

HOW CAN THE UNITED STATES BEST PREPARE ARMY  
FEDERAL TROOPS TO RESPOND QUICKLY TO  
FUTURE NATIONAL EMERGENCIES  
WITHIN THE UNITED STATES

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MASTER OF MILITARY ART AND SCIENCE  
Strategy

by

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The opinions and conclusions expressed herein are those of the student author and do not necessarily represent the views of the U.S. Army Command and General Staff College or any other governmental agency. (References to this study should include the foregoing statement.)

## ABSTRACT

HOW CAN THE UNITED STATES BEST PREPARE ITS ARMY FEDERAL TROOPS TO RESPOND QUICKLY TO FUTURE NATIONAL EMERGENCIES WITHIN THE UNITED STATES, by MAJ David R. King, USA, 92 pages.

It is time that Congress, DOD and the Army end the confusion surrounding the usage of Federal troops within the United States and that they create an effective strategy for the timely integration of Federal forces with local and state efforts after a natural or man-made disaster occurs. This thesis lays out five major recommendations for policy makers. First, the Federal military must learn to efficiently support the National Guard, rather than prepare to assume their duties and responsibilities. Second, the Posse Comitatus Act, in its current form, has outlived its usefulness. The PCA must be updated to distinguish between combat and non-combat Federal forces. Third, a domestic War Powers Act is needed to lower the partisan politics surrounding the usage of Federal troops, while establishing checks and balances to prevent Presidential abuse. Fourth, Congress should spell out in clear language the dominant role local and state authorities have in responding to disasters. Federal organizations cannot respond fast enough to fill this role. Last, the Army must designate the Combined Arms Center (CAC) as the Army proponent for Defense Support to Civil Authorities (DSCA) operations, and make CAC responsible for managing all DOTMLPF related issues.

## ACKNOWLEDGMENTS

To my loving wife Christin.

Also, we should never forget the countless brave Americans who did not allow the bureaucracy and red tape to slow their efforts to help fellow citizens during the days following Katrina's landfall.

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## ACRONYMS

ARNORTH	Army Northern Command
CAC	Combined Arms Center
CADD	Combined Arms Doctrine Directorate
DHS	Department of Homeland Security
DOD	Department of Defense
DODD	Department of Defense Directives
DOTMLPF	Doctrine, Organization, Training, Materiel, Leadership and Education, Personnel and Facilities
DSCA	Defense Support of Civil Authorities
ESF	Emergency Support Function
FEMA	Federal Emergency Management Agency
HSA	Homeland Security Act
HSPD	Homeland Security Presidential Directive
JCIDS	Joint Capabilities Integration and Development System
JP	Joint Publication
NGB	National Guard Bureau
NIMS	National Incident Management System
NRP	National Response Plan
NSS	National Security Strategy
PCA	Posse Comitatus Act
TRADOC	Training and Doctrine Command
US	United States
USAIC	US Army Infantry Center

<i>USC</i>	<i>US Code</i>
USNORTHCOM	United States Northern Command
US&R	Urban Search and Rescue



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## CHAPTER 1

### INTRODUCTION

In the days and weeks following Hurricane Katrina, the world was treated to a tragic American spectacle of chaos and frustration normally reserved for underdeveloped nations. As the situation was stabilized, a debate erupted with regards to the federal government's response and its responsibilities. Traditionally, such harsh judgment is reserved for civilian led agencies, such as the American Red Cross and the Federal Emergency Management Agency (FEMA), but in a post 11 September world which saw the creation of a Department of Homeland Security (DHS) and United States Northern Command (USNORTHCOM), the Department of Defense (DOD) was asked in essence, "where were you guys?" To answer this question, this study will analyze and determine whether or not the role and responsibilities of United States (US) federal troops during Incidents of National Significance are clearly defined and whether or not the Army is effectively preparing its forces to carry out these responsibilities. To ascertain a conclusive finding, there are several secondary issues that must be addressed.

First, what laws must identify, strategies, and policies that define this role and which ones place limitations on the deployment of federal troops. These legal policies include the Posse Comitatus Act (PCA) and the Insurrection Act as well as the Department of Homeland Security's *National Response Plan (NRP)*. Second, the parameters and limitations set forth in these documents must be defined and determined what triggers or conditions must be present before federal troops can be deployed within the US. Third, in order to fully appreciate the role of federal troops once they are

deployed, the obligations and legal responsibilities of local and state government officials, as well as other, non-DOD federal departments as defined by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (commonly known as the Stafford Act) and the other documents mentioned above must be understood. Fourth, the organizational relationship between the executive branch offices of the US President, DOD, DHS and USNORTHCOM must be analyzed. In other words, the chain of command and who is responsible for what at the federal level must be determined. Fifth, do the *NRP* and other applicable DOD publications clearly explain these responsibilities in a clear and concise manner, so that troops can be trained and resourced before crises occur? Sixth, has the Army organized itself or designated a specific organization to lead these efforts. Last, were the policies, plans, and procedures that were in place prior to Hurricane Katrina adequate to meet the challenges of this disaster--remembering that plans are useless unless there are resources identified and personnel trained to carry them out? If not, what programs need to be put in place in order to ensure federal forces are trained and prepared to respond in the future?

