

CIVILIAN RESEARCH PROJECT

The Department of Defense's Role in Disaster Recovery

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ABSTRACT

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During a recent speech to the American public in the aftermath of Hurricane Katrina, President George W. Bush announced, "It is now clear that a challenge on this scale requires greater federal authority and a broader role for the armed forces—the institution of our government capable of massive logistical operations on a moment's notice." This paper will examine the historical role of the armed forces in disaster management, the current response plans as well as existing legislation that employ the Department of Defense (DoD), and what broader role, if any, is required by the DoD. The United States Government maintains a cabinet level Department, the office of Homeland Security, created to provide the unifying core of the vast national network of organizations and institutions involved in efforts to secure our homeland. Incorporated into the office of Homeland Security is the Federal Emergency Management Agency (FEMA) with a specific mission to lead, manage, and coordinate the national response for acts of terrorism, natural disasters, and other emergencies. This office maintains partnerships with state and local governments, and the private sector. There are, and in the case of Katrina there were, plans in place to provide response to natural disasters that involve the military. So, what went wrong in the disaster management of Katrina, and does it require a "broader" role for the armed forces? This paper will provide some of the answers to these questions.

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INTRODUCTION

Natural disasters, as acts of terrorism, and their resulting impacts have become a significant issue for the federal government. Although acts of nature have been around since the beginning of time, their effects have increasingly affected civilization due to expanding population and continuing urban development. Acts of terrorism are aimed at causing fear through disruption of the civilized way of life. Today, we are witnessing a trend of disasters being labeled “catastrophic.” Catastrophic, in the context of this paper, is defined as causing widespread destruction and distress with significant social, political, and economic impacts. Numerous catastrophic events have occurred worldwide in the past several years, especially in 2005. The catastrophic events of 2005 included a tsunami in Asia, the most active hurricane season in the Atlantic on record, and a magnitude 7.3 earthquake in Pakistan. The year ended with severe drought and widespread fires in the Southwestern United States causing significant economic damage and leaving numerous families homeless. Within the borders of the United States, the most notable catastrophic events were the numerous hurricanes developed in the Atlantic Ocean.

The 2005 Atlantic hurricane season officially began June 1, 2005, and officially ended November 30, 2005. However, for only the second time in recorded history, the season actually extended into January with the activity of Hurricane Epsilon and Tropical Storm Zeta. Initially, forecasters called for a modestly above-average hurricane season. Unexpectedly, it became the most active season: a record 27 tropical storms formed, of which 14 became hurricanes. Seven of these hurricanes strengthened into major hurricanes. It is also the first hurricane season either in the Atlantic or Pacific to resort to Greek letters for naming [1]. These storms caused significant destruction and distress within the United States resulting in over \$100 billion in damage and over 1700 fatalities [2]. Most notably—and the subject of much discussion in terms of economics, social considerations, and political debate—is the aftermath of Hurricane Katrina.

Tropical Storm Katrina officially became a hurricane on August 23, 2005, and initially made landfall as a Category 1 hurricane just north of Miami Florida on August 25. This was the eleventh named tropical storm and fourth hurricane of the season. South Florida suffered over a dozen deaths and moderate economic damage. After passing through Florida and into the Gulf of Mexico, Hurricane Katrina strengthened into a Category 5 hurricane with maximum sustained winds of over 175 mph and a central pressure of 902 mbar. On August 29, Katrina made landfall along the Central Gulf Coast near Buras-Triumph, Louisiana, as a strong Category 4 storm. The sheer physical size of Katrina made it possibly the largest storm on record, and on August 29, the storm surge breached the levee system that protected the city of New Orleans from Lake Pontchartrain and the Mississippi River. In addition to massive flooding in the city of New Orleans, the effects of the storm were felt along the coasts of Mississippi and Alabama, making Katrina the most destructive and costliest natural disaster in the history of the United States [3].

Although still being evaluated, the economic damage from Katrina is estimated to be between \$100 and \$200 billion. Over a million people were displaced, and over 1300 fatalities were recorded, creating a significant humanitarian crisis. The federal disaster declarations covered an area of the United States over 90,000 square miles— roughly the size of the United Kingdom— and left an estimated five million people without power. On August 27, after Katrina crossed southern Florida, President George W. Bush declared a state of emergency in Louisiana, Alabama, and Mississippi two days prior to the storm making landfall on the Gulf Coast region. On September 3, Homeland Security Secretary Michael Chertoff described the aftermath of Hurricane Katrina as “probably the worst catastrophe, or set of catastrophes” in the country’s history, referring to the hurricane itself plus the flooding of New Orleans [4]. The federal, state, and local response to this storm is the subject of much debate and criticism. On September 15, President Bush addressed the nation from New Orleans stating that “we will do what it takes” to recover and rebuild the devastated areas. President Bush further stated, “the system at every level of government, was not well coordinated and was overwhelmed in the first few days. It is now clear that a challenge on this scale requires greater federal authority and a broader role for the armed forces— the institution of our government capable of massive logistical operations on a moment’s notice” [5]. The challenge referred to in the president’s statement is aimed at disasters resulting in catastrophic impacts and poses a strategic issue to the

federal government in defining and implementing a role for the Department of Defense in catastrophic disasters.

