

USAWC STRATEGY RESEARCH PROJECT

DEFENSE SUPPORT OF CIVIL AUTHORITIES - ARE WE ORGANIZED RIGHT?

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ABSTRACT

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The Department of Defense (DoD) has a long history of supporting civil authorities in the wake of catastrophic events with specialized skills and assets that can rapidly stabilize and improve the situation. An issue that has received a great amount of attention in post-Hurricane Katrina discussions is the speed of rescue and relief operations. Both the National Response Plan and DoD's own Homeland Security Doctrine lay out extensive procedures and specific decision points in an attempt to ensure an organized response to catastrophic incidents. However, in the wake of Hurricane Katrina and the Tsunami in the south Pacific, it is appropriate to ask whether the DoD is effectively organized to handle these disasters, either natural or manmade? This project will examine the roles, missions, and capabilities of the DoD as it pertains to its statutory authority, responsibilities, and capabilities when responding with regard to catastrophic incidents.

DEFENSE SUPPORT OF CIVIL AUTHORITIES - ARE WE ORGANIZED RIGHT?

...to improve is to change; to be perfect is to change often...

—Sir Winston Churchill¹

The use of federal military forces to help state and local officials is not a new mission. State and local officials have often requested federal assistance in times of crisis, and that assistance has frequently been provided by the military. The Department of Defense (DoD) has a long tradition of support to civil authorities, while maintaining its primary mission of fighting and winning the nation's wars. The United States Armed Forces continue to lend necessary assistance to civil authorities when requested by the Department of Homeland Security (DHS) and DHS's Federal Emergency Management Agency (FEMA) or other branches of the federal government. The issue that has received the most attention in the post-Katrina discussions is the speed of rescue and disaster relief operations.

The DoD's Northern Command began its alert and coordination procedures before Katrina's landfall; however, many deployments did not reach the affected area until days later. In a public address to the Nation, President Bush stated "many of the men and women of the Coast Guard, the Federal Emergency Management Agency (FEMA), the United States military, the National Guard, the Department of Homeland Security, and state and local governments performed skillfully under the worst of conditions."² Yet the system, at every level of the government, was not well coordinated, and was overwhelmed in the first few days of the disaster.³ "It is now clear that a challenge on this scale requires greater Federal authority and a broader role of the armed forces – the institution of our government most capable of massive logistical operations on a moments notice."⁴ An examination of the timeline of DoD's response and the decision points along that timeline could offer insight into whether the response could have been accelerated given the intensity of the storm and the extent of the destruction.

Both the National Response Plan (NRP) and the DoD's own Homeland Security Doctrine specifically describe extensive procedures and particular decision points in an attempt to achieve a well organized and coordinated response to all catastrophic incidents. It may be necessary to review those procedures and actions of responsible authorities, particularly the DoD, to ascertain if we are adequately organized to support civil authorities. This paper will now examine those catastrophic disaster response procedures for the DoD and how they were implemented to include the roles, missions, and capabilities of the DOD pertaining to its statutory authority, responsibilities and capabilities.

Historical Perspective of Defense Support of Civil Authorities

Throughout this nation's history, the Department of Defense has always risen to the challenge as prescribed in our Constitution "We the people of the United States, in order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our posterity."⁵ The use of U.S. military forces for humanitarian and domestic purposes is a long tradition in all corners of the world, not just in this country. Why is this so? In the public eyes and mind, there is an association between disaster relief operations and military involvement. Indeed, there is often an expectation that the Armed Forces will assist the civilian population in the immediate aftermath of an attack, like 9/11 and/or other large-scale emergencies, natural or man-made disasters.

Civil authorities turn to the military for help in domestic emergencies and disaster relief operations for several reasons, the most obvious of which may be their physical assets. The military is often regarded as a cornucopia of assistance. Among the most sought-after assets are transport (land, sea, and air); fuel; communications; commodities including food, building supplies and medicines; manpower; technical assistance (especially logistics and communications) and the use of military facilities.

The Department of Defense is an important partner in the overall national response effort for a complete spectrum of incident management activities, including the prevention of, preparedness for, response to, and recovery from acts of terrorism, major natural disasters, or other major emergencies. DoD has maintained this tradition and remains committed to responding domestically as required. The Department of Defense and the Department of Homeland Security work in close coordination to ensure the safety and security of the U.S. Homeland. Coordination and cooperation take place continuously at all levels of both organizations.

Historical precedence and American's compassion for their fellow citizens as well as political necessity prevents the United States government from ever turning its back on domestic disaster intervention. Throughout its history, the United States military has played a vital role in domestic relief efforts. Today, there are a wide range of laws, Presidential Decision Directives, Executive Orders, Department of Defense Directives (DODD), and Regulations that govern military support for domestic emergencies and disaster relief operations. The complexity and sensitive nature of these operations dictate that senior military and civilian leaders assigned to support them must understand the legal and regulatory environment within which they will be operating and working.

Review of U.S. Constitution and Key Statutes

The United States is a nation governed by laws. The Constitution serves as the cornerstone of our democracy and establishes its legal foundation. The amendments and statutes give us the authorities and limits to the branches and levels of government. In addition to the balance of power the Founding Fathers intended, it also established a government whereby a set of checks and balances is built into every system and facet of our government. These structural and procedural safeguards between the three branches of government prevent any one branch from having dominance over the others while preserving a fundamental separation of powers.

The Constitution defines the nation as a union of sovereign states with a federal government to operate that union. The Constitution provides the basis for the democratic form of government, and defines the roles and authorities of the different branches and levels of government with respect to the military. It recognizes the value of the militias under the states' control. The Constitution also recognizes the need to raise a strong Army for protecting our nation and its borders.

Article I, Section 8 of the Constitution gives Congress the power to declare war, to raise and support armies and to make rules for the government and regulation of them.⁶ Clause 15 authorizes Congress "to provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions."⁷ Clause 16 is significant also because it gives broad authority to the Congress over the National Guard, i.e., "to provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress."⁸

Article II, Section 2 designates "the President as the Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual service of the United States."⁹ Article II, Section 3 states that the "President shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States."¹⁰ The 10th Amendment to the Constitution states, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."¹¹

Posse Comitatus Act, 18 U.S.C. 1385

The Posse Comitatus Act (PCA) is a criminal statute that prohibits the use of Title 10 Air Force and Army forces to perform law enforcement activities except as authorized by the Constitution or statute. DoD administratively extended the prohibition to the Navy and the Marine Corps. The primary prohibition is against Title 10 forces' direct involvement in traditional law enforcement activities, such as search, seizure, arrests, apprehension, and interdicting vehicles. One of the exceptions is the Insurrection Act, as discussed below. PCA does not apply to the National Guard in state active duty or Title 32 status. In those statuses, the governor may use the National Guard to enforce local, state and federal laws, consistent with the laws and constitution of the state. This makes the National Guard a powerful and flexible military tool for the governors. Once the President places the National Guard into Title 10 status, PCA restrictions apply.¹²

The issue of PCA came up during the civil support operations following Hurricane Katrina. The 82nd Airborne Division, Title 10 forces, patrolled the streets of New Orleans. Their presence had the effect of suppressing criminal behavior. The military claimed it was merely showing presence and was not engaged in prohibited law enforcement activities. The Congressional Research Service felt active duty military patrols were inconsistent with the PCA.¹³

Insurrection Act, 10 U.S.C. 331-335

The Insurrection Act authorizes the President to deploy federal military forces into a state to suppress insurrections, rebellions and domestic violence, or to enforce state and federal laws. He may use the military to restore order, prevent looting, and engage in other law enforcement activities that the PCA would otherwise prohibit. He has the authority to federalize the National Guard for these purposes.¹⁴

Presidents have exercised the Insurrection Act in the not too distant past. For example, Presidents Eisenhower and Kennedy effectively used it to enforce civil rights laws in the South. Without the consent of the state governor, President Eisenhower placed the Arkansas National Guard into Title 10 federal service to enforce integration of Little Rock schools in 1957. In 1963, President Kennedy placed the Alabama National Guard in Title 10 federal service to remove it from Governor Wallace's control and to enforce federal civil rights laws at the University of Alabama.

In 1992, President Bush exercised the Insurrection Act at the request of the California governor to quell the rioting following the Rodney King incident in Los Angeles. He also

placed the California National Guard into Title 10 status. In this case, the federal force commander's misunderstanding of the Insurrection Act and the PCA resulted in his imposing inappropriate restrictions on the use of the federal forces. The result was a significant reduction in the utility and effectiveness of the National Guard in its mission execution.¹⁵ Post - Katrina, 10 U.S.C 331-334 has been amended and renamed to clarify that this Presidential authority also applies to circumstances requiring Federal forces to help state and local authorities restore order in circumstances arising out of situations other than an Insurrection.

Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5206

The Stafford Act authorizes the President to issue major disaster declarations and direct federal agencies including DoD to provide assistance to states overwhelmed by disasters. The Stafford Act gives the President authority to deploy federal military forces into the states or territories for defense support of civil authorities missions when the governors request it.

In implementing the Stafford Act, FEMA reimburses DoD's incremental costs associated with providing requested civil support following a Presidential declared disaster. This means that the costs DoD would pay regardless of the civil support operations, for example, soldiers' pay and allowances are not reimbursed. This interpretation is problematic for DoD when it employs National Guard soldiers in Title 32 status for civil support. FEMA does not reimburse DoD for the soldiers' pay and allowances even though the National Guard would not be in Title 32 status but for the civil support operation. Alternatively, states may receive federal assistance funding their National Guard state active duty costs on a shared basis. This means that unless FEMA waives the state portion of the shared cost, the states and territories must pay a portion of the cost of their National Guard in state active duty status under the Stafford Act.¹⁶

Homeland Security Act of 2002, 6 U.S.C. 101

This act implements Homeland Security Presidential Directive/HSPD-5 and establishes the Department of Homeland Security (DHS) by merging sixteen federal agencies. It designates DHS as the Primary Federal Agency (PFA) for natural and manmade crises and emergency planning. DHS coordinates the federal response resources in major disasters. The current interpretation is this law would not allow DoD to act as the PFA for a homeland security event or mission unless directed by the President.

National Emergencies Act, 50 U.S.C. 1601-1651

This law provides procedures for Presidential declaration of national emergencies. The President must identify the specific provision of the law under which he will act in dealing with a declared national emergency. The Presidential declaration of a national emergency under the act is a prerequisite to exercising any special or extraordinary powers authorized by statute for use in the event of a national emergency.¹⁷

Economy Act, 31 U.S.C. 1535

The Economy Act allows federal agencies to purchase goods and services from other federal sources on a reimbursable basis when the Stafford Act does not apply. This act is sometimes employed before the President triggers the Stafford Act with a disaster declaration. It ensures federal agencies do not augment their congressionally approved appropriations by having other departments perform the requestors' mission without reimbursement. For example, DHS cannot generally request that DoD perform one of their homeland security missions without DHS funding it or reimbursing the DoD for services rendered.

As you can see, the Constitution and statutes give significant authority to the President to act, but also constrain him. Usually the governors must invite the federal government into their states and territories. Normally, the governors will command the National Guard, but there are provisions to have it under the command of the President. PCA may limit Title 10 forces from performing law enforcement functions. There are instances such as the Insurrection Act in which the President can act unilaterally, but there are onerous implications of such action. The law that established DHS made it the principal federal agency in preparation for and responding to domestic emergencies. Other federal agencies including DoD respond to DHS requests for assistance.

Sometimes these laws and policies set up an inherent conflict in civil support operations following catastrophic events. DHS has the statutory authority to respond, but lacks the organic assets and capability to do so. The DoD has the capability to respond, but lacks the statutory authority to take the lead unless directed by the President.

Review of National Security Strategy and Policy Documents

Now let's discuss and review the national security strategy and policy documents as they pertain to civil support operations following catastrophic events. In particular, this section examines the guidance and policies that apply to USNORTHCOM and the National Guard in those operations. Strategy in its basic form defines the ends, ways and means. Generally, the following strategy documents do a good job of laying out the desired ends. However,

they occasionally employ broad terms when describing the ways and means because the precise enabling legal foundation to achieve the ends does not exist. With respect to the National Guard, some of the ambiguous terms in the strategy and policy documents include "military forces," "uniformed forces," "armed forces," "military support" and "DoD resources." The reader may be confused if he or she does not take into account the originating office's authority, the context of the reference and the legal basis that supports it before he or she can understand the implications of the document.

National Security Strategy (NSS), March 2006

This is the President's capstone national security strategy document. The strategy focuses primarily on international security. Other than noting the establishment of the Department of Homeland Security, it is silent on defense support of civil authorities. One of the stated national security priorities is minimizing the damage and facilitating the recovery from attacks that do occur. The NSS observes that DoD completed its 2006 Quadrennial Defense Review and notes that DoD is transforming itself to better balance capabilities to include those required for catastrophic challenges involving natural disasters that produce weapons of mass destruction-like effects.¹⁸

National Strategy for Homeland Security (NSHS), July 2002

This document focuses on the nation's preparedness for countering terrorist attacks, but it also includes natural disasters. The NSHS addresses Emergency Preparedness and Response stating that an effective response to a major terrorist incident and natural disasters depends on being prepared. The nation needs a comprehensive national system to bring together and coordinate all necessary response assets quickly and effectively. It must plan, equip, train, and exercise many different response units to mobilize without warning for any emergency.¹⁹ Because the strategy predates the Homeland Security Act of 2002, it includes a section noting that per the President's proposal, DHS will consolidate federal response plans and build a national system for incident management in cooperation with state and local governments. Among the twelve major initiatives of the NSHS is one to prepare an integrated single all-discipline incident management plan. i.e... the National Response Plan, and to plan for defense support of civil authorities.

The strategy states DoD contributes to homeland security through its military missions overseas, homeland defense, and support of civil authorities. DoD would be involved during emergencies such as responding to forest fires, floods, tornadoes or other catastrophes. In

these emergencies, DHS may ask DoD to act quickly to provide capabilities that other agencies do not possess or have.²⁰

The NSHS notes the establishment of USNORTHCOM and describes its role in homeland security:

In April 2002, President Bush approved a revision of the Unified Command Plan that included establishing a new unified combatant command, U.S. Northern Command. This command will be responsible for homeland defense and for assisting civil authorities in accordance with U.S. law. As in the case with all other combatant commanders, the commander of Northern Command will take all operational orders from and is responsible to the President through the Secretary of Defense. The commander of Northern Command will update plans to provide military support to domestic civil authorities in response to natural and man-made disasters and during national emergencies.²¹

It does not make an overt distinction to exclude the National Guard from the military support of civil authority mission although the USNORTHCOM commander has no command authority over or planning responsibility for the National Guard except when it is in Title 10 status and assigned to him.

National Defense Strategy of the United States of America, March 2005

This is DoD's strategy that sets defense objectives, one of which is protecting the homeland. DoD contributes to protecting the U.S. Homeland by sustaining the offensive against terrorist organizations and by providing defense support of civil authorities as the President directs. DoD is committed to act quickly in emergencies to provide unique capabilities to other federal agencies when the need surpasses the capacities of civilian responders and when directed to do so by the President or the Secretary of Defense.²² This strategy addresses the federal military only and does not include the National Guard except when it is in Title 10 status only.

National Military Strategy (NMS) of the United States of America, 2004

The NMS is the Chairman of the Joint Chiefs of Staff's key document to provide strategic direction and guidance to the federal military forces regarding military objectives. This document predates the current National Defense Strategy. In its Defensive Actions at Home section, the NMS states. "During emergencies the Armed Forces may provide military support to civil authorities in mitigating the consequences of an attack or other catastrophic event when civilian responders are overwhelmed. Military responses under these conditions require a streamlined chain of command that integrates the unique capabilities of active and reserve military components and civilian responders."²³ This passage includes some of the

ambiguous terminology referred to at the beginning of this chapter, i.e... military responses. In that this is the national military strategy, it applies to federal military only and not the National Guard unless it is in Title 10 status.

Strategy for Homeland Defense and Civil Support, June 2005

This document provides key definitions that shape the DoD approach to civil support. The document provides a coherent strategy but employs some broad terms when speaking about sovereign states and territories' National Guard. As such, it creates a zone of ambiguity by defining DoD ends without providing clear authorized ways to achieve them. This strategy came out only months before Hurricane Katrina struck the United States.

