

The Naval Militia: A Neglected Asset?

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A handwritten signature in black ink, appearing to read "Barry L. Reed".

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Contents

Introduction	1
The current state of the NM	3
Current NM mission areas	7
State-specific mission areas	7
New York	7
Alaska	8
South Carolina	8
Ohio	8
Texas	9
Training the NM	9
Homeland Protection: An emerging mission for the NM .	10
What has the NM been doing lately?	12
The TWA Flight 800 Recovery Mission	12
The terrorist attack on the World Trade Center . . .	14
Other recent NM activities	18
The NM: Where can it go from here?	21
How does the State benefit from the NM?	21
How does the naval service benefit from the NM?	25
Retention	26
Improved training and skills maintenance	27
Support of the naval role in homeland defense and military assistance to the civil authority.	28
Increased public exposure of and support for the naval service	29
How does the reservist benefit from the NM?	30
How does the nation benefit from the NM?	30
Some potential objections to having a NM.	31
How should the NM be reactivated?	34
Activating a NM	36

New Jersey	37
Wisconsin	40
South Carolina	42
Some further thoughts	45
Conclusion	47
Bibliography	55
Distribution list	67

Introduction

The Naval Militia (NM) is the most obscure component of the armed forces and may be the most overlooked organization in the military history of the United States. It is the maritime analogue of the National Guard (NG) and is a force with a dual Federal-State juridical identity, having both Federal and State service obligations. It has existed for well over a century, and for two generations was the principal Reserve component of the United States Navy. Today it numbers 6,500 men and women.

Naval Militiamen have served in their Federal capacity on active duty during every war since 1898, and were called up for several major crises of the Cold War. In addition, they have performed State missions on numerous occasions—in recent times, most notably when New York and New Jersey Naval Militiamen were called to protracted tours of State active duty in consequence of the terrorist attacks of September 11, 2001. Some of these personnel later saw service in Afghanistan and Iraq on Federal active duty.¹ Yet today the NM is so obscure that most defense specialists and even many senior naval personnel are wholly unaware of its existence. Despite this obscurity, the NM still exists in a handful of States and has been experienced a modest revival over the past few years, suggesting that it has the potential to again become an important resource for the naval service and the States.

Federal legislation regarding the NM is found in U.S. Code, Title 10, Armed Forces: 10 USC 261, 10 USC 311, and 10 USC 7851-7854.² Within each State, the legal authority for the existence of the NM is embodied in the State constitution and enabling legislation. For example, in the case of New York, this is found in Article XII of the

1. "From the Field," *NYNM News*, Jul-Sep 2002, p. 7; "NYNM Seabee Serves at Camp X-Ray," *NYNM News*, Jul-Sep 2002, pp. 13-14.

2. See http://uscode.house.gov/title_10.htm.

State constitution, as codified in the New York State Military Law, Article I, and Article II, Sections 43 and 48 of Chapter 36 of the Consolidated Laws of the State of New York.³ In addition, states may organize a non-federally supported NM, within their State Defense Force (SDF), under Title 32, United States Code, Section 109.⁴

3. Article XII, The Constitution of the State of New York, <http://assembly.state.ny.us/leg/?co=14>, specifies only that “the legislature shall provide... for the maintenance and regulation of an organized militia.” In some states the constitution actually spells out the authority to raise an NM; see Maine’s Constitution, Article VII, Section 4, “The organization, armament and discipline of the militia and of the military and naval units there of,” http://janus.state.me.us/legis/const/constitu-11.htm#P360_68423. The Consolidated Laws of the State of New York are available at <http://assembly.state.ny.us/leg/?cl=63>.

4. Title 32, United States Code, Section 109, online at http://uscode.house.gov/title_32.htm.

The current state of the NM

There is surprisingly little published material available about the NM. Histories of the Naval Reserve and the National Guard include occasional references to it, and there have been a few magazine articles on the subject, but the only serious, systematic treatments of the NM are found in a handful of academic papers.⁵

The NM, created over 110 years ago, has recently been undergoing something of a revival after many years of neglect. At its peak, on the eve of World War I, the NM existed in 26 States and territories, and provided most of the trained Reserve manpower available to the Navy. Between the world wars, the NM formed the core around which the Naval Reserve was developed. Yet, despite the fact that Naval Militiamen served with distinction in both global conflicts, the NM fell into decline after World War II. By the mid 1960s, at the height of the Cold War, only the New York Naval Militia (NYNM) survived, with a history of continuous service that began in 1889.⁶ Two decades later, in 1984, it was joined by the newly established Alaska Naval Militia (AKNM).⁷

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5. The NM is given a short chapter on the NM in Jim Dan Hill's *The Minuteman in Peace and War: A History of the National Guard* (Harrisburg, PA: Stackpole Books, 1964), an even shorter treatment in William R. Kreh's *Citizen Sailors: The U.S. Naval Reserve in War and Peace* (New York: David McKay, 1968), and a few pages in C. Joseph Bernadro and Eugene H. Barron's *American Military Policy* (Harrisburg, PA: Stackpole Books, 1961). Two master's theses deal with the NM: John H. Booth's "NMs" (U.S. Army Command and General Staff College, 1995), and Edgar Weldon Herbert's "The San Diego Naval Militia, 1891-1920" (San Diego State, 1956). There is also an unpublished dissertation, by Harold Wieand, titled "History of the Development of the United States Naval Reserve, 1889-1941" (University of Pittsburgh, 1952).
 6. <http://www.dmna.state.ny.us/nynm/nynavmil.html>.
 7. Alaska Department of Military and Veterans Affairs, *AKNM* (n.p.: n.d.). Legal provision may be found in Alaska Statutes, Title 26, Chapter 5, Section 10, <http://www.touchngo.com/lglcntr/akstats/Statutes/Title26.htm>.

Members of the NY, Alabama (AL), and South Carolina (SC) NMs belong to the Select Reserve of the Navy, Marine Corps, or Coast Guard,⁸ as do members of the recently reactivated Illinois Naval Militia (ILNM). Unlike members of the NG, normally all personnel in the NM must have Federal recognition as reservists *before* they join the NM. Personnel of the Ohio Naval Militia (OHNM)⁹ and the new “Texas Maritime Regiment”¹⁰ serve as part of their SDF, and have no Federal service obligation.¹¹ Two other states—Virginia and Wisconsin—have each recently enacted or considered legislation to re-activate their NM as a federally recognized force. In addition, over the past few years a number of other States and a territory have considered legislation to reactivate a federally recognized NM, or have conducted studies or hearings on the subject—notably, California, Missouri, Maryland, Pennsylvania, several New England states, South Dakota, and Puerto Rico.¹²

8. Legislation permitting Coast Guard reservists to join the NYNM was enacted in 1998. See <http://gopher.senate.state.ny.us/Docs/sofl/VET/VET029.html>.

9. See http://www.sgaus.org/hist_onm.htm.

10. See http://www.txsg.state.tx.us/txsg_web_site_009.htm

11. Although the name varies—SDF, State Guard, State Military Reserve, etc.—SDFs are non-federally supported State militia organizations covered by Title 32, United States Code, Section 109, as authorized by the State legislature; http://uscode.house.gov/title_32.htm. On SDFs and Homeland Defense, see Arthur N. Tulak, R.W. Kraft, and Don Silbaugh, “SDFs: ‘Forces for’ NORTHCOM and Homeland Security?” (Joint Forces Staff College, Joint and Combined Warfighting School-Intermediate, Class 03-1I, Mar 7, 2003), *passim*.

12. RADM Robert Rosen, telephone, Nov 28, 2001, Sep 8, 2006; Alan W. Flenner e-mail, Sep 18, 2003; Timothy R. Roberts, “The Missouri NG Navy: NM in Missouri, 1905-1951” (Research paper prepared for the Assistant Chief of Staff, Missouri NG, 1994); Cliff Miller, “State NM Plan on Deck,” *Appleton Post-Crescent*, Oct 31, 2001; Kathleen Hunter, “Governors Captain State NMs,” *Stateline.org*, Jan 28, 2005; Robert A. Rosen, “Signals from the Flag Bridge,” *NYNM News*, Winter 2004-2005, p. 2; “Arnold’s Navy?” *Navy Times*, Jan 3, 2005, p. 7; Gidget Fuentes, “California Officials Mull Resurrecting NM,” *Navy Times*, Feb. 14, 2005 (Vol. 54, Issue 20), p. 12.

The following list provides information on the NMs in those States in which they have recently been active:

- States with a federally recognized NM:
 - Alaska. Activated in 1984, the AKNM has about 70 active personnel.¹³
 - New York. Continuously active since 1889, the NYNM currently has a total of about 4,500 Navy, Marine Corps, and Coast Guard reservists, and volunteers.¹⁴
 - South Carolina. The SCNM was inactivated during World War I, and was reactivated in 2003. It is currently recruiting and is expected to grow to about 500 personnel.
- States currently reactivating a federally recognized NM:
 - Virginia. The VANM was established in 1898. It was disbanded and revived several times, and was finally inactivated in the 1930s. Enabling legislation to revive the NM was enacted in 1998, but no personnel were enrolled.¹⁵

13. Alaska Statutes, Title 26, Chapter 5, Section 10, <http://www.touchngo.com/lglcntr/akstats/Statutes/Title26.htm>. Additional information provided by CDR Alyson Cooper, AKNM, telephone, Sep 18, 2003, and CAPT Michele Stickney, Alaska Department of Military & Veterans Affairs, telephone, Sep 11, 2006.

14. New York State Senate, NM Legislation, 1998, <http://gopher.senate.state.ny.us/Docs/sofl/VET/VET029.html>; CWO Patrick McCoy, Apr 12, 2001.

15. National Archives and Records Administrative (NARA), Old Military Branch, File QZ(Va.)/A4-3(300524), Richmond VA., Navy [sic], "Militia annual cruise detail destroyer," May 24, 1930. "Naval Reserve History in Richmond, VA, 1921-1998," <http://www.cnsrf.navy.mil/richmond/History.html>. VA, state legislature, "An Act to amend and reenact § 44-60 and 65.2-101 as it is currently effective and as it may become effective of the Code of Virginia, relating to the VANM" [H 459], approved Mar 11, 1998, <http://leg1.state.va.us/cgi-bin/legp504.exe?981+ful+CHAP0052>. No personnel have as yet been enrolled, but agencies and institutions have established leave and other benefit policies for NM personnel. See <http://dls.state.va.us/pubs/summary/1998/SUMINT37.HTM>, and <http://co.fauquier.va.us/people/bos/minutes/12-02-97.html>. Telephone conversation with Ms. Mary Sunderlin, Administrative Assistant and Legislative Liaison to the Adjutant General of Virginia, Sep 4, 2003. Peter Barque, "NM to Guard Ports?" *Richmond Times-Dispatch*, Jul 9, 2006.

- Illinois. The ILNM was activated in 1893 and disbanded in the 1970s. Executive authorization to reactivate the ILNM was signed in June 2006, and recruiting is underway.¹⁶
- States with a NM in the SDF: ¹⁷
 - Ohio. The OHNM was formed in 1896 and was federalized in 1940; it was not reactivated after World War II. In 1977, the State legislature passed an enabling act to revive the institution, and it was reactivated by the State Adjutant General the following year, as a component of the organized militia of the State. The OHNM is authorized to a maximum strength of 300, and currently has about 60 active personnel. ¹⁸
 - Texas. A TXNM was authorized in 1891, but never developed as an active institution and was soon dissolved. Recently a “Maritime Regiment” has been activated in the Texas State Guard.¹⁹

16. John Lauder milk, “Chicago Gunboats: Ships of the ILNM,” *Inland Seas: Quarterly Journal of the Great Lakes Historical Society*, Vol. 41, No. 1 (Fall 1985), pp. 162-171; Illinois, Office of Governor Rod R. Blagojevich, Executive Order 2006-02, “Authorizing the ILNM,” Jan 19, 2006, <http://www.illinois.gov/gov/execorder.cfm?eorder=45>; RADM Sam Sax, Sep 5, 2006, telephone.