BACKGROUND

HISTORICAL ROLE OF ARMED FORCES IN DISASTER RELIEF

The role of the military in catastrophic events has often been a “gray area” in regards to authority, but nonetheless, the origins of the military’s participation in such events date back to the mid nineteenth century. Prior to the Civil War the military was neither numerically nor technically equipped to play much of a role. The Army in particular became more active in the disaster relief role after the Civil War primarily due to the wartime experiences of fighting fires, occupation responsibilities of reconstruction, and the unique resources maintained within the Army. Additionally, the absence of any nationally recognized relief authority contributed greatly to the necessity of the military in relief operations. Although the Red Cross was founded in 1881 and began to play a role, its efforts remained minimal until the organization received official standing in 1905.

During the period from the Civil War until the turn of the century the military consistently filled the role of providing disaster relief. In the Chicago fire of 1871 the War Department authorized the issue of 200,000 rations and over 10,000 tents to aid the displaced in addition to providing troops. During the yellow fever epidemic along the lower Mississippi River in 1878 the Army contributed more than 150 tons of food and aided in delivering relief supplies. Additionally, the Army provided tents to shelter survivors of the Charleston earthquake of 1886, Pennsylvania Guardsmen assisted in the Johnston flood of 1889 that claimed over 2,000 lives, and in 1904 fires in both Seattle and Baltimore found both regular Army and Guard troops actively involved in a role to maintain law and order [6]. However, even though the military played a significant role during this era, the civil military ties in the area of disaster relief remained strained. The nation was recovering and growing in the aftermath of the Civil War and most citizens remained skeptical in any event where the values of individualism and self-reliance were thought to be undermined when Federal Troops entered the scene. The Army in particular was not comfortable in intruding in civil affairs as the War Department recognized a lack of statutory authority for relief missions. In 1905 there was great relief in the War Department

when Congress designated the Red Cross as the nation's official relief agency, but this relief was short lived as the nation experienced its most significant catastrophe to date in 1906.

In the early morning hours of April 18, 1906, approximately 150 miles off the coast of San Francisco, an earthquake of such proportions occurred that reduced the city of San Francisco to not much more than ash and rubble. Over 350,000 in a population of not more than 450,000 were left homeless and deprived of all modern conveniences. The entire business district of the city, an area covering 3,400 square acres, was destroyed by fire. "The San Francisco earthquake and fire of 1906 posed tasks so large that they could only be compared with post-combat situations where it was necessary for a military force to occupy, govern, and sustain a conquered community" [7]. Yet, legalistic complications arose as martial law was never imposed, civil authority operated spasmodically, the American Red Cross arrived albeit not very organized, and a lack of clear lines of authority and organization resulted. But the damage was so catastrophic that it exceeded the facilities and capabilities of civil authority. Consequently, "quartermaster elements dispensed bedding and shelter in city parks and other open areas; signal corpsmen struggled to cope with the crippled communication system; medical teams tended to the injured; and engineers set up sanitation facilities" [8]. Even when all fires were extinguished and order was restored, the civilian agencies lacked the resources and ability to handle the thousands left homeless. The military intervened in providing food and medical assistance for almost three months.

Military involvement in disaster relief did not end with the 1906 earthquake. Disaster relief continued throughout the early years of the Twentieth Century in floods, tornadoes, fires, etc. In fact, it became so routine that guidelines to Army commanders were published in Army regulation, AR 500-60, in 1924. This regulation limited military involvement to situations where "overruling demands of humanity compelled immediate action" or local resources were clearly inadequate to meet the need. Yet, even with the publishing of a regulation, there still remained unresolved issues in relations between the Army and the American Red Cross. As the Red Cross was the nation's primary relief agency it was still very dependent on the military. The War Department in turn was concerned over Red Cross control of Army personnel and equipment. In 1938 a limited agreement between the War Department and the American Red Cross was reached that resulted in the Army refining its regulation to recognize the Red Cross as the

nation's primary relief agency, and the Red Cross would maintain a position of primacy in future relief missions. The Army retained final approval authority for use of personnel and equipment, with approval from Washington, but required local commanders to consult with the Red Cross in disaster operations. Shortly thereafter, the Nation entered into World War II resulting in a strengthening of ties in civil military relations; however, post WWII created new challenges.

The unstable world environment coupled with the advent of the nuclear bomb produced a postwar period that focused on civil defense in a nuclear holocaust as well as disaster relief in natural catastrophes. Civil defense and disaster relief were viewed by many as two distinct operations. Legislation evolved such as the disaster relief legislation of 1947 and 1950 as well as the Civil Defense Act of 1950 that spawned the creation of elaborate institutional arrangements involving the military for civil defense and disaster relief. These arrangements have evolved over the last 50 years and provide a better understanding of how today's Department of Defense is involved, along with its legal authority in catastrophic events.