The strategy makes it clear that DoD recognizes DHS as the PFA in preparing for, responding to and recovering from major domestic disasters. It defines defense support of civil authorities, often referred to as civil support, as DoD support, including Federal military forces, the Department's career civilian and contractor personnel, and DoD agency and component assets, for domestic emergencies. "DoD provides defense support of civil authorities only when directed to do so by the President or Secretary of Defense. As written, this definition of civil support does not include the National Guard unless the President places it in Title 10 status".²⁴

The strategy states that the President will direct DoD to provide substantial support to civil authorities in the event of major catastrophes and DoD will plan, practice, and carefully integrate their civil support into the national response. USNORTHCOM is responsible for planning, organizing, and executing homeland defense and civil support missions within the continental United States, Alaska, and territorial waters. It goes on to say, "This Strategy reflects a Total Force approach to homeland defense missions, incorporating the capabilities of Active Duty, National Guard, and Reserve forces... Forces must also be prepared to conduct the full spectrum of domestic civil support missions when directed by the President or the Secretary of Defense to do so."²⁵ The authors word this section very carefully. As part of the DoD reserve forces, the National Guard is obligated to train for its homeland defense mission. However, the President and Secretary of Defense can only direct it when it is in Title 10 status, so the instruction for the civil support mission is more of an expressed desire rather than an authoritative directive for the National Guard.

The strategy also calls for focused reliance upon the reserve component. "Homeland defense and civil support are Total Force responsibilities. However, the nation needs to focus particular attention on better using the competencies of National Guard and Reserve

component organizations. The National Guard is particularly well suited for civil support missions. As with other Reserve components, the National Guard is forward deployed in 3,200 communities throughout the nation. In addition, it is readily accessible in State Active Duty and Title 32 status; is routinely exercised with local law enforcement, first responders, and the remainder of the Total Force; and is experienced in supporting neighboring communities in times of crisis.²⁶ Although the National Guard is forward deployed, it only falls under the command of the President when he places it in Title 10 status. Otherwise, it is an asset of the state or territorial governor.

This strategy commits DoD to maintain a ready, capable, and agile command and control structure, along with competently trained forces, to assist civilian authorities with catastrophic incident response.

Unified Command Plan (UCP)

The President provides his instructions to the combatant commanders in the UCP. In it, he establishes the combatant commanders' missions, responsibilities and force structure as well as their geographic areas of responsibility and functions. It directs that the combatant commander will have command of all forces operating in his geographic area of operations except as otherwise directed. Furthermore, the combatant command shall exercise command authority over all commands and forces assigned to his command.

USNORTHCOM is one of the exceptions. USNORTHCOM does not have command of all DoD forces in its area of responsibility because the area includes the continental United States and Alaska, home for the preponderance of DoD's Title 10 forces. Instead, USNORTHCOM commands only those forces the Secretary of Defense assigns to it for military operations. USNORTHCOM will not command any portion of the National Guard unless the President places National Guard units in Title 10 status and the Secretary of Defense assigns them to USNORTHCOM.

The UCP directs combatant commanders to plan for and execute military operations as directed in support of the National Military Strategy. Commanders will certify the readiness of assigned headquarters staffs designated to perform as a Joint Task Force (JTF). Combatant commanders provide the single point of contact on military matters within their assigned areas of responsibility, excluding the United States for the reason above.

The UCP assigns USNORTHCOM its area of responsibility as the continental United States and Alaska, Canada and Mexico. It instructs the USNORTHCOM commander to provide

civil support and other assistance to U.S. civil authorities as directed.²⁷ What is interesting is that the UCP addresses Title 10 forces only and not the National Guard.

Supporting Forces for Unified Combatant Commanders

This document provides Secretary of Defense direction to the Secretaries of the Military Departments for assigning forces to the combatant commands. Paragraph 3, Authorities of Combatant Commanders and Responsibilities of Assigned Units, contains helpful language. It states "coordinating authority may be established via a memorandum of agreement between Title 10 and non-federalized (e.g. Title 32) National Guard forces to promote unity of effort. The commander or individual has the authority to require consultation between the agencies involved but does not have the authority to compel agreement."²⁸ Although the Secretary does not address this language to the USNORTHCOM commander, at least it gives the commander license to coordinate with the non-federalized units like the Reserve and National Guard.

Organization of Department of Defense Support of Civil Authorities

Homeland Security Presidential Directive – 5 (HSPD-5) states, "The Secretary of Defense shall provide defense support to civil authorities for domestic incidents as directed by the President or when consistent with military readiness, and appropriate under the circumstances and the law. The Secretary of Defense shall retain command of military forces providing civil support. The Secretary of Defense and the Secretary of Homeland Security shall establish appropriate relationships and mechanisms for cooperation and coordination between their two departments."²⁹ The DoD Strategy for Homeland Defense and Civil Support (2005) defines Defense Support of Civil Authorities (DSCA) as "DoD support, including federal military forces, the Department's career civilian and contractor personnel, and DoD agency and component assets, for domestic emergencies and for designated law enforcement and other activities."³⁰ The DoD provides defense support to civil authorities when directed to do so by the President or Secretary of Defense.³¹ In keeping with the NRP and the DoD Joint Doctrine on Homeland Security, DoD civil support is normally provided only when local, state, and other federal agencies resources are overwhelmed; and it is requested by the PFA responding to an incident or natural disaster.³² Moreover, there are three primary mechanisms by which DoD would take part in a federal response to a domestic incident. Federal assistance, including assistance from DoD, would be provided: (1) at the direction of the President; (2) at the request of another Federal agency under the Economy Act, or (3) in response to a request from DHS's FEMA, whereby a disaster occurs and local and state resources are inadequate, the President invokes the Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288) with a

Presidential disaster declaration, thereby releasing Disaster Relief Funds (DRF). This is a fundamental principle of DoD's approach to civil support; it is generally a resource of last resort. The Secretary of Defense has the principal authority for DoD's provision of civil support. His office retains approval authority for all requests for assistance from civilian agencies and retains control of all DoD assets provided. In practice, the Office of the Assistant Secretary of Defense, Homeland Defense (ASD (HD)) is delegated supervisory responsibility and oversight of the civil support mission area and coordination with the Department of Homeland Security. Within the Joint Chief of Staff (JCS), civil support responsibilities reside with the Joint Directorate of Military Support (JDOMS).

Department of Defense Responsibilities for DSCA

Earlier in the report, we stated that the Secretary of Defense (SECDEF) has the principal authority for DoD's provision of civil support. Majority of these duties and responsibilities are carried out and exercised by the Assistant Secretary of Defense for Homeland Defense acting as the DoD Executive Agent for the SECDEF on all matters pertaining to DSCA.

- Assistant Secretary of Defense for Homeland Defense (ASD(HD)) is the principal advisor to the SECDEF for all matters pertaining to defense support of civilian authorities and serves under the authority, direction, and control of the Under Secretary of Defense for Policy (USD(P)). He also serves as the DoD Domestic Crisis Manager. He develops policy and provides oversight of all DSCA activities for the Department of Defense, in coordination with the Chairman of the Joint Chiefs of Staff (CJCS). He is further responsible for DoD support to domestic special events and provides oversight of DSCA training, exercises, and resources.³³
- Joint Staff, Operations Directorate, J -34, Deputy Directorate for Anti-terrorism and Homeland Defense (DDAT/HD) is the principal advisor to the CJCS on all matters pertaining to the planning and execution for worldwide anti-terrorism, defense support of civil authorities and homeland defense.
- Joint Staff, Joint Directorate of Military Support (JDOMS) is the DoD Action Agent and principal advisor to the DDAT/HD for all matters associated with DSCA planning and execution. He is the focal point for DSCA coordination with the PFA, Combatant Commanders, Service Component Commands, Military Services, Defense Agencies and the Reserve and National Guard.

- Combatant Commands (COCOMS) are the DoD principal planning agents for DSCA as stipulated in the Unified Command Plan. They include USNORTHCOM, USPACOM, and USSOUTHCOM.
- U.S. Northern Command (USNORTHCOM) is directly responsible for the protection of the United States homeland, Alaska, and territorial waters to include the planning and execution of all DSCA missions within the continental United States.
- U.S. Pacific Command (USPACOM) is directly responsible for all DSCA matters for Hawaii and U.S. territories within its area of operation.
- U.S. Southern Command (USSOUTHCOM) is directly responsible for all DSCA matters for Puerto Rico and U.S. Virgin Islands within its area of operation.
- Supporting Combatant Commands such as U.S. Joint Forces Command (USJFCOM), U.S. Transportation Command (USTRANSCOM) and U.S. Strategic Command (USSTRATCOM) serve as the supporting commands and provide resources and assets to support the three supported combatant commands as described earlier.
- Defense Coordinating Officer (DCO) is responsible for validating all requests for DoD support from the Federal Coordinating Official (FCO) or his representative while on the ground.