17. Forces organized under Title 32, United States Code, Section 109, http://uscode.house.gov/title_32.htm.

18. See http://www.sgaus.org/hist_onm.htm; emails, RADM Dave Ozvat, Commanding Officer, OHNM, on Mar 21, 2001, Apr 18, 2001, Sep 3, 2003, and Sep 4, 2003; OHNM information sheets.

19. “Texas Maritime Regiment,” http://www.txsg.state.tx.us/txsg_web_site_009.htm.

Current NM mission areas

State-specific mission areas

The NM is expected to perform various missions, based on the particular needs of the individual States.

New York

The NYNM is capable of performing a broad range of missions:²⁰

1. Stationary engineering. To provide emergency operation or restoration of vital utilities, such as power plants, water supply and treatment facilities, or sewage disposal plants.
2. Maritime activities. To operate and do maintenance on all types of vessels, such as tugs, fire boats, rescue craft, and patrol boats, and to operate the New York State Military Emergency Boat Service (MEBS).
3. Support activities. To provide communication, clerical, logistical, and medical services.
4. Security. To provide security support for State facilities, utility services, and vital supplies, riot control, and port security—all roles particularly associated with Marine Corps and USCG personnel in the NM. This is a mission area which will necessarily expand as a result of the demands for increased security in the Global War on Terror and the expansion of Naval Security Force (NSF) units in the Naval Reserve.²¹

20. The following list summarizes portions of the NYNM Mission Statement, which can be found online at <http://www.dmna.state.ny.us/nynm/mission.html#composition>.

21. John Hastings McIver, "New Mission Area for Naval Reserve Force." *Navy News Stand*, www.news.navy.mil, Story Number NNS030909-12, Sep 9, 2003.

5. Construction activities. To build, repair, or demolish structures, and to qualify Construction Battalion personnel to undertake a variety of construction and demolition operations.
6. Chem-bio defense. To maintain and improve readiness for response to a chem-bio incident.

Alaska

The AKNM has focused on four mission areas:²²

1. Medical. Comprehensive medical support, provided by medical, nursing, and paramedical personnel.
2. Explosive outload team. Specialized cargo handling, with an emphasis on ordnance, provided by trained stevedores, cargo handlers, and safety officers.
3. Reconnaissance. Route reconnaissance and port security, provided by Marines trained in SOF skills and associated field corpsmen.
4. Naval construction. Tactical construction, security support, and basic services operations, provided by construction personnel and engineers.

South Carolina

The SCNM has one mission: to support the Coast Guard—specifically, the Captain of the Port of Charleston—in Homeland Protection.

Ohio

The primary tasks of the OHNM are as follows:

1. To provide the Ohio Army National Guard with a waterside training capability during natural or man-made emergencies

22. Alaska Department of Military and Veterans Affairs, *AKNM* (n.p.: n.d.).

2. To operate a range patrol off the waters of Camp Perry, in order to maintain a 32-square-mile total exclusion zone during exercises involving live ammunition fired into Lake Erie
3. To provide first aid, fire fighting, rescue, and CPR
4. To maintain its fleet of vessels in order to keep them in a state of readiness for operations
5. To conduct continuous boat and classroom training for all interested crew, and document boat hours toward obtaining a captain's license
6. To perform in any situation as directed by the Adjutant General or the Governor of the State of Ohio.

Texas

According to its official mission statement, the Texas Maritime Regiment, a unit of the Texas State Guard, "provides the Governor of the State of Texas, the Adjutant General of Texas and the Commander, Texas State Guard with Mission ready, volunteer personnel for operations in the maritime, littoral, and riverine environment in support of Homeland Defense and in response to man-made or natural disasters."²³

Training the NM

NM personnel must satisfy the training and readiness standards set by the Naval Reserve, Marine Corps Reserve, or Coast Guard Reserve, which are provided by their respective service. Normally, they do not need training additional to that.

NM personnel do, however, often receive refresher training or training in new skills when working in cooperation with other State military personnel on State active duty or on a volunteer basis. For example, on various occasions, NYNM personnel have secured military driver's licenses, undergone rifle qualification, received training

23. http://www.txsg.state.tx.us/txsg_web_site_009.htm.

in small boat operations, and learned to operate front-ended loaders, Humvees, and 5-ton dump trucks, either voluntarily or while on State active duty.²⁴

Homeland Protection: An emerging mission for the NM

The evident need to improve Homeland Protection is a natural mission for the NM. Both the New York and New Jersey NMs rendered distinguished service while on State active duty during operations on and after September 11, 2001. At the same time, those Naval Militiamen remained mobilizable assets available to the naval service, in their status as members of the Naval Reserve.

Although there are plans to reduce its strength, the Naval Reserve now comprises some 88,000 personnel, who are available for immediate activation.²⁵ It constitutes a substantial pool of trained and experienced personnel. If fully mobilized, reservists would constitute about a fifth of total Navy personnel. Recent history suggests that this is unlikely to ever happen. Even in the ramp-up to major military operations in support of the “Global War on Terror,” the resources of the Naval Reserve were barely touched. Approximately 10,000 reservists were activated in the aftermath of the 9/11 attacks on the World Trade Center and the Pentagon.²⁶ Two years later, some 12,000 naval

24. “Buffalo Seabees Train at National Guard Site,” *NYNM News*, IV, 2 (Apr-May-Jun 2001); “M-16 Rifle Qualifications,” *NYNM News*, Apr-Jun 2003, p. 9; “Coast Guard Auxiliary Flotilla 4-2 Provides Critical Support to Region III MEBS Training,” *NYNM News*, Fall 2004, p. 14.

25. References: United States Naval Reserve Force, <http://www.navres.navy.mil>; Naval Reserve Air Force Command, <http://www.navres.navy.mil/navresfor/naveir/>; Office of the Assistant Secretary of Defense for Reserve Affairs, Mar 2003, <http://www.defenselink.mil/ra/ondemand/reserves101.ppt>. Strength figure includes some active duty personnel working at Headquarters, Naval Reserve Forces Command and some other agencies. The figures also exclude personnel in the Retired Reserve, who number over 500,000.

26. “Naval Reserve,” *Navy League Almanac*, 2003, http://www.navyleague.org/sea_power/almanac_jan_03_22.php

reservists were called to active duty for Operation Iraqi Freedom.²⁷ Neither call-up more than lightly dipped into the pool of available reservists; those activated for Operation Iraqi Freedom amounted to only about 13½ percent of the strength of the Naval Reserve. By encouraging the development of NMs in several states, the naval service can make a significant contribution to the support of Homeland Protection while not impairing its ability to quickly expand the number of personnel on active duty in the event of a major contingency; reservists would be available to support Homeland Protection in State service as part of the NM, while still being available for Federal service upon call.

The nation greatly needs more ability to provide security and emergency response operations at its ports and on its coasts, rivers, and lakes. This mission can be met by expanding the NM. It is already being done in New York, where the NM operates about a dozen small boats to provide security at the Indian Point Nuclear Power Plant and other facilities.²⁸ Much more needs to be done.

The types of missions necessary to support Homeland Protection are not inherently unlike to those that a reservist would likely perform on active duty with the Navy in a forward area. Such missions as inshore undersea warfare, inshore boat operations, maritime patrol, port security, harbor defense command operations, littoral surveillance, medical services, emergency construction and demolition, and consequence management remain substantially the same wherever they may be performed. Many States already have Naval Reserve units that specialize in such missions—for example, medical units, Seabees, port security teams, and, when they are established, Master-at-Arms detachments. By forming a NM, a State would, at its discretion and expense, be able to use such resources in emergencies, as is already the case with the NG. At the same time, such units would still remain

27. As of May 21, 2003, there were 11,917 naval reservists on active duty, while Reserve Component (NG and Reserve) personnel on active duty with the Army totaled 146,259; the Air Force, 36,558; the Marine Corps, 21,264; and the Coast Guard, 4,405. The total of Reserve Component personnel on active duty was 220,403. “NG and Reserve Mobilized as of May 21, 2003,” *DefenseLink*, News Release No. 346-03, May 21, 2003, online at defenselink.mil/news/May2003/d20030521ngr.pdf.

28. We will discuss this further, on pp. 22-23, and 26.

available for forward deployment; calls for their use have not been numerous, whether forward or at home—again, just as is the case with the NG.

What has the NM been doing lately?

We can gain some notion of the benefits of restoring the NM if we look at a few highlights of the operations it has supported over the past decade or so. Since the NYNM is by far the largest NM, it has, naturally, also been the most active. In addition to regularly scheduled duty periods, New York State has called up NM personnel an average of about a dozen times a year over the past decade. Call-ups have usually involved small groups of personnel for special missions. On two occasions, however—after the crash of TWA Flight 800, and after the 9/11 attacks—the NYNM supported major emergency recovery operations, in cooperation with other State and Federal agencies and military forces. The NJNM, also participated extensively in the response to the 9/11 terrorist attacks, as we will discuss later in this section.

The TWA Flight 800 Recovery Mission²⁹

At 8:31 p.m. on July 17, 1996, there was an explosion aboard TWA Flight 800, which was just a few minutes out from Kennedy International Airport en route to Paris. The aircraft crashed at latitude 40° 39.1' N and longitude 72° 38.0' W, off Moriches Inlet, Long Island, with loss of all 232 persons aboard.

At approximately 10 p.m., Maj. Gen. John H. Fenimore V, Adjutant General of New York State and Chairman of the New York State Disaster Preparedness Commission, ordered the Department of Military

29. Much of the following information is derived from Commander, NYNM to the Adjutant General, Oct 8, 1996, "After-Action Report, TWA FLT 800 Disaster, Jul 18 to Oct 6, 1996," and New York State Emergency Management Office, "After Action Report, the Crash of TWA Flight 800, Jul 17, 1996 off the Coast of Long Island, New York," <http://www.nysemo.state.ny.us/TWA/COVER.HTM>, as well as from conversations with several of the participants and notes made during this writer's tour at the Shinnecock Coast Guard Station, Aug 27-30, 1996, as an observer for the New York Guard.

and Naval Affairs (DMNA) to activate its emergency operations center. By about 3 a.m. on July 18, a joint task force (JTF) had been formed and a joint operations center (JOC) established at DMNA headquarters, in Latham, to include personnel from all branches of the New York State Military Forces, as well as elements of the State Emergency Management Office, the New York State Police, the Red Cross, and other agencies. As part of the Military Forces of the State of New York, the NYNM was requested to help staff the Latham JOC in conformity with established state emergency procedures. NYNM personnel began standing watch at the Latham JOC at 4 p.m. on July 20.

At 9 a.m. on July 23, the NYNM was officially requested to provide cargo-handling personnel to assist the New York Army National Guard (NYARNG) at the Shinnecock Coast Guard Station, a short distance from the crash site. NYNM personnel initially helped transfer bodies from recovery boats to the morgue. In addition, they provided cargo handlers to reconfigure and rig the MIKE boats so that their loads of wreckage and other debris could be transferred by crane to NG trucks. NG transportation personnel then moved these loads to three unused, U.S. Navy-owned, former Grumman Aviation aircraft hangars at Calverton, where evaluation and reconstruction efforts were to take place. As the recovery operation proceeded, additional NYNM personnel were requested to help offload the debris at Calverton. Later, still more NYNM personnel were requested for duty as forklift operators and EMTs.

