpose of providing a field command headquarters to oversee activities related to military assistance to civil authority. This was never a federally recognized organization.

**Chemical, Biological, Radiological, Nuclear, Explosive Enhanced Response Force Package (CERF-P) Teams**—Teams consisting of Army Guard and Air Guard members formed into security, decontamination, search and rescue, and medical triage teams, with a small command and control section, for the purpose of assisting local first responders in the event of an incident involving weapons of mass destruction. California was authorized and funded for one CERF-P team. However, the prior adjutant general planned to establish a total of six CERF-P teams. The five additional CERF-P teams were unauthorized.

#### **IMPLEMENTING THE FORMER ADJUTANT GENERAL'S PERCEPTION OF THE MISSION VIOLATED REGULATIONS AND CAUSED NUMEROUS PROBLEMS**

The former adjutant general, who was appointed in March 2004 and commanded the Guard through June 2005, redefined the organizational mission to emphasize the Guard's duty to support civil authorities. To promote his goal of expanding the Guard's ability to provide military support to civil authorities, the former adjutant general created new entities that were never officially authorized, and expanded and changed the mission of existing entities without obtaining authorization or funding. However, by creating and embellishing entities without conducting an analysis to justify the need for such structures, the former adjutant general contributed to the numerous negative effects discussed throughout this chapter.

Generally, the changes made by the former adjutant general can be summarized as follows. According to the department's strategic planner, the former adjutant general identified the tasks and functions he believed would be critical for responding to a state event,

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***As part of his vision, the former adjutant general created entirely new units without obtaining state or federal authorization. Although these entities may have been intended for worthy goals, most either never materialized or were dismantled in response to the negative effects of trying to provide resources for them without going through the appropriate channels.***

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combined them into what he called the Civil Support Division, and had them report directly to him. As part of his vision, the former adjutant general created entirely new units without obtaining state or federal authorization. These units were called the Information Synchronization Center (intelligence unit) and the Military Assistance to Civil Authority Brigade (MACA brigade). Further, the former adjutant general placed the Chemical, Biological, Radiological, Nuclear, Explosive Enhanced Force Package (CERF-P) teams under the command and control of the MACA brigade. These entities and their purposes are described in the text box on the previous page.

Although these entities may have been intended for worthy goals, most either never materialized or were dismantled in response to the negative effects of trying to provide resources for them without going through the appropriate channels. The former adjutant general established the entities without performing a formal analysis involving all appropriate staff to determine whether the entities were warranted. Therefore, some of the entities were plagued by public and internal speculation regarding their purposes, and the department ended up wasting time and misusing its limited resources in its attempt to establish them. Indeed, by abandoning or dismantling most of the entities, the department appears to have answered the question of their necessity and value relative to the department's other missions.

Specifically, although the federal authorizing document for the Guard headquarters establishes and authorizes an intelligence unit, the intelligence unit envisioned by the former adjutant general exceeded the authorized structure. The federal authorizing document for the state headquarters recognizes that up to seven staff may be necessary to operate an intelligence unit. The Joint Staff Manual indicates that the mission of such a unit is to serve as the focal point for crisis intelligence support to military operations and to provide warning intelligence to department leadership.

However, the intelligence unit envisioned by the former adjutant general was much more ambitious. It established a three-part operation, comprising a Combined Intelligence Fusion Group, Knowledge Management Group, and Operational Net Assessment Group, and required 24 new positions. The purpose of the Combined Intelligence Fusion Group was to provide the former adjutant general with national, international, and state information-gathering capability. The purpose of the Knowledge Management Group was to provide a system for retrieving, processing, organizing, analyzing, synthesizing, and sharing data and information among workers, leaders, and organizations charged with decision-making responsibilities. Lastly, the Operational Net Assessment Group's

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***The department was unable to provide evidence of its performing a formal analysis, such as a probability study or an in-depth analysis of the threat level, to support the assertion that the State would likely be faced with six simultaneous natural disaster or terrorist events.***

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function was to analyze effects and conduct analyses of networks and systems. The department never conducted a formal analysis to justify the need for such an extensive intelligence unit, even though the purpose of these groups was nebulous.

Similarly, California was one of 12 states authorized nationwide and funded by the National Guard Bureau to establish one CERF-P team. (CERF-P teams are described in the text box on page 42.) However, the former adjutant general planned to establish a total of six CERF-P teams because he believed the Guard should be prepared to respond to six simultaneous natural disasters or terrorist events. Yet the department was unable to provide evidence of its performing a formal analysis, such as a probability study or an in-depth analysis of the threat level, to support the assertion that the State would likely be faced with six simultaneous events. Instead, the former commander of the Army Guard provided briefings prepared under the former adjutant general suggesting that the department had analyzed such things as California's population; urban centers; spheres of economic, political, and social influence; demographics; undocumented immigration patterns; and drug trafficking corridors as factors to be considered in identifying areas that might attract potential terrorist attacks within the State. These briefings, together with a review of the natural disaster trends in the State, formed the basis on which the former adjutant general determined that six staging areas were needed for the Guard to respond to six events at once within 24 hours after being called for support. However, the process used to make this determination appears somewhat superficial and lacked an analysis of the likelihood that six events requiring Guard support would occur at once.

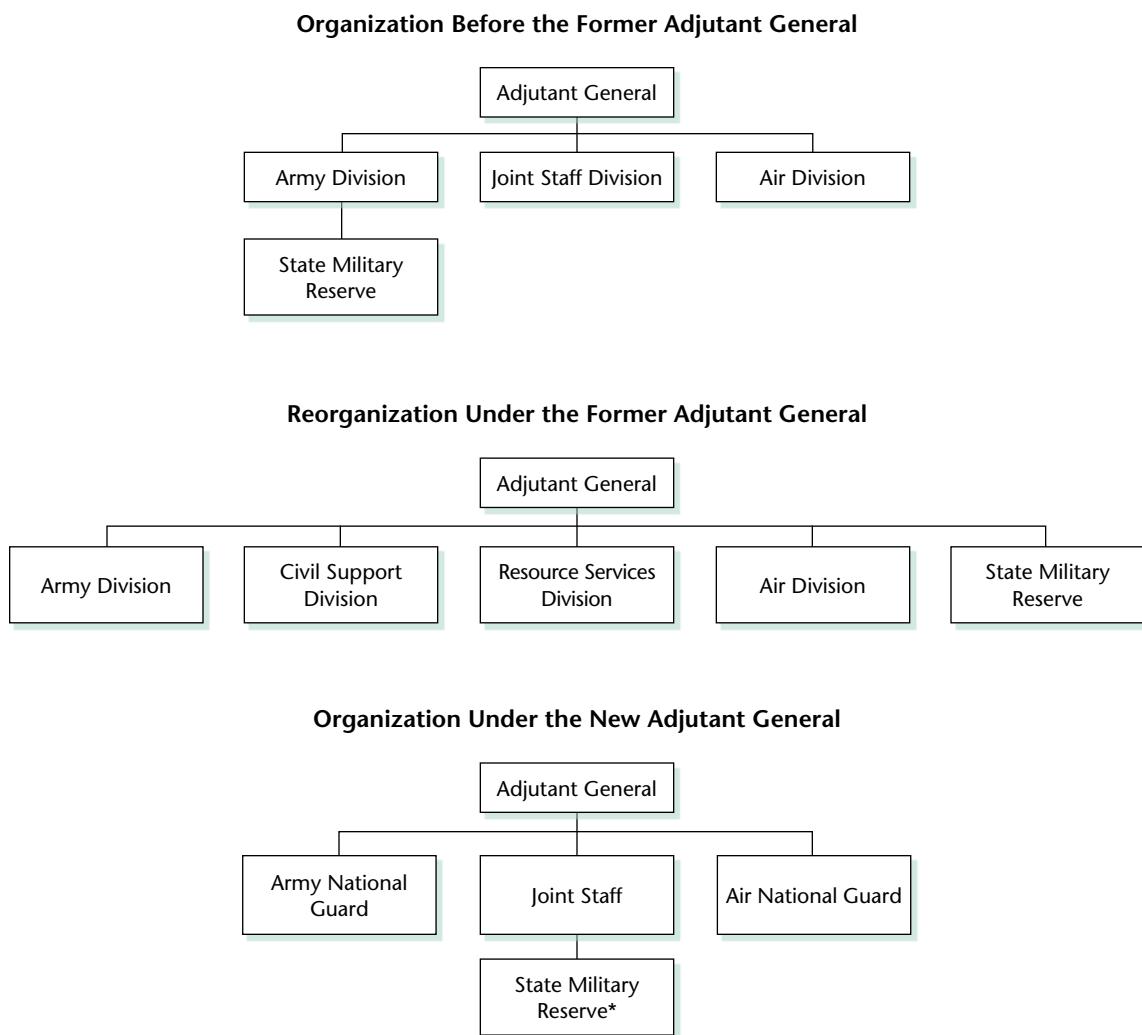
According to the former Army Guard commander, much of the decision making was a result of the former adjutant general's judgment. The former commander indicated that the former adjutant general established a vision and stretched the organization to meet his vision in the absence of resources. The former adjutant general ultimately succeeded in obtaining equipment for two CERF-P teams and training for four teams of personnel, when only one CERF-P team was authorized. In doing so, he diverted resources inappropriately from the federal counterdrug program, as we discuss later in this chapter. The remainder of this chapter discusses the additional problems or effects associated with implementing the former adjutant general's perception of the mission.

## THE DEPARTMENT SHOULD HAVE OBTAINED STATE APPROVAL FOR THE CREATION OF THE CIVIL SUPPORT DIVISION AND THE INTELLIGENCE UNIT WITHIN IT

The department reorganized its headquarters and planned to staff a three-part intelligence unit without first obtaining state approval. Under the former adjutant general, one of the department's three divisions, the Joint Staff Division, was divided into two new divisions, the Resource Services Division and the Civil Support Division. Figure 1 illustrates the configurations of the department's headquarters over time.

**FIGURE 1**

### Reorganizations of the California National Guard's Headquarters' Structure



Source: Organizational charts provided by the California National Guard.

\* According to the department's strategic planner, as of April 7, 2006, the department was still negotiating the final alignment of the State Military Reserve, but suggested it may report to the director of the Joint Staff because it is a support resource for the overall operation of the department.

National Guard regulations require that any change in the organization of a unit located entirely within a state may be made only with the approval of the governor of that state. The State Administrative Manual further stipulates that all organizational plans and changes at the division level or higher be approved by the governor, through the Department of Finance (Finance). Yet the department did not obtain approval for the reorganization that created the two new divisions. According to the department's deputy adjutant general of the Resource Services Division at the time, the reorganization plans were not shared with Finance because by the time the department became aware that it was required to obtain Finance approval, the department was preparing for a new adjutant general and did not want to move forward until the new adjutant general had had a chance to review the headquarters' current organization.

In addition to failing to obtain the required state approval for the divisional reorganization, the department did not submit a budget change proposal to Finance for approval of the additional resources needed to support the new intelligence unit within the Civil Support Division. The unit was envisioned to be a three-part operation staffed by establishing at least 24 new positions, including 11 new state active duty positions. As it turned out, only five of those positions were ever filled and all but one were filled by existing personnel from other units. The unit that ultimately materialized was made up of two state active duty personnel and three federal personnel.

According to the former director of the intelligence unit and the acting director of the Civil Support Division, the intelligence unit was created under the former adjutant general because of the federal focus on homeland security and information sharing. The former acting director stated that the department was attempting to mirror the federal organization and structure and that the federal government was promoting a strategy to fight terrorism through information sharing among all levels of government, both vertically and horizontally. The former deputy adjutant general of the Resource Services Division stated that a budget change proposal to staff the intelligence unit was never submitted to Finance because the former adjutant general wanted to get the unit running before submitting anything official. The former acting director told us that the intelligence unit never actually materialized as planned because of concerns over the legality and funding of such a program. Instead, the intelligence unit was ultimately staffed by the former director of

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***The former acting director of the intelligence unit told us that the unit never actually materialized as planned because of concerns over the legality and funding of such a program.***

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the intelligence unit and four staff members whose function was to gather information from weather patterns, news reports, and any classified federal intelligence information that had a bearing on the State's National Guard forces or that provided insight into potential disasters or situations in which the Guard might be called on to assist, according to the acting director.

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***The lack of transparency that resulted from the department's circumventing the budget change proposal process may have contributed to public, legislative, and internal speculation about the purpose of the intelligence unit.***

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However, by failing to obtain approval for the additional resources needed to establish the intelligence unit, the department was forced to use resources from other areas, further diminishing the department's ability to effectively manage the allocation of federal and state personnel, as we discussed in Chapter 1. Further, the lack of transparency that resulted from the department's circumventing the budget change proposal process may have contributed to public, legislative, and internal speculation about the purpose of the intelligence unit.

#### **THE DEPARTMENT NEITHER JUSTIFIED ITS NEED TO CREATE THE CIVIL SUPPORT DIVISION NOR FOLLOWED MILITARY PRINCIPLES**

As part of the national movement to transform all states' headquarters organizations into joint force headquarters, the National Guard Bureau allows the adjutants general throughout the country some flexibility to reorganize their respective headquarters to meet current and emerging missions. However, the department could not provide convincing evidence that it did any kind of thorough analysis to determine that a reorganization establishing the Civil Support Division was warranted. Moreover, the reorganization defied military principles by decreasing efficiencies, inhibiting unity of command, and changing normally accepted titles to nonstandard titles, which caused confusion among staff as well as among those external to the Guard who had dealings with the department.

Federal regulations state that under normal circumstances, approval must be obtained from the secretary of the Army, through the chief of the National Guard Bureau, for the organization, reorganization, redesignation, consolidation, conversion, or withdrawal of federally recognized National Guard units. These regulations also state that to reorganize a National Guard entity, a state needs to prepare and submit a concept plan to the National Guard Bureau for approval when the level of change reaches a specified threshold. Such thresholds include reorganizations at or above the directorate level—such as the department's reorganization that split an

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***Although the former commander of the Army Guard suggested that some analysis was done, that analysis was limited and did not involve all department staff that normally participate in planning such a change in mission.***

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existing division to create two new divisions. Although the department submitted a transformation plan to the National Guard Bureau to create a joint force headquarters that was approved in September 2003, the department did not submit a subsequent plan to reflect the divisional reorganization under the former adjutant general in 2004. Therefore, the department was operating with a structure that was markedly different from the one approved by the National Guard Bureau.

A letter from the chief of the National Guard Bureau stated that during this period of transformation to a joint force headquarters, state adjutants general have latitude to size and structure their joint headquarters and declare them as operational. According to the department's transformation plan, during this period, it intended to refine organizational alignments and resources to determine the most effective and efficient organizational structure to meet current and emerging missions. Even though the department was allowed this latitude to reconfigure itself to meet its mission, it has been unable to provide evidence that it did the sort of in-depth analysis necessary to justify what those missions were. For example, the department did not use a process to estimate the probability that the various threats it was considering would materialize, either individually or simultaneously, before creating new entities, like the Civil Support Division and the intelligence unit within it. Some staff in leadership positions openly acknowledged this and asserted that the former adjutant general did not consult with the appropriate staff before making such decisions. Although the former commander of the Army Guard suggested that some analysis was done, that analysis was limited and did not involve all department staff that normally participate in planning such a change in mission.

According to the former Army Guard commander, the former adjutant general based his decisions on intelligence information; discussions with the National Guard Bureau, other state departments, and the Governor's Office; and consideration of potential targets of terrorist attacks and possible natural disasters in California. However, as we discussed earlier, we reviewed some of the briefings and documents considered in the decision-making process and found that they were not compelling in that they did not articulate a clear threat to suggest that the creation of something like the intelligence unit was warranted.

Lastly, the creation of the Civil Support Division did not comply with military principles, also referred to as joint doctrine. State law requires the adjutant general to organize the office

of the adjutant general according to general staff doctrine and Department of Army and Air Force regulations. According to the department's strategic planner, *doctrine* is generally defined as a principle or body of principles or a rule or principle of law, especially when established by precedent. He indicated that state law predates the formation of the Joint Staff and the department's national mandate to transform into a joint force headquarters. He further stated that the former adjutant general's reorganization, illustrated in Figure 1 (see page 45), defies many principles of joint doctrine. He described joint doctrine as encompassing several principles based on years of military operations and experience. These principles include concepts like unity of command (the assembling of all resources and capabilities under a unified leader), single and clear lines of responsibility, and uniform and standardized operations (aligning staff and functions in a standardized format recognized by all).