Only after defining these issues can the problem be understood in a non-partisan light. The multifaceted nature of this issue which pits the interests of local, state, and federal officials against one another in a contest that will invariably come down to the legal question of state's rights versus federal obligations. For the Army, the question is quite simple; how can it be prepared to better respond the next time a disaster occurs? Unfortunately, the question is much more complex. This study will attempt to break the matter into smaller, more defined questions as described above.

With these questions in mind, figure 1 attempts to graphically depict the crisis environment and how the requirements generated by a crisis quickly exceed the capabilities of local and state officials. From this macro level view, the mission for the federal government is clear; how can the federal government quickly bring to bear the assets required to meet the shortfall in local and state level capabilities? While the military is only a part of this solution, it is the part on which this study will focus.

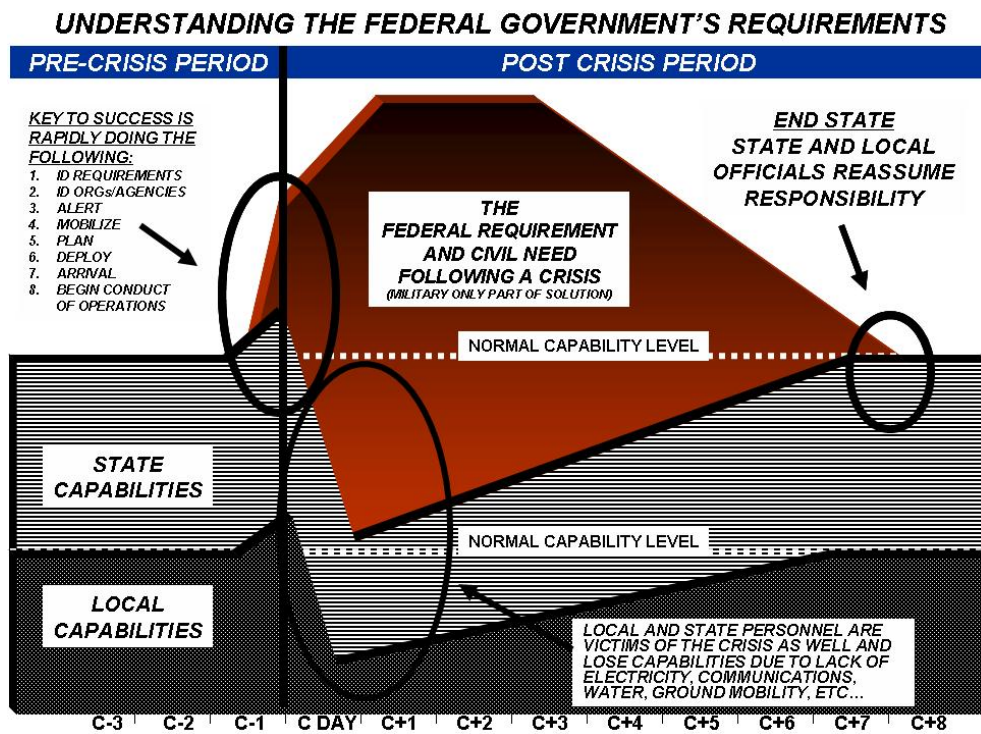


Figure 1. Federal Requirements In Relation To Local and State Capabilities

Before proceeding, there are some assumptions that must be made. First, it is the author's assertion that all of the Americans involved with the response to Hurricane Katrina at the local, state, and federal levels wanted to do the right thing, but they failed

to turn these good intentions into appropriate actions. Determining how to be prepared and succeed in the future is at heart of this paper's purpose. Second, while the final cost of Katrina's destruction is still being tallied, the deployment of federal US forces was not an unprecedented event, nor was it illegal. US troops have been deployed to force the end to school segregation in Little Rock, Arkansas (1957), and the Universities of Mississippi (1962) and Alabama (1963); to quell riots in Detroit, Michigan (1967) and Los Angeles, California (1992); and assist during numerous other natural disasters, from the San Francisco earthquake and fire of 1906 to Hurricane Andrew in 1992. US law does not forbid the use of federal troops within the US; it simply provides guidelines and standards that must be understood and observed by leaders when deploying these forces.

In order to maintain a clear understanding between the author and the reader, there are several common fallacies that should be avoided and key words that should be defined at the onset. First, it must be understood that the DOD and DHS are two entirely separate federal departments. While they both help support the national homeland defense and homeland security missions, neither secretary is senior to the other in the executive branch. The FEMA is also a key player in the area of homeland security. FEMA became part of the DHS in March 2003. According to FEMA's website, the agency "is tasked with responding to, planning for, recovering from and mitigating against disasters" (FEMA History 2004).