During the recovery operation the NYNM worked closely with the NYARNG, which supplied all heavy equipment and had earlier provided qualification training to NYNM personnel. NM personnel assisted NYARNG personnel with required maintenance activities. While on active duty at Riverhead, Shinnecock, and Calverton, NYNM personnel were under the command of Colonel Frank Intini, NYARNG, the on-site DMNA JTF Commander, and had their headquarters at the New York State Armory in Riverhead.

Orders to stand down were issued on October 6, at approximately 8:30 a.m.³⁰

30. Although the NYNM and the NYARNG were ordered to stand down on Oct 6, recovery operations continued until Apr 29, 1997.

In the course of the 80-day Flight 800 recovery operation (July 18 to October 6, 1996), NYNM personnel spent a total of 919 man-days on State active duty, an average of 11½ personnel per day.³¹ There were no accidents, and no disciplinary problems. The Naval Militiamen served at no cost to the U.S. Navy, as they were paid by the State of New York.

The terrorist attack on the World Trade Center³²

At 8:46 a.m. on September 11, 2001, terrorists crashed a wide-body airliner into the North Tower of the World Trade Center in lower Manhattan. At 9:03 a.m., a second airliner crashed into the South Tower. Within little more than an hour, both of the “Twin Towers” had collapsed, some 3,000 people were dead, and fires were raging in many adjacent buildings.³³ Individual members of both the New York and the New Jersey NMs almost immediately began voluntarily reporting to lend a hand, as did thousands of other people, including private citizens, first responders, and active and reserve military

31. In addition to HQ and staff personnel, the NYNM personnel involved in the recovery operation were normally assigned to Naval Reserve Cargo Handling Battalions 6 and 8, Navy Mobile Construction Battalions 21 and 133, Construction Battalion Maintenance Unit 202, and the Naval Weapons Station at Earle, New Jersey.

32. Much of the following information is derived from these sources: Commander, NYNM to the Adjutant General, “After Action Report—Operation Trade Center” (111200SEP01-122400MAY02), May 13, 2002; New York, *Annual Report of the Adjutant General*, 2001; New Jersey Department of Military & Veterans Affairs, NJNM Joint Command, “Discussion Paper—NJNM and Operation Noble Eagle”; Wayne E. Girardet, “A Naval National Guard?” *Shipmate*, Mar 2002, p. 24; Robert A. Rosen, “Signals from the Flag Bridge,” *NYNM News*, Apr-May 2002, pp. 1-2; David C. Andersen, “We Never Leave Our Brothers Behind,” *NYNM News*, Apr-May 2002, pp. 5-6; conversations with RADM Robert Rosen, NYNM, Nov 28, 2001, and CAPT Jerry Rovner, NJNM, Sep 10, 2003; and conversations with other participants, and notes made during this writer's tour of active duty, at the Military Command Centers in the 7th Regiment Armory and at 1 Police Plaza, New York, Sep 12-15, 2001.

33. Three members of the NYNM died in the rescue operations at the World Trade Center, while working in their civilian capacities: CPL Sean Tallon, 2/25 Marines, and GYSGT Matthew Garvey, Marine Corps Point of Contact, NYNM, both of whom were New York City fireman; and PS2 Vincent Danz, Coast Guard Activities Ft. Wadsworth, a New York City police officer. See *NYNM News*, Jan-Mar 2002, p. 1.

personnel. By noon, both States had put their military forces on full alert to support security and relief operations, and Federal military personnel also had begun arriving. During the emergency and in its immediate aftermath, elements of the NYNM were on State active duty for 243 days; those of the NJNM, for 292 days.

During the emergency, Naval Militiamen from both States often worked 12-hour shifts, performing a wide variety of duties:

- Personnel from both the NYNM and NJNM served in JOCs and other headquarters, performing administrative, financial, and logistical duties. On a number of occasions, JOC operations were under the direct supervision of a NM officer.
- New Jersey Naval Militiamen supported the waterborne evacuation of Lower Manhattan in the immediate aftermath of the attacks, helping to evacuate hundreds of thousands of people.³⁴
- NYNM personnel performed security duties at the Indian Point Nuclear Power Plant, operated State-owned vessels, and supplemented NG and police security patrols at the Nine Mile, James A. Fitzpatrick, and Ginna Nuclear Power Plants.
- NJNM personnel performed waterborne or perimeter security duties at the George Washington Bridge and the Salem Nuclear Power Plant, as well as at three Federal installations: Naval Station Earle; Fort Dix; and the U.S. Naval Aviation Engineering Station Lakehurst.
- NYNM Marines and Seabees supported police, NG, and State Guard personnel in performing security patrols in Lower Manhattan and in providing perimeter security for Ground Zero. They also helped patrol railroad stations, bridges, tunnels, and airports for about 2 months.
- Medical personnel from both the NYNM and NJNM provided first aid support to emergency workers and security personnel at Ground Zero for 4 weeks after the 9/11 terrorist attacks.

34. On the preparations for just this type of emergency, see pages 21-22 for comments on the NYNM's "Military Emergency Boat Service."

- Personnel from Marine Corps detachments of the NYNM performed security duty at the 7th Regiment Armory, which was the headquarters for the NYNG during the initial period of the rescue and recovery operations, and supported operations at the police-military liaison center, 1 Police Plaza. NJNM personnel performed similar duties at Fort Dix and at Naval Aviation Engineering Station Lakehurst, thereby releasing active-duty personnel for other missions.
- NYNM Marine communications personnel (6th Communications Battalion) assisted Army and Air National Guard communications personnel in providing an improvised emergency communications system in the immediate aftermath of the attack, when normal telephone service was degraded.
- NYNM Seabees erected a tent city at Battery Park, to provide temporary shelter for emergency workers and military personnel brought into the New York Metropolitan Area to support security and recovery operations, and then refurbished an entire former Coast Guard barracks on Governor's Island to provide additional quarters.
- Both New York and New Jersey Naval Militiamen helped organize and distribute the enormous amount of relief supplies and other materiel at improvised logistical support centers in Manhattan and on Staten Island.
- Elements of the NJNM assisted the FBI, police, and NG personnel with evidence collection at the site in Fresh Kills, Staten Island, where debris from the collapse of the Twin Towers was brought for examination.³⁵
- NM medical personnel and chaplains from both States were assigned to deal with physical and psychological problems among survivors of the attacks and rescue workers.

In the 243 days from September 11, 2001, through May 12, 2002, personnel of the NYNM performed 9,389 days of paid State active duty, and hundreds of other NYNM personnel performed voluntary

35. Tulak, Kraft, and Silbaugh, "SDF" p. 16.

unpaid duties.³⁶ Likewise, in the 292 days from September 11, 2001, through June 30, 2003, personnel of the NJNM performed 6,373 days of paid State active duty, as well as 965 days of unpaid volunteer duty, in a force that never totaled more than 290 officers and enlisted sailors.³⁷

During their period of active duty, there were no incidents of indiscipline involving personnel of either the New York or the New Jersey NMs, and no accidents or injuries sustained in the line of duty.

During operations, a number of problems were identified. Many personnel did not have their “recall bills” up to date, and some lacked certain equipment. Communications, particularly those between the different branches of the State military forces, could have been better. An especially important problem was that the NG personnel did not have a good understanding of the skills that NM personnel could contribute and the resources available to them.

After operations were completed, a number of “lessons learned” were identified. RADM Robert Rosen,³⁸ Commander of the NYNM, particularly noted the need for:

- NM liaison officers to be integral to any State task force
- A smoother mobilization procedure, which would reduce reliance on HQ, and make use of NG support
- A statewide communications network³⁹
- Each branch of the State military forces to establish a permanent planning cell for developing emergency operations plans.

36. From Sep 22 through Oct 21, 2001, there were never fewer than 200 NYNM personnel on State active duty, and the number did not fall below 100 until Nov 2, 2001.

37. Conversation, CAPT Jerry Rovner, Sep 10, 2003.

38. Commander, NYNM, to the Adjutant General, “After Action Report-Operation Trade Center (111200SEP01-122400MAY02), May 13, 2002, p. 10.

39. The specific recommendation was “Recommend a review of the Y2K structure established to use SAT COMM phones.”

CDR Michael McCallister, Chief of the Marine Response Division for U.S. Coast Guard Activities New York, observed that the NM personnel who served during the 9/11 disaster and recovery operation, “certainly offered us a good force multiplier. They were people who were trained and familiar with maritime security issues and we always look forward to having them on the water assisting us.”⁴⁰

Other recent NM activities

While less dramatic, other missions of the NM over the past few years have been quite varied, as can be seen from the following examples.⁴¹

- In January 1998, New York State activated elements of the NM to help cope with a serious ice storm. NYMN personnel provided necessary logistical support and tracking for over 700 emergency generators loaned to New York by other States, including California, Texas, Alabama, New Jersey, and Massachusetts. All of the generators were recovered and returned to their proper owners. In addition, NYNM personnel relieved ARNG personnel of routine duties at armories and other installations, so that the ARNG personnel could join their own units in the field.
- In August 1998, the NYNM participated in Exercise Global Patriot, a joint activity conducted annually with members of NYARNG, NYANG, USAF, the USMC, and Canadian and British Armed Forces.
- In July 1999, NYNM Seabees spent 7 weeks building a steel fire tower in Columbia County, as part of a federally sponsored “Guard Help” project.
- The NJNM helped staff the emergency operations center established by the NG during Hurricane Floyd (September 16-25, 1999).

40. Brian Donohue, “The Navy That’s Been Put on Ice: While Volunteers Itch to Return to Action, State Says this Militia is Far From Shipshape,” (Newark, NJ) *Star-Ledger*, Tuesday, Apr 22, 2003.

41. Unless otherwise noted, the following is from the NYNM annual reports.

- At the end of 1999, both the NYNM and the AKNM participated in State preparations for a potential emergency over the “Y2K” problem.
- In 2000, at the request of Assistant Secretary of the Navy for Manpower and Reserve Affairs, Ms. Carolyn Becraft, RADM Robert A. Rosen, the Commander of the NYNM, convened a task force to assist the Navy Recruiting Command in accessing secondary schools for recruiting purposes, and to prepare a report for Ms. Becraft.
- In July 2000, the NYNM and the NJNM supported OpSail 2000 and the International Naval Review in New York Harbor. This involved hundreds of NM personnel, who performed a variety of functions in both Federal and State status. Their duties included assisting with planning, serving as liaison officers to foreign ships, and escorting VIPs.⁴²
- The NYNM supports annual Fleet Week activities in New York City, hosting visiting sailors from the U.S. Navy and foreign navies, and helps provide security during the Fourth of July, Washington's Crossing, and other annual events.⁴³
- In the aftermath of the 9/11 terrorist attacks, the NYNM established round-the-clock patrols in the waters off the Indian Point Nuclear Power Plant, at Buchanan. This mission has since expanded to cover other sensitive installations around the State.⁴⁴

42. The NYNM has been performing this duty for decades; see, for example, Peter Kihiss, “Special Security Is Planned for 2 Operation Sail Ships,” *New York Times*, Jul 1, 1976. The NJNM also participated in OpSail 2000; see RADM Timothy D. Beard III, NJNM, “From the Flag,” *The Helm*, Vol. I, No. 1 (Nov 4, 2000), p. 1.

43. Fleet Week 2001: Damp and Cloudy, but Fun,” *NYNM News*, Jul-Sep 2001, p. 5; “USS *Yorktown* Joins Parade of Ships,” *NYNM News*, Apr-Jun 2003, p. 8.