FEDERAL ORGANIZATION FOR DISASTER MANAGEMENT

Disaster Relief Act 1950

Until 1950 the federal government primarily managed national emergencies and disasters through the Office of Emergency Management (OEM), housed in the executive office of the president. To handle the issue of "civil defense" President Truman created the Federal Civil Defense Administration (FCDA) as part of the OEM; however, the FCDA much like the OEM, offered no direct assistance to state or local governments. Congress, realizing this fact, passed the Civil Defense Act of 1950 that separated the FCDA as an independent agency of the federal government. The FCDA assumed the role of primarily advising the president on mobilization coordination of the US during times of war and specifically focused on industrial capabilities and stockpiling of essential supplies. The Disaster Relief Act of 1950 was designed to allow the federal government to provide some limited assistance to the states during times of disaster, a function that remained in the executive office of the president. It was not until 1953 that Executive Order 10427 was published that combined the efforts of civil defense and disaster relief coordination into a single office, the office of Defense Mobilization. Still, many viewed civil defense functions as separate and distinct from disaster relief and the combination of the

two in a single office did little to further the coordination of Department of Defense activities in disaster relief.

Although confusion reigned throughout much of the 1950's in terms of agency responsibilities, it was not until 1961 that President Kennedy took the distinction between civil defense and disaster relief for the Department of Defense a step further. Executive Order 10952 moved the civil defense functions within the Office of Defense Mobilization to what was then called the Office of Civil Defense within DoD. This moved civilian defense, primarily viewed as a shelter protection program for a nuclear event, into the military arena. But, what remained of emergency preparedness such as disaster relief was transferred to a newly created office under the executive office of the president known as the Office of Emergency Planning later to be renamed the Office of Emergency Preparedness. It was not until the 1970's that DoD's role in disaster relief became a bit more defined, but only after further bureaucratic actions within the federal government.

Department of Housing and Urban Development

The state Governors provided intense pressure in the early 70's on the federal government to recognize that the efforts of civil defense and emergency preparedness were in fact not all that distinct. This pressure resulted in a shift toward allowing civil defense funds and equipment for natural disaster preparedness. In fact, the Office of Civil Defense, now renamed to the Defense Civil Preparedness Agency, now would allow their personnel to assist state and local governments in developing plans for natural disasters as well as nuclear attacks. But Reorganization Plan #2 issued in 1973 took a step backward by re-delegating many disaster and emergency preparedness activities among numerous federal agencies. All federal agency responses to major disasters were moved to the General Services Administration whereas all coordination of federal disaster relief activities was moved to the Department of Housing and Urban Development (HUD). HUD maintained the Federal Insurance Administration that had been created to provide flood, crime, and riot insurance due to the numerous national events in the late 1960's. Under all of this reorganization, the Defense Department maintained the Defense Civil Preparedness Agency in original form; consequently, was primarily focused on civil defense and lost most of the momentum gained toward defense involvement in disaster response. However, as in the past, national level events of the 1970's created a significant need

for change in how the federal government responds to natural disasters. In 1974, Hurricane Agnes rolled through much of the East Coast and proved to be the costliest natural disaster to date resulting in a strengthening of the flood insurance program and led to the Disaster Relief Act of 1974 that enabled the granting of assistance not only to state and local governments, but now to individuals and families. State Governors sharply criticized the Carter administration in the lack of a comprehensive national emergency policy. This criticism led to the creation of the Federal Emergency Management Agency (FEMA) in 1979.

Federal Emergency Management Agency

Executive Order 12418 signed by President Carter created FEMA and placed this agency in charge of coordinating all disaster relief efforts at the federal level. This included the Federal Insurance Administration, the National Weather Service Community Preparedness Program, the Federal Preparedness Agency of the General Services Administration, and the Federal Disaster Assistance Administration activities from HUD. Most significantly to the DoD is the fact that the DoD's Defense Civil Preparedness Agency that had responsibility for overseeing the nation's civil defense was now a responsibility given to FEMA. FEMA has been put to the test numerous times since its creation with several natural as well as man made disasters such as the Love Canal incident of the late 1970's and the Three Mile Island nuclear generating station partial core meltdown. Each successive event revealed inefficiencies as well as deficiencies within the Agency. The end of the Cold War began a shift of the agencies resources from civil defense to natural disaster preparedness, and in 1993 President Clinton elevated FEMA to a cabinet level position. On September 11, 2001, FEMA found itself responding to a new type of disaster, the aftermath of devastating terrorist attacks to the Nation. In response to better coordinate the federal government agencies of law enforcement, disaster preparedness and recovery, border protection, and civil defense President Bush created the Department of Homeland Security (DHS). In 2003 FEMA was absorbed into the Department of Homeland security as part of the Emergency Preparedness and Response Directorate.

Department of Homeland Security

The National Strategy for Homeland Security and the Homeland Security Act of 2002 served as the catalyst to establish the Nation's 15th and newest Cabinet department, the Department of Homeland Security. The Department of Homeland Security became effective in January 2003. Until this time there was no one single federal department with the primary objective of homeland security. DHS consolidated 22 different agencies under one unified organization and serves "to provide the unifying core of the vast national network of organizations and institutions involved in efforts to secure our homeland" [9]. In the DHS strategic plan, the department lays out 7 goals that guide its activities, they are: 1) Awareness, 2) Prevention, 3) Protection, 4) Response, 5) Recovery, 6) Service, and finally 7) Organizational Excellence. The strategic goal of response is defined in the DHS strategic plan as to "lead, manage, and coordinate the national response to acts of terrorism, natural disasters, or other emergencies". The DHS Strategic Plan further states key factors and assumptions to achieving its goals, one such key factor is the ability to organize and coordinate the collective efforts of overlapping federal, state and local governments involving more than 87,000 different and sometimes independent jurisdictions plus the private sector and international partners [10]. To further define the authority of the Secretary of DHS, and to aid in the effort of coordinating the numerous various agencies, President Bush issued Homeland Security Presidential Directive – 5 (HSPD-5) in February 2003.