DSCA Response Management

The procedures governing the use of military forces for emergency management response and domestic missions are well established. Central to their employment is an understanding that defense personnel always serve in a supporting role and carry out disaster relief operations and missions as designated by the civilian Federal agency responsible for leading the Federal assistance effort - typically that PFA is the DHS through FEMA. To facilitate the smooth, rapid, and efficient defense support to state and local officials, the Department of Defense will normally provide DSCA under three tiers of support: local, state and federal as illustrated in Figure 1.³⁴

Tiered Nature of Disaster/Emergency Response

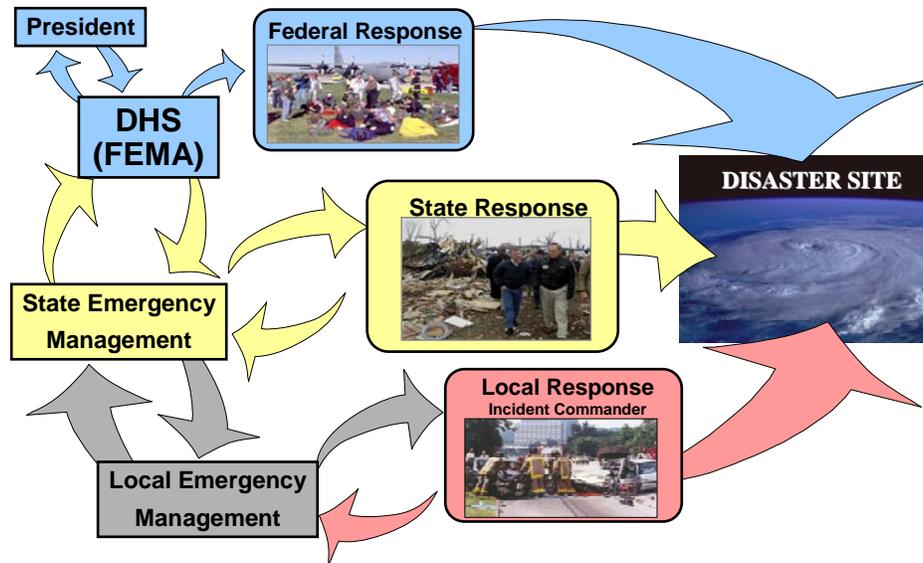


Figure 1. Tiered Nature of Disaster/Emergency Response

When a natural or manmade disaster occurs, the local government will have primary responsibility to handle or deal with the incident. They will secure assistance from neighboring jurisdictions under mutual aid agreements at the local community level. When mutual aid agreements are too limited in effectiveness, local authorities will seek a state response and assistance. The governor will declare a state of emergency, activates the state emergency response plan and calls up the National Guard under state active duty. When the disaster exceeds the capabilities and resources of the state, the governor requests federal assistance through the DHS. What is important is that defense support can be provided at the state level via the National Guard under state active duty. The National Guard will have primary responsibility for providing assistance to state and local authorities in emergencies.

DSCA Request and Approval Process

The Department of Homeland Security through FEMA will initiate a disaster request for assistance (RFA) and/or mission assignment (MA) for defense support to DoD. This will be submitted to the DoD Executive Secretary (ExecSec) for processing and subsequent approval by the Secretary of Defense (SECDEF). The ExecSec will transmit the request to both the ASD (HD) and the Joint Staff, (JDOMS) for evaluation and further processing prior to the SECDEF

approval. Figure 2 illustrates the DSCA approval process pertaining to an initial request for assistance for DoD support.³⁵

REQUEST FOR ASSISTANCE (RFA)

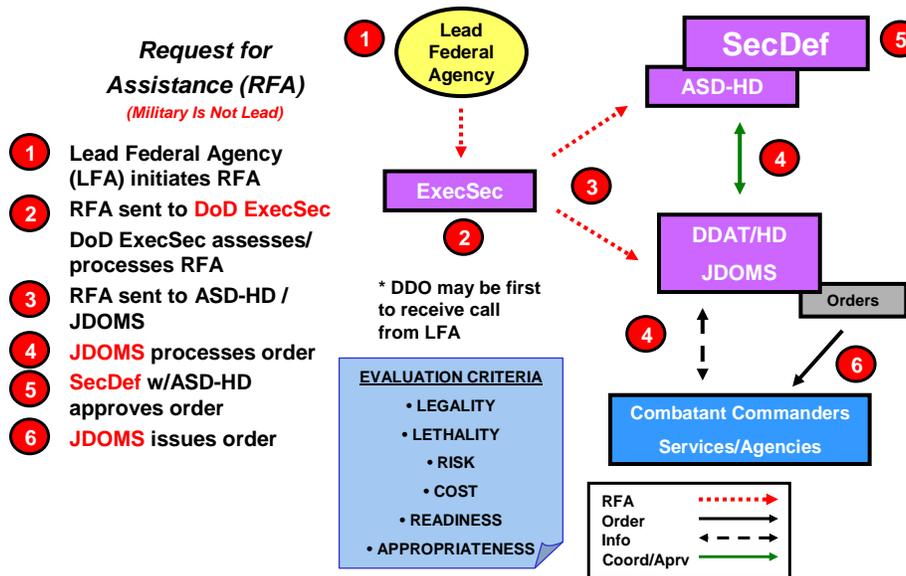


Figure 2. Request for Assistance (RFA)

The Joint Staff/JDOMS (Action Agent) along with the Executive Agent (ASD (HD)) will evaluate the RFA under the following criteria.³⁶ They are:

- **Legality:** Does the mission comply with the law?
- **Lethality:** Potential use of lethal force by or against DoD forces.
- **Risk:** Are DoD forces in harm's way?
- **Cost:** What is the funding source, and what is the impact on DoD's budget?
- **Readiness:** Prioritization of worldwide operations/commitments. How does the mission impact the DoD's ability to perform its Primary Mission? (Operational Missions, Training Impact, Maintenance Issues)?
- **Appropriateness:** Is the requested mission in the interest of the DoD?

The Joint Staff/JDOMS will staff the RFA with the COCOMS, Services, Defense Agencies and the Joint Chiefs Staff (JCS) Legal Counsel for review. After final staff coordination has been conducted, JDOMS will prepare and process appropriate orders and submit to the Deputy Directorate for Antiterrorism/Homeland Defense (DDAT/HD), the Director, Joint Chiefs of Staff, J-3 (DJ3) and the Director, Joint Chiefs of Staff (DJS) for approval. The DJS will approve and

sign the order on behalf of the CJCS. After the DJS has approved the order, the order will be submitted to ASD (HD) for staffing with the Under Secretary of Defense for Policy (USD (P) and the Office of General Counsel (OGC) for final review and approval. Once the ASD (HD) has received final SECDEF approval, JDOMS will issue an execute order designating the appropriate supported Combatant Commander to execute the defense mission.

Immediate Response Authority (IRA)

Military commanders that receive verbal requests from civil authorities for defense support shall provide such support as an immediate response to save lives, prevent human suffering, and/or mitigate great property damage.³⁷ Civil authorities shall be informed that verbal requests for support in an emergency must be followed by a formal written request as soon as practical.³⁸ The DoD component or command rendering assistance shall report the fact of the request, the nature of the response and other pertinent information through the chain of command to the DoD Executive Agent, who shall notify the SECDEF.³⁹ Normally immediate response support should last no more than 72 hours.

National Response Plan (NRP)

HSPD-5 directed that a new National Response Plan be developed to align Federal coordinating structures, capabilities, and resources to ensure an all-discipline and all hazards approach to domestic incident management.⁴⁰ The NRP does not alter or impede the ability of Federal agencies to carry out their specific authorities under applicable laws, Executive orders, and directives. It is comprehensive in nature and provides one way of doing business for both the Stafford Act and non-Stafford Act incidents.⁴¹ The National Response Plan does this by:⁴²

- Building on what works from previous plans and incident response.
- Forging new approaches and mechanisms to address today's threats.
- Addressing the complete spectrum of incident management activities.
- Using the National Incident Management System (NIMS) to establish a framework for coordination among Federal, State, local, nongovernmental, and private-sector organizations.
- Integrating emergency support functions and response to include law enforcement elements into a single national strategy.
- Providing emergency support and incident annexes that address contingency or hazard situations requiring specialized applications and support.