There is often great confusion between the definitions of federalized troops, homeland defense, homeland security, civil support, and military assistance to civil authorities. As this work will later show, a fundamental issue that must be addressed is where and in what role does DOD support these various missions. For now, and unless

otherwise specified, the author will use the definitions listed in Joint Publication (JP) 1-02, *Department of Defense Dictionary of Military and Associated Terms*, 12 April 2001 (As Amended Through 31 August 2005). FEMA has an online glossary of non-military terms available from <http://training.fema.gov/EMIWeb/IS/is14/glossary.htm#D> where readers can find DHS and FEMA specific terms not covered. Below are listed several general terms the reader must be familiar with before proceeding.

Federal service. A term applied to National Guard members and units when called to active duty to serve the Federal Government under Article I, Section 8 and Article II, Section 2 of the Constitution and the *US Code*, Title 10 (Department of Defense), sections 12401 to 12408 (JP 1-02 2001, 198). This call up to federal service and shift to “*US Code*, Title 10” thereby changes the National Guardsmen’s ultimate commander from the governor of their respective state to the President of the United States.

Active duty. Full-time duty in the active military service of the United States. This includes members of the Reserve Components serving on active duty or full-time training duty, but does not include full-time National Guard duty (JP 1-02 2001, 4).

Homeland defense. The protection of the US sovereignty, territory, domestic population, and critical infrastructure against external threats and aggression or other threats as directed by the President. The DOD is responsible for homeland defense. Homeland defense includes missions such as domestic air defense. The Department recognizes that threats planned or inspired by “external” actors may materialize internally. The reference to “external threats” does not limit where or how attacks could be planned and executed. The Department is prepared to conduct homeland defense

missions whenever the President, exercising his constitutional authority as Commander in Chief, authorizes military actions (JP 1-02 2001, 241).

Homeland security. Homeland security, as defined in the National Strategy for Homeland Security, is a concerted national effort to prevent terrorist attacks within the US, reduce America's vulnerability to terrorism, and minimize the damage and recover from attacks that do occur. The Department of Defense contributes to homeland security through its military missions overseas, homeland defense, and support to civil authorities. Also called HS (JP 1-02 2001, 241).

Civil support. Department of Defense support to US civil authorities for domestic emergencies, and for designated law enforcement and other activities. Also called CS (JP 1-02 2001, 89).

Military assistance to civil authorities. The broad mission of civil support consisting of the three mission subsets of military support to civil authorities, military support to civilian law enforcement agencies, and military assistance for civil disturbances (JP 1-02, 2001, 335).

Defense Support of Civil Authorities (DSCA). Pronounced, disc-ah. Refers to DOD support, including Federal military forces, DOD civilians and DOD contractor personnel, and DOD agencies and components, for domestic emergencies and for designated law enforcement and other activities (*National Response Plan* 2004, 64).

Federalized. Federalized as in federal or federalized troops, is not defined specifically in JP 1-02, but it should be clearly understood. All federal troops, including active duty and US Army Reserve forces, fall under the command and control of the President of the United States. The actions of these forces are regulated by Title 10 of the



*US Code*. Army National Guard Soldiers, unless they are federalized, fall under Title 32 of the *US Code* and work for and pay allegiance to their respective state governors. Therefore, the easiest way to determine whether or not a National Guard Soldier is federalized is to identify his or her commander--if under the command of a governor, they are not federalized and are regulated by Title 32 of the *US Code*. This is only confusing because this status can change. In times of crisis, the President can call National Guard troops onto active duty and place them under his command. When this occurs, the Guardsmen are considered federalized, and no longer take orders from their governors. By understanding the chain of command, readers will avoid the confusion that often occurs when the federal government provides money to states to cover the cost of activating their National Guard forces following a federal disaster. When the states activate their National Guard Soldiers (for example, a governor's call up) they still answer to the governor, thus they are still in Title 32 status. When the President federalizes National Guard troops (for example, conducts a federal call up), he physically takes them away from the governor and places them under his command. The political sensitivities of such a move, in a federalist system that places such a critical emphasis on state's rights, are quite obvious.

Now that a common language has been established, there are some limitations in which this study must operate. First, this work will not deal with sensitive or classified material to include plans, orders, directives or programs. Second, the study will only focus on unclassified plans, policies and procedures that were in place prior to the landfall of Hurricane Katrina. The author recognizes after Hurricane Katrina made landfall many ad hoc organizations were established and work around arrangements were

made, but this study will focus on how the *NRP* was supposed to work. The study will assess the plan as it existed prior to the crisis and how these plans may have contributed to the success or failure of the operation, vice the reactive actions that were taken after the fact.

Third, this study will focus primarily on US Army forces for several reasons. First, the Army is the lead military service for civil disturbance operations and will usually provide the preponderance of any major ground force, regardless of the mission, due to the sheer fact they are the biggest force. Second, by focusing on the Army the study can strike a balance between breadth and depth; the Army is generally representative of all of DOD, but the study can avoid getting into nuanced variations of DOD policy as it relates to the US Navy versus the Marine Corps, versus the Air Force. In addition, the study will not consider the role of federal troops normally assigned to civil support functions inside the US, such as the US Army Corps of Engineers. The US Army Corps of Engineers maintains a unique day-to-day relationship with FEMA and officials at the state and local levels, as compared to normal Army combat, combat support, and combat service support units.