44. CWO Patrick McCoy, NYNM, e-mail, Sep 3, 2003; Willard F. Lochridge IV, “Heroic Recovery Effort Made on the Hudson River After Patrol Boat Goes Down...,” *NYNM News*, Jan-Mar 2003, p. 18; RADM Rosen, conversation, Sep 05, 2006.

- On November 7, 2002, the OHNM took part in an exercise with the Coast Guard in which a notional terrorist attack resulted in a vessel running aground on the shores of Lake Erie and leaking toxic gases.⁴⁵
- The OHNM was called to active duty by the Governor of Ohio to assist the Toledo Port Authority in maintaining security patrols on the Maumee River during a tall-ship visit in conjunction with the State's bicentennial, July 15-21, 2003.⁴⁶
- Personnel from the NYNM supported security operations during the Republican National Convention, held August 30-September 2, 2004, at Madison Square Garden in New York City.
- The AKNM assisted the NG during floods in the Mat-Su Valley in August 2006.⁴⁷
- The NYNM is currently developing a waterborne medical response capability to support other New York State forces in emergencies.

These examples of the scores of missions performed by the Alaska, New York, New Jersey, and Ohio NMs in recent years suggest the many ways in which the NM can benefit not only the State but also the individual reservist and the naval services. While many of these missions served primarily State needs, a number directly supported Federal missions or were the result of Federal initiatives. Several were joint, and one was actually combined. All furthered the training of naval personnel, mostly at no direct expense to the Navy.

45. RADM David E Ozvat, email, OHNM, Sep 3 and 4, 2003.

46. RADM David E Ozvat, email, OHNM, Sep 3 and 4 2003.

47. CAPT Michele Stickney, telephone conversation, Sep 11, 2006.

The NM: Where can it go from here?

To be effective and useful, a NM has to benefit its state, the naval services, and the individual Naval Militiaman, as well as the nation. These are different, but not necessarily conflicting, objectives.

How does the State benefit from the NM?

A NM can provide uniform training guidance and maintenance standards for the operation of State-owned watercraft, and for the efficient mobilization of such vessels in times of emergency. As RADM David K. Shimp, Commander of the SCNM, observed, “We already have a number of [maritime] organizations...but we need an umbrella outfit that can pull their efforts together.”⁴⁸ A good example is to be found in New York.

New York State has about 70,000 miles of rivers and streams, and 9,767 miles of shoreline: 127 miles of Atlantic Ocean coastline, 8,778 miles of lake shoreline, 231 miles of shorefront on the Long Island Sound, 548 miles of bay front in the Long Island area, and 83 miles of shorefront on islands off Long Island. All of these have large population centers and many important installations and assets adjacent to them. Various State agencies—State (and local) police, fish and game services, environmental protection agencies, the State Parks Service, New York State Maritime College, and other such entities—own over 350 vessels, ranging from small craft, to patrol boats, to ferries. Shortly after the 9/11 terrorist attacks, the NYNM was tasked with developing coordinated plans for the use of these in an emergency.

As part of the need to support Homeland Protection, the NM established the New York State MEBS, which now has about a dozen small

48. Terry Joyce, “Sep 11 Attacks Point to Need for a NM,” *Charleston Post and Courier*, Apr 7, 2002.

vessels that maintain continuous surveillance of areas around critical infrastructure, such as bridges and the Indian Point Nuclear Power Station. MEBS also performs security duties and vessel escort during Fleet Week, and other public observances. It provides security for public festivities, such as the Fourth of July celebrations and for special events, such as national political conventions. It also has helped rescue boaters and vessels in distress. For some of these missions, MEBS has performed joint operations with the Coast Guard and the Coast Guard Auxiliary.⁴⁹

So, as stated by one source:

The NM is a cost-effective force by which a state may augment its organized militia, benefit from the service of personnel with unique skills not found in traditional NG units, enhance joint planning and training opportunities for organized militia members, and gain access to federal resources and facilities.⁵⁰

A NM is a “force multiplier” for the NG: it provides support in the maritime and riverine environment, thus filling a niche for which the latter is neither equipped nor trained, and it can assist the NG in training and during disaster relief and civil disorders. For example, as part of its mission to support the Ohio National Guard, the OHNM regularly enforces a 32-square-mile exclusion zone over portions of Lake Erie that are adjacent to Camp Perry, the State military training ground, in order to prevent intrusions into the camp's over-water firing range.⁵¹ The NJNM—which, like the OHNM, is not federally

49. RADM Rosen, telephone conversations, Nov 28, 2001, Sep 5, 2006; *NYNM News*, Apr-Jun 2003, p. 2. MEBS uses patrol craft ranging in size from approximately 22 feet to 40 feet; for pictures, see <http://www.dmna.state.ny.us/nynm/mebs.htm>. See also Robert H Pouch, “NYNM Helps Meet Surge Safety and Security Requirements,” *U.S. Naval Institute Proceedings*, Aug 2004 (Vol. 130, No. 8), pp. 43-44; Robert A. Rosen, “Signals from the Flag Bridge,” *NYNM News*, Winter 2004-2005, p. 23.

50. Alan W. Flenner, “The NM: An Authorized and Cost Effective Force Multiplier that Provides Incentives for Naval Reserve Retention” (unpublished research paper, United States Naval War College, College of Continuing Education, Nonresident Seminar Program, Mechanicsburg, PA., Apr 18, 2002), p. 11.

51. Douglas A. McClure, “OHNM Today,” http://www.sgaus.org/hist_onm.htm.

recognized—identified 23 separate missions that it could perform, including support to Federal, State, and local law enforcement authorities in coastal and inland waters, which are quite extensive in New Jersey.⁵² Indeed, only 3 days after the NJNM was formally reactivated within the SDF which occurred on September 13, 1999, elements were called up to help operate the emergency operations center established by the NG during Hurricane Floyd (September 16-25, 1999). During its first year of existence, elements of the NJNM were called to active duty on five separate occasions either for emergencies or to support other elements of the State military force.⁵³ During that time, the headquarters component of the NJNM, the NJNM Joint Command, was on active duty a total of 42 days, longer than any other component of the volunteer SDF.⁵⁴

Another factor in the recent revival of interest in the NM is the fallout from the “Total Force” reorganization of the Army and its Reserve components during the 1980s. This reorganization moved most combat service support resources from the Army National Guard to the Army Reserve, which in turn lost combat elements to the Army National Guard. The net result was that the NG lost the types of units that are most valuable to the State Government in times of emergencies, such as medical, engineer, and transportation battalions. By reinstating the NM, a state can draw upon the often-extensive resources of the Naval Reserve for help in these areas, as it once would have drawn upon those of the NG.⁵⁵

Upon the call of the Adjutant General or Governor, States that have a federally recognized NM can rapidly augment the National Guard,

52. Richard Gorish, “On the Horizon,” *The Helm*, Vol. I, No. 1 (Nov 4, 2000), p. 1, <http://www.state.nj.us/military/naval/docs/helm11-00.pdf>. Tulak, Kraft, and Silbaugh, p. 20, lists only 18 specifically NM missions, none of which overlap those “generally assigned to the SDFs [SDF]”, p. 19.

53. NJNM, *Annual Report 2000*, p. 13.

54. Beard, “NJNM,” p. 12.

55. Phone conversation, Lt. Col. Tim Donovan, HQ, Wisconsin Army NG. See “NM Isn't What You'd Think.” Also see, for example, the discussion in Lemorande, “WINM Study 2001,” pp. 3-4, regarding the potential value of a NM to the Naval Reserve hospital units in Green Bay, Madison, LaCrosse, and Milwaukee in responding to a disaster or other emergency.

SDF, and State Emergency Management Organization with personnel who have local knowledge and a vested interest in and a commitment to the well-being of the community. The State thereby gains the skills of these personnel and, with the approval of the Secretary of the Navy, the use of necessary materiel, equipment, and facilities, at state expense. Preparations for such situations can be made in advance through joint planning and training at the State level, which will improve reaction time and interoperability.

In contrast, procedures to permit Naval or Marine Corps Reserve personnel to provide aid to State authorities are complex, clumsy, and time consuming. Moreover, even when such assistance is supplied, problems invariably arise over questions of chain of command and financial responsibility. With a NM, there are no such issues: it serves directly under the Governor, through the Adjutant General, and the State foots the bill. Moreover, the bill is minimal except when the State calls the NM to active duty. In normal circumstances, State outlays for the NM amount to the cost of maintaining a central office; in New York State, the NM is administered on a full-time basis by a retired Reserve officer assisted by a Naval Reserve chief petty officer (CPO), both of whom are part of the Office of the Adjutant General. These personnel maintain such records as monthly roster updates, to facilitate the call-up of personnel in emergencies, and to ensure that NM-specific supplies, such as uniform identification badges, are available for call-ups to State service.⁵⁶

Of course, the State will have to foot the bill for a NM; however, this does not need to be very high—at least not when the personnel are not on State active duty. As has been demonstrated in all of the states involved, a capable NM can be maintained and administrated with relatively little expense. While no official figures are available, a decade ago the estimated cost to the State of maintaining the NYNM was \$100,000 a year. Adjusted for inflation, by 2006 this would amount to about \$136,000, which can hardly be considered excessive.⁵⁷ The

56. Robert A. Rosen, "The NM: Opportunity for State-Naval/Marine Corps Reserve Mutual Support" (unpublished briefing presented to Governor of Wisconsin), pp. 6-7.

57. Estimate for 1993, found in Mark D. Faram, "Another Way to Activate: NM Looks to Expand," *Navy Times*, Nov 22, 1993, p. 16.

much-smaller AKNM has no full-time staff and no State budget line items.⁵⁸ In 2001, the Wisconsin Joint Committee on Finance determined that the cost of reactivating that State's NM would be about \$393,500 in the first 2 years, but did not indicate future costs.⁵⁹ A 2003 study by the California Adjutant General's Office suggests that a NM could be formed for about \$250,000 a year.⁶⁰ Because the SCNM is actually funded by a special foundation, it will likely cost the State nothing at all.⁶¹

OHNM, which exists as a Title 32 SDF, normally costs the State nothing, as personnel serve on a purely volunteer basis. From time to time the State comes up with the funds to, for example, do maintenance on the NM's 44-foot Coast Guard motor lifeboat or feed on-duty personnel (e.g., during the 2003 State bicentennial observances).⁶²

Thus, even today, when many States are undergoing financially difficult times, the expenditure is modest and the potential payoffs are considerable.

How does the naval service benefit from the NM?

Of course the NM must benefit not only the individual States but also the naval service at large. The NM must make a significant contribution to the effective functioning of the Navy, Marine Corps, and Coast Guard.

58. Kerre L. Martineau, Deputy Chief, Public Affairs, Alaska Department of Military & Veterans Affairs, e-mail; Capt. Michele Stickney, telephone conversation, Sep 11, 2006; AKNM, *1997 DMVA Annual Report*, http://www.ak-prepared.com/dmva/97report/Naval_Militia.htm.

59. Wisconsin, Joint Committee on Finance, *Creation of a WINM*, Paper #606 (May 16, 2001), p. 4, available at <http://www.legis.state.wi.us/lfb/2001-03budgetdocuments/2001-03BudgetPapers/606.pdf>.

60. Jim Sanders, "State May be Getting New Militia," *Sacramento Bee*, Dec 19, 2004, <http://www.calguard.ca.gov/casmr/newmilitia.htm>; Gidget Fuentes, "California Officials Mull Resurrecting Naval Militia," *Navy Times*, Feb 14, 2005 (Vol. 54, Issue 20), p. 12; Kathleen Hunter, "Governors Captain State Naval Militias," *Stateline.org*, Jan 28, 2005.