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***According to the department's strategic planner, the reorganization under the former adjutant general was not doctrinally correct because it split the Joint Staff functions between two divisions—the Civil Support Division and the Resource Services Division.***

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According to the department's strategic planner, the reorganization under the former adjutant general was not doctrinally correct because it split the Joint Staff functions between two divisions—the Civil Support Division and the Resource Services Division. He stated that under the reorganization, the responsibility for some of these functions rested with more than one person, while no responsibility was assigned for other functions, raising doubt in the minds of managers and leaders as to their lines of responsibility. As a result, he stated, communication among the various functions was impeded because the operational staff in the Civil Support Division and the support staff in the Resource Services Division did not report to the same person. Further, the strategic planner told us that by changing normally accepted titles to nonstandard or nonmilitary titles, the former adjutant general created confusion for staff inside and outside the department. Because of these problems, as part of the transformation to a joint force headquarters and the reimplementation of a strategic planning process, the new adjutant general has begun reorganizing the headquarters by discontinuing the Civil Support Division, thereby more closely reflecting joint doctrine.

#### **THE DEPARTMENT USED TWO ARMY COMMAND UNITS FOR UNAUTHORIZED PURPOSES WHEN IT CREATED THE MACA BRIGADE**

As part of the organizational changes, and as part of the former adjutant general's overall vision to enhance the ability of the Guard to provide military assistance to civil authorities, the department created a field unit that was never federally authorized. The new unit

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***Although the Combat Support Command and the 115<sup>th</sup> Troop Command achieved the temporary missions for which they were created, the department did not return the units' personnel resources to headquarters but rather formed the MACA brigade.***

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was commonly referred to as the MACA brigade, although it really comprised three units: the Combat Support Command,<sup>3</sup> the 115<sup>th</sup> Troop Command,<sup>4</sup> and the 100<sup>th</sup> Troop Command.<sup>5</sup> The Combat Support Command and the 115<sup>th</sup> Troop Command were originally authorized as headquarters detachment units to perform specific temporary functions during the Department of the Army's force redesign effort. For example, the Combat Support Command was formed from 10 headquarters' positions for the temporary mission of establishing a command and control element to manage units transitioning from a combat structure (such as an infantry, armor, or artillery unit) to a combat support structure (such as a transportation or maintenance unit), in keeping with the Department of the Army's larger redesign effort. Although the Combat Support Command and the 115<sup>th</sup> Troop Command achieved the temporary missions for which they were created, the department did not return the units' personnel resources to headquarters but rather formed the MACA brigade.

According to the chiefs of staff for the Army Guard and Joint Staff, the department should have documented the new missions for the two units comprising the MACA brigade. However, the Joint Staff chief of staff told us that the department was not necessarily required to submit such documentation to the National Guard Bureau because it is a common practice to allow a unit a two-year grace period, during which new missions may arise for which the department needs to use the unit's resources. Although this may be the department's practice, the Army Guard's chief of staff was not aware of federal regulations articulating a grace period. Further, according to the department's strategic planner, the Army recently indicated that it would remove all "nonstandard" units from the State's force structure, which would have resulted in the loss of the personnel resources assigned to these two units. Therefore, in January 2006, the department submitted a concept plan to the National Guard Bureau requesting that the two units be

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<sup>3</sup> The Combat Support Command was commonly referred to as the 49<sup>th</sup> Combat Support Command. According to the former commander of the Army Guard Division, the name was used as a temporary designation until California received authority to establish the 49<sup>th</sup> Military Police Brigade, which occurred in March 2005. At that time, the personnel spaces making up the Combat Support Command, along with some spaces from the 100<sup>th</sup> Troop Command and the 115<sup>th</sup> Troop Command were combined and renamed the 100<sup>th</sup> Joint Combat Support Command by the former adjutant general. However, this name and structure was never federally recognized.

<sup>4</sup> The 115<sup>th</sup> Troop Command was formed to maintain a unit presence in the State and to retain the historical importance of the 115<sup>th</sup> Area Support Group, which was removed from the force structure but was expected to return later under the Department of the Army's redesign efforts. Therefore, when the 115<sup>th</sup> Area Support Group returned, the 115<sup>th</sup> Troop Command was officially renamed and is now referred to as the 1001<sup>st</sup> Troop Command.

<sup>5</sup> The 100<sup>th</sup> Troop Command is what is referred to as a "standard" troop command, the structure of which is authorized for most states.

reconsolidated into headquarters so that the State could retain the personnel resources to help with the transformation to a joint force headquarters. According to the department, approval of this plan is expected in June 2006.

## **THE DEPARTMENT INAPPROPRIATELY USED FEDERAL COUNTERDRUG PROGRAM FUNDS TO COMMAND THE MACA BRIGADE AND ESTABLISH ITS TERRORIST RESPONSE CAPABILITIES**

The department used the counterdrug coordinator to command the MACA brigade and used counterdrug resources to acquire equipment and train four of the six planned CERF-P teams, violating federal laws and regulations. In addition to creating a command headquarters for units providing MACA support, part of the MACA brigade's mission was to establish a capability to respond to terrorist acts, in the form of six CERF-P teams, only one of which was federally authorized and funded. These teams consisted of Army Guard and Air Guard members formed into security, decontamination, search and rescue, and medical triage teams, with a small command and control section, to assist local first responders in the event of an incident involving weapons of mass destruction. However, because neither the MACA brigade nor the five additional CERF-P teams were federally authorized or funded, the department misused federal resources, some of which were allocated to the counterdrug program, to establish these entities.

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*In December 2004, a member of the department's legal counsel assigned to the counterdrug task force wrote an opinion stating that the use of counterdrug resources for these other activities violated federal law. Despite this advice, the department used the counterdrug resources for MACA and CERF-P activities from roughly June 2004 through April 2005.*

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Federal law and regulation specifically stipulate that counterdrug funds can be used only for the purpose of drug interdiction and counterdrug activities and cannot be used for other purposes. In June 2004, however, the department directed counterdrug personnel and resources to perform non-counterdrug activities such as providing logistical and planning support related to the MACA brigade and the CERF-P teams. In December 2004, a member of the department's legal counsel assigned to the counterdrug task force wrote an opinion stating that the use of counterdrug resources for these other activities violated federal law. Another legal counsel assigned to the adjutant general further advised the department leadership in August or September 2004 that any counterdrug funds used for non-counterdrug activities would have to be reimbursed. Despite this advice, the department used the counterdrug resources for activities of the MACA brigade and CERF-P teams from roughly June 2004 through April 2005.

As a result of allegations filed through the inspector general of the Department of the Army and at the request of the National Guard Bureau, California's U.S. property and fiscal officer (U.S. fiscal officer) conducted a quick-response audit to determine whether the Guard inappropriately used counterdrug personnel and funds. The U.S. fiscal officer for California is the federal agent of the National Guard Bureau and handles the federal property and federal funds for the State's Army Guard and Air Guard.

As part of the audit, the U.S. fiscal officer contacted the National Guard Bureau's counterdrug financial manager and the counterdrug judge advocate to seek their advice as to whether the department's use of counterdrug personnel for non-counterdrug activities was consistent with their guidance. Both advised the U.S. fiscal officer that the use of counterdrug personnel to perform non-counterdrug functions was a periodic if not a common occurrence among the states and that the National Guard Bureau's governing concern was that the cost of such activities be transferred from the counterdrug program to non-counterdrug accounts. Staff from the National Guard Bureau also indicated there was a legal opinion stating the legitimacy of using counterdrug resources for a mission such as the one directed by the department's former adjutant general. The U.S. fiscal officer requested but never received this opinion from the National Guard Bureau and indicated that it was critical to determining whether federal law had been violated by the department's use of the counterdrug resources.

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***The department relied on the U.S. fiscal officer's audit conclusion when the adjutant general reported to the Governor's Office that these actions did not appear to violate federal laws or regulations so long as all expenditures were reimbursed.***

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The U.S. fiscal officer submitted his audit report to the National Guard Bureau in April 2005. While acknowledging that his opinion was not completely independent because he either provided guidance or helped to carry out some of the actions in which counterdrug personnel and funds were used, he concluded that using the counterdrug funds for non-counterdrug purposes did not violate the law as long as all the funds spent on non-counterdrug activities were reimbursed to the counterdrug program. The reimbursement would entail a transfer of federal costs from the federal counterdrug account to the federal non-counterdrug accounts. The department relied on the U.S. fiscal officer's audit conclusion when the adjutant general reported to the Governor's Office that these actions did not appear to violate federal laws or regulations so long as all expenditures were reimbursed.

However, we disagree with this conclusion because federal counterdrug law and regulations are very specific about allowable uses for counterdrug funds. Federal law states that

counterdrug funds must be used to pay for allowances, clothing, subsistence, gratuities, travel, operations and maintenance of equipment and facilities, and the purchase or lease of services and equipment incurred for the purpose of drug interdiction and counterdrug activities. The law and federal regulations also state that Guard personnel assigned full time to the counterdrug program must participate in the annual and periodic training required of other Guard members. Although the counterdrug program initially bears the cost of this training, regulations require that the Guard reimburse the counterdrug program for these costs. These training costs include the annual 15-day training and the periodic drill and instruction training requirements that each Guard member must participate in annually. Based on federal law and regulations, therefore, even though the funds used for non-counterdrug activities were to be reimbursed to the counterdrug program, the funds should not have been used for non-counterdrug activities in the first place.

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***The U.S. fiscal officer was unable to provide evidence that action was taken to reimburse more than \$85,500 for Army Guard and Air Guard personnel pay and allowances and equipment costs.***

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Moreover, it does not appear that the department ensured that all the costs were, in fact, reimbursed. Based on our review of the U.S. fiscal officer's audit work and other records, we question whether the department made sure that all federal counterdrug funds that were used for non-counterdrug activities associated with the MACA brigade and CERF-P teams were fully reimbursed. According to the U.S. fiscal officer's audit work papers, the counterdrug program should have been reimbursed almost \$783,000 for non-counterdrug personnel and equipment costs. Although we were able to confirm that most of that amount was reimbursed, including \$27,600 subsequent to our inquiries, the U.S. fiscal officer was unable to provide evidence that action was taken to reimburse more than \$85,500 for Army Guard and Air Guard personnel pay and allowances and equipment costs. This amount does not include roughly \$21,000 in personnel costs paid with counterdrug funds to the counterdrug coordinator while he commanded the MACA brigade. According to correspondence we reviewed between the U.S. fiscal officer and the National Guard Bureau, only the National Guard Bureau could reimburse the counterdrug program for this amount. However, as of May 12, 2006, the U.S. fiscal officer had not received confirmation from the National Guard Bureau that this amount had been reimbursed.

According to the U.S. fiscal officer, this is a convoluted issue that his office has spent a great deal of time on. He also suggested that one reason some of the remaining costs were never reimbursed was that the amounts represent personnel costs paid with counterdrug funds for non-counterdrug activities lasting

less than three days. Such activities are not subject to mandatory reimbursement, according to the U.S. fiscal officer, and thus he believes that any further reimbursement would not be required. However, the section of the regulation that the U.S. fiscal officer referred to addresses only non-counterdrug training lasting less than three days, excluding travel. The U.S. fiscal officer could not provide evidence that the time counterdrug personnel spent on non-counterdrug activities should be considered training. Further, when requested to reimburse the counterdrug program for its share of the diverted funds, the Air Guard responded that it had no funds available for that purpose.

#### **WE FOUND NO EVIDENCE THAT THE DEPARTMENT INAPPROPRIATELY USED STATE OR FEDERAL FUNDS TO ESTABLISH TRAINING FACILITIES**

We did not find any evidence that the department inappropriately used Army Guard personnel and state or federal funds to establish its Theater-Specific Individual Readiness Training Site (training site) at Camp Roberts. The Guard uses the training site at Camp Roberts to train and certify members in crucial tasks necessary to survive in their assigned deployment theater. The training site opened in October 2004 and was created on a 15-acre field, using existing resources and the labor of Guard members and contract workers. Building the training site involved converting two mess halls to classrooms and building training lanes on the empty field. The training lanes are used to provide practical application to what is learned in the classroom, such as operating in mine/countermine warfare, avoiding booby traps, practicing force protection and checkpoint operations, and performing situational training exercises. Some of the resources used to construct the training site included state maintenance workers whose salaries were federally reimbursed through cooperative agreements. In addition, National Guard labor was used, including Guard members who worked on the field and buildings as part of their monthly drilling and were paid accordingly. Some Guard members also volunteered their labor. We verified that the training site was established entirely with federal resources by confirming that state resources used on the project were federally reimbursed and that the Guard members who worked on the project were on federal duty.

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***We did not find any evidence that the department inappropriately used Army Guard personnel and state or federal funds to establish its Theater-Specific Individual Readiness Training Site at Camp Roberts.***

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## **RECOMMENDATIONS**

To avoid problems similar to those discussed in this chapter and to comply with state and federal laws, regulations, and administrative policies, the department should continue its efforts to reimplement a strategic planning process. Such a process should include the essential components outlined in this chapter, including the ability to thoroughly analyze and justify adaptations to changes in the environment and leadership. Further, the department should obtain approval when appropriate from Finance and the National Guard Bureau before making any future organizational changes.

To ensure that all federal counterdrug program funds used for non-counterdrug activities are properly reimbursed, the department should work with the U.S. fiscal officer to identify all the non-counterdrug costs that have yet to be reimbursed and to ensure that the transfer of costs from the appropriate accounts occurs. In the future, the department should not divert counterdrug program funds for non-counterdrug activities. ■

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# **CHAPTER 3**

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## ***Improvement Is Needed in Meeting Goals for Manpower Levels and in Maintaining the Department's Armories***

### **CHAPTER SUMMARY**

The California Military Department (department) in recent years has not met the force strength goals issued by the U.S. armed forces. However, the leadership of the Army National Guard (Army Guard) and Air National Guard (Air Guard) contend that their divisions of the California National Guard (Guard) have consistently met their respective mission requirements. Although the Army Guard met its goal for federal fiscal year 2003, it could not meet the goals for federal fiscal years 2004 and 2005. According to the department, maintaining prescribed force levels has become increasingly difficult because of many factors, such as the perceived lack of incentives and funding for recruiters and public perception surrounding the war on terrorism. However, if the department does not meet its force strength targets, the National Guard Bureau could redistribute federal resources to states that do meet their targets—resources the department needs to achieve its mission of providing military assistance to California's civil authorities in times of insurgency or catastrophic events.

Like the Army Guard, the Air Guard has not met its federal fiscal year 2005 force strength target, and its performance in meeting its targets has slipped over the past three years. Although the Air Guard achieved 93 percent of its force strength goal in federal fiscal year 2005, it ranked 38<sup>th</sup> among the 54 jurisdictions (states, territories, and the District of Columbia). The Air Guard attributed its diminished ability to meet force strength to the ongoing war in Iraq, a perceived lack of state incentives, and the deliberate setting of high goals.

Beyond the incentives provided by federal law, California does not offer some of the incentives that other states do to encourage citizens to join the National Guard. One incentive offered by other states that the Air Guard believes would have a positive impact is waivers for college tuition.

In addition, the Army Guard and Air Guard do not have adequate procedures to report and monitor members' attendance at training sessions. For example, we could not confirm the accuracy of the attendance records for some Army Guard members because documents showing verified attendance did not always agree with the attendance reported to the National Guard Bureau. Moreover, the Army Guard does not always promptly follow up on members who do not meet their training obligation. We also could not confirm that the Air Guard consistently takes action against members who do not meet their training obligation, because some Air Guard units did not provide all the training documents we requested. In addition, in the training attendance reports we reviewed, Air Guard units reported five members as either retired or discharged, even though they were still on the Air Guard's roster. By retaining on its rosters members who do not meet their training obligations or who have been discharged, the Guard could report an inflated number of members adequately trained and prepared to meet its missions.

The State Military Reserve—a corps of volunteers, most with military experience, who support the Guard—also has not met its recruiting and force strength goals in recent years. For calendar years 2003 through 2005, the State Military Reserve achieved only 56 percent to 65 percent of its goals. More importantly, the department has not yet formally identified the mission for the State Military Reserve, although it plans to do so through its recently reinstated strategic planning process.