Fourth, this work is not a substitute for the formal lessons learned activities that are being conducted by the Center for Army Lessons Learned or the Joint Center for Operational Analysis on the subject of Hurricane Katrina. If available and relevant, observations, insights and lessons collected by these teams will be incorporated, but this study's focus is primarily on the overall organizational system that produced the results observed after Hurricane Katrina. It is a professional, academic review of DOD's federal role in disaster relief operations inside the US; how this mission is nested with DHS and

other state and local officials; how clearly these roles are spelled out in the *NRP* and how this system could be improved.

Fifth, the author has never conducted a civil support operation within the US; however, enough key works have been published since 11 September and the creation of DHS to understand how the system was supposed to work. In addition, there are literally hundreds of official, homeland security-related documents available from the Government Accountability Office and Congressional Research Service, not to mention the open source media. This plethora of data creates the sixth limitation, which is the inability to review every document published relating to homeland security, homeland defense, 11 September, and Hurricane Katrina. For this reason, and the reasons stated above, the author will focus on the role of the military as described in the key documents published by DOD and DHS and determine whether these key policy documents clearly task and adequately resource the military to perform the duties expected of it--by the President and the American people.

This study is significant, not only because of the questionable results observed following Hurricane Katrina, but because of the vulnerabilities Hurricane Katrina revealed in her tragic aftermath. Following the events of 11 September, there was a nation-wide inquiry into the roles and responsibilities of federal intelligence agencies within the US. There will likely be a similar inquiry into the federal government's response to Hurricane Katrina, of which the US military had a key role. This study will attempt to determine the policies, plans, procedures, and laws that may or may not have contributed to what is now widely described as a slow response. Whether that scrutiny is

deserved or not is irrelevant; the American people and the President clearly expected a timelier, more organized response than it got. Doing nothing is not an option.

Obviously, this is a timely topic that merits in-depth research. While the subject of this investigation is the response to Hurricane Katrina, it transcends the military's response to a hurricane because it begs the question of how well the military would respond to a catastrophic terrorist attack, such as a 'dirty bomb' or other weapon of mass destruction. While the deaths and destruction witnessed in Louisiana, Mississippi, and Alabama are tragic, and the efforts of the responding military personnel were heroic, a brutally honest review is appropriate--if only for the purpose of saving additional lives in the future. The nation, which has invested a great deal of money and effort in homeland defense and homeland security since 11 September, has high expectations. The results, according to President Bush, were not acceptable.

With all of these goals in mind, this work will analyze the plans that were made prior to Hurricane Katrina to determine what was supposed to happen; look generally at what did happen, and ascertain where these plans may or may not have failed. Last, the study will conclude with recommendations on what should be done to ensure a more timely response in the future.

The next chapter will review congressional legislation, directives from the President and DOD, and other published policies and strategies. These documents will help establish the boundaries federal troops must operate within and the rules the President must follow to employ Federal forces within the US.

## CHAPTER 2

### LITERATURE REVIEW

As discussed in the introduction, since 11 September there has been no shortage of data on the subjects of homeland defense and homeland security. The problem is not quantity, but rather quality. While any historical study of these two subjects in their entirety would start with a thorough review of all the legislation enacted immediately following the 11 September attacks and the findings of the 11 September Commission, that is outside the purview of this study. Instead, the author will focus on the most relevant legal and policy documents that get to the heart of DOD's responsibilities and roles. For this reason, the author has chosen to organize the documents below in a manner that fosters an understanding of the system, as opposed to simply listing them in chronological order.

#### Significant Legislation

The role of the federal government in responding to disasters in the US has evolved over a long period of time. The earliest known federal disaster response legislation was the Congressional Act of 1803. The legislation "was in response to a fire that did extensive damage in Portsmouth, New Hampshire. As recovery efforts severely taxed community and state resources, Portsmouth's citizens sought federal relief" (Brookings Institution 2005). Federal law would continue to be generated largely on an as need basis until 1950 and the passage of The Federal Civil Defense Act of 1950 which established the Federal Civil Defense Agency. "The principal focus of this act was protection from nuclear attack but also included plans that dealt with the emergency management and response strategy in case of a natural or man-made disaster" (Brookings

Institution 2005). However, it also “authorized the President to provide supplementary federal assistance once the Governor had requested assistance and the President had approved the request. The burden of providing disaster relief still remained at the local and state level with the federal government supplementing their efforts and resources” (George Washington University 2001).

Following a number of major disasters, such as the massive earthquake of 1964 in Alaska, Hurricane Camille (1969) and a devastating earthquake in Southern California (1971), the Disaster Relief Act of 1974 was passed. Though revised several times since its introduction, it established the process used by presidents to declare disasters. The process would be further defined in 1988 by the Stafford Act. While the Disaster Relief Act of 1974 further embedded the President in the formal disaster response process, it did little to de-conflict the efforts of the myriad of local, state and federal agencies who at that time typically responded to disasters. The government addressed this concern in 1979 when President Jimmy Carter established the FEMA. Several organizations, such as the Federal Insurance Administration, the National Weather Service Community Preparedness Program, and the Federal Disaster Assistance Administration activities from Housing and Urban Development were placed under FEMA’s control. “Civil defense responsibilities were also transferred to the new agency from the Defense Department's Defense Civil Preparedness Agency” (FEMA 2004).