National Incident Management System (NIMS)

Also under HSPD-5, the President tasked the Secretary of DHS to develop and administer a National Incident Management System (NIMS). President Bush stated that the “system should provide a consistent nationwide approach for governments to work effectively and efficiently to prepare for and respond to and recover from domestic incidents, regardless of cause, size, or complexity.”⁴³ The NIMS is designed to use a systems approach to integrate the best of existing processes into a unified national framework across a broad spectrum of organizations and activities involving multiple jurisdictions, functional agencies, and emergency responder disciplines.⁴⁴ NIMS also establishes the incident command system (ICS) as the standardized organizational structure for the management of all domestic incidents. Within the ICS, there are five major functional areas, i.e., command, operations, logistics, planning, and finance. NIMS provides interoperability and compatibility among Federal, State, and local capabilities by providing a core set of principles, concepts, terminologies, and technologies that include:⁴⁵

- The Incident Command System (ICS).
- Unified Command Structure (one commander in charge).
- Joint Field Office (JFO).
- Modular organizations.
- Multi-Agency coordination systems.
- Training, qualification and certification of emergency support staff and functions.
- Resource Management and Information Management.
- Single and multiple jurisdictions for agency incidents.
- Integrated communications.
- Consolidated action plans.
- Designated incident facilities.
- Management span of control.
- Comprehensive resource management.
- Lends consistency and fosters efficiency by using an integrated approach to incident management.

NRP Response and Recovery (Federal Structure)

The NRP establishes multi-agency coordinating structures at the field, regional, and headquarters levels to integrate Federal, State, local, tribal, nongovernmental organizations and private sector efforts.⁴⁶ It provides a national capability that addresses both site-specific

incident management activities and broader regional or national issues.⁴⁷ Consistent with NIMS, these elements of the NRP can be partially or fully implemented depending on the specifics and magnitude of the threat or an event.⁴⁸ During a catastrophic hurricane, the majority of NRP elements will be activated.⁴⁹ They are:

- The Homeland Security Council. The HSPD-1 established the Homeland Security Council to ensure the coordination of all homeland security-related matters among all agencies in developing homeland security objectives, goals, and policy.
- National Operations Center (NOC). The NOC is the DHS operations center and key link to DHS headquarters components and other Federal, state and local agencies.
- Incident Advisory Council (IAC). The IAC is a tailored group of senior-level Federal interagency representatives who provide strategic advice to the Secretary of Homeland Security during an actual or potential Incident of National Significance.
- National Response Coordination Center (NRCC). The NRCC, a functional component of the National Operations Center (NOC), is a multi-agency center that provides overall Federal response coordination.
- Regional Response Coordination Center (RRCC). At the regional level, the RRCC coordinates regional response efforts and implements local Federal program support until a Joint Field Office is established.
- Joint Field Office (JFO). A temporary Federal facility established locally to provide a central point for Federal, state, and local representatives responsible for incident support and coordination. In the event of a catastrophic hurricane that impacts an entire region, it is likely that the Federal response to several States will be coordinated through a regional JFO.
- Principal Federal Official (PFO). A PFO may be designated by the Secretary of Homeland Security during a potential or actual Incident of National Significance. At present, the Secretary has preidentified individual PFOs for the hurricane-prone states on the Eastern Seaboard and in the Gulf Coast. It is possible that during a catastrophic hurricane, the Secretary may designate a national-level PFO to oversee the events in a region. Under such circumstances, the preidentified PFOs for the affected States would become Deputy PFOs.
- Federal Coordinating Officer (FCO). The FCO is the Federal officer who is appointed to manage resource support activities following a presidential disaster or emergency declaration under the Stafford Act. The FCO differs from the PFO in that he or she oversees only the resource coordination, whereas the PFO is responsible for overall Federal

incident management coordination. FCOs for hurricane-prone states have also been pre-identified.

- Emergency Support Functions (ESFs). A functional approach that groups the capabilities of Federal departments and agencies to provide the planning, resources, and program implementation that are most likely to be needed during incidents of national significance. During a catastrophic hurricane, it is virtually certain that all ESFs will be activated locally and nationally.

NRP Support Annexes

Support Annexes describe the framework through which common functional processes and administrative requirements necessary to ensure efficient and effective incident management are executed.⁵⁰ The actions described in the support annexes are overarching in nature and applicable to every type of incident.⁵¹ Examples of key support annexes that would support a catastrophic hurricane are:⁵²

- Private Sector Coordination Annex: Addresses specific Federal actions that are required to effectively and efficiently integrate incident management operations with the private sector.
- International Coordination Annex: Describes activities taken in coordination with international partners for coordinating the donation of foreign goods during a natural disaster. Department of State is the coordinating agency for this annex.
- Incident Annex: Addresses contingency or hazard situations requiring specialized application of the NRP Incident annexes can be implemented concurrently or independently. The majority of incident annexes will likely not be activated during a hurricane unless the storm causes secondary and tertiary damage that would lead to another incident.
- Catastrophic Incident Annex: Establishes the context and overarching strategy for implementing and coordinating an accelerated, proactive national response to a catastrophic incident with little or no advance warning where the need for Federal assistance is obvious and immediate. Many of the assets assigned to the Catastrophic Incident Supplement that would be beneficial for a natural disaster are already pre-positioned as part of normal hurricane planning. DHS is the coordinating agency for this annex.

Analysis of Hurricane Katrina

Scope of the Catastrophe:

The scope of the damage was unprecedented with some 90,000 square miles of impacted areas – an area larger than Great Britain and three-and-a-half times the area inundated by the Great Mississippi flood of 1927.⁵³ Katrina also forced an estimated 770,000 people to seek refuge in other parts of our country, representing the largest displacement of Americans since the great Dust Bowl migrations of the 1930s.⁵⁴ In terms of the damage to housing, Katrina completely destroyed or made uninhabitable an estimated 300,000 homes – or six times as many homes (50,000) destroyed by the Midwest Flood of 1993, and almost 11 times as many homes (10,000) destroyed by Hurricane Andrew.⁵⁵ The storm also created a remarkable amount of debris.⁵⁶ Katrina's estimated destruction resulted in a staggering 118 million cubic yards of debris – more than double the amount produced by the four hurricanes that struck Florida in 2004 and six times the amount of debris created by Hurricane Andrew.⁵⁷

The relief effort, of course, was also unprecedented.⁵⁸ Within the first six days of the response, the Federal government delivered more than 28 million pounds of ice, 8 ½ million meals, and 4 million gallons of water.⁵⁹ This exceeds the combined totals for the entire recovery during Hurricane Andrew.⁶⁰ Moreover, the Department of Defense's response to the catastrophic effects of Hurricane Katrina was the largest and most rapid military deployment within the United States since the Civil War.⁶¹ Over 72,000 Federal military and National Guard personnel were deployed in response to Hurricane Katrina, more than twice the number deployed in response to Hurricane Andrew in 1992 (over 29,000).⁶² These forces were directly employed in saving lives through extensive search and rescue operations, evacuation, transportation, assisting law enforcement, establishing communications, logistics, and providing medical assistance and delivering critical emergency relief supplies. The United States Northern Command (USNORTHCOM), established after September 11, 2001, to unify DoD's homeland defense and civil support operations, provided the command and control of Federal military forces during its most significant operational and humanitarian response to date.

Department of Defense Initial Response: Pre - Landfall

DoD's Strategy for Homeland Defense and Civil Support, dated June 2005, envisioned a Total Force approach to homeland defense missions, incorporating the full capabilities of the Active Duty, National Guard, and Reserve Forces. To execute this diverse range of missions effectively, the DoD must ensure the Total Force, both reserve and active duty components, are:⁶³

- *Timely* in response and readily accessible. Homeland defense and civil support missions require a rapid response, often measured in hours, not days.
- *Trained and equipped* to achieve the highest degree of readiness in a broad array of mission sets.
- *Transformed* to meet terrorist challenges. Timely, trained, and equipped forces must be agile and interoperable, taking advantage of networked capabilities.

As discussed earlier, the Department of Defense will normally provide response to domestic disasters under three tiers of support, local, state, and federal. The military response will typically vary depending on the severity of the event. During small disasters, an affected state's National Guard may provide a sufficient response but larger disasters, such as Hurricane Katrina, may require assistance from out of state National Guard, Reserve, or Active Duty forces. During Hurricane Katrina, majority of the response forces were heavily reliant on the National Guard and federal troops. Majority of the Reservists that responded to Katrina were volunteers. This is not consistent with the DoD's Strategy for Homeland Defense and Civil Support that calls for a Total Force, incorporating the full capabilities of the Active Duty, National Guard, and Reserve Forces.