Finally, of the department's 109 armories, 95 (about 87 percent) are in need of repair and improvement. As of March 2006, the department had identified a backlog of about \$32 million in repairs, maintenance, and improvements it could not fund. Funding to maintain the armories is provided primarily through appropriations from the State's General Fund and matching funds through cooperative agreements with the federal government. Some additional funding for armory repair and maintenance comes from the Armory Fund and the Armory Discretionary Improvement Account through receipts from the sale or lease of unneeded armories and the receipts from renting armories not in use, but those funds are minor compared with the armories' overall needs. Moreover, as a result of a ballot initiative passed by the voters in 2004, some of this funding will no longer be available.

## THE ARMY GUARD HAS NOT MET ITS RECRUITING AND RETENTION GOALS

As shown in Table 3, in federal fiscal years 2004 and 2005, the Army Guard did not meet force strength goals set by the U.S. armed forces. The National Guard Bureau reported that nationally, the Army Guard did not meet its force strength mission in federal fiscal year 2004 for the first time in seven years. When we compared the force strength achievements of California's Army Guard with those of seven other states with large forces, we found only two states that met their force strength goals in 2004 and 2005. Therefore, California's failure to meet its force strength goals appears to correspond with the overall national decline. When we looked at three-year averages, California's force strength achievement of 95.9 percent was less than the 97.5 percent combined average of the seven other states. According to the chief of staff of California's Army Guard, despite an inability to meet its force strength goals, the Army Guard has consistently met its state and federal missions.

**TABLE 3**

**Percentage of Force Strength Goals  
Achieved by California's Army Guard  
Federal Fiscal Years 2003 Through 2005**

Federal Fiscal Year	Army Guard Force Strength		
	Goal	Actual	Percentage Achieved
2003	16,319	16,334	100.1%
2004	16,450	15,891	96.6
2005	17,000	15,489	91.1

Source: Federal National Guard Bureau.

The consequences for California and the department of not meeting these force strength goals is the potential reallocation of resources by the National Guard Bureau to states that can meet their goals and provide the forces needed to meet their national and state missions. Because the department uses personnel and equipment paid for with funds from the National Guard Bureau to assist California and its communities during disasters and other emergencies, a loss of resources would mean that fewer personnel and less equipment would be available to respond to California's needs.

The Army Guard's force strength is affected by its ability to recruit new members and to secure the reenlistment of existing members. According to the chief of staff of the department's Army Guard, it has faced recruitment challenges in recent years. In fact, according to information provided by the chief of staff, 2002 was the last year the department's Army Guard met its recruiting goal—a success he attributed to the patriotism aroused by the terrorist attacks of September 11, 2001. The Army Guard fell short of its recruitment goals by slightly more than 30 percent in 2005. In discussing the department's recruiting challenges, the chief of staff pointed to factors such as a lack of state incentives, a shortage of federal funding for recruiting activities, and increased media coverage surrounding the war on terrorism. For federal fiscal year 2005, the National Guard Bureau provided the department with additional recruiting positions to assist it in meeting its goals. As Table 4 shows, the department reports that it is currently exceeding its recruitment goal for federal fiscal year 2006.

**TABLE 4**

**Army Guard Recruiting Trend**

Federal Fiscal Year	Recruiting Goals	Actual Number Recruited	Number Recruited as a Percentage of Goal
2002	3,660	3,704	101.0%
2003	3,660	3,293	89.9
2004	3,660	2,929	80.0
2005	4,533	3,139	69.2
2006*	1,550	1,752	113.0

Source: Federal National Guard Bureau.

\* Prorated for the months of October 2005 through March 2006.

In addition, retaining existing members has been a challenge for the department. As shown in Table 5, California's Army Guard lost members at a rate of 22.4 percent in federal fiscal year 2005, greater than the seven other states with large force strengths. According to the department's recruiting and retention officer, California has historically lost members at a high rate—about 25 percent. He also cautioned that comparing California's loss rate with that of other large states is deceiving, adding that deployments, the economy, and the makeup of the civilian workforce all affect California's ability to retain members.

**TABLE 5**

**Average Army Guard Loss Rates in California  
and Seven Other States With Large Forces  
Federal Fiscal Year 2005**

State	Average Force Strength	Average Cumulative Loss	Average Loss Rate
California	15,378	3,445	22.4%
Alabama	11,404	2,313	20.3
Texas	16,518	3,172	19.2
Tennessee	9,905	1,783	18.0
Pennsylvania	14,622	2,557	17.5
Indiana	10,939	1,840	16.8
Ohio	10,262	1,698	16.5
Minnesota	10,496	1,633	15.6
<b>Totals</b>	<b>99,524</b>	<b>18,441</b>	<b>18.5%</b>

Source: Federal National Guard Bureau.

The department's recruiting and retention officer told us that incentives can play a large part in improving force strength. Recognizing the challenges states face, in January 2006 the Army National Guard instituted increased bonuses and recruiting incentives nationwide. It offers a national enlistment bonus of \$10,000 to \$20,000, an officer bonus of up to \$30,000 for several specialties, and a bonus of up to \$2,000 for any Guard member who recruits a new member. In addition, to improve recruitment efforts in California, the National Guard Bureau authorized 23 new recruiting positions and 17 temporary positions in federal fiscal year 2005 to help meet the State's force strength goal.

In addition to the incentives offered by the federal government, some states offer incentives—like tuition waivers at state universities or community colleges, medical benefits, or free life insurance—to improve recruiting and retention outcomes. However, California does not offer the types of incentives that the department believes could be possible enticements for increased Guard enlistment and extensions of service. Among the possible incentives are tax exemptions for a member's qualifying spouse on a set amount of personal income, a \$100 tax credit for qualifying members, exemptions from vehicle registration fees for active members, and Cal Grant educational grants to some honorably discharged or current members who

meet eligibility criteria and are California residents. However, according to the department's legislative liaison officer, the department has not been successful at getting state legislation passed to provide these incentives.

## THE AIR GUARD ALSO DOES NOT MEET ITS FORCE STRENGTH GOALS

Like the Army Guard, the Air Guard did not meet its force strength goals for federal fiscal years 2003 through 2005, as shown in Table 6. For federal fiscal year 2005, the National Guard Bureau assigned a "red" rating to the Air Guard's force strength, indicating that its performance in meeting its force strength is of critical concern. However, according to the Air Guard's military personnel management officer (personnel officer), although the Air Guard has not met its force strength goals, it has consistently met its mission requirements and has received formal evaluations indicating that the Air Guard's wings, groups, and squadrons met or exceeded Air Force standards.

TABLE 6

### Percentage of Force Strength Goals Achieved by California's Air Guard Federal Fiscal Years 2003 Through 2005

Federal Fiscal Year	Air Guard Force Strength		
	Goal	Actual	Percentage Achieved
2003	4,939	4,724	95.6%
2004	4,882	4,575	93.7
2005	4,865	4,525	93.0

Source: Federal National Guard Bureau.

Although California's Air Guard achieved 93 percent of its force strength goal in federal fiscal year 2005, it ranked 38<sup>th</sup> among the 54 jurisdictions in that year. When we examined the Air Guard's force strength achievements and loss rates over the last three federal fiscal years and compared them to seven other states with large forces, we found that California could improve in both areas. The Air Guard fell short of its force strength goals in federal fiscal years 2003 through 2005, with an average force strength for those years of 94.1 percent of the

goal. That percentage is less than the individual averages of four of the seven states we compared California against and less than the combined average of all seven states. Similarly, California's Air Guard loss rates over the past three federal fiscal years averaged 12.4 percent, exceeding the average of all but one of our comparison states, as shown in Table 7. According to the personnel officer, among the factors limiting the Air Guard's ability to meet its recruitment and retention goals are the goals being purposely set high to achieve optimum force strength, current events dissuading potential recruitment, and a smaller pool of personnel with prior service to recruit from.

**TABLE 7**

**Average Air Guard Loss Rates in California  
and Seven Other States With Large Forces  
Federal Fiscal Years 2003 Through 2005**

State	Average Force Strength	Average Cumulative Losses	Average Loss Rate
California	4,725	587	12.4%
Texas	3,225	421	13.0
Alabama	2,341	268	11.4
Indiana	2,122	242	11.4
Pennsylvania	4,255	471	11.1
Tennessee	3,561	397	11.1
Minnesota	2,408	259	10.8
Ohio	5,236	499	9.5
Subtotal average	3,484	393	11.3
<b>Average of all states</b>	<b>107,979</b>	<b>11,440</b>	<b>10.6%</b>

Source: Federal National Guard Bureau.

Lastly, Air Guard leadership indicated that the State does not provide any meaningful incentives for Air Guard members to reenlist, besides the ones provided at the national level. For example, the Air National Guard currently offers a federal \$15,000 cash signing bonus for select careers. Air Guard leadership believe that certain incentives beyond those offered by the federal government, such as a waiver of tuition fees at colleges and universities in the State, would boost California's force strength significantly.

The personnel officer stated that the commander of the Air Guard has made meeting force strength goals a top priority. In November 2005, the Air Guard conducted a recruiting and retention workshop that emphasized retention and communicated force strength goals. Activities at the workshop included recruiting techniques and handing out awards to top-performing recruiters. According to the personnel officer, the Air Guard also conducts recruiter training at regular intervals and actively recruits at air shows, career fairs, and cultural events, among other activities.

## **THE DEPARTMENT NEEDS TO IMPROVE ITS PROCEDURES FOR MONITORING TRAINING ATTENDANCE**

The department does not have adequate procedures to report training attendance or to address members who do not satisfactorily meet their training obligations. Army Guard and Air Guard regulations require members to train to maintain their military skills. Training drills are usually conducted in four-hour blocks during one weekend each month in addition to an annual training period lasting approximately two weeks. The regulations specify the number of four-hour training sessions for which members can have unexcused absences before becoming eligible for review to determine whether they are unsatisfactory participants. Unsatisfactory participants are members who have missed a sufficient number of training sessions to be considered not properly trained to carry out their missions. Once that determination has been made, regulations require that Guard leadership take action to address the members' attendance problems. By failing to address members' excessive absences from training, the Army Guard could report an inflated number of members who are trained and prepared to meet their mission.

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*By failing to address members' excessive absences from training, the Army Guard and Air Guard could report an inflated number of members who are trained and prepared to meet their mission.*

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### **Reported Attendance to Some Army Guard Monthly Training Drills Is Questionable**

The Army Guard takes attendance at the beginning and end of each training day, using specified codes to account for all assigned and attached personnel. National Guard Bureau regulations require that attendance at training sessions be verified by each unit and certified by the unit commander or the most senior member present in the unit. After attendance is taken, it is certified and sent to the U.S. property and fiscal officer (U.S. fiscal officer) assigned to the California National Guard, who forwards the attendance data to the National Guard Bureau.

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*Because of discrepancies and missing data in the attendance documents provided by the Army Guard units, we could not verify the accuracy of the reported attendance for 22 of the 25 units we reviewed.*

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However, because of discrepancies and missing data in the attendance documents provided by the Army Guard units, we could not verify the accuracy of the reported attendance for 22 of the 25 units we reviewed. We chose a sample of 25 units from various parts of the State and requested that the units provide us with copies of the documents used to verify attendance and the documents used to certify attendance to the U.S. fiscal officer. However, not all the units we sampled provided the documents we requested. Two units were deployed and thus not required to participate in training, two units did not respond to our request, 13 units partially responded with some of the documents we requested, and eight units provided all the documents we requested. Of those eight units, with a combined assigned strength of 599 members, only one unit provided documents verifying attendance that were consistent with the documents certifying attendance for all members of the unit. Among the documents provided by the other seven units, we found differences for a total of 25 members between the attendance noted on the handwritten reports generated by the units to verify attendance and the certified attendance reported to the U.S. fiscal officer. Fifteen of the differences involved discrepancies regarding whether the members were in attendance, and the remaining 10 differences concerned the reasons for the members' absences. Because no notes appeared on these documents to explain the differences, neither the Army Guard nor we can know for certain which documents are correct.

#### **The Army Guard Does Not Always Promptly Address Unsatisfactory Participants**

The Army Guard does not always promptly address members who do not satisfactorily meet their training obligations. According to Army regulations, a member may become an unsatisfactory participant if he or she accumulates nine or more unexcused absences from the four-hour training sessions in a one-year period. After the fourth unexcused absence, the unit commander must send a notice of unexcused absence to the member. When the Guard member has accumulated nine unexcused absences, the unit commander can designate the member as an unsatisfactory participant, unless the commander decides that the member's reasons for the unexcused absences do not merit such a designation. If the member is deemed an unsatisfactory participant, the unit commander is required to initiate proceedings that result in the member's reassignment, transfer, or separation from the unit.

Using the attendance data it collects, the National Guard Bureau sends a report of members who have been reported as absent from training and have not been paid for three months, called the Non-Validation of Pay Report (non-val pay report). The Army Guard's goal is to limit the number of members on the non-val pay report to less than 2 percent of the Guard's total force strength. If attendance is properly reported, this report should be a good indicator of the members who have not attended training drills for at least three months. The department's military personnel office sends this report each month to unit commanders and asks the commanders to investigate and report on the status of the members listed.

The non-val pay report for January 2006 contained 250 members, including 24 who had not attended monthly training drills for 12 months or more and two who had not attended training for more than three years. We attempted to verify the status of the 40 members reported as having missed the most training time on the non-val pay report by requesting that their units provide information on the members and any documentation of attempts to address their absences. According to the units' research and responses, the status of 20 members was uncertain; one member had medical reasons for not attending training; one unit was pursuing action against one member; four members were reported as discharged but still on the rosters; units were pursuing discharges for three members; and 11 members had been discharged, although 10 of those were discharged after the date of our inquiry. Failure to promptly research and take appropriate actions for Army Guard members showing excessive training absences increases the risk of overstating the number of members who are reported as trained and prepared to meet their missions.

According to the chief of staff of the Army Guard, it strives to meet the standard of keeping the proportion of members on the non-val pay report below 2 percent of the total roster. He said that, as of March 2006, the report comprised 1.43 percent of the force strength. The chief of staff further stated that even though there is no regulation on the length of time a member can appear on the non-val pay report, to ensure that the report is refreshed and that soldiers are not left on it for lengthy periods, he will initiate an updated personnel policy bulletin that will define timelines to ensure that discharges are made promptly.

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*The non-val pay report for January 2006 contained 250 members, including 24 who had not attended monthly training drills for 12 months or more and two who had not attended training for more than three years.*

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## Air Guard Headquarters Does Not Monitor Attendance at Training Drills

The Air Guard units we visited at Fresno Air Base and Moffett Field have implemented control procedures for attendance taking. However, we could not verify that they appropriately addressed members who had excessive absences, because the units did not fully respond to our requests for information surrounding any actions taken or pending for members with excessive absences. In addition, Air Guard headquarters does not monitor attendance-taking activities or actions to follow up with members with excessive absences. As such, the Air Guard runs the risk of overstating the number of members who are reported as trained and prepared to meet their missions.

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*According to the personnel officer for the Air Guard headquarters, prolonged or numerous absences are a cause for concern; however, ensuring the capability of a unit to meet its mission, including preparedness through training, and accomplishment of its mission are the responsibility of the unit commander.*

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According to the personnel officer for the Air Guard headquarters, prolonged or numerous absences are a cause for concern. However, ensuring the capability of a unit to meet its mission, including preparedness through training, and accomplishment of its mission are the responsibility of the unit commander. Air Force policy gives unit commanders discretion in determining whether each member's participation is satisfactory. The personnel officer stated that commanders can use their discretion in evaluating an absent member's potential for useful service and can attempt to bring him or her back into compliance with training requirements. He pointed out that the reasons for numerous absences can sometimes be overcome and that the Air Guard invests too heavily in training its members to discharge them as unsatisfactory participants without first attempting to address the underlying problems. Although we appreciate the points the personnel officer made, we believe there is value in headquarters-level oversight of the handling of members with excessive absences from training.

Air Force instructions require the unit commander to send a written notice to the member after each absence and may demote the member after the sixth unexcused absence. When an Air Guard member accumulates nine or more unexcused absences from training sessions in a 12-month period, the unit commander has the discretion to take action against the member, including discharge, if the commander determines that the member is an unsatisfactory participant as a result of the excessive absences.