The purpose of HSPD-5 was to enhance the ability of the United States in managing domestic incidents and provide policy and tasking to the Secretary of DHS. Specific authority given to the Secretary of DHS through HSPD-5 is:

"The Secretary of Homeland Security is the principal Federal official for domestic incident management. Pursuant to the Homeland Security Act of 2002, the Secretary is responsible for coordinating Federal operations within the United States to prepare for, respond to, and recover from terrorist attacks, major disasters, and other emergencies. The Secretary shall coordinate the Federal Government's resources utilized in response to or recovery from terrorist attacks, major disasters, or other emergencies if and when any one of the following four conditions applies: (1) a Federal department or agency acting under its own authority has requested the assistance of the Secretary; (2) the resources of State and local authorities are overwhelmed and Federal assistance has been requested by the appropriate State and local authorities; (3) more than one Federal department or agency has become substantially involved in responding to the incident; or

(4) the Secretary has been directed to assume responsibility for managing the domestic incident by the President. [11]

HSPD-5 recognizes the roles and responsibilities of local and State authorities in managing domestic emergencies and gives initial responsibility to such authorities. In relation to the Department of Defense, HSPD-5 further defines that:

“Nothing in this directive impairs or otherwise affects the authority of the Secretary of Defense over the Department of Defense, including the chain of command for military forces from the President as Commander in Chief, to the Secretary of Defense, to the commander of military forces, or military command and control procedures. The Secretary of Defense shall provide military 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 shall establish appropriate relationships and mechanisms for cooperation and coordination between the ir two departments.” [12]

In regards to the relationships and mechanisms for cooperation and coordination not only between DoD and DHS, the directive tasks the DHS to develop and submit for review a National Incident Management Plan and a National Response Plan that provides the framework for Federal, State, and local governments to work. Specifically, the directive states:

(15) The Secretary shall develop, submit for review to the Homeland Security Council, and administer a National Incident Management System (NIMS). This system will provide a consistent nationwide approach for Federal, State, and local governments to work effectively and efficiently together to prepare for, respond to, and recover from domestic incidents, regardless of cause, size, or complexity. To provide for interoperability and compatibility among Federal, State, and local capabilities, the NIMS will include a core set of concepts, principles, terminology, and technologies covering the incident command system; multi-agency coordination systems; unified command; training; identification and management of resources (including systems for classifying types of resources); qualifications and certification; and the collection, tracking, and reporting of incident information and incident resources.

(16) The Secretary shall develop, submit for review to the Homeland Security Council, and administer a National Response Plan (NRP). The Secretary shall consult with appropriate Assistants to the President (including the Assistant to the President for Economic Policy) and the Director of the Office of Science and Technology Policy, and other such Federal officials as may be appropriate, in developing and implementing the NRP. This plan shall integrate Federal Government domestic prevention, preparedness, response, and recovery plans into one all-discipline, all-hazards plan. The NRP shall be unclassified. If certain operational aspects require classification, they shall be included in classified annexes to the NRP. [13]

The National Incident Management System (NIMS) was developed and published by the FEMA as part of the DHS on 1 March, 2004. The National Response Plan followed shortly thereafter with publication in December 2004.

National Incident Management System

Although HSPD-5 recognizes the roles and responsibilities of State and local authorities in incident management, and requires that State and local authorities initially take the lead, there are numerous instances where successful management depends upon multiple agencies and jurisdictions. To this end, the NIMS attempts to integrate the existing best practices of incident management at all levels into a consistent and nationwide approach. The NIMS is based upon six major components, they are: 1) Command and Management, 2) Preparedness, 3) Resource Management, 4) Communications and Information Management, 5) Supporting Technologies, and 6) Ongoing Management and Maintenance [14]. Although not all components are fully developed, the NIMS does recognize the importance of an effective command and control system particularly in incidents that involve numerous agencies at different levels. The system described and defined in the NIMS is known as the Incident Command System (ICS). ICS is defined as “a management system designed to enable effective and efficient domestic incident management by integrating a combination of facilities, equipment, personnel, procedures, and communications operating within a common organizational structure, designed to enable effective and efficient domestic incident management” [15]. There are five major functions of the ICS and they are described as command, operations, planning, logistics, and Finance and Administration. The components of the NIMS, in particular command and control, lay the framework for the implementation of the NRP.

National Response Plan

The National Response Plan was published in December 2004 in accordance with the direction provided in HSPD-5. There are 32 signatories to the NRP including the Department of Defense. The NRP is an incorporation of best practices from various incident management disciplines to provide a true “national” framework in terms of both products and processes [16]. The NRP is built upon the template of the NIMS and its implementation for specific incidents of National Significance provides mechanisms for the coordination and implementation of a wide

variety of incident management activities that include federal support to State, local, and tribal authorities and then direct exercise of federal authorities when so designated [17]. The NRP establishes the roles and responsibilities of not only the federal government, but also nongovernmental activities and Volunteer Organizations, state, local, and Tribal governments, the private sector, and citizen involvement. The NRP also identifies a general concept of operations for the coordination of federal assistance in incident management activities. It is the National Response Plan that is the primary document for designating the role of the Department of Defense in incident management where federal assistance is required. To further define roles and responsibilities, the NRP defines 15 specific Emergency Support Functions (ESF) as part of a framework to aid in the coordination of federal support.