In accordance with 10 U.S.C. 12304, United States Reserve Forces may be employed for civil emergencies in a volunteer status. They may be ordered to active duty for annual training, or be called to active duty after the President has declared a national emergency. Under the current law, they may only be involuntarily ordered to active duty in response to a domestic emergency for authorized response to a Weapons of Mass Destruction (WMD). This statute limited DoD's reserve component personnel from being involuntarily ordered to active duty for disaster response. DoD may want to revisit this mobilization statute and request that Congress amend it to stipulate that during catastrophic incidents like Katrina, reserve forces will be involuntarily ordered to active duty to assist with disaster relief operations.

One of the key issues attracting the most attention in post-Katrina discussions was the speed of rescue and relief operations by the DoD's Total Force as outlined in the DoD's Strategy for Homeland Defense and Civil Support. Well before Hurricane Katrina struck the Gulf Coast, the DoD had undertaken preparations for the 2005 Hurricane season.⁶⁴ Joint Staff/JDOMS and USNORTHCOM began tracking the tropical depression that became Hurricane Katrina on August 23, 2005 before landfall. On August 19, 2005, the SECDEF approved a standing execution order to prepare and organize for severe weather disaster response operations.⁶⁵ This order authorized the pre-event positioning of senior military representatives, known as DCOs, to act as liaisons with other governmental

organizations' in the projected disaster area and the rapid access to a limited response package to perform disaster response operations.⁶⁶ The order also allowed the use of DoD installations as logistical staging areas for FEMA.⁶⁷ Thus, the DoD began its alert and coordination procedures significantly before Katrina's landfall and the subsequent levee breaches. Since Hurricane Katrina, DoD has permanently assigned DCOs/DCE to each of the 10 FEMA regions to achieve unity of effort, validate hurricane response plans, and assist with overall regional hurricane preparedness.

On Tuesday, August 23, 2005 (six days before landfall in Louisiana), as Tropical Storm Katrina approached, DoD conducted an inventory of available capabilities (e.g., meals/ready-to-eat, staging bases, deployable hospitals, and health care providers), in anticipation of potential requests for assistance from other Federal, State, and local agencies.⁶⁸ On Thursday, August 25, 2005, DoD augmented its Liaison Officer at FEMA with three Emergency Preparedness Liaison Officers (EPLOs).⁶⁹ From Friday, August 26th, 2005 to Sunday, August 28th, 2005, DCOs and their support elements deployed to the State Emergency Operations Centers (SEOC) of Alabama, Louisiana, and Mississippi to begin preliminary coordination with Federal, State, and local emergency management officials.⁷⁰ From Wednesday, August 24th, 2005 to Sunday, August 28th, 2005, the Alabama, Florida, Louisiana, and Mississippi National Guard each established Joint Operations Centers in their respective States and thousands of National Guard soldiers and airmen were called to State Active Duty (SAD) by their respective Governors.⁷¹ On August 28th, 2005, the Joint Staff/JDOMS activated a Hurricane Katrina 24 hours-a-day/7 day's a-week crisis management cell in the National Military Command Center (NMCC).⁷²

In addition to the activation of the NMCC, the supported COCOM, USNORTHCOM and supporting COCOMs, USPACOM, USSOUTHCOM, USTRANSCOM, USJFCOM, USSTRATCOM, Services, and Defense Agencies had also activated their respective crisis management cells in anticipation of potential RFAs from FEMA. Hurricane Katrina struck Louisiana and the Gulf Coast on August 29, 2005 at 0610 hours.⁷³ Joint Task Force (JTF) Katrina activated and stood up on August 31, 2005 under the direction of Lieutenant General Russel Honore, First Army Commander.⁷⁴

Department of Defense Immediate Response: Post – Landfall

It normally takes at least 24 hours after a hurricane makes landfall to obtain preliminary assessments of damage to develop a common operating picture (COP) of the extent of devastation to critical infrastructure, loss of life, and interoperable communications. Additionally,

catastrophic damage, severe flooding and debris blocked roads hindering vehicle mounted assessment make it almost impossible to verify the storm's damage immediately after landfall. In Katrina's wake, many of the public safety facilities such as communications dispatch centers throughout Louisiana and the Gulf Coast were unavailable to provide communication support services to first responders, drastically limiting their response and communications capabilities. DoD was completely unaware of the levee breaches and the significant flooding that stemmed from them. These factors posed a significant challenge to DoD in obtaining situational awareness of the incident. At best, DoD obtained its situational awareness through media reports from CNN and other syndicated news agencies. The DoD had no better COP than the rest of the federal government after Katrina's landfall. My personal experience, as I worked the night shift in the NMCC, was that we all were in a wait and see mode.

Although DoD's responsibility under the NRP is to provide assistance when requested by FEMA or when directed by the SECDEF and/or President, the DoD gave advance notice to designated military units and actually began deploying forces days in advance of formal FEMA requests for forces.⁷⁵ Through past experiences in supporting civil authorities, the DoD was able to anticipate the types of assistance that might be requested by FEMA and had the appropriate units ready to move.⁷⁶ However, it was not until after the presidential declaration of a federal emergency on August 30, and the declaration of an Incident of National Significance on August 31, that many deployments began⁷⁷.

Consistent with the laws of our nation, such action was in keeping with the National Response Plan and DOD's Homeland Security Doctrine, though it may have slowed arrival of needed DoD assets in the affected region.⁷⁸ Another factor that affected deployments was that most relief assets had to be kept out of the storm's path until it passed to avoid their own destruction.⁷⁹ Relief assets' approach was also slowed to some extent by damage to airports/airbases, highways, and the concern about underwater obstructions in the New Orleans Port area.⁸⁰ Even after the activation of JTF Katrina on August 30, DOD's response appears to have been somewhat incremental, responding to an increasingly deteriorating situation.⁸¹ The hospital ship USS Comfort was not dispatched from Baltimore until August 31.⁸²

Department of Defense Responses to DHS/FEMA's Request for Assistance

The Department of Defense responded to Hurricane Katrina consistent with its knowledge and understanding of its statutory role under the NRP. Essentially, DoD responds to requests for assistance from DHS/FEMA as the PFA for disaster response and recovery. The first RFA from DHS/FEMA was for two helicopters to deploy and support the DHS/FEMA Rapid Needs

Assessment Teams. JDOMS issued its first order directing USNORTHCOM to provide this rotary wing support. The order also directed that COCOMS be prepared to provide additional support such as personnel, equipment, airlift and other support as requested by DHS/FEMA and approved by the SECDEF. After the initial RFA from DHS/FEMA, the DoD still had no other specific requirements or missions from DHS/FEMA.

Requests for assistance from DHS/FEMA continued to be slow and limited in numbers. This resulted in the CJCS providing additional guidance to the Service Chiefs to use their own judgment in pushing assets forward. Most commanders mobilized equipment and units for potential deployments in advance of formal requests or SECDEF approval. As DHS/FEMA begin to get a handle on what specific requirements were needed, requests for assistance increased. However, DoD assisted with writing majority of these requests because they lacked detail and specificity. As the result of a post-Katrina lesson learned, the DoD now develops pre-scripted mission assignments with DHS/FEMA for frequently requested DoD assets.

Another problem was the speed with which initial requests were approved inside the Pentagon. Prior to May 25, 2003, the Department of the Army utilized a streamlined orders approval process by which, after receipt of an RFA, and assuming no issues with providing the requested support, the Army's Director of Military Support (DOMS) required only the Army's General Council concurrence prior to SECARMY approving the support. The Joint Staff process to provide DSCA was to mirror the former Army system. However, when the Executive Secretary receives an RFA, it is shared simultaneously with the JDOMS and ASD (HD) for review (See Fig 2). It was a 31-step process that proved cumbersome and inadequate for the large number of RFAs processed regarding Katrina. Because of this and the low number of RFAs received to date, the Deputy Secretary of Defense (DEPSECDEF) Gordon England preempted the formal orders approval process and began to approve Verbal Order of Commander Officers (VOCO) for defense support missions to Hurricane Katrina.⁸³ This expedited orders approval process enabled the DoD to lean forward with assets and gave the Commander, USNORTHCOM what he needed to support the disaster.

U.S. Northern Command – Mobilization and Integration of US Forces

As discussed earlier, USNORTHCOM like the Joint Staff/JDOMS had been tracking the storm since August 23, 2005. NORTHCOM participated in daily teleconferences with the Joint Staff/JDOMS, CJCS, OSD, NGB, DHS/FEMA and various other interagencies. Similar to the Joint Staff/JDOMS, USNORTHCOM did not have a good situational awareness of Katrina's damage after landfall. This "fog of war" was not only consistent within the DoD and DHS/FEMA,

but also with the rest of the federal government. As the COP became more visible and the damage more apparent we knew that the nation had a catastrophe to deal with.