We attempted to verify that the Air Guard follows these instructions by reviewing the attendance of members of the units stationed at Moffett Field and Fresno Air Base. We

reviewed the November 2005 attendance records of 20 units with a total assigned strength of 1,555 members, identified the members with unexcused absences, and obtained the attendance reports from the bordering months to determine whether the members had accumulated nine or more unexcused absences. We then requested explanations and documentation from the affected units demonstrating the actions taken for members with excessive numbers of absences.

Of the 20 units we reviewed, eight contained members with excessive absences. Our testing of the 10 units selected from Moffett Field's records indicated that a total of six members from five units had accumulated absences in nine or more consecutive periods. We requested explanations from the units for the six members we identified. The units reported that one member was separated in December 2004 but was still shown on the roster and that administrative separation or discharge was pending for five members.

Our sample of 10 units at Fresno Air Base yielded five members from three units who were absent for nine or more consecutive periods. The units reported that all five members were either discharged or were in the beginning stages of the discharge or separation process. However, the units did not provide any supporting documents for two of those members, and the discharge authorizations for two others were prepared at the time of our inquiry. A discharge letter provided by one of the units showed that the fifth member was discharged in December 2005.

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*According to the personnel officer for the Air Guard headquarters, because many of the leadership decisions are decentralized under the control of wing or unit commanders, headquarters is not normally notified of members with excessive unexcused absences until an administrative discharge package is forwarded for formal review and approval.*

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During our review of the 20 sampled attendance reports from Moffett Field and Fresno Air Base, we noted that some members were identified as retired or otherwise discharged. We traced these members in the military personnel system that contains the Air Guard's roster of members and found that five were still on the Air Guard's roster as of April 21, 2006. When asked about this potential overstatement of its force strength, the Air Guard reported that one of the five members is currently being discharged and one is pending retirement but was misreported on the attendance report; we did not receive explanations for the remaining three.

According to the military personnel officer for the Air Guard's headquarters, because many of the leadership decisions are decentralized under the control of wing or unit commanders, headquarters is not normally notified of members with excessive unexcused absences until an administrative discharge package is

forwarded to the staff judge advocate, executive support staff officer, and military personnel staff officer for formal review and approval. The personnel officer stated that the total number of discharges for unsatisfactory participation in federal fiscal year 2005 was 12, or 2 percent of the total losses, which is not a large enough number to investigate.

## MEMBERSHIP IN THE NATIONAL GUARD CAN BE AFFECTED BY FEDERAL REGULATIONS

Federal law grants the president the authority to suspend promotions, retirements, and separations during any period when members of any reserve component are on active duty and the president determines that such a suspension is essential for national security. Known as stop-loss, this presidential authority is intended to ensure that the various branches of the military maintain sufficient personnel to sustain their operations by preventing members from leaving the armed forces or National Guard immediately before or during deployment. Although the stop-loss provision can apply to the entire military, the delegated authorities in each branch determine whether they need to enforce the provision for the members of their reserve component. Currently, the Department of Defense has placed the Army Guard under stop-loss but not the Air Guard.

The stop-loss provision goes into effect when a unit is put on alert for mobilization. Under the provision, members of the affected unit may not leave the Guard or transfer from the unit 90 days before mobilization, during mobilization, or for 90 days after the unit is demobilized. Members of units that are mobilized are involuntarily retained under this provision until the unit is released from the alert status (before mobilization) or for 90 days after the unit is demobilized. This postmobilization period ensures that each member of the unit remains in the Guard long enough to complete the separation process and, according to the Army Guard officer responsible for mobilizations, to address problems that might arise as a result of active duty service—anything from a physical ailment to pay and benefits questions—before the Guard member leaves the service.

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*Using data maintained by the department, we identified 2,158 Army Guard members who were affected by stop-loss provisions from January 2003 through November 2005.*

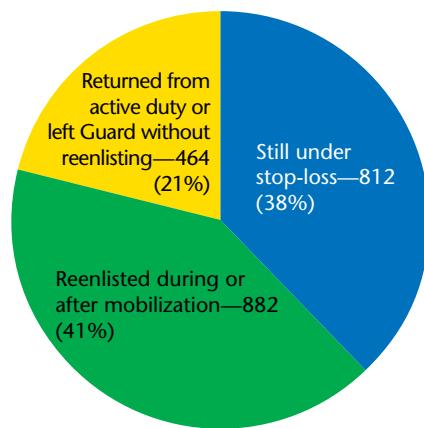
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Using data maintained by the department, we identified 2,158 Army Guard members who were affected by stop-loss provisions from January 2003 through November 2005. As of November 2005, 812 members remained affected. As mentioned previously, the Air Guard is not currently operating under the stop-loss provision.

Although the federal government's stop-loss actions have resulted in some individuals remaining with their units beyond their original discharge dates, the department's reenlistment statistics from 2003 through 2005 suggest that many of those members would have remained in the Guard through reenlistment and thereby would not have been negatively affected by involuntary retention. Figure 2 shows the status of Army Guard members affected by stop-loss provisions from 2003 through 2005.

**FIGURE 2**

**Current Status of Army Guard Members  
Affected by the Stop-Loss Provision  
From January 2003 Through October 2005**



Source: California National Guard's Standard Installation/Divisional Personnel Information System.

According to the department's recruiting task force commander, the department has not studied the potential impact of lifting the stop-loss provision. The commander does not think it is probable that the federal government will lift the stop-loss provision soon, and as a result, she does not see a reason to use resources to study this scenario.

Using the department's list of units it plans to mobilize in 2006, we identified an additional 406 members who could be affected by stop-loss. However, for the reasons already discussed and the uncertainty concerning whether all the alerted units will mobilize, we cannot reliably predict how many of these members will be involuntarily retained.

## THE DEPARTMENT'S STATE MILITARY RESERVE HAS NOT MET ITS FORCE STRENGTH GOALS

In recent years, the department's State Military Reserve has not been able to recruit an adequate number of members to fill its goal of having 898 officer and enlisted positions. For the calendar years 2003 through 2005, the State Military Reserve filled only 56 percent, 60.2 percent, and 64.8 percent of those positions, respectively. Challenging the State Military Reserve's recruiting activities further, the former adjutant general raised the State Military Reserve's force strength goal from 898 to

3,000 members in August 2004. According to the former commander of the State Military Reserve, that goal was established as a bold statement regarding the support the State Military Reserve provides to the Guard and is indicative of how useful the former adjutant general thought the State Military Reserve is to the Guard. However, according to the former commander, no planning was performed to support the reasons for choosing that membership goal or to indicate how it could be achieved. Although the State Military Reserve never reached that goal, in January 2006, the current commander of the State Military Reserve stated that it would need to double its current force strength within two years to meet its mission of supporting the Guard in homeland defense, homeland security, and response to natural disasters. The text box lists the current commander's goals for the State Military Reserve.

### Commander's Goals for the State Military Reserve

- Double the strength within two years, and significantly increase recruitment of women and minorities.
- Continue the transformation of the State Military Reserve from a strategic reserve to a joint operational force.
- Continue the outstanding support provided in current missions.
- Increase support to the Army Guard, Air Guard, and Joint Staff in their missions related to the global war on terrorism and response to natural disasters.
- Evolve operationally, structurally, and culturally and develop new and different client-driven missions as the Army Guard reorganizes into brigade-centric units.

As described in the Introduction, the State Military Reserve performs various services for the Guard, such as training, helping with mobilization, and assisting civilian authorities. Although the department appears to value the State Military Reserve's help in fulfilling the Guard's mission, the department has not yet identified and integrated the specific role and responsibilities of the State Military Reserve within its draft strategic plan. According to the department's strategic planner, the current revisions to the department's strategy taking place under the direction of the new adjutant general must be completed before a finalized strategic plan to support the Guard can be developed for the State Military Reserve. The department's draft strategic plan calls for finalizing the plans for how the State Military Reserve can best support the needs of the Guard and department and make any necessary changes to fulfill that purpose by the end of 2006.

Historically, the State Military Reserve has used volunteer recruiters to build its forces. However, according to the State Military Reserve's executive officer, the department is seeking to establish a recruiter coordinator position. This position would have primary responsibility for coordinating the availability of volunteer recruiters to participate in community events and activities, such as five-kilometer runs or walks and car shows, and to attend various activities in which Guard recruiters participate. The recruiter coordinator will also follow up with recruitment prospects and assist with completing the application documents and process. However, until the department develops a strategic plan that clarifies the types of assistance it can expect from the State Military Reserve, the State Military Reserve cannot target its recruiting efforts to best provide the force strength and skill sets required.

### **THE DEPARTMENT'S ARMORIES ARE IN POOR CONDITION, AND THE DEPARTMENT HAS IDENTIFIED AT LEAST \$32 MILLION IN UNFUNDED MAINTENANCE NEEDS**

Ninety-five, or approximately 87 percent, of the department's 109 armories are in need of improvement; and as of March 2006, the department had accumulated a backlog of repairs, maintenance, and improvements totaling about \$32 million that it could not fund. Funding for the armories is provided primarily by appropriations from the State's General Fund and by matching funds received through cooperative agreements with the federal government. Some additional funding is provided from the Armory Fund through receipts from the sale or lease of surplus armories, but these funds are minor compared to the overall needs and, as the result of a ballot initiative passed by the voters in 2004, will no longer be available to the department. The department believes that the poor condition of the armories sends the message that Guard members' service is not appreciated, negatively affecting morale.

#### **Recent State and Federal Funds Have Not Been Adequate to Improve the Conditions of the Armories**

According to National Guard Bureau regulations, the armories are the department's property. The costs of maintaining, restoring, and replacing the armories are funded through cooperative agreements with the federal government that require the State to participate in paying those costs. Currently,

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***Ninety-five, or approximately 87 percent, of the department's 109 armories are in need of improvements; as determined by the department's maintenance coordinators, using criteria developed by the Department of the Army.***

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the department does not receive enough state and federal funds to maintain the armories, thereby creating a backlog of deferred maintenance totaling more than \$32 million as of March 2006.

Approximately 87 percent of the department's 109 armories are in need of improvements. The condition of the armories is determined using ratings based on on-site evaluations performed by the department's maintenance coordinators, using evaluation criteria developed by the Department of the Army. The ratings are color-coded: green indicates that the armory is in good condition, amber that it needs some minor improvements, and red that it is deficient in some way. For example, an armory roof would be rated green if it looks well maintained, amber if it shows signs of age and has some mildew or evidence of water seepage, and red if it has pieces missing and large areas of mildew and water is clearly seeping into the interior. Based on the on-site evaluations conducted in calendar year 2005, of the department's 109 active armories, 72 (66 percent) were rated red and 23 (21 percent) were rated amber.

According to the department's director of facilities and engineering (facilities director), so many armories are rated red because the armories are old and are no longer in compliance with current building codes and federal standards. The facilities director indicated that most armories were built in the 1940s and 1950s, with a typical design life of approximately 45 years. He stated that because more than 70 percent of armories exceed that age, extensive maintenance is required to replace utility systems so they meet current building codes. In addition, the facilities director pointed out that federal standards and missions for armory structures have changed over the years. For example, antiterrorism standards for buildings were developed by the Department of Defense and became effective in October 2003 to minimize the likelihood of mass casualties from terrorist attacks against armed forces personnel, including department personnel. These standards require, for example, a 148-foot standoff distance, which is the distance between a building and the potential location of an explosive detonation.

According to the facilities director, the armory structures have not been able to keep pace with these changes in mission and federal standards because there is not enough funding to address the backlog of maintenance needs. In fiscal year 2005–06, the department allocated roughly \$617,000 of its general fund budget for the maintenance of armories. These funds were matched with federal cooperative agreement funding, which

added either 50 percent or 75 percent. However, even if all state funding earmarked for maintenance was matched by federal funds at the rate of 75 percent, the amount available to spend on armory maintenance would still total only \$2.4 million, not nearly enough to cover the estimated \$32 million backlog in maintenance needs.

The facilities director stated that the \$617,000 budget allocated for armory maintenance appears low because it does not reflect allocations for maintenance of other facilities, such as vehicle maintenance shops and aviation maintenance shops, or funds allocated for maintenance shop workers in the five regions. He further stated that the funding for maintenance is prioritized based on the type of facility and the amount of federal matching funds available, because all facilities—including armories—compete for maintenance funds and certain facilities have a higher federal participation rate than others. He also told us that the department prioritizes maintenance projects based on the following:

- Health and safety risks
- Whether the repair deals with the shell of the facility, such as the roof
- Environmental considerations
- Number of troops served by the facility

In addition to the funding it gets to support maintenance needs, the department receives state and federal funding for modernization and new construction of its facilities, including armories, through a cooperative agreement between the State and the National Guard Bureau. Modernization can include constructing a new facility; expanding, converting, or replacing an existing facility; or upgrading existing systems for the purpose of complying with current codes and standards. However, according to the facilities and operations chief (operations chief), current funding is not adequate to address the extensive amount of work needed. For example, according to the operations chief, the funds available for modernization were reduced beginning in fiscal year 2001–02 from \$4 million to \$2 million because the State reduced its contribution from \$2 million to \$1 million and the federal participation was reduced by a like amount. Further, new construction projects are typically funded on a project-by-project basis with state and federal funds. For example, the department's five-year plan for

capital outlay lists 26 projects in order of priority. However, of the 26 projects, state funding was authorized for only one and federal funding for three in fiscal year 2005–06.

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*According to the operations chief, the poor condition of the armories and their failure to meet basic standards may negatively affect the department's ability to accomplish its mission by causing Guard members to feel unappreciated, and cause some members to choose not to reenlist.*

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According to the operations chief, the poor condition of the armories and their failure to meet basic standards may negatively affect the department's ability to accomplish its mission by causing Guard members to feel unappreciated. This decline in morale might, in turn, cause some members to choose not to reenlist.

We asked the facilities director how he would solve the problems of the department's aging armories that no longer comply with current building codes and federal standards and the associated backlog of deferred maintenance that currently totals \$32 million. He stated that the solution is to fund a balanced program of replacement, modernization, and maintenance and repair. The facilities director told us that through the replacement component of such a program, the department could consolidate and dispose of its inadequate or worst facilities. Replacement would also reduce the demand for modernization and repairs, but it is the most costly component and would only partially address the problem. The facilities director stated that the second component—modernizing facilities to make them comply with current codes and reduce the demand for repairs—is often the most cost-effective option and would be part of an overall program that could be expanded. The facilities director stated that the final component to improving the poor condition of the armories, repair and maintenance, has been underfunded. He told us that the department got some legislative support for using the Armory Fund for maintenance costs last year and recognizes the need to continue to work with the Department of Finance (Finance) and the Legislature to establish a baseline budget for maintenance and repair. This baseline would assist the department in justifying its need for increased funds to maintain, repair, and modernize its armories.

#### **Revenues Generated by the Armories Are Not Adequate to Fund Their Maintenance or Repair**

In addition to state and federal funds allocated for armory maintenance and repair, funds from the state Armory Fund and the Armory Discretionary Improvement Account (Armory Account) are available to the department for maintaining, improving, and operating the armories. Our review found no evidence that the department has used any money from the Armory Fund or the Armory Account for inappropriate purposes or diverted any funds for other uses.

The Legislature established the Armory Fund to collect the proceeds from the lease or sale of armories when the lease or sale is approved by the Legislature. These proceeds can be used to maintain existing armories or acquire new or replacement armories. The revenues deposited into the Armory Fund for fiscal years 2002–03 through 2004–05 averaged about \$618,300 annually. During that period, the department used about \$168,400 from the Armory Fund primarily to pay a share of the state's general administrative costs (pro rata) to the General Fund, \$146,700 to pay fees to the Department of General Services (General Services), and about \$1.05 million to acquire its Lancaster Armory. As of June 30, 2005, the fund had a balance of \$2.44 million. According to the facilities director, the department historically has not used the Armory Fund to maintain existing armories but instead allows funds to accumulate to pay the costs of new or replacement armories. In part, this is because the federal government pays 75 percent of new construction costs. New construction also offers the department the best opportunity to obtain a structure that is completely compliant with federal criteria. However, for fiscal year 2005–06, the department's budget included \$2.2 million from the Armory Fund for the maintenance and repair of 13 existing armories. According to the facilities director, the department deviated from its usual practice because it had developed pressing needs for maintenance and repairs at some of its armories that it could not provide for through other sources of funding, and there was simply not enough money accumulating in the Armory Fund to finance new or replacement armories.