The next major piece of disaster related legislation to be enacted was The Stafford Disaster Relief and Emergency Assistance Act (or Stafford Act) of 1988. The Stafford Act created the response system most Americans are familiar with by further defining the Presidential disaster declaration system created in 1974. In addition, it defined the forms

of federal assistance available to local and state governments and the thresholds that must be met to qualify for assistance. FEMA is charged with managing this system. FEMA's *Guide to the Disaster Declaration Process and Federal Disaster Assistance* provides a summary of the Presidential Disaster Declaration System and what types of federal assistance are legally possible.

The Presidential Disaster Declaration System (Section 401). This section of the Stafford Act requires state governors to request through their regional FEMA office that the President declare their state, or areas within the state, a disaster. This request, before being forwarded to the President, is reviewed by FEMA or other federal officials. This process is called a Preliminary Damage Assessment (PDA). The purpose of this process is to determine the extent of the crisis and help the President understand what aspects of the crisis are beyond the governor's capabilities and to forecast the types of support that will be required. To save time during severe crises the governors may make the request directly to the President, without the PDA, but "the governor must still make the request." (FEMA 2004, 1)

Federal Assistance. Federal Assistance falls into three categories: individual assistance, public assistance and hazard mitigation (i.e. prevention of future disasters). The federal assistance system has little bearing on this study, but it should be understood that the Stafford Act covers more than the declaration system and authorizes much of the public and private funding provided at the local and state level. It should also be understood that except in the case of direct grants, much of the funding is based on a matching system in which the Federal Government provides 75% of the funding after the state or local government agrees to provide the other 25%. While this sounds very generous, the financial resources of state and local governments are dwarfed by the resources of the U.S. federal government. As a result, the system forces state and local officials to prioritize and limit their requests to what they really need and to what they can afford.

Finally, it must be pointed out that The Stafford Act "does not constitute an exception to the PCA. In the event of a disaster that results in the wide-scale deterioration of civil law and order, the authority to employ active duty troops to perform law enforcement functions must be found elsewhere. The Stafford Act does not authorize the use of federal military forces to maintain law and order" (Elsa 2005, 4). The PCA will

be discussed in detail below, but this distinction, for the purposes of this study, must be understood.

### Posse Comitatus Act of 1878

Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part of the Army or Air Force as a posse comitatus or otherwise to execute the laws shall be fined under this title or imprisoned not more than two years, or both. (Section 1385 of Title 18, *US Code*)

The PCA of 1878 may be one of the most misquoted and misunderstood pieces of American legislation. A piece of legislation that was originally enacted to protect the “military” from being misused by politicians and law enforcement officials, has been twisted and misconstrued to be some type of legal doctrine or constitutional right that protects the public from an abusive military.

The most thorough explanation of the history of the PCA, according to E.P. Visco, comes from Robert W. Coakley’s extensive work, *The Role of Federal Military Forces in Domestic Disorders 1789-1878*, produced and published by the US Army Center of Military History. Visco, a professor at George Mason University who speaks widely on the subject of the PCA, used Coakley’s work extensively in his paper, “*More Than You Ever Want to Know about Posse Comitatus.*” Visco boils hundreds of pages of history and legal precedence down into a comparatively short work that sufficient to answer all but the most nuanced questions.

Before the PCA can be understood, the history and origins of the act must be explained. Posse Comitatus is a British phrase with Latin roots that means “the power of the county” (Oxford English Dictionary 1971). From 1854 until 18 June 1878 (the date of passage of the PCA), sheriffs and marshals throughout the US were able to order local



military commanders to provide personnel to support posses, without the consent of the President. This authority did not originate in US law; rather, it was the result of a legal opinion (based on British legal precedence) put forth by President Franklin Pierce's Attorney General, Caleb Cushing. As a result, this opinion would come to be called the Cushing Doctrine.

The genesis for the writing and publication of Cushing's opinion began with the passage of The Fugitive Slave Act of 1850. This act required federal marshals, when directed by the courts, to capture and return fugitive slaves to their legal owners. Because of the manpower requirements this mission generated, a judge soon asked President Millard Fillmore for permission to use the militia and federal troops as a posse comitatus, when required, to enforce the Fugitive Slave Act. President Fillmore concurred in principle, but stated that a district judge or Supreme Court justice would have to validate the request as reasonable or necessary. It was Cushing's opinion (the Cushing Doctrine) which delegated this authority one step lower, directly to the US marshals. With this opinion, the federal government, and the military by extension, became obligated to help enforce the Fugitive Slave Act. Cushing's legal opinion would remain the law of the land for the next twenty-four years (Visco 2001, 9-23).

