

## Written Testimony of Lawrence D. Wood

### in opposition to HB152s authority of the adjutant general

My name is Lawrence D. Wood, age 64, a resident of Alaska 63 years. My address is 4750 Wolverine Rd., Palmer, Alaska. I am married 45 years to Lydia Wood, a retired elementary teacher of 27 years with PRWS RSD, and ASD. We are residents of House District 11. We have three grown children who live with their families and work in Alaska. We have 7 grandchildren, 5 of whom live in Alaska. My business is mining, environmental reclamation and writing. My father was a former Alaska Territorial and Alaska State Police Officer and my grandparents came to Alaska with the Bureau of Reclamation in 1952 for the construction of the Eklutna Power plant. My grandparents and my parents are buried here.

I am former Air National Guard, Army National Guard, Army Reserve, Civil Air Patrol, Alaska State Defense Force (ASDF), and presently a volunteer with the United States Coast Guard Auxiliary. I was awarded the Alaska Homeland Defense Medal and ribbon and the Alaska Emergency Response ribbon for the Orange Alert of Dec., 2003/Jan., 2004 and the Houston and Richardson Highway flood responses with the ASDF. I have served as the State Guard Association Western Region Director for the Military Emergency Management Specialist Academy and as a former Alaska State Director. I have a Senior Military Emergency Management Specialist (MEMS) rating. My service with the ASDF includes appointments with the 49<sup>th</sup> Military Police Constable Academy, 49<sup>th</sup> Military Police Brigade, ASDF and as a Training officer with the former 1<sup>st</sup> Battalion, 49<sup>th</sup> Military Police Brigade, ASDF. I served with the ASDF as a qualified armed state police military constable with certifications in chemical restraint and the use of the ASP baton. I have been a Community Emergency Response Team (CERT) Trainer. I supported the attempt to achieve justice for the victims of the crimes resulting from the failures of leadership of the DMVA made public in 2014.

### Testimony

As a long-time Alaskan, I do not believe that this bill is what Alaskans would want from their Legislature. Legislatively mandating and increasing the authority of the Adjutant General raises the specter of abuse, resolves nothing, improves nothing, and creates a greater potential for wrongdoing and abuse of personnel at the DMVA than previously existed. Legislatively mandating the authority of the Adjutant General, in concert with the Alaska Code of Military Justice (ACMJ), further dilutes the governor's responsibility and duty regarding oversight of the militia, and enhances greatly the potential for an Adjutant General to obfuscate, hinder, delay, obstruct, and deny public knowledge of any wrongdoing at the DMVA. This bill puts too much power into the office of the Adjutant General and provides the governor absolute deniability. This bill does not achieve greater transparency in government.

Further, the changes under AS 26.05.070 are short-sighted, and act to impose restrictions upon the organized militia when called to State Active Duty (SAD) in the event of an emergency. Alaskans are not made safer by the restrictions in (c) and (f). If the protest is lawful, why would the state militia be called to SAD in the first place? These changes are further discussed below.

Regarding the authority of the Adjutant General, the change that should have been made at the DMVA, and which would have been fully justified and would have acted to minimize the potential for the abuses and failures in leadership of recent history, would have been to combine the Adjutant General's Office and that of the Deputy Commissioner, DMVA and to restore the commissioner's office as a purely civilian appointment—and not a further retirement enhancement for a former Adjutant General or Alaska National Guard retired general officer or colonel. This was something Governor Walker supported during his campaign in 2010 and during the 2014 campaign. Such a change would have eliminated the military oversight of civilian departments and divisions within the DMVA and reduced the tolerance for the Adjutant General's "cabals" of loyal officers. This change would have focused the Adjutant General upon the management of state's military. HB152 should remedy this mistake, and should mandate the restoration of the commissioner as a purely civilian oversight. Doing so would end the specter of what came to the surface in 2014. Instead, this bill compounds the potential for a repeat.

HB152's imposing a legislative mandate in favor of the authority of the Adjutant General ignores the failures of the previous administration with respect to criminal conduct within the DMVA; including rape, a murder, misappropriation of property and the attempts to obstruct justice through interference with and undue influence over criminal investigations into felony crimes and the abject failure of a chain of command that rewarded loyalty to the Adjutant General over duty and responsibility to one's subordinates. The Adjutant General's ability to control subordinates was essential to avoid controversy and public knowledge of any wrongdoing. Crimes that were alleged in 2006 were not made public knowledge until 2014. It took two officers sacrificing their careers to bring knowledge of these wrongdoings to the public in 2014. The wrongdoings alleged in 2014 extend back to at least 2006, covering two administrations.