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***The proceeds from the sale of surplus armories purchased with money from sources other than special funds are no longer available to the department.***

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The proceeds from the sale of surplus armories purchased with money from sources other than special funds are no longer available to the department. In November 2004, California voters passed Proposition 60A. This proposition requires that the proceeds from the sale of surplus properties purchased with money from a fund that is not a special fund must be used to pay down the debt from the Economic Recovery Bonds approved in March 2004. According to the department, General Services recently disposed of surplus armories in Salinas, San Jose, and Quincy on its behalf. Adhering to the requirements of Proposition 60A, Finance determined that the proceeds from the disposition of these armories should not be remitted to the Armory Fund but rather be used to repay part of the debt on the March 2004 bonds.

Additional funds for maintaining and improving the department's armories are available from the Armory Account. The law gives the adjutant general the authority to lease or otherwise authorize the use of the armories and to use the

revenues, when appropriated through the annual budget act, for the maintenance, repair, improvement, or operating expenses necessary or desired to improve the community utilization of the armory from which the revenues were derived. The department's regulations state that the proceeds from these short-term leases or rentals are available to the commander of the armory that generated the proceeds for any of the purposes previously described. The department typically rents its armories under this authority for short-term events, such as parties and receptions. Table 8 shows the revenues and expenditures for the Armory Account for fiscal years 2003–04 and 2004–05, and July 2005 through February 2006. As of February 2006, the balance in the Armory Account was about \$221,400.

**TABLE 8**

<b>Armory Discretionary Improvement Account Revenues and Expenditures July 2003 Through February 2006</b>				
	<b>Fiscal Year 2003–04</b>	<b>Fiscal Year 2004–05</b>	<b>July 2005 Through February 2006</b>	<b>Totals</b>
Revenues	\$44,200	\$59,900	\$54,500	\$158,600
Expenditures	16,900	42,500	21,400	\$80,800

## **RECOMMENDATIONS**

The department should identify and pursue the steps necessary to meet the force strength goals set by the National Guard Bureau, including but not limited to identifying the most effective manner in which to use the additional recruiting resources provided by the National Guard Bureau and continuing to pursue, through the State's legislative process, incentives that it believes will encourage citizens to join the Guard.

The department's Army Guard should enhance and its Air Guard should develop and implement procedures to monitor training attendance by members to ensure that they can verify the accuracy of reported attendance and that they do not retain on their rosters members who qualify as unsatisfactory participants because they are not meeting their training obligations. Further, the Air Guard should consider some level of oversight of the handling of members with excessive unexcused absences.

The department should include the State Military Reserve in its current strategic planning process and ensure that it defines the State Military Reserve's role and responsibilities so as to maximize the support it provides to the Guard. Once its role and responsibilities are identified, the State Military Reserve should target its recruiting goals and efforts accordingly.

To help ensure that the department works toward improved maintenance of its armories, the department should pursue the balanced program for replacement, modernization, and maintenance and repair advocated by its facilities director. In addition, the department should continue to work with Finance and the Legislature to establish a baseline budget for the maintenance and repair of its armories.

We conducted this review under the authority vested in the California State Auditor by Section 8543 et seq. of the California Government Code and according to generally accepted government auditing standards. We limited our review to those areas specified in the audit scope section of this report.

Respectfully submitted,



ELAINE M. HOWLE  
State Auditor

Date: June 6, 2006

Staff: Doug Cordiner, Audit Principal  
Norm Calloway, CPA  
Alysha Loumakis-Calderon  
Susie Lackie, CPA  
Heather McIntier  
Terah Studges-Owens

*Agency Comments provided as text only*

California Military Department  
Office of the Adjutant General  
9800 Goethe Road  
Sacramento, California 95826-9101

May 18, 2006

The Office of the Adjutant General

Bureau of State Audits  
ATTN: Elaine Howle\*  
555 Capitol Mall, Suite 300  
Sacramento, CA 95814

Dear Ms. Howle:

Thank you for the opportunity to address the Legislature's concerns and to share our progress in developing a comprehensive plan to ensure that Soldiers and Airmen are ready and resourced to support our State and Nation. Members of the California National Guard are serving with great distinction throughout the world and their accomplishments are a testament to the leaders and staff who have prepared them to conduct a variety of missions in hostile environments.

Our changing National Security Environment has presented many challenges to the profession of arms which adapts with great agility to tactical situations but less ably to major changes in strategic direction. The Global War on Terror has launched the National Guard into new National Security roles at home and throughout the world. To meet emerging new threats, we have engaged in the simultaneous transformation of our structure, training focus, and mobilization process. Various conditions have contributed some administrative shortcomings; however, the California National Guard has performed with exceptional professionalism through this challenging time in our Nation's history.

The assessment by Bureau of State Audits identifies administrative areas requiring improvement to enhance our organizational and operational objectives. I am pleased to report we are taking positive steps to enhance our effectiveness and accountability. The enclosed response to the audit details our direction and in most cases progress toward correcting issues identified in the report. The recent development of a new strategic plan will be the foundation of our efforts and I have the right team in place to oversee execution.

The strategic course for the Military Department must blend the operational needs of our State and Nation with fiscal accountability and a solid support system to care for our Soldiers, Airmen, and their families. I have accepted the responsibility to build a ready force our Communities and Nation can depend on and I am committed to providing the leadership, training, and resources our troops need to accomplish their complex mission. In my short time as the Adjutant General, I have learned that the Legislature shares my passion and concern for the support and welfare of

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\* California State Auditor's comments begin on page 103.

California's Citizen Soldiers and Airmen. I look forward to working with the Legislature on keeping California safe.

I can assure you, the entire report of the team has been and will continue to receive the utmost attention, and those areas where corrective action is needed, if it is not already underway or complete, will be initiated. I look forward to updating the status of those items deemed in need of attention. Conversely, some of the items identified in the report either do not require action or fall within the scope of federal authority, and approval and disposition of those concerns rests with the Department of Defense.

I have included several attachments with this letter. The first attachment is a narrative response to the report addressing each finding and recommendation, as well as responding to selected comments contained in the background of the report. The subsequent attachments reflect supporting documentation to further explain my response, attempt to delimit the federal elements from the state elements, and provide a record of support for issues identified in the report that could not be documented to the satisfaction of the audit team during their visit.

The team's work resulted in considerable self reflection within the department, identification of corrective actions, and validation of the need to continue reform and transformation efforts without delay.

Respectfully,

*(Signed by: William H. Wade II)*

William H. Wade II  
Major General  
The Adjutant General

In response to your audit report dated May 12, 2006, audit number 2005-136, the California Military Department offers the following response. While not so labeled, the department assumed bolded titles within each of the three chapters to represent “findings/conclusions” of the audit (per email with the lead auditor, 05/17/06), and recommendations are included at the conclusion of each chapter. To adequately respond to the full depth and tenor of the report, this response will address not only recommendations, but also “findings”. This is to provide additional clarity, because we believe not all items reflected as findings were included in the recommendations, and many recommendations cover multiple findings, each response will be prefaced with the elements of the report the response is intended to address.

## CHAPTER 1: Personnel Administration

### Findings/conclusions:

- THE DEPARTMENT IS CURRENTLY REVIEWING ITS USE OF STATE ACTIVE DUTY MEMBERS
- SOME OF THE DEPARTMENT'S PRACTICES FOR HIRING STATE ACTIVE DUTY MEMBERS ARE QUESTIONABLE

### Related Recommendations:

To reform its use of state active duty personnel and comply with its senior leadership's wishes in the use of state active duty personnel, the department should ensure that its state active duty reform panel completes the tasks assigned by the adjutant general (sic) and follows through with the panels recommendations. In addition, the department should review its hiring policy and practices for state active duty members, as directed by the adjutant general (sic), and make necessary changes in its policy and regulations to provide adequate guidance to its commanders and directors.

### Departmental Response:

Upon his appointment, The Adjutant General began an assessment and review of State Active Duty positions. As a result of ongoing discussions and reports, on 27 December 2005, The Adjutant General directed an in-depth review of all established positions to assure positions are properly classified or appropriately converted to State Civil Service Status (Policy Memorandum #2005-25, 27 December 2005). On 10 February 2006, The Adjutant General further directed the creation of a State Active Duty (SAD) Reform Panel. The Adjutant General directed the panel to review “...every position, its description and mission, determine appropriateness of using an SAD position for those missions, vice a State Civil Service, Federal Civil Service or Active Guard and Reserve position”. The panel is further directed to review past practices and provide recommended changes to current policies, regulations and statutes. To date, the Panel has reviewed 98 of the Department's 210 positions which affect 228 personnel.

“State Active Duty” personnel are appointed on military orders, in accordance with the State Military and Veterans Code, and are not “hired” in comparison to “State Civil Servants”. To instill faith, trust and confidence, The Adjutant General has imposed upon the Military Department a series of internal policies and procedures that ensure a fair and balanced process is used to select the best personnel to fill state military vacancies. The State Active Duty process is not equivalent to State Civil Service. For example, “Limited Term” (temporary) State Civil Service personnel may be granted only one extension of their Limited Term and are then terminated after a total of only two years of service. State Active Duty appointments are not limited to this two year limitation.

In accordance with state law and Military Department policies, State Active Duty military personnel may have their military orders extended in response to situational requirements. For example, the Military Department has mobilized and deployed over 11,000 personnel to the Global War on Terror resulting in a significant number of vacancies and additional staffing requirements within the Military Department. Extending military orders is one means of cross balancing the Department's staff.

- For emphasis and clarification, state law and the Military Department's regulations and policies allow military personnel, over sixty years of age, to remain on or to be ordered to State Active Duty. Through clerical oversight, one soldier was ordered to State Active Duty in an "Indefinite" status. In June 2004, this error was identified in a routine review and corrected to a "Term" appointment. The soldier concerned received no benefit from this error in classification and, as importantly, no soldiers were disadvantaged.

In addition to the findings, the discussion in the report intimated that some State Active Duty positions could be interchangeable with similar titled positions in the State Civil Service system. The Department, through the State Active Duty reform panel is evaluating these assertions, but caution against direct comparisons of duties and responsibilities based on title. The more accurate comparison is with military duties (per the CMVC)

The report indicates that state active duty members appear to be used in positions which could be filled with less costly state civil service employees and that, in some other departments, similar work is being done by civil service employees. The State Active Duty Reform Panel is in the process of reviewing all State Active Duty Positions to determine the appropriateness of retaining the position in State Active Duty status or conversion to some other status. In such cases, potential savings through position conversion is not possible. For example, the comptroller position, in addition to overseeing state budgeting, accounting, purchasing, and contracting functions, also serves as one of the primary military members of the Joint Staff. That position is designated as the "J-8" and the functional area is "J-8 Resource Management and Assessment." This functional area is part of the joint force structure required to be adopted by the Military Department headquarters and has prescribed "joint mission essential tasks" enumerated in the Joint Force Headquarters

- Organization and Function Manual. These tasks go beyond what would be required by any suitable civil service classification and the federal doctrine for classification of the J-staff authorizes the J-8 as a military position at the colonel (O-6) level.

Findings/conclusions:

- THE DEPARTMENT'S CONTROLS OVER FEDERALLY FUNDED POSITIONS ARE INEFFECTIVE

Related Recommendations:

The department should develop and implement procedures to ensure that it complies with authorizations for federal full-time military personnel to support its part-time inactive duty forces. Those procedures should include designating the responsibility for issuing orders for full-time personnel to a single entity

Departmental Response

The National Guards of the United States are undergoing an evolution that will dramatically change the missions, structure and unit alignment of California's Army National Guard. Within this environment, the National Guard is responding to many mobilizations and deployments. The National Guard Bureau (NGB) allows commanders to assign personnel to activities that have

accelerated requirements beyond the manning document. It is routine for NGB to provide funding for additional positions not noted on the manning documents. California's Army National Guard has never exceeded its funded level of personnel. As discussed in the audit report, programs and reports have been implemented to display assignment of full-time personnel in response to changing authorizations and funding levels. The 1998 manning document referred to by the auditors remained in effect until 2003. Because of the dramatic changes anticipated and because final manning levels were not determined, the Military Department advised the National Guard Bureau that the 1998 manning document would continue to be our baseline reference.

Findings/conclusions:

- WE COULD NOT CONFIRM THE DEPARTMENT DISSEMINATES INFORMATION REGARDING BENEFITS TO DEPLOYING GUARD MEMBERS
- The Army Guard Could Not Confirm That All Deployed Members Received Benefits Briefings
- The Air Guard Also Lacked Complete Records Of Benefits Briefings To Deployed Members
- FEW GUARD MEMBERS FILED FOR UNEMPLOYMENT BENEFITS

Related Recommendations

Because the department has a responsibility under federal regulations and its procedures to conduct soldier (sic) readiness activities and inform deploying members of the benefits available to them while on active duty, the department should consider implementing a procedure for both the Army Guard and the Air Guard to document that they comply with those requirements.

Departmental Response

As contained in the Audit Report, the auditors state that "...nothing came to our attention that led us to believe members did not receive such briefings".

At issue, the auditors anticipated reviewing individual checklists for each person. Instead, unit rosters were used to denote attendance. Federal Regulations (FORSCOM Regulation 500-3-3) direct Federal Mobilization Stations, not the individual states to provide briefings and information regarding benefits to deploying Guardsmen, the Military Department strives to include families, when possible, in briefings during the mobilization process. In this manner, our personnel and their families are briefed twice and receive information twice: once at their home station and again at the mobilization station. Individual record keeping is the purview of the active military.

California's Army and Air National Guard have received national recognition for their Family Readiness programs and Soldier Readiness Programs. For example, on 17 February 2006, the Assistant Secretary of Defense for Reserve Affairs, awarded the 144th Fighter Wing (one of two Air Guard units included in the Audit) the "Department of Defense Family Readiness Award". This award is one of the highest awards that can be awarded to a National Guard unit for "Outstanding family readiness while maintaining superior mission readiness".

Preparation for deployment receives intense scrutiny from all echelons of the active military and National Guard to include: Inspectors General, Staff Judge Advocates (JAGS), Chaplains, Committee for Employer Support of the Guard and Reserve and Family Support organizations. The department has not received any indications from federal authorities that any shortfalls exist in our current processes.

● The auditors' comment that "Few members filed for unemployment benefits" does not reflect on the base question of briefings concerning benefits. The Military Department has an aggressive Employer Support of the Guard and Reserve program that is available for resolving employer conflicts and to support the employers of our Guardsmen. Fortunately, public sentiment is high and respectful of Guardsmen and Reservists who deploy in the Global War on Terrorism.

Findings/conclusions:

- STATE ACTIVE DUTY MEMBERS DO NOT HAVE ACCESS TO AN INDEPENDENT PROCESS TO RESOLVE COMPLAINTS OF RETALIATION AGAINST WHISTLEBLOWERS

Related Recommendations:

To ensure that its state active duty personnel can report any violations of statutes, regulations, or rules without fear of retribution or retaliation, the department should establish a process independent of the chain of command to protect those state active duty personnel who wish to file complaints alleging retaliation or retribution by a supervisor.

Departmental Response:

The personnel of the Military Department, regardless of classification, have several independent "Whistleblower Hotlines" at their disposal: Federal and State Whistleblower Hotlines; The Inspector General of the United States Army Hotline (available to anyone with an issue concerning anything that touches on any federal process); and, Federal and State Equal Opportunity Hotlines.

As with all the above mentioned Hotlines, and in accordance with the California Government Code Article 3 (Section 8547), the State Administrative Manual (Section 20080) and California Government Code Section 11000, the Military Department, advises its personnel (regardless of classification) to avail themselves of the State's Bureau of State Audits' "Whistleblower Hotline". Also, Section 8547.8, addresses reprisal or other improper acts for disclosure of improper governmental activities complaints; limitation of actions; civil and criminal penalties. The "Whistleblower Hotline" poster, which is provided by the State Auditor's website, is posted to the Military Department's bulletin boards. The Adjutant General directed that the website, process and poster be given fresh emphasis.

Findings/conclusions:

- THE DEPARTMENT DOES NOT MAINTAIN FILES ADEQUATE TO DEMONSTRATE THAT IT COMPLIES WITH REGULATIONS CONCERNING ALLOWABLE ACTIVITIES

Related Recommendations:

To allow it to demonstrate compliance with the Standards of Ethical Conduct Regulations, the department's Staff Judge Advocate's Office should implement a system to log the activities it reviews and to maintain files of the opinions it provides to department leadership on questions of compliance with those ethics regulations.