The ESFs cover the spectrum of transportation, communication, urban search and rescue, etc... The ESFs are found as annexes to the NRP. Each ESF identifies a primary agency as the lead federal agency along with supporting agencies. The DoD is not listed as a primary agency for any one particular ESF; however, DoD is a supporting agency in all ESFs. One exception is ESF #3, Public Works and Engineering Annex, that identifies the Department of Defense/U.S. Army Corps of Engineers as the primary agency. This is due to the unique role of the Corps of Engineers as a public engineering organization within DoD that provides engineering support to DoD as well as to the civil works flood protection and navigation infrastructure of the Nation. The U.S. Army Corps of Engineers performs emergency support under separate authorities as does DoD (ex. Public Law 84-99) [18]. The ESFs provide a scope, concept of operations to include organizational structure, actions and functions of primary and supporting agencies. The NRP provides the necessary actions required to implement initiation of ESFs and activation of federal support.

In general, state requests for federal assistance are identified by the state governor requesting Presidential disaster or emergency declaration under the direction of the Stafford Act (to be discussed further in this paper). It is the responsibility of the state governor to indicate the severity of damage and the type of federal assistance required. The Department of Homeland Security will forward the request to the White House for Presidential action along with a simultaneous notification to the Secretary of Homeland Security. Once the president has approved such a request the DHS establishes a Joint Field Office (JFO) to provide a central

location for coordination of all levels of responsibility in incident support. Generally, the JFO is established locally with respect to the incident. The NRP identifies different sample organizational structures for a JFO such as for natural disasters, terrorist incidents, and federal to federal support. Figure 1 depicts a sample JFO organizational structure for federal response in a natural disaster [19].

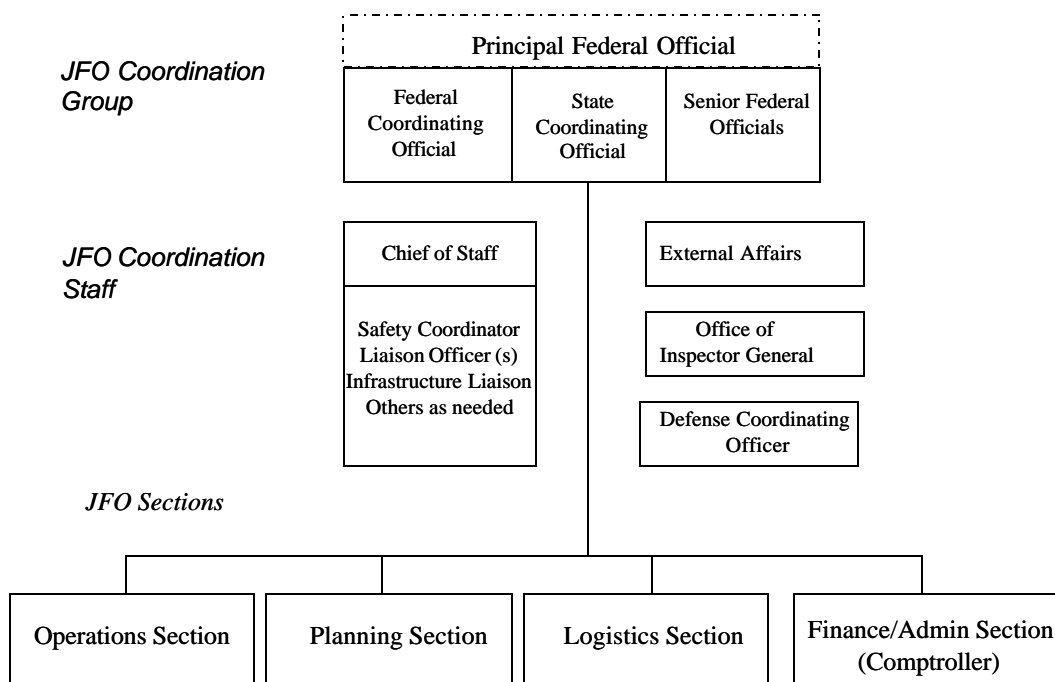


Figure 1 – Sample JFO Organizational Structure for Natural Disasters.

Although the structure depicted in figure 1 is not static and is tailored depending on the severity of the incident, the framework follows closely the ICS described and discussed within the NMS. The Defense Coordinating Officer (DCO) identified in this structure serves as DoD's single point of contact. The NRP defines the responsibilities of the DCO as the processing of requirements for military support, forwarding mission assignments to the appropriate military organizations through DoD-designated channels, and assigning military liaisons, as appropriate, to activated ESFs. The type of support provided by DoD is referred to as Defense Support to Civil

Authorities (DSCA) and is defined as “support provided by Federal military forces, DoD Civilians and contract personnel, and DoD agencies and components, in response to request for assistance during domestic incidents to include terrorist threats or attacks, major disasters, and other emergencies” [20]. A request for DSCA is made to the Secretary of Defense and if approved the Secretary will designate a supported combatant commander for the response. The combatant commander will designate a senior military officer to respond to the request and this individual will generally serve as the DCO. Depending on the magnitude of the event, the combatant commander may utilize a Joint Task Force (JTF) structure to manage supporting military activities. The commander of this JTF exercises operational control of all DoD resources with the exception of the National Guard operating under state control or Title 32 status, the U.S. Army Corps of Engineers, and any DoD support to the Federal Bureau of Investigation. The level of support provided by the DoD and principal authorities that guide the structure, development, and implementation of the NRP are found in statutes, and presidential orders and directives. The following section will highlight the principal authorities provided to the NRP with respect to authority in natural disasters.