The focus on legislatively mandating the authority of the Adjutant General under HB152 will end whistleblowing at the DMVA. An Adjutant General will no longer have to worry about the specter of an officer taking knowledge of a controversy beyond the doors of the DMVA. Between the provision in HB152 regarding the authority of the Adjutant General and the ACMJ, an Adjutant General will have the tools to silence dissent and controversy. The governor will be without liability as the authority was legislatively mandated. Deniability of the governor is assured. The public will never again be privy to what happens within the DMVA.

This bill further gives the Adjutant General sole authority without civilian oversight to call troops to state active duty without the knowledge of the governor or the governor's replacement in a time of emergency or non-emergency by Legislative mandate.

This bill effectively removes the existing civilian authority and responsibility for the conduct of the Adjutant General by Legislatively mandating to the Adjutant General authority that is now derived from direct orders and permissions by the governor.

This bill dilutes the authority of the governor in favor of the Adjutant General.

This bill fails to give accountability and transparency to the leadership of the DMVA and provides deniability to a governor.

Refusing the requested mandating by statute of the Adjutant General's authority would also eliminate the need for any changes under the statutes proposed for change under this bill. The changes proposed in this bill are unnecessary, improve nothing, and create the potential for greater harm than good. History dictates caution and critical review of any request for additional authority granted the Adjutant General's Office.

I am also surprised and disappointed, and absolutely opposed to excusing violent behavior couched as "protest" as provided for under the proposed changes to AS 26.05.070. The rule of law applies. Riots cannot be tolerated or condoned, no matter the reason. Violence is not something that Alaskans want our state government to condone. Evidently, increasing the safety and security of Alaskans is not part of the purpose of this legislation.

The proposed changes to AS 26.05.100 under this bill reflect the removal of the governor as the authority over the ASDF and fails to understand that Congress already authorized the State Defense Forces back in 1955. Please see 32 USC §109(c) and National Guard Bureau Regulation 10-4 (2011), which bar any federal oversight, including that of the National Guard and its officers over State Defense Forces. The ASDF is state-only, under the authority of the governor. Changing that authority to the Adjutant General ignores the mismanagement of the ASDF since 2008 to the present. The proposed coverage for medical and workman's comp for injuries sustained while on "inactive"/unpaid SAD for training is a welcome recognition and very reasonable, given the sacrifice of the ASDF member. Under the DMVA, the ASDF's potential will never be fully realized to the benefit of the people of the State of Alaska. This is the reason why the ASDF is the subject of a bill being drafted in the Senate that will fully define and legislatively mandate the purpose of the ASDF and how it is to be used.

As a former ASDF member, I do appreciate the proposed recognition in the changes to AS 26.05.296(a) regarding the ability to qualify for educational benefits that have been in place for the two federal parts of the organized militia as far back as I can remember. However, money is an issue and I doubt such a provision would remain for ASDF members.

Please see the DOD Inspector General's report of 30 April, 2014, "Evaluation of Department of Defense Interaction with State Defense Forces". This report opines that misunderstanding of the State Defense Forces and an overly restrict interpretation of 32 USC §109(c) by the various DOD agencies, the National Guard Bureau, the Adjutant Generals and governors of the various states are the underlying reasons for the lack of any support or priority at the state and federal level for the State Defense Forces of the various states.

In the federal government, the military has a civilian in charge. The Department of Defense (DOD) is managed by the Secretary of Defense, a presidential appointee, whose appointment is confirmed by the Senate. The DOD is not managed by the Chairman, Joint Chiefs of Staff. The purpose is to maintain civilian control over the military to prevent the military from effecting a coup against a sitting President and Congress. The balance to this is that all military personnel swear an oath to the Constitution to prevent the military from supporting either a coup by seditious military leadership or a tyrannical government acting in violation of the Constitution.

Hurricane Katrina post response demonstrated a disturbing proclivity of National Guard personnel to act in violation of a law-abiding citizen's right to keep and bear arms during the illegal weapons confiscations of the Katrina recovery response. Both OK Army National Guard and LA Army National Guard units acted to direct support of illegal weapons seizures in violation of the Constitution and their obligation to disobey any unlawful orders. ARNG troops have violated peoples' constitutional rights when under orders, in violation of their duty and obligation to refuse such orders.

Without adequate protections under law, including limitations and the imposition of strong civilian oversight of the Adjutant General, the people of the State of Alaska will be no better protected than the Louisiana residents whose constitutional rights had been illegally denied them. Further, given the crimes and conduct of the members and leadership of the Alaska Army National Guard revealed in 2014, motivation of any legislation that gives the Adjutant General autonomy to any degree is in question.