Departmental Response:

As a result of discussions between the department and the audit team, a tracking system is being developed and will be operational within 90 days.

## **CHAPTER 2: Organizational Development Issues**

### Findings/conclusions:

- The Department Has Not Always Employed Strategic Planning Or Sought Approval For Organizational Changes
- THE DEPARTMENT HAS NOT MAINTAINED AN ADEQUATE STRATEGIC PLANNING PROCESS

### Related Recommendations:

To avoid problems similar to those discussed in this chapter and to comply with state and federal laws, regulations, and administrative policies, the department should take the following step(s):

- Continue its efforts to reimplement(sic) a strategic planning process. Such a process should include the essential components outlined in this chapter, including the ability to thoroughly analyze and justify adaptations to changes in the environment and leadership

### Departmental Response:

The appointment of the current Adjutant General returned strategic planning to a staff centric, collaborative process. He reported to the department on 1 September 2005 (during the department's response to the aftermath of Hurricane Katrina). The Adjutant General requested and received an in-brief from the Strategic Planner on 6 September 2005. He directed the development of a concept plan to update the strategic plan, which was briefed and approved 5 December 2005. To ensure full participation in the staff-centered process, on 26 January 2006 he directed an offsite workshop to be attended by all senior leaders to update the strategic plan.

The senior staff and field commanders met for a five day offsite at Beale AFB (6-9 March 2006) and the entire strategy was drafted. In the ensuing period, the specifics of the strategy have been coordinated, defined, refined, and staffed to allow the entire senior leadership of the department to approve a complete re-write of the departmental strategy effective 16 May 2006. A copy of the updated strategy, which replaces the 1999 plan is available upon request by contacting this headquarters.

Contrary to the term used in the audit report, the department did not "abandon altogether" strategic planning following the events of 9/11. The mission, vision, values and goals established by the department in 1999 and subsequently updated and revalidated remained intact until the new strategic plan was approved 16 May 2006.

The significant change under the previous Adjutant General was the shift of the planning focus from a typical staff centric process to an intuitive process managed by the then Adjutant General and selected advisors. As identified elsewhere in the report, the former Adjutant General relied extensively on the input of selected advisors and his personal assessment of the environment in crafting and directing organizational, mission, and functional changes within the department.

It is important to recognize that the majority of the changes directed by the former Adjutant General were internal to the organization, and are within the scope of an agency director in aligning internal work processes and procedures. The overall focus by the department on the strategic plan, as approved in 1999 did not change.

It appears that one of the critical comments about the strategic planning process is that the entire plan was not updated on an (unspecified) schedule. That there was not an annual update of the entire plan is not indicative that the department abandoned strategic planning, rather subordinate supporting plans were developed addressing specific component or functional areas, and most building blocks of the departmental plan were updated periodically (frequently annually) as needed to maintain currency of the overarching plan. Specifically:

Based on the approved 1999 plan, major subordinate elements within the department developed supporting plans to implement the nine major goals of the department. The supplemental plans included the Homeland Security Plan, initiated 6 November 2001, with subsequent annual updates through 2004-05, the Command, Control, Communications and Computers strategy, published 20 September 2002 and updated, current update 1 May 2005)

The Air National Guard future missions strategy, originally published in 2000, and updated annually has resulted in the Air National Guard successfully transitioning three major units, representing nearly 20% of their force out of declining missions and into emerging missions and formed the basis for the growth and development of their international security cooperation program recently recognized by the USEUCOM commander as an exemplary program that sets the standard for similar programs worldwide.

The Army Guard strategy, and focus on readiness, and future missions has allowed the ARNG to both meet the largest deployment requirements since World War II AND simultaneously transform well over half the force from a strategic reserve (cold war) force to a modular structured, operational force integrated into the total army force and the strategic planning processes within the headquarters has allowed the department to continue the transformation to a Joint Force Headquarters amidst the competing demands of mobilizations, subordinate unit transformations, expanding missions.

The Facilities Directorate established and executed a strategic plan to construct new facilities and modernize existing armories in 2000. As of 2006 we have twelve projects in construction and with thirteen projects funded in the Future Years Defense Plan (FYDP) for construction through FY2011. These twenty-five projects, valued at \$374,433,000 are a direct result of deliberate planning and steadfast execution of the Military Department.

Findings/conclusions:

- IMPLEMENTING THE FORMER ADJUTANT GENERAL'S MISSION VIOLATED REGULATIONS AND CAUSED NUMEROUS PROBLEMS
- THE DEPARTMENT SHOULD HAVE SOUGHT STATE APPROVAL FOR THE CREATION OF THE CIVIL SUPPORT DIVISION AND THE INTELLIGENCE UNIT WITHIN IT
- THE DEPARTMENT NEITHER JUSTIFIED ITS NEED TO CREATE THE CIVIL SUPPORT DIVISION NOR FOLLOWED MILITARY DOCTRINE

Related Recommendations:

To avoid problems similar to those discussed in this chapter and to comply with state and federal laws, regulations, and administrative policies, the department should take the following step(s):

- Seek approval when appropriate from Finance(sic) and the National Guard Bureau before making future organizational changes.

Departmental Response:

Based on lessons learned during the early stages of transformation, (and as supported by the background in the report) it was clear that the JFHQ should be traditionally aligned. Within weeks of his appointment, the current Adjutant General directed the disbandment of the Civil Support Division. The return of functions to a traditional alignment resolved the majority of the issues raised in this report.

The characterization that the former adjutant general redefined the organizational mission is not accurate. The former adjutant general did re-prioritize the department's missions to increase the focus on homeland security and homeland defense, and moved staffing and other resources to that mission priority. The emergence of the homeland security mission, although not so named at the time, was included in the 1999 department strategic plan (Pg 6). Based on his analysis, and the advice of his selected advisors, the former Adjutant General elected to increase the focus and resourcing to meet this emerging requirement. The discussion provided in the report that the shift in priorities created challenges for the organization is valid.

The recommendation that the actions directed by the former Adjutant General warranted approval from Department of Finance is valid, as it resulted in organizational changes at the division level. The finding that the directed changes were contrary to military doctrine is also valid. The finding that the directed changes violated federal regulations is not valid.

The report suggests that the department created "entirely new entities and changed the mission... without obtaining authorization or funding". This is a mischaracterization of the actions undertaken by the former Adjutant General. The Adjutant General renamed existing functions to align titles to match US Northern Command, the Department of Defense Headquarters that had been established to coordinate homeland security/homeland defense for the nation.

The Chief, National Guard Bureau offered the Adjutants General of the United States "Maximum flexibility" in their transformation process so long as each state maintained all of the requisite functions within their headquarters. All states, including California have been and are currently operating under letter of authority from Chief, National Guard Bureau that provides provisional authority to align their organization and resources (including personnel) to meet their individual needs until the requirement to submit a concept plan for final organizational is approved. States were encouraged, via VTC, conference briefings, and one-on-one meetings with federal officials to use the transition period to experiment and determine the organizational design and resourcing scheme that best suited the needs of the state or territory. Currently, no two states or territories are organized alike, nor are any two states staffed the same. The flexibility allowed by the National Guard Bureau has allowed not only California, but all states and territories to tailor their organization to meet their needs.

The report incorrectly interpreted technical military terms that resulted in incorrect findings. The report states federal regulations require approval to reorganize, redesignate, consolidate, convert, or withdraw federal recognition for a unit, and suggests this regulation refer to the actions taken in response to these findings. The regulation cited, Army Regulation (AR 5-10) refers to reorganization not in terms of what functions are accomplished in what office, but rather the change of an official unit Standard Readiness Code (SRC) such as reorganizing a mechanized infantry unit to a dismounted infantry unit or reorganizing a combat engineer unit to a construction engineer unit. None of the actions undertaken during this period altered the SRC code of the department, therefore did not rise to the level of reorganization cited in the report which would require approval from higher headquarters.

● The report addresses the “creation” of an “intelligence unit” that would be staffed by at “least 24 new positions”, yet identifies the authorization documents for the department reflect seven positions in the intelligence function and “only five of these positions were ever filled”. The report leaves to the reader to determine that this expansion of possible intelligence capabilities was a concept developed by the former Adjutant General to mirror the federal higher headquarters but only existed in concept and name.

● This same misinterpretation of technical terms addressed above from AR 5-10 contributed to the finding/conclusion dealing with the use of two subordinate elements to create the MACA Brigade.

Findings/conclusions:

- THE DEPARTMENT USED TWO ARMY COMMAND UNITS FOR UNAUTHORIZED PURPOSES WHEN IT CREATED THE MACA BRIGADE

Related Recommendations:

To avoid problems similar to those discussed in this chapter and to comply with state and federal laws, regulations, and administrative policies, the department should take the following step(s):

- Seek approval when appropriate from Finance(sic) and the National Guard Bureau before making future organizational changes.

Departmental Response:

The report indicates “the department created a field command that was never federally authorized”. This is incorrect, as all of the elements used to create the ad hoc organization were federally recognized as troop commands (one standard troop command and two non-standard troop commands). While the two non-standard troop commands were previously created for specific purposes within the state, there was no mandate to inactivate, reorganize, consolidate, or take other action to disband these units until so desired by the Adjutant General. The mission statement for troop commands has been attached as attachment 1 to this response to demonstrate that, while certainly not a typical organizational alignment, the tasks and functions identified in the report are in accordance with the federally approved mission and function of troop commands.

Additionally, a core tenet of building military units for accomplishing required tasks is the concept of Task Organization, which authorizes commanders to modify their forces in response to the commander’s assessment of requirements. This can include attaching part or all of one unit to another, splitting functions, realigning responsibilities and mixing and matching unit capabilities to fit specific mission requirements. There is no requirement for commanders to seek permission from higher headquarters to task organize units that are assigned to that commander.

Findings/conclusions:

- THE DEPARTMENT INAPPROPRIATELY USED FEDERAL COUNTERDRUG PROGRAM FUNDS TO COMMAND THE MACA BRIGADE AND ESTABLISH ITS TERRORIST RESPONSE CAPABILITIES
- WE FOUND NO EVIDENCE THAT THE DEPARTMENT INAPPROPRIATELY USED STATE OR FEDERAL FUNDS TO ESTABLISH TRAINING AREAS

Related Recommendations:

To ensure that all federal Counterdrug program funds used for non-counterdrug activities are properly reimbursed, the department should work with the U.S. fiscal officer(sic) to identify all the non-counterdrug costs that have yet to be reimbursed and to ensure that the transfer of costs from the appropriate accounts occurs(sic). In the future, the department should not divert Counterdrug program funds for non-counterdrug activities.

Departmental Response:

The Military Department under the guidance of the former Adjutant General did utilize federal counterdrug funds to resource and train CERF-P teams. The use of counterdrug personnel to perform non-counterdrug functions has been a periodic if not a common occurrence among the states with approval of the federal funding source. This has been acceptable practice as long as the cost was redirected from the counterdrug accounts to the non-counterdrug accounts.

The United States Property and Fiscal Officer (USPFO) contacted the National Guard Bureau's (NGB) counterdrug financial manager and the NGB counterdrug Judge Advocate General (JAG). NGB funds and provides oversight of the California program. Both NGB offices stated that the department's use of counterdrug personnel for non-counterdrug activities was consistent with their guidance.

The United States Property and Fiscal Office (USPFO) for California handles the Federal property and funds for the California National Guard, both Army and Air Guard. The USPFO is the National Guard Bureau agent in the state providing federal support and oversight and is not an employee of the Military Department. The USPFO has provided an attachment to this document his response to the BSA's conclusion. His response addresses the reimbursing of counterdrug funds for cost incurred in support of CERF-P and is included as an attachment to this response.

## **CHAPTER 3: Improvement in Manpower Levels and Armory Maintenance**

### Findings/conclusions:

- THE ARNG HAS NOT MET ITS RECRUITING AND RETENTION GOALS
- THE ANG ALSO DOES NOT MEET ITS FORCE STRUCTURE GOALS

### Related Recommendations:

The department should identify and pursue the steps necessary to meet the force strength goals set by the National Guard Bureau, including identifying the most effective manner in which to use the additional recruiting resources provided by the National Guard Bureau while continuing to pursue incentives that it believes will encourage more citizens to join the National Guard.

### Departmental Response:

#### California Army National Guard

As already observed, the selected states for comparison considered the “big” states from a Guard strength perspective, but they have very different demographics, geographic area’s, economy and OPTEMPO through deployments. In addition, the state benefits offered in each state may have a significant impact on strength management (Note: A comparison chart of state offered benefits for the comparison states is attached).

Reference the comment “Retaining Army and Air Guard members on the rosters who do not meet their training obligations or who have been discharged allows the potential for over reporting the number of members....” While this may cause a minor inflation of numbers, it is to remain as a business practice, and is management controlled. The main reason for this retention on rosters is to ensure all federal administrative actions have been completed prior to release from service.

Regarding the initial analysis; while compared to six other states, only two met their force strength goals in 2004 and 2005. For all the reasons cited in the report plus what has been added above. For the year 2005, the former Adjutant General approached National Guard Bureau and asked the target for California be increased to 17,000, a number far in excess of what had been achieved in prior years. Had the requested increase not been sought, the 3-year average would have been 96.9 percent, much closer to the national average of 97.5 percent. The goal for California has been returned to a level more in line with achievable goals.

The California Army National Guard will continue pursuing the steps necessary to meet recruiting goals set by the National Guard Bureau as well as the goals set by California Army National Guard leadership.

#### California Air National Guard

The California Air National Guard set its own ambitious goal to reach 100 percent of authorized strength by the end of each fiscal year. Recruiting and retention continues to be challenging and receives ongoing leadership focus. A number of factors have impacted the ability of the California Air National Guard to reach its strength goals. Various studies have shown that the propensity of young people to enlist and serve in the Armed Forces has steadily declined. That is certainly a factor. Concerns of many potential applicants and their parents relate to deploying overseas in support of the War on Terrorism are a factor. In addition, with the US Air Force having a

significantly smaller active duty force of 352,000 (compared to 389,000 in 1996) and an excellent overall retention rate, there are fewer prior service personnel enlisting with the Air Guard after separating from active duty.

Unlike some other reserve components, the Air National Guard has not received any increases in recruiter authorizations over the past four years. Officials at the National Guard Bureau have equitably distributed the authorizations to Air National Guard units nationwide. Although striving to gain budget authority to employ 100 more recruiters throughout the country, they have not been able to fulfill the requests of the California Air National Guard and those of other states for additional recruiter billets. Nevertheless, California Air National Guard recruiters have done a respectable job, averaging 2.3 accessions per month, which is equal to the national average.

The California Air National Guard has not received additional recruiting resources from the National Guard Bureau. Operating with a total of 20 recruiters for the past four years, the California Air National Guard has requested additional recruiters to pursue strength challenges. The National Guard Bureau has equitably distributed recruiter authorizations and has not yet been able to garner additional resources to allocate. The National Guard Bureau is seeking budget increases necessary to support adding 100 recruiter authorizations for the entire Air National Guard. The recommendation for pursuing State incentives to encourage more citizens to serve in the California National Guard is well taken. If the State of California were to provide an educational benefit comparable to Ohio's 100 percent college tuition reimbursement, recruiting and retention would improve significantly.

The California Air National Guard takes strength challenges quite seriously. This organization sets its annual strength goals high, striving to attain 100 percent of authorized strength by the end of each fiscal year. This is the lofty goal described in the audit that has not been reached since 2002.

There are a number of factors that have made the quest for attaining strength goals difficult. Over the past several years, the California Air National Guard has been pursuing transformation into new military missions with greater long-term viability and has been successful converting two combat communications squadrons into new missions, one into a space operations squadron and the other into an intelligence squadron, both high demand missions with a long-term future. There are ongoing efforts to re-role another combat communications squadron and an engineering installation squadron into new missions. These changes into new missions are clearly in the long term best interests of the United States Air Force, the Air National Guard, and the California Air National Guard units. However, in the shorter term, transformation efforts cause uncertainty about the future of the unit and as a result, the California Air National Guard has experienced many losses of individuals who chose to either transfer to another military unit, retire or separate after completing their enlistment. In May 2005, a large organization, the 163rd Air Refueling Wing was informed that under the Base Realignment and Closure (BRAC) process, the unit was identified and later confirmed to lose its KC-135 tanker aircraft with no assurances of a follow-on mission. With this uncertainty, many members of this wing have understandably requested and been approved for transfer to another organization to continue serving in their chosen military specialty. It wasn't until January 2006 that the wing received positive news that they would be converting to a Predator unmanned aerial vehicle mission. Although welcomed news, there are a significant number electing to transfer to another air refueling unit and continue serving with their current skills rather than convert to a dissimilar mission. Needless to say, many of the losses experienced by the California Air National Guard over the past three years can be attributed to mission changes for the long-term good.