The narrow (by one electoral vote) election of Republican Rutherford B. Hayes in the 1876 presidential election provided the Democrats in Congress the political drive to end the Cushing Doctrine and enact the PCA. During the presidential election, it was alleged that troops loyal to Hayes' Republican predecessor, President Ulysses S. Grant, intimidated and prevented many southern voters from voting--especially former Confederate officers (and likely Democratic voters) who were forbidden to vote (Spak

2003, 130). On 27 May 1878, Representative J. Proctor Knott (Democratic-Kentucky) submitted a rider amendment to the 1880 Army appropriations bill that would later become known as the PCA (Visco 2001, 22).

Since its passage, several exceptions to the PCA have been enacted. First, “non-federalized” National Guard members, the US Coast Guard, and the US Navy (when supporting the US Coast Guard during counter-drug operations) are exempt from the PCA. Second, “the Army can provide equipment, training, and expert military advice to civilian law enforcement agencies as part of the total effort in the war on drugs” (Larson and Peters 2001, 244-245). Third, and most importantly, the Insurrection Act (Title 10, Sections 331-334) provides the President nearly unimpeded authority to deploy the armed forces within the US during times of national crisis; to include insurrections, rebellions, or other instances in which the states are unable to safeguard their citizens. The PCA merely prevents the President from “casually” using the military to conduct law enforcement activities with the US As explained below, the Insurrection Act provides the President all the “authority” he needs to override the PCA when necessary.

#### Insurrection Act

The Insurrection Act (Title 10, Sections 331-334) is a short but significant piece of legislation that needs little interpretation. In four succinct paragraphs it states when and under what guidelines the President can deploy federal troops to quell acts of violence or insurrection that threaten the US, its states or its citizens. Readers are encouraged to recall the looting, violent crime, and general chaos witnessed following Hurricane Katrina as they read the Act and ask themselves whether President Bush could

have invoked the Insurrection Act--especially Section 333 and its subparagraphs. The author believes he would have been justified if he had done so.

Section 331~ Whenever there is an insurrection in any State against its government, the President may, upon the request of its legislature or of its governor if the legislature cannot be convened, call into Federal service such of the militia of the other States, in the number requested by that State, and use such of the armed forces, as he considers necessary to suppress the insurrection.

Section 332~ Whenever the President considers that unlawful obstructions, combinations, or assemblages, or rebellion against the authority of the United States, make it impracticable to enforce the laws of the United States in any State or Territory by the ordinary course of judicial proceedings, he may call into Federal service such of the militia of any State, and use such of the armed forces, as he considers necessary to enforce those laws or to suppress the rebellion.

Section 333~ The President, by using the militia or the armed forces, or both, or by any other means, shall take such measures as he considers necessary to suppress, in a State, any insurrection, domestic violence, unlawful combination, or conspiracy, if it--

(1) so hinders the execution of the laws of that State, and of the United States within the State, that any part or class of its people is deprived of a right, privilege, immunity, or *protection* named in the Constitution and secured by law, and the constituted authorities of that State are *unable, fail, or refuse to protect* (italics added) that right, privilege, or immunity, or to give that protection; or

(2) opposes or obstructs the execution of the laws of the United States or impedes the course of justice under those laws.

In any situation covered by clause (1), the State shall be considered to have denied the equal protection of the laws secured by the Constitution.

Section 334~ Whenever the President considers it necessary to use the militia or the armed forces under this chapter, he shall, by proclamation, immediately order the insurgents to disperse and retire peaceably to their abodes within a limited time. (Title 10, Sections 331-334)

#### Department of Defense Directives with Legal Implications

Department of Defense Directives (DODD) 5525.5, *DOD Cooperation with Civilian Law Enforcement Officials*, and DODD 3025.12, *Military Assistance for Civil Disturbances (MACDIS)*, provides the DOD supplementary guidance. DODD 5525.5,

Enclosure 4, section 1 and its subparagraphs define numerous instances in which federal DOD troops are not restricted from taking action. These instances include:

Actions that are taken under the inherent right of the U.S. Government, a sovereign national entity under the U.S. Constitution, to ensure the preservation of public order and to carry out governmental operations within its territorial limits, or otherwise in accordance with applicable law, by force, if necessary. (DODD 5525.5 1989, Enclosure 4, section 1.2.3)

prompt and vigorous Federal action, including use of 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 life and property and disrupt normal governmental functions to such an extent that duly constituted local authorities are unable to control the situation. (DODD 5525.5 1989, Enclosure 4, section 1.2.3.1)

Protection of Federal property and functions authorizes Federal action, including the use of military forces, to protect Federal property and Federal Government functions when the need for protection exists and duly constituted local authorities are unable or decline to provide adequate protection. (DODD 5525.5 1989, Enclosure 4, section 1.2.3.2)

Additionally, DODD 3025.12, *Military Assistance for Civil Disturbances*

(*MACDIS*), which names the Secretary of the Army the DOD Executive Agent for *MACDIS* incidents, states that the President must authorize the deployment of federal troops (Paragraph 4.2.2). However, Subparagraphs 4.2.2.1 and 4.2.2.2 provide two major exceptions, often referred to as “emergency authority.” Subparagraph 4.2.2.1 allows commanders stationed within the proximity of a disaster to take immediate action (for example without any approval) to save lives and property if the local commander assesses that the local authorities are not able to provide such services in a timely manner. Subparagraph 4.2.2.2 allows commanders to take action to defend federal property or federal actions.