Authorities

Statutes and Regulations

Homeland Security Act of 2002: As previously stated in this paper, this act established the Department of Homeland Security. Congress specifically gave the DHS a primary mission to act as the focal point regarding natural and manmade crises and emergency planning. The Act highlights the DHS responsibility to coordinate federal response to major disasters through the Directorate of Emergency Preparedness and Response. This includes the authority to consolidate existing federal emergency response plans into a single National Response Plan, the development of NIMS, provide the federal government’s response to major disasters, and emergencies, including managing such response, and finally the authority to coordinate federal resources in the event of a major disaster or emergency.

Robert T. Stafford Disaster Relief and Emergency Assistance Act: This Act establishes the programs and processes for the federal government to provide disaster and emergency assistance to States, local governments, tribal nations, individuals, and qualified

private nonprofit organizations. A particular provision of the Act includes a process for Governors to request federal disaster and emergency assistance from the President. In an “emergency” the governor of the state(s) affected must make a determination of the type and amount of federal aid required. In a “major disaster” there is no requirement for determining the type and amount of federal aid necessary; however, the governor must provide information regarding the resources that have been committed. The president may declare a major disaster or emergency if the event is beyond the combined response capabilities of the State and local governments. Additionally, if the affected area is an area that the federal government exercises exclusive responsibility and authority, the president may act unilaterally. In specific respect to the Department of Defense, this act provides statutory authority for the president to employ U.S. Armed Forces for domestic disaster relief. Operations that the armed forces may conduct include debris removal, search and rescue, provision of food, water, and emergency medical care, and a provision to provide technical advice to state and local governments on disaster management and control. However, this act does not allow the armed forces to conduct law enforcement duties in the event of a disaster that results in deterioration of civil law and order. In instances where the governor may be unable to effectively meet the prerequisites of the Act, the Stafford Act authorizes the president to direct the DoD to provide any emergency work the president deems essential for the preservation of life and property in the immediate aftermath of a disaster that may eventually qualify for assistance under a declaration of major disaster or emergency. This authorization is available for up to 10 days before a Presidential declaration of an emergency or major disaster. Additionally, the Stafford Act directs the appointment of a Federal Coordinating Officer by the president.

Posse Comitatus Act: The United States Constitution does not explicitly bar the use of military forces for civilian matters of law enforcement. However, it is the history of the United States to refrain from employing military forces in civilian matters of law enforcement except in cases of necessity. The Posse Comitatus Act prohibits the use of the Army or the Air Force for law enforcement purposes unless explicitly authorized in the Constitution or Statutes. DoD policy further expands this prohibition to the Navy and Marine Corps. Such activities prohibited by the Act include directing traffic, arrest, seizure, frisking, and interdiction of vehicles, aircraft, and vessels. This Act does not apply to National Guard

soldiers unless they are under federal service. Congress has provided for statutory exceptions to the Posse Comitatus Act such as the Insurrection Act.

Insurrection Act: This act authorizes the president to direct the armed forces to enforce the law to suppress insurrections in domestic violence. The act does recognize the primary responsibility for maintaining law and order in the civilian community with the State and local governments, but enables the president to act if local law enforcement is unable to protect individuals or if the unlawful action obstructs the execution of the laws of the United States. The Act was utilized during the 1992 Los Angeles riots and during Hurricane Hugo in 1989 when there was wide spread looting in certain affected areas. Generally, the president must issue a proclamation for the insurgents to disperse within a limited time and gain a recommendation from the Attorney General prior to issuing an executive order to utilize the armed forces. Although not based upon statutory authority, there are DoD regulations that enable the use of armed forces in a law enforcement role in very limited circumstances [21]. These DoD regulations enable emergency power of the military forces to “prevent loss of life or wanton destruction of property and to restore governmental functioning and public order when sudden and unexpected civil disturbances, disaster, or calamities seriously endanger the life and property and disrupt normal governmental functions to such an extent that duly constituted local authorities are unable to control the situation” [22]. The response of military forces may include law enforcement activities that would ordinarily be prohibited by the Posse Comitatus Act. As stated earlier in this paper, the 1906 San Francisco earthquake is one such example where military forces took action under this type of authority.

Executive Orders:

Executive Order 13286: This order designated the DHS as the primary agency for coordination of federal disaster relief, emergency assistance, and emergency preparedness. It also delegated the president’s relief and assistance functions under the Stafford Act to the Secretary of Homeland Security, but still leaves the declaration of a major disaster or emergency with the president.

Executive Order 13286: This order provides an amendment to Executive Order 12656 that designates the DHS as the principal agency for coordinating programs and plans among all federal departments and agencies.

Directives

Homeland Security Presidential Directive – 5: This directive is discussed at greater lengths earlier in this paper as the directive that established the NIMS, and designates the Secretary of Homeland Security as the Principal Federal Officer for domestic incident management and empowers the Secretary of DHS to coordinate the federal resources used in recovery from major disasters or other emergencies.