Aside from units impacted by transformation, most strength losses are due to normal attrition such as retirements and end of tour separations. Compared to the active duty United States Air Force, the Air National Guard is an older force. As a result, retirements accounted for 34 percent of all FY 05 separations. Although maintaining high standards of operational effectiveness and always meeting mission requirements, improving retention is key to continued success and will stay a top priority.

Other factors have impacted the ability of the California Air National Guard to reach its strength goals. Various studies have shown that the propensity of young people to enlist and serve in the Armed Forces has steadily declined. That is certainly a factor. Concerns of many potential applicants and their parents related to deploying overseas in support of the War on Terrorism are a factor. Another factor impacting recruiting is the relatively low rate of unemployment in California during the last 3 years. Historically, when unemployment rates rise, more individuals are inclined to seek the training opportunities, employment, and life experience the military has to offer. In addition, with the US Air Force having a significantly smaller active duty force of 352,000 (compared to 389,000 in 1996) and an excellent overall retention rate, there are fewer prior service personnel enlisting with the Air Guard after separating from active duty.

Assigned strength is a product of both recruiting and retention. Recruiting and retention success is heavily dependent upon the ability to offer meaningful incentives to current and potential National Guard members. Compared to other states, specifically those listed in Table 7 of the audit report, the State of California offers much less in the way of state funded incentives to its National Guard members than most other states. According to Table 7, Ohio has maintained the lowest average loss rate, 9.5%, of the eight states listed. The 2006 Air National Guard Almanac shows that Ohio has a National Guard Scholarship Program that pays up to 100% tuition and fees at state assisted colleges and universities. The program also pays up to the average state college or university tuition cost at private universities in Ohio. Minnesota ranked second on the list in Table 7, with an average loss rate of 10.8%. Minnesota has a state program that reimburses Minnesota Guard members up to 100% of the tuition cost at any Veterans Administration approved school. In fact, six of the eight states listed in Table 7 offer educational benefits to its National Guard members. In a recent study commissioned by the Army Chief of Staff and the Deputy Secretary of Defense, several assessments and recommendations were made by RAND Corporation. The report states: "In the longer term, we recommend that...the services should also consider additional marketing strategies and enlistment options, particularly for youth interested in college. Success in this expanding market is crucial to the future health of military recruiting."

The California Air National Guard will continue pursuing the steps necessary to meet force strength goals set by the National Guard Bureau as well as the higher goal set by California Air National Guard leadership. In addition, support for recruiting and retention efforts will continue to receive considerable leadership focus. Every effort will be made to maximize any and all incentives.

Findings/conclusions:

- THE DEPARTMENT NEEDS TO IMPROVE ITS PROCEDURES FOR MONITORING TRAINING ATTENDANCE
- REPORTED ATTENDANCE TO SOME ARNG MONTHLY TRAINING DRILLS IS QUESTIONABLE
- THE ARNG DOES NOT PROMPTLY ADDRESS UNSATISFACTORY PARTICIPANTS
- THE ANG HEADQUARTERS DOES NOT MONITOR ATTENDANCE AT TRAINING DRILLS

Related Recommendations:

The department's Army Guard should enhance and its Air Guard should develop and implement procedures to monitor training attendance by members to ensure that they can verify the accuracy of reported attendance and that they do not retain members on their rosters who qualify as unsatisfactory participants because they are not meeting their training obligations. Further, the Air Guard should consider some level of oversight of the handling of members with excessive unexcused absences.

Departmental Response:

Army National Guard

The Army Guard statistically maintained a Non-Validate Pay of 1.5%. The compliance standard by NGR 350-1 is 2%. ARNG is within the federal standards for Non-Validated Pay. Non-Validate Pay percentage is the percent of soldiers who have not performed an Individual Training (IDT) within 90 days.

The ARNG strength reported by National Guard Bureau (NGB) for training attendance is current as a "snap-shot" at a given time. Strength is updated up to 90 days after the training. This is called Rescheduled training. Additionally, IDT attendance is reported electronically through USPFO. A "hard-copy" of the initial DA Form 1379 (Attendance record) is maintained at the unit. As soldiers perform duty after the IDT, a Split Unit Training Assembly certificate is filed as the supporting document with the original DA Form 1379 but the 1379 is not required to be updated since it is a file copy.

The United States Property and Fiscal Office for California (USPFO) produces automated reports which provide the information required to ensure soldiers attend IDT by validating the soldier's pay and monitoring the Unit Training Assemblies they attended. The same report lists soldier who were coded as an unexcused absence. These reports will be used as management tools by providing local commanders with attendance validation and higher commands with monitoring of IDT attendance. The ARNG will ensure all units have access to the attendance validation reports.

Air National Guard

The California Air National Guard has sound procedures to report and monitor attendance of its members at training sessions. In accordance with the instruction governing management of training, Air National Guard Instruction 36-2001, unit commanders are responsible for monitoring attendance at training sessions. Unit commanders are responsible for ensuring appropriate action is taken when members are absent from unit training assemblies. While the audit revealed the California Air National Guard does not have a major problem with unsatisfactory participation, the recommendation for oversight above unit commander level is well taken.

Twenty California Air National Guard units with a combined assigned strength of 1,555 were audited to assess unsatisfactory participation (9 or more unexcused absences). Of the 20 units audited, 11 members were found to have been unsatisfactory participants during the month of November 2005. Of these 11 members, 10 (5 from the 129 RQW and 5 from the 144 FW) were in the process of being administratively discharged; effectively leaving only one member that should be removed from unit drill rosters and discharged.

It must be noted that roll call rosters are not used for strength reporting, they are used for payroll processing during unit training assemblies. There is little chance they would cause an inaccurate picture of strength. It should also be noted that even individuals who are unsatisfactory participants have most often completed technical training and possess skills to perform duty in their Air Force Specialty and could be apprehended, if necessary, to face legal sanctions if failing to report under mobilization orders.

Although the California Air National Guard is not experiencing major problems with unsatisfactory participation, the audit recommendation for providing oversight above unit commander level is well taken. To enhance management of training attendance, appropriate oversight will be established and implemented in the next 3 months.

Findings/conclusions:

- THE DEPARTMENTS STATE MILITARY RESERVE HAS NOT MET ITS FORCE STRENGTH GOALS

Related Recommendations:

The Department should include the State Military Reserve in its current strategic planning process and should ensure that it defines the State Military Reserve's role and responsibilities so as to maximize the support it provides to the National Guard. Once its role and responsibilities are identified, the State Military Reserve should target its recruiting goals and efforts accordingly.

Departmental Response:

The strength goal of the State Military Reserve is self-generated, and determined by mission analysis to meet the support requirements levied by the Adjutant General. The State Military Reserve has successfully supported every mission requirement to date.

The California State Military Reserve is an unpaid volunteer, cadre organization that responds, at the direction of the Adjutant General, to assigned missions. As such, the department establishes a manning document that addresses both current and potential missions.

The Commanders Offsite workshop, in March 2006 fully incorporated all three components (Army Guard, Air Guard, and State Military Reserve) as well as the joint staff as full participants in the development of the updated strategic plan. The approved strategic plan (dated 16 May 2006) contains a complete chapter for the State Military Reserve, the Vision, Mission, Core Competencies, and Priority Issues for the State Military Reserve are included in the approved plan, and the Department has negotiated with the National Guard Bureau to allow the State Military Reserve to track their progress on priority issues on the same automated Balanced Scorecard System as their federal counterparts.

The ability to incorporate the State Military Reserve as a full participant in the strategic planning process and to be included in the departmental strategic plan has been created by the ongoing transformation of the headquarters to a Joint Force Headquarters, which provides the agency the opportunity to recognize state entities as integral elements within the joint force.

Findings/conclusions:

- THE DEPARTMENT'S ARMORIES ARE IN POOR CONDITION AND THE DEPARTMENT HAS IDENTIFIED AT LEAST \$32 MILLION IN UNFUNDED MAINTENANCE REQUIREMENTS
- RECENT STATE AND FEDERAL FUNDS HAVE NOT BEEN ADEQUATE TO IMPROVE THE CONDITIONS OF THE ARMORIES
- REVENUES GENERATED BY THE ARMORIES ARE NOT ADEQUATE TO FUND THEIR MAINTENANCE OR REPAIR

Related Recommendations:

To help ensure that the department works toward better maintaining its armories, the department should pursue the balanced program for replacement, modernization, and repair advocated by its facilities director. In addition, the department should continue to work with the Department of Finance and Legislature to establish a base line budget for the maintenance and repair of its armories

Departmental Response:

The Military Department concurs with the auditor's findings concerning the condition of armories and their need for replacement, modernization, and maintenance and repair. Support from the Administration, Legislature, and Federal Government in recent years has enabled the department to develop a balanced program to start the process of correcting facility deficiencies. The Military Department will aggressively pursue additional funding from state and federal sources to continue the progress. The Department is committed to providing our Soldiers and Communities with adequate facilities to support readiness and emergency operations.

**Attachment 1**

Mission Statement for Troop Commands

From Section 1, Table of Distribution and Allowances

(The Federal Authorization Document)

(NOTE: **Key missions related to this report highlighted for clarity**)

5. Mission:

A. Federal.

(1) PRE-MOBILIZATION.

(a) command, control, and supervise Army National Guard units attached to the Troop Command so as to provide trained and equipped units capable of immediate expansion to war strength and available for service in time of war or national emergency or when appropriate to augment the Active Army.

(b) prepare for the mobilization of attached Army National Guard units in support of FORSCOM, WESTCOM, and CONUSA reserve component mobilization plans.

(2) POST MOBILIZATION.

(a) exercise command over mobilized ARNG units as directed.

(b) provide increased levels of support to accomplish necessary administrative, logistical, and fiscal assistance to alerted units.

(c) direct the movement of mobilized units to mobilization stations or port of embarkation.

(d) assist the accountable officer (USPFO) in securing/moving federal property to locations designated by mobilization plans or as directed.

(e) provide assistance to all military family members in the state which are beyond the family member support capability of military facilities.

**(f) be prepared to remain in federal status with the state to assist the CONUSA with missions in the areas of military support to civil defense, land defense, and other war related operations.**

B. State.

(1) PRE-MOBILIZATION.

**(a) Command, control, and supervise assigned ARNG units employed in support of civil authorities in the protection of life and property and the preservation of peace, order, and public safety under competent orders of state authorities.**

(2) POST MOBILIZATION.

(a) assist the state in organizing and training a militia, if required.

**(b) perform command and control functions in support of civil authorities as directed.**

(c) prepare to reconstitute the ARNG/ANG when units are released from federal service.

6. Functions.

A. Pre-mobilization.

- (1) develop plans and programs to implement regulations and directives published by appropriate authority.
- (2) provide command and staff supervision over assigned army national guard units.**
- (3) exercise control of assigned ARNG units employed in support of civil authorities during civil defense operations, civil disturbances, natural disasters, and other emergencies as required by state law or directives.**
- (4) monitor and inspect training of assigned ARNG units to ensure compliance with training policies and programs established by NGB, HQDA, and FORSCOM.**
- (5) monitor assigned ARNG units plans/files for accomplishing federal and state missions.**
- (6) plan, coordinate, and supervise ARNG personnel systems throughout the state and advise commanders on all matters pertinent to personnel management and administration.**
- (7) plan, coordinate, and supervise the security and maintenance of ARNG equipment allotted to units assigned to the troop command.
- (8) in coordination with the USPFO, ensure provision of adequate logistical support in accordance with applicable policy and regulations. This includes the effective supervision and monitorship of logistics operations and support programs such as DSN, communications, food services, etc.
- (9) prepare, maintain, and exercise plans for mobilization.
- (10) review, coordinate, and approve unit mobilization plan/files within the troop command.
- (11) Supervise tests of unit alert and mobilization plans.

B. Post mobilization.

- (1) exercise command over mobilized ARNG units.
- (2) maintain close and continuous cooperation and coordination with the post-mobilization state headquarters.**
- (3) direct and support the mobilization activities of mobilized ARNG units until their arrival at the mobilization station or point of embarkation for direct deploying units.
- (4) coordinate the submission of required reports for mobilized units to the mobilization stations and other agencies as directed.
- (5) provide required support and implementing instructions to mobilized units to accomplish necessary administrative, and personnel processing at home station.
- (6) provide for and place assets under the operational control of the USPFO to assist with the accomplishment of post mobilization logistics, fiscal, and other mobilization support requirements.
- (7) provide for continuous operation and serve as the primary channel of communications between mobilizing units and CONUSA's mobilization stations, support installations and coordinating installations.
- (8) provide limited assistance for family members of military personnel who do not have access to a class I installation.
- (9) perform post attack damage assessment.

**State Specific National Guard Incentives (Source: 2005 National Guard Almanac)**

	<b>Texas</b>	<b>Pennsylvania</b>	<b>Ohio</b>	<b>Alabama</b>
<b>Compensation for State Active Duty</b>	Same as federal	Pay & Allowances: \$75/day minimum	Pay and Allowances:\$75/day minimum, plus allowances for rations and quarters	Pay & Allowances: Minimum \$67.51 per day. Other is based on military pay chart
<b>Allowances</b>	1. \$25/day if meals not provided  2. Yes	1. None  2. \$28  3. None	1. Up to \$30/day minimum  2. Up to \$75 plus tax/day  3. Paid mileage at state rate	1. Per Diem is IAW JTR if meals & lodging not furnished  2. None  3. None
<b>1. Per Diem</b>				
<b>2. Subsistence</b>				
<b>3. Uniforms</b>				
<b>Tax Advantage State Income</b>	No state income tax.	Federal pay for PA ARNG & USAR members who perform federal funded AD outside PA is exempt	None	State AD pay not subject to FICA
<b>Educational Benefits</b>	Members may be reimbursed up to 100% tuition up to 9 semester hours for a maximum of 10 semesters or five academic years. Must be enlisted, WO1-CW3, or 2LT-CPT. May use for undergrad, graduate, vocational, or technical courses.	Full-time students can receive up to 100% of the tuition charged to a resident of PA at a State System of Higher Education institution or \$4,810/year of the equivalent at an EAP approved school; part-time students can receive up to \$1,603/year, if eligible.	100% of the institutional charges and general fees of public colleges and universities or average at a private institution.	AL NG Educational Assistance Program (ANGEAP) provides up to \$1,000 per year for books, supplies, and fees not to exceed \$500 per quarter/semester
<b>Medical Benefits</b>	Worker's Comp	State AD: Hospital and medical treatment provided for injury or disease	No federal Workers' Comp for State AD. Workers' Comp is granted only under state law as determined by Bureau of Workers' Comp.	Full coverage for any injury or illness incurred in line of duty
<b>Injury/Death Benefits</b>	Worker's Comp	Worker's Comp plus \$100/mo to spouse of Guard members killed on duty; up to \$300/mo for widows with 4 children; tuition credit for dep children	State AD: AD death benefit can only be paid if Adjutant General determines funds are available for that purpose	State AD: Worker's Comp
<b>Reimbursement</b>	None	None	State AD: Expense reimbursed	Full reimbursement for all documented expenses
<b>Group Insurance</b>	TX NGA life policy: \$50,000 for \$18.30/mo; \$30,000 for \$11.10 /mo; \$15,000 for \$5.50/mo. Similar programs for dependents, with added coverage for children at no additional cost.	\$1,000 free to everyone. Additional coverage provided at reasonable rates.	Off and WO members of OH NGA get \$2,000 group life ins free. Group life insurance for members and deps. OH NGA insurance also available.	AL NGA up to \$25,000 for Guardsmembers; also spouse (up to \$15,000) and dependent coverage (\$3,000-\$5,000) available
<b>Worker's Compensation</b>	Yes	IDT: no; AT: no; State AD: yes	IDT: no; AT: no; State AD: yes	IDT: no; AT: no; State AD: yes
<b>Miscellaneous</b>	TX vet land bond program provides for minimum 1 acre at 5% down at very low interest rate; \$240,000 loan for home purchase & \$25,000 for home improvement. TX GD license plates maximum available. 15 days military leave.	Exempt from jury duty while in active service. Exempt from arrest going to, at or returning from military duty (except for treason or felony). 15 days paid military leave/year for state employees. Veteran preference upon completion of initial contract.	Vet honorably discharged from active service or transfer to Reserve Comp are entitled to 20% added credit on OH civil service exam. State employees: 22 workdays paid military lv/yr. NG license plates reg rate plus add'l fee of \$7.50/yr. Pay differential between military & state pay for duration of any Title 10 mobilization.	One free distinctive license plate each year. Distinctive personalized NG tags are available for members and retirees. Retiree military pay not subject to state income tax. State employees entitled to receive difference in salary during mobilization if their AD pay is less than their state pay.