Presidential Directives and Strategies Published  
Since the 11 September Attacks

Since 11 September, President George W. Bush has overhauled much of the nation's homeland security and homeland defense system. It is important readers understand the linear and accumulating connection between the Presidential Directives discussed in this section and the National Strategies that were produced as a result. What follows is a summary of the key Presidential Directives that created or shaped many of the US homeland security and homeland defense strategies, policies and procedures that are now in place. To emphasize the building-block nature of these documents, they have been ordered chronologically as they were published.

Homeland Security Presidential Directive-1, *Organization and Operation of the Homeland Security Council*, was issued less than two months after 11 September on 29 October 2001. It created, as its title implies, the Homeland Security Council and directed the body to coordinate “all homeland security-related activities among executive departments and agencies and promote the effective development and implementation of all homeland security policies.” Similar in structure and purpose to the National Security Council, the council includes the following principals: the “Secretary of the Treasury; the Secretary of Defense; the Attorney General; the Secretary of Health and Human Services; the Secretary of Transportation; the Director of the Office of Management and Budget; the Assistant to the President for Homeland Security (who serves as Chairman); the Assistant to the President and Chief of Staff; the Director of Central Intelligence; the Director of the Federal Bureau of Investigation; the Director of the Federal Emergency Management Agency; and the Assistant to the President and Chief of Staff to the Vice President” (HSPD 2001).

In September 2002, one year after the attacks of 11 September, the Bush administration published its 2002, *National Security Strategy (NSS)*. To those outside the Federal government, the *NSS* may have appeared at first glance to be a lot of tough talk. To the Departments of Defense, State, Justice, and Treasury it was a warning of the sweeping changes that would give rise to the Bush Doctrine and the creation of the DHS and the Director of National Intelligence. A complete review of the Bush Administration's *NSS* is beyond the scope of this work, however, it should be noted that the *NSS* foreshadowed the changes that come with the signing of the Homeland Security Act (HSA).

#### Homeland Security Act of 2002

The HSA of 2002, which was signed on 25 November 2002, went into effect on 1 January 2003. The legislation, as approved by the Congress, authorized one of the largest reorganizations of the US Federal Government in more than fifty years. Below is a summary of the fundamental facts and impacts of this legislation as it relates to this study.

First and foremost, the HSA 2002 established the DHS and defined its missions and responsibilities. DHS was assigned several primary missions, but the relevant ones to this study included; “prevent[ing] terrorist attacks within the United States . . . reduce[ing] the vulnerability of the United States to terrorism . . . and minimize[ing] the damage, and assist[ing] in the recovery, from terrorist attacks that do occur within the United States . . . carry[ing] out all functions of entities transferred to the Department, including by acting as a focal point regarding natural and manmade crises and emergency

planning” (Homeland Security Act of 2002, Section 101, paragraph 2, subparagraphs a-d).

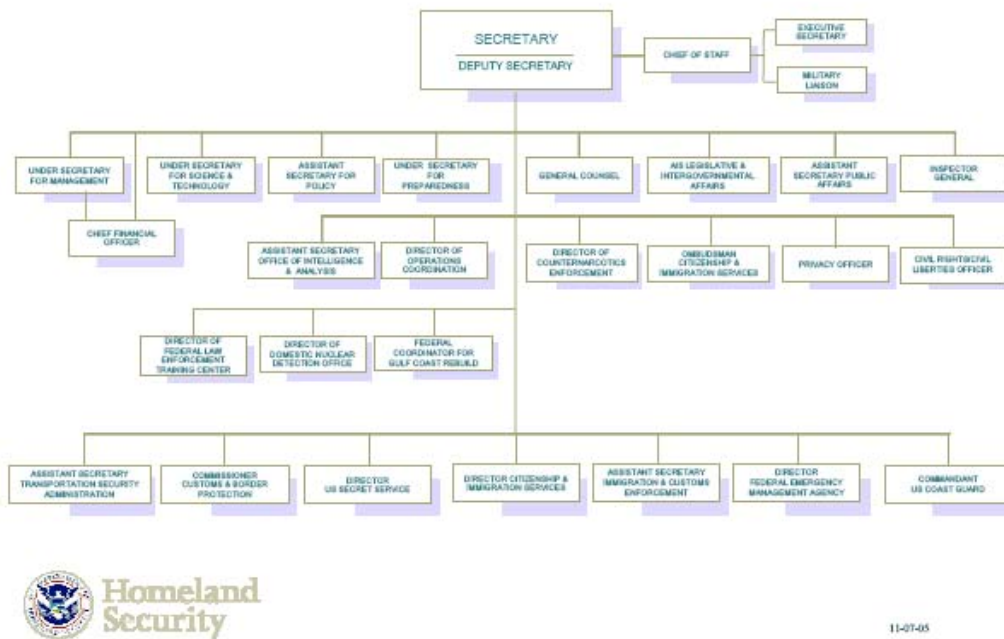
The HSA, at more than 200 pages, further defines the Department’s mission by assigning the organization the following Executive Branch responsibilities; “information analysis and infrastructure protection . . . chemical, biological, radiological, nuclear, and related countermeasures . . . border and transportation security . . . emergency preparedness and response . . . and coordination (including the provision of training and equipment) with other executive agencies, with State and local government personnel, agencies, and authorities, with the private sector, and with other entities” (Whitehouse.gov, *Analysis for the Homeland Security Act Of 2002*).