61. RADM David K. Shimp, email, Sep 2, 2003.

62. RADM David Ozvat, email, Sep 29, 2006.

Retention

The NM can help retain discharged Navy and Marine Corps personnel who are in reserve status. For a variety of reasons, such personnel have often joined the NG rather than the Naval Reserve or Marine Corps Reserve. Also, many seasoned members of the Reserves have transferred to the NG. An obvious reason for such transfers is members' desire to serve their home state. Another is the relative dearth of Navy or Marine Corps Reserve units in many parts of the country.

A further motivating factor is that the available promotion opportunities are limited in the Reserve components of the naval services. A good example is the case of the former Adjutant General of New York, Maj. Gen. Lawrence P. Flynn. In 1973, after 26 years in the Marine Corps and the Marine Corps Reserve, including a tour as Acting Commander of the 25th Marine Regiment, then-Colonel Flynn was offered the opportunity to be the Director of Training for the NYARNG. After transferring to the ARNG, he rose to major general, and served as Commander, NYARNG, and Adjutant General of the State from 1986 to 1992. From 1989 on, he held a concurrent assignment on the staff of the Secretary of the Army as Chairman of the Army Reserve Forces Policy Committee. Maj. Gen. Flynn retired in 1992.⁶³

Navy and Marine Corps veterans have also joined the NG in order to take advantage of State tuition assistance programs and other benefits provided by various States to Guard personnel. In New York, personnel in the NM have the same access to these benefits as personnel in the NG. Since 1996, NYNM personnel have received more than \$3 million in tuition assistance from the State under the terms of New York's NG Tuition Incentive Bill, which provides 100 percent of the undergraduate tuition for qualified NYARNG, Air National Guard,

63. As a member of the ARNG, he served successively as Director of Training; Post Commander of Camp Smith; Chief of Staff, Deputy Commander, and then Commanding General of the NYARNG; and Adjutant General. Emails, Maj. Gen. Lawrence P. Flynn (Ret.), NYARNG, Aug 28, 2003 and Sep 8, 2003.

and NM members attending public universities and colleges in the state, and up to \$3,400 for those attending private institutions.⁶⁴

Improved training and skills maintenance

A NM can coordinate joint training between the State's NG and the Naval and Marine Corps Reserve forces, promoting jointness and interoperability, and providing for a smoother working relationship in the event that Reserve forces are ordered to support the NG in a local emergency.

In addition, personnel in the NM are likely to have broader experience and more practical training than most naval reservists. The relative frequency of State active-duty and volunteer missions permits them to apply their skills in real-world situations and thus gain more practical experience. In addition, much of this experience is in a joint environment, since the NM usually operates in cooperation with the NG.

NM personnel often have access to additional training, equipment, and facilities provided by the State, at its expense. For example, helicopter mechanics in the NYNM have serviced State-owned aircraft. In doing so, they have gained training and experience which they would not otherwise receive, as there are no helicopters available to the State's naval reservists.⁶⁵ A study conducted in 1946 concluded that Naval Reserve units with state affiliation (i.e., the NM) had a great advantage in readiness over units that lacked such ties.⁶⁶

NM personnel and equipment are available to provide training support to active and reserve components of the sea services. For example, in 1990, when a local Coast Guard Reserve Port Security unit was

64. For a discussion of benefits, see "NYARNG Educational System," <http://www.dmna.state.ny.us/education/index.htm>. That system applies to NM personnel as well.

65. Telephone conversation, ADM Rosen, Apr 16, 2001.

66. C.C. Payne, "Future of the Naval Reserve," *Proceedings*, Jun 1946, p. 714. While Payne's observation is more than 60 years old, and thus not necessarily valid for the present, it may provide some insight regarding the potential value of the NM to the naval service.

activated for Operation Desert Shield, 11 members of the OHNM provided training support. For their services, these men were later awarded the Special Operations Service Ribbon by the Coast Guard.⁶⁷

The NM also helps preserve what might be termed “legacy” skills. As the Navy acquires more modern systems, it will still need to service and operate older systems for many years to come. NM units, drawing their personnel from former active Navy personnel, can preserve skills that are no longer broadly available in the Active Force.

Support of the naval role in homeland defense and military assistance to the civil authority

Recent calls for a revival of the NM have, in fact, focused both on its potential value in supporting homeland defense and its usefulness in disaster relief and domestic emergencies.⁶⁸ This aligns well with the recent initiative to create Reserve NSF units in the Naval Reserve, potentially involving as many as 20,000 new Reserve Masters-at-Arms (MAs). Such new units would be ideal as a NM resource, available to the State or the Federal Government as needed.⁶⁹ A NM is a “force multiplier” that provides a bridge between Federal and State forces in an emergency, “fulfilling needs and providing capabilities where little or none existed before,” including liaison, local knowledge, and special services.⁷⁰

Moreover, when operating in their State capacity, personnel of the NM are *not* subject to the restrictions of the *Posse Comitatus* Act of

67. OHNM press release; ADM Ozvat, email, Apr 25, Jul 9, 2001.

68. Girardet, “A Naval National Guard?”; T.D. Beard III, Letter to the Editor, *Proceedings*, Jul 2002, p. 20; Joyce, “Sep 11 Attacks Point to Need for a NM”; Tulak, Kraft, and Silbaugh, “SDF,” *passim*. In this regard, it is worth noting that since the terrorist attacks of Sep 11, 2001, there has been a marked increase in volunteers for the approximately 25 SDFs across the nation. Mimi Hall, “Volunteer Backups To NG Growing After 9/11,” *USA Today*, Sep 8, 2003, p. 3

69. John Hastings McIver, “New Mission Area for Naval Reserve Force.” *Navy News Stand*, www.news.navy.mil, Story Number NNS030909-12, Sep 9, 2003.

70. Girardet, “A Naval National Guard?”

1878, which imposes limits on the use of Federal military forces in domestic law enforcement.⁷¹ Thus, active naval personnel who must not operate in a domestic environment, could be supported by NM personnel on State active duty.

An additional important benefit of a NM is that it responds to President George W. Bush's call for Americans to volunteer to support the Nation in the war on terror. A NM can provide valuable support to the Navy and the Coast Guard in homeland defense and security.

Increased public exposure of and support for the naval service

A NM increases public exposure of the naval service, and stimulates public support. In New York, people's awareness of the existence of the NM helped strengthen the demand for improving the benefits for military personnel called to active duty, whether State or Federal. One result of this was that on July 3, 2003, the Governor signed into law the "Patriot's Plan," which provides the most comprehensive benefits package in the nation for the State's military personnel and their families.⁷²

Naval Militiamen often voluntarily participate in parades, ceremonies, open houses, military funerals, and so forth. Activities have included helping to host OpSail 2000 and the annual Fleet Week in New York City, as well as other patriotic observances. State service by NM personnel often receives press coverage, particularly in local communities.

NM units help maintain relics that preserve and present the history of the naval service, such as USS *Slater* (DE-766), at Albany, NY, and USS *New Jersey* (BB-62), at Camden, NJ. Such activities help keep the public aware of the role and history of the naval service.

71. See U.S. Coast Guard Fact File, "Posse Comitatus Act"; and Felicetti and Luce, "The Posse Comitatus Act."

72. New York State, Executive Chamber Press Office, Jul 3, 2003, "Governor Pataki Marks the Fourth of July by Signing the New 'Patriot Plan' into Law," www.veterans.state.ny.us/PressReleases/2003/prgov03patriotplanjuly.htm.

In addition, NM units often provide support and training for JNROTC and other JROTC units and Sea Cadet programs.⁷³

How does the reservist benefit from the NM?

Service in the NM offers a number of benefits to the individual reservist. Like members of the NG, NM personnel have the satisfaction of directly serving their communities. They receive pay and insurance protection when on State active duty. In addition, they have access to the same State benefits as NG personnel, including tuition assistance programs, eligibility for State decorations and awards, and reimbursement for bridge, tunnel, and highway tolls incurred while traveling to and from training.

In addition, as already noted, NM personnel benefit from additional training provided by the State, which permits them to maintain and expand their professional status and skills.

How does the nation benefit from the NM?

Expanding the NM would benefit not only the states, the naval service, and the individual naval reservist/militiaman, but also the nation as a whole. An expanded NM would enhance the nation's capabilities in homeland protection, permit speedier response to domestic emergencies, and improve liaison between Federal and State forces when they are working together. In addition, the NM reaffirms the American tradition of volunteer service to community, State, and Nation.

73. NJNM, *Annual Report 2000*, pp. 12-13, 30; "Congressional Academy Night at Bayside HS," *NYNM News*, IV, 3 (Jul-Aug-Sep 2001), p. 5.

Some potential objections to having a NM

Depending upon the pattern adopted, there are some problems with having an NM based on the model that is used by New York, Alaska, and South Carolina, and being reactivated in Illinois.

More than two decades ago, Kevin R. Hart argued in *American Neptune* that the primary reason for the demise of the NM was that “it never demonstrated to the states any political advantage.”⁷⁴ This is a questionable conclusion. The same argument could be made with regard to much of the Air National Guard. To be sure, the transport elements of the Air National Guard can certainly provide important support to the civil authority in times of disaster or disorder. But unlike the combat components of the Army National Guard (such as infantry battalions) fighter squadrons have very limited utility for supporting the civil authority in natural disasters or domestic disorders. Yet one does not hear of any State offering to eliminate the combat components of its Air National Guard. Clearly, States feel they benefit from the presence of these organizations.

Another objection is that a NM’s missions more or less duplicate those of the Coast Guard and Coast Guard Auxiliary. This point has some legitimacy. After all, many of the potential missions of the NM—such as policing of waterways, search and rescue, and pollution control—are essentially Coast Guard functions. Yet despite the existence of one or even both organizations, many cities also maintain professional agencies that essentially duplicate these very same missions. For example, New York, San Francisco, and Boston have harbor police, search and rescue, and pollution control agencies that operate in waters officially under the jurisdiction of the Coast Guard, with which they often work

74. Kevin R. Hart, “Towards a Citizen Sailor: The History of the NM Movement, 1888-1898,” *American Neptune*, Oct 1973, p. 279.

rather closely. A NM could provide such support to Governors for use in areas of their States that do not have the local resources to usefully supplement those of the Coast Guard and other Federal agencies.

An obvious problem is that if the personnel of a federally recognized NM are called into Federal service they will not be available to the perform State missions. This same objection can be made with regard to the NG, and many States have addressed it by forming an SDF. The creation of a NM within the SDF, such as the OHNM or the Texas Maritime Regiment, would address this objection. A possible third solution, which we will discuss at some length later, would be to adopt the approach attempted in New Jersey: creating a bifurcated NM, in which some elements are federally recognized and some are within the SDF.