The Alaska State Defense Force is the only militia fully under the control of the governor. The ASDF has been grossly mismanaged and ignored by the Adjutant Generals, because the ASDF is not the National Guard and brings in no money for the state. The ASDF was largely ignored until September 12, 2001, when then Gov. Tony Knowles authorized the use of personal arms and re-tasked the ASDF as the 49<sup>th</sup> Military Police Brigade, ASDF to be used as a state military police constabulary when called to SAD under AS 26.05.070. The Attorney General's Opinion 661-06-0093 requested by the U.S. Coast Guard in 2006 to determine the law enforcement authority of the ASDF recognized that the ASDF, as part of the organized militia, acts with state police powers and its members as peace officers when called to SAD under AS 26.05.070. The AG's opinion has never been rescinded by the Legislature.

Gov. Frank Murkowski changed the paradigm at the Dept. of Military and Veterans Affairs (DMVA) when he combined the commissioner's office and that of the Adjutant General. Murkowski combined the offices to save money and to reduce the management overhead at the DMVA.

In the 2014 election, Governor Sean Parnell was defeated by Bill Walker. The National Guard controversy played a major part in his defeat. Today, with House Bill 152 by The House Special Committee on Military and Veterans' Affairs, there is a new effort to protect those in power and to give more power where power should be suspect.

When Bill Walker ran for governor in 2010, his platform reflected that the DMVA should return to civilian control. He was further going to support a restoration of the Alaska State Defense Force as a viable State of Alaska military disaster response asset. He did not change those positions by making such changes public or known to his campaign coordinators during the campaign in 2014. After he was sworn in as governor he abandoned that position and left the joint Adjutant General/Commissioner office intact. He has further acted to set in motion a radical change in the Alaska State Defense concept that may conflict with 32 USC §109(c) and National Guard Bureau Regulation 10-4 (2011) with his "Bush Battalion" concept modeled after the Canadian Armed Forces Canadian Ranger program embodying attributes of the Army

National Guard regulation and direct federal military oversight in response to the reduction in force of the Alaska Army National Guard.

On the day of the State Fair Parade in August, 2013, then candidate Walker was introduced to the ongoing allegations of rape, murder and misappropriation of property by Army National Guard personnel in a meeting with then LTC Ken Blalock, Alaska Army National Guard. (Blalock was the whistleblower who brought the entire the allegations of criminal acts and wrong doing at the DMVA into the public eye by March, 2014.) During the 2014 campaign, Walker assured the public that he would see that there was justice for the victims and that those breaking the law would be held accountable. Such did not happen to the degree expected.

In 2014, former LTC Linda Dunegan made public additional allegations of the falsification of combat readiness reports by senior Air National Guard officers, expanding the knowledge of corruption of the leadership of Alaska's National Guard.

HB152 calls for the Adjutant General to act in "conformity" with the governor's instructions. Conformity is not an exacting compliance and allows a degree of latitude that was revealed in the public disclosures leading up to the defeat of Governor Parnell in the 2014 election. Instead of increasing oversight of the Adjutant General, HB152 legislatively mandates decreasing oversight and increasing the autonomy of the Adjutant General.

The questionable conduct of then MG Tom Katkus in halting ongoing criminal investigations in favor of an administrative review of policies by the National Guard Bureau's Office of Complex Investigations during an election year, and his obvious conflict of interest as a former ranking Anchorage Police Department officer were never addressed. APD began the rape investigations, but never completed the investigations. Is this the nature of the "conformity" to be exercised under the proposed changes to AS 26.05.060?

The proposed changes under AS 26.05.070(b-g) need to be removed from this bill. These provisions are unnecessary. (b) is compromised by (c), and the primary mission of the organized militia under (a) is compromised by (c) and (f). The primary mission under AS 26.05.070 is for the militia to be used as a state police agency. See AG Opinion 661-06-0093. I take it the state is to ignore acts of violence and destruction of property under the guise of political, union, or other protest? That military threat or criminal intent during an emergency is to be dealt without acting in a prescriptive, proscriptive, regulatory or compulsory manner? (c) is absurd. Why the concern over "military power", when the police have an unrestricted use of force that allows them to kill with virtual impunity? The Alaska organized militia are your friends and neighbors, sons, daughters, nieces, nephews . . . Alaskans. (c) makes the job dangerous and demonstrates a failure to understand the mission under AS 26.05.070 and exhibits a lack of trust and faith in those volunteering to serve Alaska.

Evidently, it is anticipated that the criminal element so prevalent in our society today, including those who will use violence to achieve political ends and paid agitators, gangs, and criminals, will not use violence to achieve their ends during an emergency. In a perfect world, maybe so. However, Alaska is growing more dangerous the further we sink into a burgeoning recession.