From first hand experience with working the many RFA's and request for forces (RFF) in the NMCC, not to mentioned the frustration we all felt with FEMA's RFAs, the Joint Staff/JDOMS and USNORTHCOM did not have a good handle on what forces had deployed, what forces were already on the ground and what forces were deploying. It was not just the Active Duty forces for which we had no COP, but there was no visibility of the National Guard and Reserve efforts either. It took a couple days to get control of the mobilization and deployment of Active Duty forces.

As discussed above, the CJCS and DEPSECDEF gave guidance to the Service Chiefs and COCOMs to make decisions and push forward with personnel and equipment to USNORTHCOM to assist with response efforts. They were also instructed to coordinate with USNORTHCOM regarding deployments to and from the joint operating area (JOA). It is difficult to determine whether or not this action influenced the decisions of other strategic leaders to deploy Active Duty, National Guard and Reserve forces absent any authority or execution orders. However, commanders within both active and reserve components, pursuant to their own authority and some exercising immediate response authority, positioned personnel and equipment in anticipation of potential requests for assistance from DHS/FEMA.

This decentralized decision making made it extremely difficult for USNORTHCOM to have unity of command and effort. Units were undergoing preparation, mobilization, and deployment from different Services and components not directly under USNORTHCOM's perview and control. Another major problem that occurred was once units started arriving in the JOA, particularly the National Guard and Reserve, there was no dedicated unit on the ground to assist with the reception, staging, onward movement and integration (RSOI). This created even more confusion and frustration for USNORTHCOM in trying to deliver the proper capability requested by the PFA.

Additional active duty ground forces (82nd Airborne, 1st Cavalry) did not begin deploying until September 3, arriving on September 5.⁸⁴ Again, transportation challenges in the affected area may have played some role in slowing these troops' arrival.⁸⁵ However, the DOD fully understands that much is to be done in improving its response time as it reviews its policies and procedures involving defense support of civil authorities. It should be noted that despite the enormous challenges, DoD's resources and capabilities proved extremely helpful in mitigating the disaster as local and state responders were overwhelmed in their efforts to alleviate the pain and suffering caused by Hurricane Katrina.

Defense Support of Civil Authorities – Are We Organize Right?

Earlier in the essay, we asked the question if the Department of Defense was organized appropriately to handle defense support of civil authorities. The Unified Command Plan assigns combatant commanders the responsibility to respond to natural and man-made disasters using attached and assigned forces.⁸⁶ The Geographic Combatant Commanders (GCC) have the duty and authority to exercise command and control of all operational forces within their respective areas of responsibility, including military personnel assigned to disaster response.⁸⁷ Four of the five GCCs have Standing Joint Forces Headquarters – Core Element (SJFHQ - CE).⁸⁸ The SJFHQ are (50-20 member teams) of operational planners and information C2 specialist from a GCCs headquarter staff, which forms the core of a JTFHQ command structure, stood up for an AOR crisis or military action.⁸⁹

USJFCOM has one fully operational/deployable SJFHQ –CE.⁹⁰ Elements of USJFCOM's SJFHQ-CE (approximately 40 personnel) deployed to assist FEMA during Hurricane Katrina to help them get organized.⁹¹ USNORTHCOM's disaster response to Katrina is the latest example of a GCC controlling military forces in a DSCA environment, therefore, the DoD is more than capable, adequately organized, and equipped to handle its statutory requirements pertaining to DSCA.

Department of Defense Way Ahead to Speed Response Time

Department of Defense is an important partner in the overall national response effort for a complete spectrum of incident management activities, including the prevention of, preparedness for, response to, and recovery from, acts of terrorism, major natural disasters, or other major emergencies. DoD resources for Hurricane Katrina were employed as part of a coordinated incident management approach among Federal, State, and local governments, as well as nongovernmental organizations. Title 10, U.S.C., and the National Response Plan, specifically define the authorities and responsibilities of the Department. However, as with all DoD operations, we must ascertain and capture lessons learned from DoD's response to Hurricane Katrina. This will help to improve our own Title 10 response capabilities and our responsibilities chartered in the NRP.

To speed DoD's response time to catastrophes and/or incidents of national significance, the defense department must improve its situational awareness by not waiting for accurate damage assessments from emergency management officials. DoD must use everything within its arsenal, particularly, the national geospatial agency, and other intelligence apparatus to get better situational awareness of what is happening on the ground. This would enable the

department to develop a clearer picture and push defense support capabilities and commodities forward where needed the most.

Another way ahead is for the DoD to expedite and/or streamline its orders approval process when processing requests for assistance. The Joint Staff/JDOMS needs to adopt the Army's abbreviated orders approval system. After receipt of an RFA, and assuming no issues with providing the requested support, the order should require only concurrence by the JCS Legal Council, DJ3, and DJS/CJCS prior to ASD (HD) reviewing and approving the support. This would save time and speed DoD's response time by having the SECDEF relegate his approval authority to the ASD (HD).

In concert with DoD's Strategy for Homeland Defense and Civil Support, the DoD must do better in the integration of the Total Force Approach to Civil Support Missions. USNORTHCOM must ensure the integration of both Active duty, National Guard and Reserve components capabilities into pre-event exercises and on scene operational planning for catastrophic events. Additionally, when an incident of national significance occurs, the DoD must have a dedicated RSOI headquarters, specifically ARNORTH or a National Guard Headquarters, to provide command and control, staging, integration and on-ward movement of arriving defense response forces.

To date there have been many Katrina recommendations from the White House, Congress, and other public and private nongovernmental agencies that covered the entire spectrum of Federal, State, and local response to Hurricane Katrina. I will highlight some of the most recent changes adopted by DoD to meet emerging homeland defense and civil support crises. They are:

- DSCA Standing Execution Order (EXORD): All hazards (minus CBRNE) DSCA Standing EXORD that combines the Severe Weather and Wildland Fire Fighting EXORD into a single EXORD that authorizes Commanders USNORTHCOM, USPACOM, and USSOUTHCOM rapid access to a limited response package to perform disaster response operations in support of the PFA.
- Pre-scripted Mission Assignments (PSMA): The development of 18 PSMA's with DHS/FEMA for frequently requested DoD assets.
- USNORTHCOM Plans: Plans that outline USNORTHCOM's contingency role in planning and execution of civil support to DHS/FEMA.
- NPR Catastrophic Incident Supplement (CIS): The NRP and CIS are under revision to specify requirements for DoD resources based on the magnitude and type of a catastrophic event.

- **DHS Interagency Coordination:** The co-location of DCOs/DCE in each of the 10 FEMA regions.
- **Regional Hurricane Preparedness Tabletop Exercises:** The conduct of regional hurricane exercises to validate hurricane response plans and identify immediate coordination and preparedness improvements in areas with high hurricane risks before they start to include the linking of Federal, State, local and private sector plans.
- **Unity of Effort:** Achieve unity of effort when multiple Federal agencies converge on an affected area.

Recommendations

So what can the Department of Defense do to speed its response time to natural or man-made disasters? In essence, four things:

- *Increase Situational Awareness:* Natural or man-made disasters create emergencies that require rapid response to save lives, mitigate property damage and provide consequence management. The Department of Defense must take advantage of using more geospatial tools, intelligence and information capabilities. This will improve its ability to obtain timely and accurate assessments of damaged areas immediately after an event occurs thus providing them with an effective common operating picture of the incident.
- *Modify Joint Staff/JDOMS Orders Approval Process:* DoD must modify and streamline its orders approval process pertaining to requests for assistance whereby the SECDEF relegates the authority to approve defense support of civil authorities requests for assistance and orders to the CJCS and ASD (HD) respectively.
- *Enforce the Total Force Approach to Civil Support Missions:* DoD must ensure that the Strategy for Homeland Defense and Civil Support is fully operationalized by enforcing the total integration of both Active Duty, National Guard and Reserve components capabilities into pre-event exercises and on the scene operational planning for catastrophic events.
- *Provide Reception, Staging, On-ward, Movement (RSOI) Headquarters Unit for Active Duty, National Guard and Reserve Forces:* DoD must dedicate an Army Service Component Command Headquarters, specifically, ARNORTH, or a National Guard Headquarters to provide command and control, staging, housing and

integration of arriving Active Duty, National Guard and Reserve response forces into the joint operating area of an incident of national significance.