**State Specific National Guard Incentives (Source: 2005 National Guard Almanac)**

	<b>Tennessee</b>	<b>Indiana</b>	<b>Minnesota</b>	<b>California</b>
<b>Compensation for State Active Duty</b>	Same as federal	Pay and Allowances: 12 times federal minimum hourly wage/day	Pay and Allowances: \$130/day min	Same as federal
<b>Allowances</b>	1. Same as federal	1. none	1. none	1. Same as federal
<b>1. Per Diem</b>	2. Same as federal	2. Same as federal	2. Provided	2. Included in per diem
<b>2. Subsistence</b>	3. None	3. None	3. Same as federal	3. None
<b>3. Uniforms</b>				
<b>Tax Advantage State Income</b>	No state income tax.	\$2,000 of service pay exempt	None	Only base pay is taxable. Allowances are nontaxable.
<b>Educational Benefits</b>	TN NGA offers 6 \$1,500 scholarships in the following categories: 1 ea ANG mbr; 2 ea current mbr or their dep; 2 ea retired mbr or dep of deceased mbr or dep of deceased mbr; 1 ea current mbr who participated in ODS or mbr of family of a former mbr of an ODS unit.	State tuition program pays up to 100% of tuition when attending state colleges or universities for first associate's or bachelor's degree.	MN NG members (O-5 and below) receive up to 80% of the tuition and textbook cost of any VA approved school. Maximum benefit is 80% of the per credit rate at the Univ of MN, Twin Cities Campus.	"NG APLE" National Guard Assumption Program of Loan for Education
<b>Medical Benefits</b>	State AD: Medical claims must be submitted. Guard members remain on AD while under doctor's care.	State AD: Guard members entitled to medical and dental care, including hospital.	State AD: Expenses covered, Same as state employee.	None
<b>Injury/Death Benefits</b>	Worker's Comp	State AD: Guard members receive pay, allowances, and medical expenses for 90 days. If disable after 90 days, benefits same as federal, including death gratuity, widows pension, and funeral expenses up to \$500.	Surviving dependents receive 100% tuition at MN post-secondary schools if member killed in LOD.	Same as federal
<b>Reimbursement</b>	None	None	Actual necessary expense.	Only expenses incurred for official state business.
<b>Group Insurance</b>	TN NGA offers Guard members \$10,000-\$50,000 at \$4.40 to \$20.40. Spouse: \$5,00-\$10,000-\$25,000 at \$2.40-\$4.40-\$10.40. deps: \$5,000-\$10,000 at \$3.35-\$6.70 (all rates monthly). Free \$10,000 coverage for new members (1st yr in TNNG)	IN NGA offers \$5,000 for \$2; \$10,000 for \$3.66; \$15,000 for \$5.33; \$20,000 for \$7.00; \$25,000 for \$8.67; \$35,000 for \$12.20; \$50,000 for \$17.00/mo and family plan for \$5,000/\$10,000 for each child depending on age.	MN NGA offers Guard members term ins from \$5,00 to \$50,000. Dependent coverage is offered at either \$5,00 or \$10,000 in term life insurance. Add'l option available for coverage on spouse \$5,000 to \$20,000 over & above dep coverage.	National Guard Association of California offers group life insurance
<b>Worker's Compensation</b>	IDT: no; AT: no; State AD: yes	No	Yes, same as state.	IDT: no; AT: no; State AD: yes
<b>Miscellaneous</b>	NG license plates: EM free. State employees: 15 days paid military leave/year	State employees: 15 days paid military leave/yr. Exempt from jury duty. Legal defense for LOD acts. Eligible for NG license plates.	State employees: 15 working days paid military leave/year. NG license plates for additional \$10.	State employees: 30 days paid military leave/yr. Distinctive license plates. California Department of Veterans Affairs home loans at 6.95%.

**DEPARTMENTS OF THE ARMY AND THE AIR FORCE  
NATIONAL GUARD BUREAU  
US PROPERTY AND FISCAL OFFICER FOR CALIFORNIA  
POST OFFICE BOX 8104  
SAN LUIS OBISPO, CALIFORNIA 93403-8104**

CAJS-US

17 May 2006

MEMORANDUM FOR Office of the Adjutant General, ATTN: Assistant Comptroller for Fiscal Compliance, P.O. Box 269101, Sacramento, 95826-9101

SUBJECT: Response to Bureau of State Audits (BSA) Report on the State Military Department

1. As the United States Property and Fiscal Officer (USPFO) for California, I appreciate the opportunity to review and respond to that portion of the subject report which directly relates to activities of the USPFO. As you know, the USPFO is the National Guard Bureau agent in the state providing both federal support and oversight and is not an employee of the department. As such I request that you not edit this portion of the department response and identify to BSA that these comments were provided directly by the USPFO.
2. Two aspects of the BSA report warrant direct comment by the USPFO, specifically in response to pages 65-71 and related mentions on pages 6,7,10,51, and 58. First, in response to BSA's conclusion that the Military Department's use of Counterdrug (CD) personnel to stand up CERF-P capability violated CD related law or regulations and secondly, BSA's comments regarding reimbursement of CERF-P costs incurred by the CD ask Force (CDTF).
3. In the opinion of the USPFO, it is certainly a fair statement that the department should have sought guidance and agreement from the USPFO and NGB prior to utilizing Counterdrug personnel to support the CERF-P mission. The USPFO learned of most early CERF-P activities after they were initiated. As noted in earlier correspondence with BSA, the USPFO did not endorse the use of CD funds or personnel and corrected CD personnel when they cited CD funds on CERF-P purchases. However, the main issue in this part of the BSA report is whether the department's use of CD personnel violated relevant CD regulations or related statutes.
4. Based on BSA's report and my previous conversations with BSA, they primarily base their conclusion on a December 2004 opinion by a junior JAG officer assigned to the California CD Task Force. By contrast, I based my ultimate conclusion that a purpose violation did not occur, primarily on the advice of the CD fund manager at National Guard Bureau (NOB), and the senior CD JAG at NGB who in turn consulted with both the fiscal law attorney and senior counsel at NGB. Consequently, I stand by the conclusion in my April 2005 report and respectfully disagree with BSA's conclusion.

CAJS-US

SUBJECT: Response to Bureau of State Audits (BSA) Report on the State Military Department

5. Regarding specific transactions reimbursing CD funds for costs incurred in support of CERF-P. The USPFO determined that reimbursement of many non-CD periods less than three days would not be "required", not that further reimbursement "would not be appropriate" as stated in the BSA report. However, as noted in recent correspondence with BSA the USPFO has gone ahead and transferred the remaining amounts of Army National Guard CD personnel costs in support of CERF-P including those for periods less than three days. Most of the remaining costs mentioned by BSA as unreimbursed will not result in further cost transfers as they are either offset by previous cost transfers or have not been validated as costs charged to CD funds.
6. Thank you for the opportunity to respond and please contact me with any questions regarding this response.

*(Signed by: Charles E. Bourbeau)*

CHARLES E. BOURBEAU  
Colonel, NGB  
USPFO for California

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# COMMENTS

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## ***California State Auditor's Comments on the Response From the California Military Department***

To provide clarity and perspective, we are commenting on the California Military Department's (department) response to our audit report. The numbers below correspond with the numbers we have placed in the margins of the department's response.

- We disagree. All our recommendations are directed to and require action by the department.
- The attachments referred to by the adjutant general do not alter the conclusions or recommendations cited in the report.
- Each reported finding is linked to a recommendation for corrective action.
- We do not question the difference between the department's state active duty process and the state civil service process. However, as we point out on pages 22 and 23, we do question the department's practice of placing temporarily appointed personnel in positions for extended periods of time—including one appointment, a state active duty member temporarily assigned as a youth program director, for 10 years.
- Our discussion of the department's noncompliance with its mandatory retirement regulations requires no clarification. On page 25 we clearly state that for a member to remain in a state active duty position beyond age 60, he or she must obtain approval from the adjutant general and then can hold only a temporary position.
- While the department is not specific as to what essential tasks it refers to when saying they go beyond what would be required by any suitable civil service classification, according to the Joint Force Headquarters Organization and Function Manual these tasks include directing financial management policy, receiving and recording federal funds, providing oversight and guidance on the budget, maintaining pay records for California National

Guard (Guard) members and civilian personnel, processing vendor payments, and processing travel transactions for civil and military personnel. These tasks do not seem that dissimilar to those found within civil service classifications.

- After numerous discussions held during our fieldwork and repeated requests, the department could provide no evidence to support this claim. Further, the department's assertion that it is routine for the National Guard Bureau to provide funding for additional positions not noted on the authorizing documents is puzzling in light of the fact, as stated on page 27, that the department recently embarked on a statewide project to reassign personnel to their authorized positions. The department created spreadsheets to identify where all of its active guard reserve members are supposed to be assigned according to the authorizing documents compared to where they are actually working.
- As we state on page 27, the department used a 1998 authorization document to assign full-time staff until 2004. At the time that we discussed this issue with department staff, they did not assert that they advised the National Guard Bureau concerning the use of an outdated authorizing document nor did they provide any evidence to substantiate such a claim.
- Although the regulations mentioned by the department do not require it to brief deploying members on their benefits, we stand by our statement on page 28 that federal regulations (issued by the National Guard Bureau) and the department's standing operating procedures for deployment require it to participate in activities to prepare members for deployment—known as soldier readiness processing. These two sources taken together indicate that included among such activities are benefits briefings. As we state on page 29, in conducting our fieldwork, we reviewed only the department's procedures and documents in determining if it makes deploying Guard members aware of the benefits available to them. The scope of our review is consistent with the audit objective approved by the Joint Legislative Audit Committee.
- We did not intend the section of the report on unemployment benefits on page 33 to reflect on the question of whether Guard members did or did not receive benefits briefings, it was merely our effort to provide information in response to the audit request.
- The department has misconstrued our recommendation by suggesting that various state and federal "whistleblower hotlines" provide state active duty personnel with protection from retaliation

when making complaints. While military personnel may have a number of avenues for making “whistleblower” complaints, they lack an independent body to make complaints of retaliation when they are retaliated against for making “whistleblower complaints.” Thus, we recommend that the department establish a process independent of the chain of command that permits state active duty personnel to file complaints alleging retaliation or retribution by a supervisor when the personnel make a “whistleblower” complaint. More specifically, the department suggests that state active duty personnel have protection under the California Whistleblower Protect Act (Art. 3 (commencing with Sec. 8547), Cal. Gov. C.; the act). To the contrary, while state active duty personnel may make whistleblower complaints under that act, our legal counsel advises that Section 8547.8 of that act confers authority on the State Personnel Board (SPB) to investigate and take action on complaints of retaliation made by state employees and not other individuals who may make complaints under that act. Moreover, the civil and criminal penalties set forth in that section cover acts of retaliation against state employees. Our legal counsel further advises that state active duty personnel are not state employees, thus SPB does not have jurisdiction to investigate complaints made by state active duty personnel (see *Frey v. State of California*, (9th Cir. 1992) 982 F. 2d 399, 400; hereafter “Frey”; see also Cal. Const., Art. VII, Sec. 4(k)). Moreover, as we note on page 33, state active duty personnel are instructed that all complaints of retaliation are handled through the chain of command at the department. Finally, our legal counsel has advised that generally military personnel, such as state active duty personnel, are not subject to the restrictions established by federal and state equal opportunity laws (see Frey at pp. 402-404), as the department appears to suggest.

- Most of the information we cite on pages 41 and 42 of the report regarding abandonment of the traditional strategic planning process was based on the assertions of the department’s strategic planner. We acknowledge on page 41 that the department created smaller, more focused plans covering such areas as homeland security. However, according to the department’s strategic planner, these plans were not integrated at the organizational level and therefore did not allow the department to measure the overall success of its missions—such measures could only be made piecemeal on a plan-by-plan basis. Further, we disagree with the department’s claim that the changes the former adjutant general directed be made were internal to the organization and within his scope. As we state on pages 45, 47, and 51—as a result of the former adjutant general’s actions—new divisions were established and a unit expanded without

obtaining required state approval, the reorganization creating the new divisions failed to follow military principles, and certain activities misused federal resources.

- As we state on page 42, the former adjutant general redefined the organizational mission to emphasize the Guard's duty to civil authorities. To promote his goal of expanding the Guard's ability to provide military support to civil authorities, the former adjutant general created new entities never officially authorized and expanded and changed the mission of existing entities without obtaining authorization or funding.
- As we state on page 49, the department used two command units for purposes that were never federally authorized. Moreover, as we state on page 51, the department used the counterdrug coordinator to command the Military Assistance to Civil Authority Brigade (MACA brigade) and used counterdrug resources to acquire equipment and train four of the six planned Chemical, Biological, Radiological, Nuclear, Explosive Enhanced Force Package teams, violating federal laws and regulations.
- The department incorrectly interprets the federal regulations we cite on page 47 of the report. Those regulations govern the organization and official recognition of Guard units by federal entities. However, the regulations the department cites govern stationing actions—such as force structure or installation activations, deactivations, relocations, or realignments—which are not relevant to our discussion of its reorganization.
- The department is missing our point. As we state on page 46, the department never submitted a budget change proposal to the Department of Finance for approval of the additional resources needed to support the new intelligence unit within the Civil Support Division. Further, as we state on page 46, the reason cited for the intelligence unit never reaching the scope envisioned by the former adjutant general was because of the concerns raised over the legality and funding of such a program.
- Our characterization is correct. As we indicate on pages 49 and 50, two units were formed for temporary missions which they achieved but, rather than return the personnel from these units back to headquarters, they were instead used to form the MACA brigade without notifying the National Guard Bureau. Department leadership defended failing to notify the National Guard Bureau about the new mission of forming the MACA brigade by the two units, stating it was common practice to

allow a two-year grace period during which new missions may arise where the department may need to use the two units' resources. However, the department's leadership was unable to cite the federal regulations articulating such a grace period.

- The department asserts that using counterdrug personnel for non-counterdrug functions has been a periodic if not common occurrence among the states with approval from the federal funding source. However, the department neither sought nor obtained such approval before using almost \$783,000 in counterdrug funding for non-counterdrug activities. Further, the department's contention that, as long as such costs are later redirected from counterdrug to non-counterdrug accounts, using counterdrug funds in this way is an acceptable practice conflicts with the legal opinion of one of its judge advocate counsel attached to the counterdrug task force. That legal opinion concluded that the department's actions violated federal law.
- We recognize that roll-call rosters are not used for strength reporting. However, as we describe on page 68 of our report, of the 20 attendance reports we reviewed, we noted five where the members were listed as retired or discharged. With the assistance of the Air National Guard's (Air Guard) personnel officer, we determined that these five members were still included in the personnel system the Air Guard uses to report force strength.
- We are pleased that after the conclusion of our fieldwork in April 2006, the department integrated the role and responsibilities of the State Military Reserve into the newly approved update of its strategic plan.
- Although the U.S. fiscal officer originally stated that further reimbursement would not be appropriate, based on his subsequent statement, we revised page 54 to read that such reimbursement would not be required.

cc: Members of the Legislature  
Office of the Lieutenant Governor  
Milton Marks Commission on California State  
Government Organization and Economy  
Department of Finance  
Attorney General  
State Controller  
State Treasurer  
Legislative Analyst  
Senate Office of Research  
California Research Bureau  
Capitol Press