EXAMINING THE NEED FOR A BROADER ROLE OF THE ARMED FORCES

The federal government has made significant strides in the last century in response to major disasters with the creation of the Department of Homeland Security, the development of a National Management Incident System and National Response Plan, and the enactment of legislation and Presidential Directives. Theoretically, the current system provides a sound framework. So why is it that in response to Hurricane Katrina, President Bush stated a challenge on this scale requires greater federal authority and a broader role for the armed forces? And what broader role could the Department of Defense provide? To answer these questions we must understand the federal government response to Katrina.

First, the current federal government incident response plans were developed in 2004 and 2005; consequently, although they are a culmination of best practices and lessons learned from previous disasters, they had not been fully exercised. The current NRP is a good framework for most major disasters; however, Katrina was no ordinary major disaster, but rather, was catastrophic. Michael Chertoff, the Secretary for Homeland Defense, stated “the scope of the damage is unprecedented with some 90,000 square miles of impacted areas and 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 1930’s” [23]. As stated earlier, the NRP recognizes the responsibility of local and State governments to initially take the lead in disaster recovery. However, in the case of Katrina the state and especially the local

governments were overwhelmed and ineffective for an initial period of time. Chertoff further stated that “Katrina was the 100 year storm that we all feared. It revealed that we are not where we need to be in our ability to manage catastrophic events” [24].

Second, leaders at all levels were more in a reactive mode to Katrina rather than proactive and thus consistently playing catch up to the real situation. Most reviews of the Katrina response have praised the National Weather Service and the National Hurricane Center for timely and accurate forecasts. In fact, the National Hurricane Center contacted the mayor of New Orleans, Mayor Nagin, on the afternoon of Saturday August 27, advising for a mandatory evacuation. It was not until 11:00am on Sunday August 28, that the Mayor of New Orleans ordered a mandatory evacuation. In the conclusion of the select committee report on the Katrina response it is reported that residents testified that “the severity of the storm was not stressed by elected officials. If a mandatory evacuation would have been called earlier it would have been easier to move seniors out of the area and many lives would have been saved” [25]. The storm made landfall early on the morning of Monday August 29.

The NRP was not activated to fully mobilize the federal government’s resources until sometime on Tuesday August 30 [26]. In the select committees final report it is stated that “critical elements of the National Response Plan were executed late, ineffectively, or not at all” [27]. In the GAO’s preliminary observations on Hurricane Response, one of the key themes emerging is the lack of clear and decisive leadership. Again, this relates back to the point of an immature NRP. In a catastrophic event such as Katrina, there was and will be some advance warning, however, this is not the case for all types of catastrophic events; consequently, it is imperative that leadership roles, responsibilities, and lines of authority be clearly articulated and implemented. This did not occur in the Federal response to Katrina. In fact, the GAO’s assessment is that no one was designated in advance to lead the overall federal response and that the DHS did not designate the event an event of national significance until a day after making landfall [28]. Furthermore, the storm was never designated a catastrophic event, that would have triggered implementation of annexes from the NRP and created a more proactive response. Although the states enacted their emergency management assistance compacts (EMACs) for additional National Guard Troops, it was not until later in the week that significant numbers began to arrive. President Bush ordered 7,200 active duty forces to the region on Saturday

September 3, and an additional 4,700 on Monday September 5. A significant contributor to the government's reactive mode is the numerous gaps of credible information available. As the storm and its aftermath unfolded, the media played a critical role in providing information as much of the communications infrastructure was destroyed in the affected region; however, although much information was useful, there were instances of misreporting causing confusion within government agencies as to accurate situational awareness.

Third, although delayed, the federal response was unprecedented especially by the Department of Defense. In its support role to the DHS, the Department of Defense designated the U.S. Northern Command to lead the DoD response effort. USNORTHCOM began tracking Hurricane Katrina from its evolution from a tropical depression to a full fledged Hurricane, and established staging bases and Defense Coordinating Officers and Defense Coordinating Element teams to the Gulf Coast region early to manage DoD response efforts. The Deputy Secretary of Defense authorized USNORTHCOM to deploy forces deemed necessary to preserve life and reduce suffering shortly after Katrina made landfall, prior to any such request by federal agencies for DoD capabilities. In further anticipation of a significant DoD role, USNORTHCOM established Joint Task Force Katrina at the direction of the Secretary of Defense in order to provide command and control of Title 10 assets deployed to save lives, mitigate suffering, and restore critical services. Within approximately 7 hours of notification, lead elements of Task Force (TF) All American, an element of the 82nd Airborne Division, arrived at New Orleans International Airport and received guidance from the commander of Joint Task Force Katrina. The priorities set for TF All American were to establish command and control, improve situational awareness, and apply assets at critical junctures. At its peak, Joint Task Force Katrina included 24,500 active duty forces, over 200 aircraft, and 20 ships [29]. The National Guard and the United States Coast Guard also played an unprecedented role.