There may also be some bureaucratic objections to having a NM. Indeed, the “duplication” of administrative effort required to have both a Naval Reserve and a NM was one of the reasons cited by the Navy for more or less abandoning the NM following World War I.⁷⁵ Of course, in order to have a NM, a State will have to create some administrative apparatus and spend some money. As noted above, however, this is hardly a burdensome problem. The entire administrative staff of the NYNM consists of two full-time personnel in the New York Division of Military and Naval Affairs, with an attendant expense of perhaps \$136,000 a year—which can hardly be considered excessive.⁷⁶

One important objection, cited when the Navy began to downplay the NM in the World War I era, is what might be termed a propensity towards “National Guard Politics.” Personnel in the NM certainly did engage in political machinations. During World War I there were “numerous letters to the NM Board and the Secretary of the Navy...from governors and congressmen...requesting commissions and promotions for constituents in the NM.”⁷⁷ And there were

75. Booth, “Naval Militias,” p. 51.

76. Mark D. Faram, “Another Way to Activate: Naval Militia Looks to Expand,” *Navy Times*, Nov 22, 1993, p. 16.

77. Booth, “Naval Militias,” p. 49.

occasional untoward incidents even in the much-reduced NM of the interwar and the Cold War periods.⁷⁸ Nevertheless, such activity was hardly confined to the NM, or to the NG; even today, political figures have been known to try to influence the active Armed Forces with regard to promotions and assignments. While individual Naval Militiamen have occasionally cited incidents of political machination, petty favoritism, manipulation of assignments, and undue pressures to participate in otherwise voluntary activities, such actions are hardly unknown in the active Armed Forces. Moreover, the (bogus) complaint made by the Regular Army about the NG, that it “never quite measures up,” was never made by the Navy about the NM in either World War.⁷⁹ Indeed, quite the contrary was the case.⁸⁰ And the NM has continued to receive high praise from many sources for its services in response to the 1996 TWA Flight 800 disaster and the September 11, 2001, terrorist attacks on the World Trade Center.⁸¹

In short, the benefits of having a NM seem to greatly outweigh any possible negative developments.

78. M. L. Krulewicz, “Skirmish on the Hudson,” *Marine Corps Gazette*, Sep 1972, pp. 47-55; “Switch in Party Cost S.I. Chief Naval Post,” *New York Times*, Jul 14, 1973, p. 26.

79. The reputation of the NG as an ineffective, inferior, politically oriented force is belied by the results of periodic reviews of the efficiency of Guard officers. Officer review boards during both world wars ejected Regular and Reserve officers from the service at rates proportionally greater than those for Guard officers. See, for example, Mark Skinner Watson, *Chief of Staff: Prewar Plans and Preparations* (Washington: Center of Military History, 1991), pp. 240-247, paying particular attention to the statistics on p. 246, which point out that boardings of Regular and NG officers upon mobilization in 1940-1941 resulted in the discharge of far fewer Guardsmen than Regulars.

80. See, for example, the comments by Assistant Secretary of the Navy Franklin D. Roosevelt and the captain of the battleship *Alabama* (BB-8) cited in Waters, Johanson, and Chaloupka, “U.S. Naval Reserve,” pp. 79, 82.

81. See, for example, CAPT C.B. Shaw, USN, Commanding Officer, Naval Weapons Station Earle, Citation, Lieutenant Richard C. Strucket, NJNM Joint Command; Roger Lee Crossland, “Irregulars: A Natural Hedge,” *Proceedings*, Sep 2006, pp. 70-74.

How should the NM be reactivated?

Although it has not reached the level of a national debate, since the September 11, 2001, terrorist attacks on the World Trade Center and the Pentagon, there has been growing interest in both civilian and military circles of reviving the NM as an effective way to support the maritime defense of the homeland. Articles on that topic have appeared in professional naval literature, such as *Proceedings*.⁸²

There are three possible models for a NM.

The “traditional” model is found in New York, Alaska, and South Carolina, and is being instituted in Illinois as well. These forces are analogous to the NG. Virtually all personnel have a Federal service obligation and therefore are liable to be called to active duty with the Navy, Marine Corps, or Coast Guard. Under normal circumstances, the resources available to a Governor with such an organization in his military forces would be formidable. But considerable disruption would result if the NM, having been called to State active duty, were suddenly called to Federal active duty, and thereby leave the State with no maritime resources. This is analogous to the difficulties in balancing the State and Federal obligations of the NG, and is precisely why about half the States have created an SDF.

82. See, for example, Girardet, “A Naval National Guard?”; T.D. Beard III, letter to the editor, *Proceedings*, Jul 2002, p. 20; Joyce, “Sep 11 Attacks Point to Need for a NM”; Chuck Haunss, “The NYNM: New York’s Naval Guard,” *Naval Reserve Association News*, Oct 2004, pp. 13-20; Roger Lee Crossland, “Irregulars: A Natural Hedge,” *Proceedings*, Sep 2006, pp. 70-74.

The second model for a NM is that used by Ohio and Texas. These organizations exist as a part of the SDF, under Title 32 of the U.S. Code.⁸³ All training and equipment must be provided by the State, and while standards can be high, there is no integration with the active Navy. In a major emergency that requires close coordination and cooperation with the active Navy and other military services, such as a seaborne terrorist attack, this could prove a costly failing.

The third model for the NM was developed by New Jersey. The NJNM has encountered administrative, organizational, political, and other difficulties that have hampered its activation. As originally proposed, it was intended to have two military components, one with a dual Federal-State military obligation, like that of the NYNM or AKNM, and the other existing wholly within the SDF, as in Ohio and Texas. It was also meant to have a supporting body of volunteer personnel with no military obligation. Thus, altogether, NJNM Joint Command (NJNM-JC) was to comprise the following units:

- 1st Battalion: Active members of the Naval, Marine Corps, and Coast Guard Reserves, with a dual State-Federal service obligation
- 2nd Battalion: Largely recruited from personnel with prior military service, but strictly a component of the New Jersey SDF, with no Federal Reserve obligation
- 3rd Battalion: Civilian volunteers with no military service obligation who would perform administrative and auxiliary duties, such as management of the State naval museum.

83. It is widely believed that SDFs cannot be called into Federal service. Nevertheless, as elements of the militia, they appear to be subject to Article I, Section 8 of the Constitution. This includes the "Militia Clause," which empowers Congress "to provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions," a power which has been delegated to the President by an act of Feb 28, 1795; see 1 Stat. 424 (1795), 10 U.S.C. Sec. 332. Although 32 U.S.C. 109 provides that SDFs "may not be called, ordered, or drafted into the armed forces," this seems to contradict the militia clause. This is perhaps, only a theoretical issue, but one that might require judicial clarification.

Although the operations of the NJNM were effectively suspended in 2002, this was due to a failure to lay a proper legal, administrative, financial, and political foundation for the force, and does not necessarily demonstrate that the initial vision was inherently flawed.

The “bifurcated” model (of separate State and Federal NM units) would permit greater integration between the active Navy and the NM. The state, at its expense, can coordinate the activities of the federally recognized NM personnel with those of the maritime component of the SDF. If federally recognized personnel were called to active duty in the event of a natural emergency or terrorist attack, they would work alongside personnel from the maritime component of the SDF. And if the federally recognized personnel were out of State and active Navy personnel had to work with the SDF personnel in a domestic emergency, they would have a greater degree of interoperability. The smooth working relationship established between the NJNM and elements of the Coast Guard, Navy, and NG in the aftermath of the September 11 attacks, suggests that the “bifurcated” approach eases friction when State civil, police, and military agencies are required to work in conjunction with elements of the Navy and other military services.⁸⁴

An additional benefit of the “bifurcated” model is that it would leave the State with some naval resources for domestic emergencies if the Federal components were called to active duty. This would be in marked contrast to the post-9/11 situation in Alaska, when most of the members of the AKNM were called into Federal service and the State effectively had no NM left.⁸⁵

Activating a NM

Although the NM has been largely dormant for most of the past 85 years, remarkably little effort would be required to restore it to a significant role as one of the Reserve components, making it more fully the naval equivalent of the NG. The institution is already covered by

84. T.D. Beard III, letter to the editor, *Proceedings*, Jul 2002, p. 20.

85. CDR Alyson Cooper, Alaska NM, Sep 18, 2003.

Chapters 13 and 659 of Title 10 of the United States Code, and dual Federal-State status is provided for by the regulations of the Naval Reserve, the Marine Corps Reserve, and the Coast Guard Reserve.⁸⁶ Even States and territories that do not make specific provision for a NM in their constitutions, have the implicit authority to raise one under the militia clauses in their constitutions. So, the principal obstacle to raising a NM is usually legislative, rather than constitutional. An examination of the legal status of the NM reveals that most States and territories do not have legislation on the books permitting its activation, and those that have appropriate legislation must take action to implement it.⁸⁷

Because of these differences, the process of re-establishing the NM would necessarily vary from State to State. About 18 states would need only to implement existing enabling legislation and conclude the necessary memoranda of understanding with the Naval Reserve, Marine Corps Reserve, and Coast Guard Reserve. Other States would require considerable legislative activity, which could be a drawn-out and perhaps contentious undertaking. As recent experience has demonstrated, however, the principal obstacles to re-establishing the NM are organizational and political, rather than legal.

Efforts by several States to establish or reactivate a NM have met with various results. On the following pages, we will discuss these efforts as well as their successes and the roadblocks they faced.

New Jersey⁸⁸

The NJNM was originally activated in 1895, and disbanded in 1963. In September 1999, Governor Christine Todd Whitman approved a proposal by the State Adjutant General, Maj. Gen. Paul Glazar, to reactivate the NJNM as a joint command with the New Jersey State Guard, the NJNM-JC. The intention was to develop a rather unique approach

86. Flenner, "The Naval Militia," pp. 3-5.

87. See the appendix, "Current Status of the NM by State and Territories."

88. The following is compiled from a variety of sources, including personal communications, reports of the NJNM Foundation, and official documents.

to NM, with up to 3,000 reservists and volunteers, organized into Federal reservists, State guard, and civilian components.⁸⁹

Literally within days of its official establishment, the handful of personnel who at that time made up the NJNM-JC were called to State active duty to help operate an emergency operations center established by the NG during Hurricane Floyd (September 16-25, 1999). This confirmed the value of the NM to the State, and by mid-2001, the NJNM-JC had about 85 active personnel. Shortly thereafter, New Jersey Naval Militiamen were prominent in the State response to the September 11, 2001, terrorist attacks on the World Trade Center. In the course of the emergency, during which membership increased to about 265, NJNM-JC personnel were on State active duty for 292 days. While on active duty, these personnel assisted in the waterborne evacuation of Lower Manhattan; provided first aid, psychological, and religious counseling to survivors and emergency workers; conducted ground and water security operations at critical infrastructure and military installations; and performed many other missions.⁹⁰ By mid 2002, the NJNM-JC numbered nearly 300 personnel and was equipped with six small patrol boats. Shortly after that, however, administrative and political problems arose that have rendered the organization inactive.

A new Governor, John McGreevey, took office in New Jersey in 2002. Soon thereafter, all recruitment for the NJNM-JC was suspended by the newly appointed Adjutant General. In August 2002 this suspension was followed by orders to “stand down” the organization.⁹¹ The reasons cited by the Adjutant General for these actions included the following:⁹²

- As organized, the NJNM-JC was “not compliant with regulations outlined in Navy and Marine Corps agreements which formed

89. This is discussed further, on pages 39ff.

90. The role of both the New Jersey and New York NMs in “Ground Zero” operations were discussed at some length above.

91. Ms. Ellen Fruscione, HQ, NJNM; Beard, email, “NJNM,” p. 12, and <http://www.state.nj.us/military/naval/index.html>. CDR William H. Schmidt, JAG, NJNM, email, Sep 15, 2003, Sep 5, 2006; Beard, telephone conversation, Sep 7, 2006.

92. Correspondence from BGEN Glenn K. Rieth, Adjutant General, to the Honorable Peter A. Inverso, New Jersey Senate, Nov 20, 2002.

the basis for the activation regarding the structure of the organization.”

- There was no process for security or background checks on any of the members.
- The NJNM-JC did not adhere to Navy or Marine Corps standards regarding medical issues or weight requirements.
- The State lacked funding for training, equipment, and supplies.