Summary

The Department of Defense conducted one of the largest peacetime deployments of personnel and equipment in United States history in support of Hurricane Katrina disaster relief operations. The DoD will normally provide Defense Support of Civil Authorities under three tiers of support: local, state and federal. Central to DoD's employment is an understanding that defense personnel always serve in a supporting role and carry out disaster relief operations and missions as designated by the civilian Federal agency responsible for leading the Federal assistance effort - typically that primary agency is the Department of Homeland Security through the Federal Emergency Management Agency. Initial requests for DoD assistance will always be submitted by the DHS to the DoD Executive Secretary for processing, evaluation, and subsequent approval by the Secretary of Defense. It is also important that the chain of command run from the President to the Secretary of Defense to the appropriate Combatant Commander.

This paper has outlined the historical perspectives of Defense Support of Civil Authorities and reviewed the U.S. Constitution and key statutes governing DSCA. We have discussed the national security strategy and policy documents as they pertain to civil support operations following catastrophic events. We explored the DoD structure, organization and responsibilities for DSCA to ascertain if DoD is organized right for DSCA. We also looked at DSCA response management and DoD's request for assistance and approval process. We further reviewed DoD response time to Katrina and analyzed disaster planning documents to determine how to speed DoD response time in the next hurricane.

The appropriate response and timeliness of the response to a national emergency such as Hurricane Katrina will always be dependent on the situation. Again, the DoD is supporting the efforts of the DHS/FEMA and immediately responded as requested. One only has to look at the sheer magnitude of Katrina to appreciate the challenges that the DoD faced to assist with relief efforts. Overcoming the logistics, communications, security, transportation and other problems were daunting tasks given the conditions and the DoD approached each of them quickly, safely, and carefully.

Hurricane Katrina was one of the most devastating natural disasters in United States history. Our military mounted a massive and concerted recovery effort that saved lives and prevented additional human suffering. There is much to examine, learn, and improve on from

our experiences with Katrina. DoD is structured appropriately to handle defense support of civil authorities. However, DoD must improve its situational awareness after an incident of national significance occurs; secondly, it needs to modify its orders approval process pertaining to requests for assistance; third, it must integrate Active Duty, National Guard and Reserve component capabilities into pre-operational planning and exercises for catastrophic events; and finally, DoD must provide a RSOI Headquarters to provide staging, housing and integration of arriving response forces into the joint operating area. The DoD will continue to provide support to natural and man-made disasters as requested by DHS/FEMA and in accordance with applicable laws, statutes, and directives or when directed by the SECDEF. DoD's response to Hurricane Katrina displayed the DoD's resolve to respond to Federal, State and local emergencies and support Americans affected by natural disasters. It further demonstrates the DoD's capability to provide domestic support while maintaining global commitments and fighting the Global War on Terrorism.

Endnotes

¹ Sir Winston Churchill, Speech, House of Commons, (London, England., 1951).

² President George W. Bush, Public Address, (Washington, D.C., September 15, 2005).

³ Ibid.

⁴ Ibid.

⁵ The Constitution of the United States of America, United States Government Printing Office, (Washington, D.C., February 6, 1992), 1.

⁶ Ibid., 5.

⁷ Ibid., 5.

⁸ Ibid., 5.

⁹ Ibid., 7.

¹⁰ Ibid., 8.

¹¹ Ibid., 14.

¹² Center for Law and Military Operations, Domestic Operations Law (DOPLAW) Handbook for Judge Advocates, 2004, 357-358.

¹³ Jennifer Elsea, The Use of Federal Troops for Disaster Assistance: Legal Issues, RS22266, (Washington, DC: Congressional Research Service, Library of Con, 2005), 4.

¹⁴ Ibid., 3.

¹⁵ Thomas R. Lujan, "Legal Aspects of Domestic Employment of the Army," Parameters, Autumn, 1997.

¹⁶ Mrs. Merlin, telephonic interview, Department of Homeland Security, FEMA, (Washington DC.: September, 2006).

¹⁷ U.S. Department of Homeland Security, National Response Plan (Washington, DC: 2004), 80.

¹⁸ White House, The National Security Strategy of the United States of America (Washington, DC: 2006), 43-44.

¹⁹ Office of Homeland Security, National Strategy for Homeland Security (Washington, DC:, 2002).

²⁰ Ibid., 13.

²¹ Ibid., 45.

²² U.S. Department of Defense, National Defense Strategy of the United States of America, (Washington, DC: 2005).

²³ Joint Chiefs of Staff, National Military Strategy of the United States of America, (Washington, DC: 2004), 9.

²⁴ U.S. Department of Defense, Strategy for Homeland Defense and Civil Support, (Washington, DC: 2005), 5-6.

²⁵ Ibid., 35.

²⁶ Ibid., 35.

²⁷ White House, Unified Command Plan (Washington, DC: 2005), 1-10.

²⁸ U.S. Department of Defense, Forces for Unified Commands FY 2006 (U) (Washington, DC:2005), II-4.

²⁹ Homeland Security Presidential Directive -5, Management of Domestic Incidents, (Washington, D.C.:, 2003).

³⁰ Department of Defense, Strategy for Homeland Defense and Civil Support, (Washington, D.C.:, June 2005).

³¹ Ibid., 5.

³² National Response Plan, Department of Homeland Security, (Washington, D.C.: December 2004), 42.

³³ Department of Defense Directive 3025.1, Defense Support of Civil Authorities (Washington, D.C.: Final Draft), 4.

³⁴ Joint Chiefs of Staff, Joint Directorate of Military Support (JDOMS), Operations Briefing, (Washington, D.C.: May 2005), 8.

³⁵ Ibid., Slide 16.

³⁶ Ibid., Slide 13.

³⁷ Department of Defense Directive (DoDD) 3025.15, (Washington, D.C.: February 18, 1997), 4.

³⁸ Ibid., p.4.

³⁹ Ibid., p.4.

⁴⁰ Department of Homeland Security Federal Partners Briefing, (Washington, D.C.: November 2006).

⁴¹ Ibid.

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Department of Homeland Security, National Response Plan, Appendix H – NRP Applicability to a Catastrophic Hurricane, (Washington, D.C.: September, 2004).

⁴⁷ Ibid., H -1.

⁴⁸ Ibid., H -1.

⁴⁹ Ibid., H -1.

⁵⁰ Ibid., H – 1.

⁵¹ Ibid., H -1.

⁵² Ibid., H -1.

⁵³ Congressional Statement for Secretary Michael Chertoff, U.S. Department of Homeland Security before the Senate Committee on Homeland Security and Government Affairs, United States Senate, (Washington, D.C.: February 15, 2006).

⁵⁴ Ibid., 1.

⁵⁵ Ibid., 1.

⁵⁶ Ibid., 2.

⁵⁷ Ibid., 2.

⁵⁸ Ibid., 2.

⁵⁹ Ibid., 2.

⁶⁰ Ibid., 2.

⁶¹ Congressional Statement for Assistant Secretary of Defense for Homeland Defense, Mr. Paul McHale before the Senate Committee on Homeland Security and Government Affairs, United States Senate, (Washington, D.C., February 9, 2006).

⁶² Ibid., 4.

⁶³ U.S. Department of Defense, Strategy for Homeland Defense and Civil Support, (Washington, DC: 2005), 35.

⁶⁴ Congressional Statement for Assistant Secretary of Defense for Homeland Defense, Mr. Paul McHale before the Senate Committee on Homeland Security and Government Affairs, United States Senate, (Washington, D.C., February 9, 2006).

⁶⁵ Ibid., 3.

⁶⁶ Ibid., 3.

⁶⁷ Ibid., 3.

⁶⁸ Ibid., 3.

⁶⁹ Ibid., 3.

⁷⁰ Ibid., 4.

⁷¹ Ibid., 4.

⁷² Ibid., 4.

⁷³ Ibid., 4.

⁷⁴ Ibid., 4.

⁷⁵ Ibid., 4.

⁷⁶ Ibid., 4.

⁷⁷ Congressional Research Service for Congress, Hurricane Katrina, (Washington, DC: September 19, 2005), 13.

⁷⁸ Ibid., 13.

⁷⁹ Ibid., 13.

⁸⁰ Ibid., 13.

⁸¹ Ibid., 13.

⁸² Ibid., 13.

⁸³ Ibid., 4.

⁸⁴ Ibid., 13.

⁸⁵ Ibid., 13.

⁸⁶ Department of Defense, Joint Chiefs of Staff, J-5, Information Paper, (Washington, DC:, 14 Feb 2006), 1.

⁸⁷ Ibid., 1.

⁸⁸ Ibid., 1.

⁸⁹ Ibid., 1.

⁹⁰ Ibid., 1.

⁹¹ Ibid., 2.