Lt. Gen. H Steven Blum, the chief of the Army National Guard, stated "The Guard lived up to its commitment to the governors and to our neighbors, rapidly fielding the largest military response to a domestic emergency in this nation's history. National Guard soldiers and airmen from all 50 states, the territories of Guam and the U.S. Virgin islands, the Commonwealth of Puerto Rico and the District of Columbia responded in record time to the dire situation on the Gulf Coast" [30]. Over 50,000 National Guard soldiers and airmen were eventually deployed to

the Gulf coast region. The Guard provided command and control to the state joint force headquarters in Louisiana and Mississippi with its 35th and 38th infantry division headquarters. Neither of these states elected to cede control of their Guard forces to federal officers in charge of Joint Task Force Katrina; consequently, there was not a single commander of all DoD forces in the affected region. Although a unity of effort was maintained by the DoD forces, the Guard in particular struggled due to severe equipment shortages resulting from recent deployments in support of the global war on terrorism. Lt Gen Blum has stated that “Army Guard units here in the United States currently have less than 35 percent of the equipment they require to perform their wartime missions, and this is the same equipment they use for homeland defense and security” [31]. Regardless, the National Guard was conducting air traffic control, providing medical relief, conducting rescues, providing food and water, and assisting the New Orleans police department within hours of being requested.

In addition to the active duty and National Guard forces, the United States Coast Guard also played an invaluable role. More than 33,000 rescues were conducted by the Coast Guard in the aftermath of Katrina. The Coast Guard responded with thousands of men and women from around the nation to also conduct waterway reconstitution and environmental impact assessment operations in the effected regions. The Coast Guard along with other environmental agencies was critical to remedying the numerous cases of hazardous materials and oil pollution in the affected regions. Additionally, the Coast Guard has performed a monumental effort in conducting port surveys and restoring buoys, lights, navigation aids to allow maritime traffic to safely navigate in this busy and vital port region of the United States.

Finally, the unprecedented military response proved to be extremely beneficial; consequently, leading to the question of a broader role. It became very apparent that the military provides unique capabilities well suited in responding to catastrophic events. However, the capabilities were not well known, nor utilized due to a weakness in advance planning and training for just such an event. The GAO reported in its initial observations that “planning should also include further defining and leveraging any military capabilities as might be needed in a major catastrophe. Prior disasters and the actual experience of Hurricane Katrina show that DoD is likely to contribute substantial support to state and local authorities, including search and rescue assets, evacuation assistance, provision of supplies, damage assessments assets, and

possibly helping to ensure public safety” [32]. Catastrophic events are much different than normal disasters in that generally there is a significant lack of local response due to loss of communications, continuity of essential services at the local level, and complete disruption of distribution services. As stated earlier in this paper, this creates a situation where situational awareness is extremely limited. The military provides capabilities that can significantly improve upon the situational awareness in such events. This is especially true in the area of damage assessment. The GAO stated this well in its preliminary observations by stating, “A catastrophic event will overwhelm the capacity of state and local officials to assess damage, and our preliminary work indicates that the military’s significant capabilities in assessing damage—a capability used for Hurricanes Katrina and Rita, and other past disasters—should be an explicit part of future major catastrophic disaster plans” [33].

The real definition of broader role in the context of disaster management for the Department of Defense in catastrophic events is whether the DoD should be the lead agency. The role of lead agency for DoD in disaster relief is not new and has been a subject of debate for many years. The DoD has not advocated this role, but rather, acknowledges it maintains capabilities that can significantly enhance recovery efforts. These capabilities can be leveraged within the existing framework, and within the current legislation. Many argue that existing legislation needs to be changed to allow for more involvement by DoD. Specifically, most arguments are focused at the Posse Comitatus act; however, as demonstrated in the Katrina response the military can respond in a variety of ways all in accord with Posse Comitatus. For law enforcement, the National Guard plays a valuable role and state Governors have the capability to call upon other states through existing EMACs. At the height of Katrina response, there were some 300,000 Guard members available across the country. If the impact is so catastrophic that Federal involvement is immediately required, there is legislation in place to enable the president to make such a call.

CONCLUSION

There is no doubt that Hurricane Katrina was a catastrophic event for the United States. Response capabilities at the local and state level were severely disrupted and the federal response should have been quicker to provide a seamless transfer of responsibilities. Responding to

disasters is not a new event for the federal government; consequently, there has been much progress over the past decade in developing plans to create a more coherent and timely federal response. However, although the plans are fairly well developed for most disasters, the problem arises when the disaster is of a catastrophic level. The Department of Defense is an integral player in disaster response. The strategic issue is the role of the DoD when the disaster is of a catastrophic level. Shortly after Hurricane Katrina as the scope of the destruction was well known, the president questioned the need for a broader role of our armed forces. History displays that the military has always played a key role in responding to disasters and maintains unique capabilities well suited for such events. Statutes and Regulations, Presidential Directives, and Executive Orders have provided guidance and authority for the armed forces employment in such events. None of these appeared to have hampered the military involvement in Hurricane Katrina; but rather, provide the means for the military to respond as the president deems necessary. There is not a need for a broader role, but rather, there is a need for more detailed plans that accurately capture the capability the military can provide in catastrophic events in addition to a system that is more proactive with clear lines of authority and roles and responsibilities. Unfortunately, what a catastrophic event such as Hurricane Katrina showed was that even with advance warning our current Federal response plan, in addition to state and local levels, is lacking. Not all catastrophic events will come with such advanced warning. The nation needs to better understand the capability the military can provide and implement quicker means for military intervention.

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