Many supporters of the NJNM-JC argue that the motivation for these actions was political and personal, citing differences between the Whitman and McGreevey administration’s political parties, and personal animosities between the outgoing and incoming Adjutant Generals. There may be an element of truth to these arguments. Nevertheless, the issues cited by the Adjutant General carry some weight. Although the NJNM-JC was formed with the best of intentions, the unique organizational concept embodied in it, with its Federal, State guard, and civilian components, seems to have required more careful thought in order to avoid problems over compliance with Navy and Marine Corps regulations and Federal legislation. The absence of background checks and laxity in physical standards seem to have resulted from the rapid expansion of the NJNM-JC as a result of the events of 9/11. The question of funding may, or may not, be viable.

The NJNM-JC is still a part of the SDF; however, since being ordered to stand down, it appears to have been maintained largely as a volunteer organization. Individual members have voluntarily performed various duties, such as providing chaplain services at Ft. Dix and attending military funerals.⁹³ Meanwhile, a NJNM Foundation has been established, to promote the idea of reactivating the state's NM. There has been some progress in this regard. In mid 2004, then Acting Governor Richard J. Codey and the legislature requested that the New Jersey Department of Military and Veteran Affairs prepare a “feasibility report” on the NM, which was issued in the spring of 2005.

93. Donohue, “The Navy That's Been Put on Ice.”

Prepared by an independent committee of military and law enforcement personnel, the report praised the work of the NJNM-JC during the events following 9/11, and concluded that there was definitely a mission for the organization, which could be a “formidable force multiplier” in the area of homeland security. Then, in January 2006, the State Military and Veterans Affairs Policy Transition Committee recommended that then Governor-Elect Jon Corzine open enrollment to the NM component of the State Military Forces to drilling U.S. Navy, Coast Guard, and Marine Corps reservists. This was an important step toward re-establishing a federally recognized NM.⁹⁴

The experience of the NJNM-JC points out the need to educate the public about the concept and purposes of a NM, and to take great care in laying the legislative and organizational foundations for a NM.

Wisconsin

The WINM was originally formed in 1909 and disbanded in 1995. In May 2000, the Wisconsin Department of Military Affairs initiated a study of the possible benefits of reinstating the NM. The “WINM Study 2001” was completed in the spring of 2001. The report noted that a revived NM would greatly enhance Wisconsin’s emergency medical response capability, since the State had four Naval Reserve hospital units with personnel who were trained in emergency medical treatment. A follow-up study done for the Wisconsin Joint Committee on Finance determined that the cost of reactivating the State’s NM would be about \$144,800 in its first year and \$162,800 in its second year. After consulting with the State Adjutant General and with RADM Robert A. Rosen⁹⁵ of the NYNM, Wisconsin Governor Tommy

94. See, New Jersey, Report of the Military and Veterans Affairs Transition Policy Group, Jan 10, 2006, pp. 7, 25.

95. RADM Robert A. Rosen (O-7) joined the NYANG in 1959 and was commissioned shortly afterwards. He served in a variety of assignments, including Air Force Academy Liaison Officer for the New York City area and liaison officer from the Secretary of the Air Force to the Chief of Information, U.S. Navy. In 1980, having completed 21 years in the Air National Guard and Air Force Reserve, he transferred to the U.S. Naval Reserve at the request of the Secretary of the Navy. He retired from the Naval Reserve in 1990 with the rank of captain (O-6). In 1995 he was appointed Commander of the NYNM.

Thompson included a proposal to reactivate the NM in his 2001 legislative message. A bill was promptly introduced into the State legislature. Although the bill passed the assembly by a very wide margin in November 2001, it failed in the senate. Several subsequent attempts to revive the NM in the State were also defeated in the senate.⁹⁶

A number of factors seem to have hampered the revival of the WINM. Some legislators and their constituents are openly mistrustful of the estimated cost as determined by the Joint Committee of Finance. Some opposition seems to have been based on the belief that, as one newspaper put it, "States should not have to jump through unnecessary hoops or create unnecessary bureaucratic entities in order to use federal troops to respond to state emergencies and to get the appropriate aid," suggesting that what was really needed was for Congress to repeal the *Posse Comitatus* Act of 1878. In addition, some resistance seems to have derived from popular aversion to the word "militia," and it proved difficult to overcome. At one point, a supporter of the proposal suggested that the organization be designated the "Wisconsin Naval Guard," to be analogous with the Air Guard and the Army

96. This discussion is based on telephone conversations with RADM Robert Rosen and CWO Patrick McCoy, NYNM, Apr 10, 2001; LTC Tim Donovan, Wisconsin Army National Guard, Apr 11, 2001, Sep 2, 2003; and COL Larry Olson, USA., (Ret), Sep 2, 2003, Sep 19, 2006. Additional input derives from William J. Lemorande, "WINM Study 2001" (Unpublished report for the Wisconsin Adjutant General, 2001); "NM Isn't What You'd Think," *Appleton Post-Crescent*, Apr 29, 2001; Cliff Miller, "State NM Plan on Deck," *Appleton Post-Crescent*, Oct 31, 2001; Pete Millard, "Terrorist Threat Revives Proposal for WINM," *Business Journal of Milwaukee*, Nov 2, 2001; and Jessica Hansen, "Revived NM Could Have Varied Roles," *Milwaukee Journal Sentinel*, Nov 4, 2001. For the original legislative proposal, see Wisconsin, Joint Committee on Finance, Creation of a *Wisconsin Naval Militia*, Paper #606 (May 16, 2001), <http://www.legis.state.wi.us/lfb/2001-03budgetdocuments/2001-03BudgetPapers/606.pdf>. The most recent proposal was Wisconsin Assembly, Bill 533, Jul 5, 2005, "An Act...relating to: creating the WINM and making an appropriation," <http://www.legis.state.wi.us/2005/data/AB-533.pdf>. It was tabled in committee.

Guard, as a way of avoiding distasteful associations with recent self-proclaimed “militia” movements.⁹⁷

But, even though their most recent effort to revive the institution died in committee in late 2005, supporters of the WINM seem to remain optimistic.

South Carolina⁹⁸

In the aftermath of the September 11, 2001, terrorist attacks, a campaign was initiated in South Carolina to establish a force that could augment the Coast Guard in providing maritime security along the State’s extensive coastal waterways. Bipartisan support was secured in the State legislature, and on July 31, 2003, Governor Sanford signed into law the “South Carolina Maritime Security Act of 2003.” This laid the legal and organizational foundations for the reactivated “SCNM” to support the USCG maritime homeland security mission in State waters.⁹⁹

97. “Sail Away, NM,” editorial, *Capital Times*, Oct 26, 2001; William Lemo-rande, email, Sep 2, 2003; COL Larry Olson, USA (Ret.), telephone, Sep 19, 2006. On *Posse Comitatus*, (18 USC 1385), see U.S. Coast Guard Fact File, “*Posse Comitatus* Act,” <http://www.uscg.mil/hq/g-cp/comrel/fact-file/Factcards/PosseComitatus.html> and Gary Felicetti and John Luce, “The *Posse Comitatus* Act: Setting the Record Straight on 124 Years of Mis-chief and Misunderstanding Before Any More Damage is Done,” *Military Law Review*, Vol. 175, 86-183.

98. What follows is based on discussions with RADM David K. Shimp, SCNM, and the South Carolina Maritime Security Act.

99. Although raised as a Title 10 force, the SCNM is to receive no State funds. Routine expenses will be met by a foundation established to support the organization; RADM David Shimp, email, Sep 2, 2003.

The bill established a nine-member “South Carolina Maritime Security Commission” to oversee the SCNM.¹⁰⁰ The Maritime Security Commission proceeded to develop the ground rules for the new SCNM. It worked closely with the Coast Guard Captain of the Port and District Commander, to ensure smooth operational integration with the Coast Guard. The commission developed the regulations for the SCNM and helped fine-tune legal details.¹⁰¹ As a result, in August 2006, David K. Shimp was appointed Commander of the SCNM with the rank of rear admiral; thus, the new institution rested on a very firm organizational foundation.¹⁰²

The SCNM consists of:

- The SCNM staff
- The SCNM Military Division: volunteer USN, USMC, and USCG reservists who serve in the SCNM when not under orders to serve on active duty, as well as volunteer USN Fleet Reserve personnel, and volunteer retirees and veterans of naval services
- The SCNM Merchant Marine Division: licensed mariners, including personnel of the Volunteer Port Security Force (VPSF),¹⁰³ and other volunteer USCG-licensed U.S. Merchant Marine officers and USCG-certified seamen

100. Four of the members are *ex officio*: the Chairman of the State Ports Authority, or a designated member; a chief of police and a fire chief, selected from port communities; and a representative of the South Carolina Department of Natural Resources Law Enforcement Division. Five of the members are appointed by the Governor from persons residing in the State: a representative of the commercial maritime community, a retired USCG Captain of the Port, a retired U. S. Navy or Navy Reserve O-6 or higher, a retired USMC or Marine Corps Reserve O-6 or higher, and a retired USCG or Coast Guard Reserve O-6 or higher. Police and fire representatives serve one-year terms, and the position rotates among the local communities as determined by agreement among the chiefs of police or fire chiefs. Persons appointed by the Governor serve six years.

101. Despite this, work still needs to be done on such details as liability for line-of-duty injuries; RADM David K. Shimp, email, Sep 6, 2006.

102. RADM David K. Shimp (O-7), a 1976 graduate of the U.S. Naval Academy, is a retired captain in the U.S. Navy.

- The SCNM Support Division: volunteer citizens who assist the SCNM shoreside.

When fully activated, the SCNM is expected to consist of about 500 personnel. The SCNM Military Division is composed largely of federally recognized Naval Militiamen. The Military Division is under the ADCON of the State, but is chopped to the OPCON of the Captain of the Port of Charleston. These personnel support the CG on request, in a variety of ways, such as serving on staffs, assisting with C2 operations, and providing specialized skills not readily available among local CG personnel.

The experiences in the both New Jersey and Wisconsin include some useful lessons for proponents of reestablishing the NM. Enthusiasm is not enough. Success also calls for careful and meticulous preparation, including the education of the public and its representatives. The concept of a NM, and the benefits it can bring to a State through its unique capabilities, must be clearly spelled out. The costs must also be made clear. In addition, great attention must be paid to the establishment of a firm administrative foundation. The process that South Carolina followed when it reestablished its NM provides some useful lessons.

103. The VPSF was originally formed during World War II. It was revived by the Maritime Association of the Port of Charleston after 9/11, and has since been incorporated in SCNM. The VPSF has 83 “units” (mostly vessels, but including some shore-based installations, such as marinas), which perform “neighborhood watch” activities, keeping an eye on things to help the Coast Guard maintain maritime domain awareness.

Some further thoughts

If the States are to gain the fullest benefit from expanding the NM, they must take several important steps.¹⁰⁴

First, States should establish:

- A joint planning cell in their Adjutant General's office, which will bring together personnel from all branches of the state military forces, Title 32 as well as Title 10, to ensure smooth integration in the preparation and execution of missions
- A standing joint C2 structure, to include non-military security and public safety organizations
- A statewide communications network linking all elements of the State military forces and public security organizations
- Memoranda of understanding with local elements of the Armed Forces, including the Coast Guard
- Memoranda of understanding with neighboring States, to establish liaison procedures that will facilitate mutual support in emergencies.