Drug use is up, especially heroin to such an extent that the state has declared an emergency and is giving out heroin antidote kits for free. Synthetic drugs are popular that result in a violent psychotic reaction within 24-48 hours of taking the drug—this includes bath salts, spice, and other synthetics. This makes life interesting for our police and Dept. of Corrections personnel.

The threats to Alaska include, but are not limited to: earthquake, tsunami, flooding, EMP event by either a solar X-class flare like the 1859 Carrington Event or a military strike using a high altitude nuclear detonation to produce an EMP; terrorism, nuclear military strike against Alaska's missile defense system, WMD event through domestic or foreign inspired terrorism, and invasion by a hostile military. Potential adversaries include North Korea, Iran, Peoples Republic of China, and Russia.

Our homegrown and imported criminal element is now more vicious and violent than ever before. Alaska now has the presence of many of the major Outside gangs. These gangs are sending those who are under threat of arrest Outside to Alaska to avoid arrest. Gang initiations are up, they require a felony class crime. Under SB91, a person committing a class C felony will get a suspended sentence and that is about it. Alaska's SB91 is making it easier for gangs to recruit. Thus, crime is rising, and growing more violent. Yet, the concern is about the organized militia and not the criminal.

Why does the Legislature think that our organized militia should be hobbled and restrained without justification? Why are there provisions that benefit criminals?

The primary mission of the organized militia under AS 26.05.070 is as a state police force acting under its own chain of command and working with or subordinate to the civil police. I have done so. No one was afraid of me with my weapon, uniform and public manner. In fact, those impacted were very happy to see us. People whose lives have been interrupted by natural disaster want assurances that their property will be protected and an armed state military police constable is that assurance. Been there, done that. Being armed keeps one safe, gives confidence to the citizen that one is there to deter crime. Further, the police are not tied up on a check point, but able to perform their primary law enforcement mission.

During the Big Lake Fire, I checked on a friend's property and watered the roof of the house located on Hollywood Drive. At the intersection of Hollywood and Vine, there was an ARNG HUMMVEE with an unarmed ARNG soldier with a radio. I stopped to inform the ARNG NCO what I was going to do and where I was going to do it. While talking, I noted two men on ATVs heading parallel down Hollywood into the fire area. I asked if the Troopers would be notified, as looting was ongoing during the fire. I was informed that the AST would not be notified and that I did not need to stop, either. That soldier deterred nothing. Not his fault, he was under orders as to what he could and could not do. That is the kind of security that will result from the proposed provisions under AS 26.05.070(c, f) that limit the use of the militia as a military police constabulary.

For 8 years, the ASDF was an armed state military police constabulary, and performed that mission without incident, saving the State of Alaska hundreds of thousands of dollars in

overtime and reducing the impact upon local and state law enforcement by keeping the police officer on patrol doing their job.

AS 26.05.070 as it now exists under statute is fine. It works. The changes are not necessary, they make Alaskans less safe, and increase the danger to the members of the organized militia.

The rule of law must always apply, and for that armed constabulary is necessary in the face of the potential for violence by the criminal—not to mention moose, bear, rabid wolves, rabid foxes, and rabid coyotes appearing at remote checkpoints that might be established along Alaska's highways.

The authority to call up the organized militia by the Adjutant General under the proposed changes to AS 26.05.070(b) without the governor's knowledge is dangerous. This raises the specter of the Adjutant General acting in opposition to lawful authority of the governor in favor of a hostile federal government or to further personal ambitions.

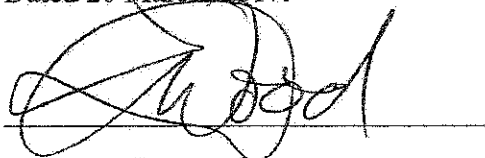
AS 26.05.070(g) conflicts with established federal precedent and law. As the recent reduction in force of the Army National Guard has demonstrated, the National Guard is a thing of the federal government, the state has limited use and no ability to restrict federal priorities in use. What the federal government paid for, the federal government owns, not the state.

Mandating the authority of Adjutant General is a mistake and, once again, a demonstration of exception, rather than subordination to the law. HB152 mandating by statute the Adjutant General's authority is an affront to those who never received justice in 2014, and a further affirmation that those in power will never be subject to the full extent of the law. There should be greater accountability and transparency in state government, not the opposite.

This bill is a bad idea.

This completes my testimony.

Dated 20 March, 2017.

A handwritten signature in black ink, appearing to read "L. Wood", is written over a horizontal line.

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