In addition, working as individuals, members of the NM should create an umbrella national association open to both Title 10 and Title 32 personnel, as well as interested citizens. This would permit NM personnel from different States to share ideas, to develop common practices for situations where established guidelines are not uniform, and to get to know each other before they have to work together in a potential operation. Such an organization would be very useful in enhancing the effectiveness of the NM, not to mention promoting its role in national security.

104. What follows is based on conversations with RADM Robert A. Rosen, NYNM; RADM David K. Shimp, SCNM; and other persons with an interest in the NM.

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Conclusion

Restoring the NM seems to be a viable option at a time of increased concern over homeland security and increased calls upon the Reserve components. Not only would reactivating the NM be a way to improve the personnel resources of the sea services, but it would also serve the domestic military needs of the States. The NM provides maximum benefits to both the State and the sea services, at little risk, insignificant additional expense, and minor administrative inconvenience.

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Appendix: Current status of the NM by State and territory

Note: This list includes only States and territories with sea coasts or substantial navigable waterways.

- Alabama: Legal provision exists, not active¹⁰⁵
- Alaska: Active, with Federal/State status¹⁰⁶
- American Samoa: No enabling legislation
- Arkansas: No enabling legislation
- California: Legal provision exists, not active: enabling legislation under consideration¹⁰⁷
- Connecticut: Legal provision exists, not active¹⁰⁸

105. Alabama, Code, Title 31, Chapter 2, Section 1, <http://www.legislature.state.al.us/CodeofAlabama/1975/coatoc.htm>.

106. Alaska Statutes, Title 26, Chapter 5, Section 10, <http://www.touchngo.com/lglcntr/akstats/Statutes/Title26.htm>. Additional information provided by Kerre L. Martineau, Deputy Chief, Public Affairs, Alaska Department of Military & Veterans Affairs.

107. California Military and Veterans Code, Part 1, Chapter 4, Sections 280-301, NM, <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=mvc&group=00001-01000&file=280-301>. For the proposed new NM, a see: Jim Sanders, "State May be Getting New Militia"; Fuentes, "California Officials Mull Resurrecting NM," and Hunter, "Governors Captain NMs." (All were cited earlier.) On Jul 4, 1976, an organization termed the "NM" was activated in the Adjutant General's Office, to provide legal advice on military and naval matters to the Military Department of California, which does not perform NM missions. See Mark J. Denger, "California Naval History: History of California State Naval Forces," <http://www.militarymuseum.org/CNM.html>. In 1994 the State established the California Center For Military History NM Research, <http://www.homestead.com/calsmrnavhis/smrwelcome.html>.

108. Connecticut, State of, Public Act No. 99-13, An Act Concerning Revisions to Statutes Governing the *State Military Department*, <http://www.cga.state.ct.us/olr/1999pas/139.htmUU>.

- Delaware: No enabling legislation
- District of Columbia: No enabling legislation
- Florida: Legal provision exists, reactivation proposed¹⁰⁹
- Georgia: Legal provision exists, not active¹¹⁰
- Guam: No enabling legislation
- Hawaii: Legal provision exists, reactivation in progress¹¹¹
- Illinois: Legal provision exists, reactivation in progress¹¹²
- Indiana: Legal provision exists, not active¹¹³
- Kansas: Legal provision exists, not active¹¹⁴
- Kentucky: No enabling legislation

109. Florida Statutes, Title XVII, Military Affairs, Chapter 250, Section 4, NM; marine corps, <http://www.flsenate.gov/Statutes/index.cfm>. The FLNM was active for three short periods, 1897-1903, 1911-1917, and 1934-1941; *FLNM*, 1898-1941 (St. Augustine, FL: Florida Division of Military Affairs, 1991); Florida, Department of Military Affairs, Florida's Army, Chapter 1, <http://www.dma.state.fl.us:/dma/dmaweb/flarmy.htm>.

110. Georgia, Official Code, Title 38, Chapter 2, Subsection (10), as amended, http://www2.state.ga.us/Legis/1999_00/leg/fulltext/hb527.htm. See also James H. Wilbanks, "GANM: Still Authorized, Still Ignored, and Still Disbanded," <http://www.inet-systems.com/hissoc/pages/ganavy.htm>.

111. Hawaii State Militia Laws, http://www.capitol.hawaii.gov/hrscurrent/Vol03_Ch0121-0200D/HRS0123/HRS_0123-0001.htm. A NM was formed in 1915, entered Federal service in 1917 with a total of 50 men, but was not reformed after World War I; see Charles Lanioreaux Warfield, "History of the Hawaii NG From Feudal Times to Jun 30 1935" (Unpublished M.A. thesis: University of Hawaii, 1935), pp. 69-70.

112. Illinois State University Policy on Military Leave, including for the NM, <http://www.policy.ilstu.edu/policydocs/leaves.htm>, and ILNG and NM Scholarships, <http://www.uic.edu/ucats/cat9901/FA.html#IDFA.1.9.5>; Illinois, Office of Governor Rod R. Blagojevich, Executive Order 2006-02, Authorizing the ILNM, Jan 19, 2006, <http://www.illinois.gov/gov/exe-corder.cfm?eorder=45>

113. Indiana Code, 10-16-13, www.in.gov/legislative/ic/code/title10/ar16/ch13.html.

114. Kansas Administrative Code, 75-2935f (g), <http://da.state.ks.us/itec/ITECStatute75-2935f.htm>

- Louisiana: Legal provision exists, not active¹¹⁵
- Maine: Legal provision repealed in 1987¹¹⁶
- Massachusetts: No enabling legislation
- Maryland: No enabling legislation¹¹⁷
- Michigan: Legal provision exists, not active¹¹⁸
- Minnesota: No enabling legislation¹¹⁹
- Missouri: Legal provision exists, not active¹²⁰
- New Hampshire: Legal provision exists, not active¹²¹

115. Louisiana, Revised Statutes, Title 29, Military, Naval, and Veterans' Affairs, <http://www.legis.state.la.us/>.

116. Maine, Statutes, Title 37-B: Defense, Veterans, and Emergency Management, Chapter 3: Military Bureau, Subchapter 4: Special Provisions Governing State Military Forces Other than the NG, §223. NM, <http://janus.state.me.us/legis/statutes/37-B/title37-Bsec223.html>.

117. On Feb 4, 2005, RADM Robert A. Rosen, NYNM, hosted a briefing on the NM for Maj. Gen. Bruce Tuxill, Adjutant General of Maryland, and members of his staff; Robert A. Rosen, "Signals from the Flag Bridge," *NYNM News*, Winter 2004-2005, p. 2. Formed in 1895, the MDNM saw service in the Spanish-American War and World War I. Following the war, one Naval Reserve unit was designated "NM, but does not seem to have actually served as a NM. A "MDNM (Baltimore Brigade)" existed in the mid 1970s, but its status is not clear. See Merle T. Cole, "MDNM, 1891-1940," *Maryland Historical Magazine*, Spring 1994, pp. 56-71; "Military Badges by Booker," <http://www.militarybadges.info/>.

118. Michigan Compiled Laws Complete Through PA 114 of 2003, Chapter 33, NM, <http://www.michiganlegislature.org/mileg.asp?page=getobject&objName=mcl-chap33>.

119. The former enabling legislation was repealed; see Minnesota Statutes 2002, Chapter 194, NM, <http://www.revisor.leg.state.mn.us/stats/194/>

120. Missouri, Revised Statutes, Chapter 41, Military Forces, <http://www.moga.state.mo.us/statutes/C000-099/0410100.HTM>. See also Timothy R. Roberts, p. 15.

121. New Hampshire, Revised Statutes, Chapter 110 B, The Militia, Section 1, Composition of the Militia, V, <http://www.gencourt.state.nh.us/rsa/html/VIII/110-B/110-B-1.htm>.

- New Jersey: Active, with Federal/State status¹²²
- New York: Active, with Federal/State status¹²³
- North Carolina: Legal provision exists, not active¹²⁴
- Ohio: Active in the SDF¹²⁵
- Oregon: No enabling legislation
- Pennsylvania: Legal provision exists, not active¹²⁶
- Puerto Rico: No enabling legislation
- Rhode Island: Legal provision repealed¹²⁷

122. The NJNM was originally activated in 1895, disbanded in 1963 and reactivated in 1999. Its current legal status is in some doubt. See earlier discussion, and Beard, "NJNM," p. 12; <http://www.state.nj.us/military/naval/index.html>.

123. New York State Senate, NM Legislation, 1998, <http://gopher.senate.state.ny.us/Docs/sofl/VET/VET029.html>.

124. North Carolina General Statutes, Chapter 127A, Militia, Article 1. § 127A-4. Organized militia; NM, http://www.ncleg.net/statutes/generalstatutes/html/bychapter/chapter_127a.html.

125. The OHNM, was formed in 1896, then effectively disbanded when most of its personnel were activated for World War II. In 1977, the State legislature passed an enabling act to revive the institution, and it was reactivated by the State Adjutant General the following year, as a component of the organized militia of the state. See http://www.sgaus.org/hist_onm.htm; email, Dave Ozvat, Rear Adm, C/O OHNM, Mar 21, 2001, Apr 18, 2001; OHNM information sheets.

126. Pennsylvania Consolidated Statutes, Title 51, Chapter 3. State Representative Will Gabig (R, Carlisle), a Naval Reserve JAGC officer, has proposed reactivation of the Pennsylvania NM; Flenner, e-mail, Sep 18, 2003.

127. Originally formed in 1891, the RINM was not reactivated after World War I, and authorizing legislation was subsequently repealed. The Governor may, however, appoint "naval aides," who rank as rear admirals in the RINM; "Dr. Robert F. Delaney," www.noazark.org/Company/organization.htm.

- South Carolina: NM activated under legislation adopted in 2003¹²⁸
- Tennessee: No enabling legislation
- Texas: No enabling legislation; the SDF includes a maritime element¹²⁹
- Vermont: No enabling legislation
- Virgin Islands: No enabling legislation
- Virginia: Enabling legislation in 1998; reactivation under study¹³⁰
- Washington: No enabling legislation
- Wisconsin: Enabling legislation pending¹³¹

128. Originally formed in 1892, the SCNM was not reformed after service in the First World War. The “South Carolina Maritime Security Act” of 2003 has re-established the NM (See South Carolina State Legislature, H3713, www.njnavy.com/South%20Carolina%20Maritime%20Security%20Act.htm).

129. A “Texas Maritime Regiment” does exist in the Texas State Guard. See “Texas Maritime Regiment,” http://www.txsg.state.tx.us/txsg_web_site_009.htm.

130. On Mar 11, 1998, the Virginia, State Legislature passed “An Act to amend and reenact § 44-60 and 65.2-101 as it is currently effective and as it may become effective of the Code of Virginia, relating to the VANM” [H 459]; see <http://leg1.state.va.us/cgi-bin/legp504.exe?981+ful+CHAP0052>. No personnel have been enrolled.

131. When considering including a request to re-activate the WINM in his annual legislative message, the State Governor received a briefing on the nature and work of the NM from RADM Robert Rosen, Commander, NYNM. Private communications, RADM Robert Rosen, Apr 10, 2001; CWO Patrick McCoy, NYNM, Apr 10, 2001; Lt. Col. Tim Donovan, Wisconsin Army National Guard, Apr 11, 2001. See also “NM Isn't What You'd Think,” *The Appleton Post-Crescent*, Apr 29, 2001, available at <http://wisinfo.com/centralwisconsinsunday/opinion/042901-2.html>. For the current legislative proposal see Wisconsin, Joint Committee on Finance, Creation of a WINM, Paper #606 (May 16, 2001), available at <http://www.legis.state.wi.us/lfb/2001-03budgetdocuments/2001-03BudgetPapers/606.pdf>.

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