This is obviously only the highlights of the legislation, but the scale of change this act invoked throughout the US Government must be understood, in order to understand the scale of authority the DHS now possesses. One of the most telling aspects of this is the number of federal organizations that were transferred to the DHS following the signing of the HSA. A summary of the organizations and programs transferred to DHS by the HSA: the US Coast Guard, US Secret Service, Transportation Security Administration, US Customs Service of the Department of the Treasury, Transportation Security Administration of the Department of Transportation, Federal Law Enforcement Training Center of the Department of the Treasury, Federal Protective Service of the General Services Administration, the Federal Emergency Management Agency, the Office of Emergency Preparedness, the National Infrastructure Protection Center of the Federal Bureau of Investigation (other than the Computer Investigations and Operations Section), the National Communications System of the DOD, the Critical Infrastructure

Assurance Office of the Department of Commerce, the National Infrastructure Simulation and Analysis Center of the Department of Energy and energy security and assurance program and activities of the Department, the Federal Computer Incident Response Center of the General Services Administration, the National Bio-Weapons Defense Analysis Center of the DOD, Office for Domestic Preparedness of the Office of Justice Programs, Functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities, the Integrated Hazard Information System of the National Oceanic and Atmospheric Administration, the National Domestic Preparedness Office of the Federal Bureau of Investigation, the Domestic Emergency Support Teams of the Department of Justice, National Disaster Medical System, and the Metropolitan Medical Response System of the Department of Health and Human Services, and the Strategic National Stockpile of the Department of Health and Human Services. In addition, it abolished the Immigration and Naturalization Service and created under an Undersecretary for Border and Transportation Security the Bureau of Border Security and Bureau of Citizenship and Immigration Services. Figure 2 is the organizational chart of the Department of Homeland Security.



## Department of Homeland Security Organization Chart



**Homeland  
Security**

11-07-05

Figure 2. Organization of the Department of Homeland Security  
*Source:* Department of Homeland Security, 2005, Department of homeland security organization chart, Available from [http://www.dhs.gov/interweb/assetlibrary/DHS\\_OrgChart.pdf](http://www.dhs.gov/interweb/assetlibrary/DHS_OrgChart.pdf), Internet, Last accessed on 16 May 2006.

### Homeland Security Presidential Directive-5

On 28 February 2003, three months after the signing of the HSA, the President issued Homeland Security Presidential Directive (HSPD)-5. Where as the HSA focused on the establishment of the DHS, HSPD-5 provided a more detailed description of the President’s vision and intent for how this organization and its secretary--in conjunction with the rest of the executive branch--would “prevent, prepare for, respond to and recover from terrorist attacks, major disasters, and other emergencies” (HSPD-5 2003). The directive is divided into two major parts; first, it provides overarching policy and then

sets forth specific “tasks” to the Secretary of Homeland Security and the remainder of the Federal government.

Policy. The central theme of the policies put forth in HSPD-5 is the role of the U.S. Government, DHS, and the other supporting departments.

1. The U.S. will “establish a single, comprehensive approach to domestic incident management” and that it will treat “crisis management and consequence management as a single, integrated function, rather than two separate functions.” (HSPD-5, 2003)

2. The Department of Homeland Security and its Secretary are once again identified as the lead organization to “prepare for, respond to and recover from terrorist attacks, major disasters, and other emergencies.” DHS “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.” (HSPD-5, 2003, emphasis added)

3. All Federal departments are ordered to support the DHS in accomplishing its duties.

4. All Federal departments are reminded of their limited role in responding to disasters. Specifically, HSPD-5 reiterates that state and local authorities are the first line

responders to disasters and that Federal involvement is the exception not the rule. However, the Secretary of Homeland Security along with the support of other Federal officials will help state and local entities “to ensure adequate planning, equipment, training, and exercise activities” are in place, and that “State, local, and Federal plans are compatible.” The President also directs that this same concept of partnership, cooperation and integration be extended to the “private and nongovernmental sectors.” (HSPD-5, 2003)

5. As if to limit the authority of DHS and reflect the document’s predominant concern with terrorism, the US Attorney General and the Department of Justice (DOJ), is identified as the department responsible to “detect, prevent, preempt and disrupt terrorist attacks.” The preponderance of this duty is to be carried out by DOJ’s Federal Bureau of Investigations (FBI). (HSPD-5, 2003)

6. The Secretary of Defense is directed to “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” (HSPD-5, 2003). It is worth pointing out once more that National Guard troops, unless federalized, are under the command of their governors, not the Secretary of Defense.

7. The Secretary of State is responsible for coordinating the above mentioned efforts when they involve foreign governments.

In order to understand the limits of DOD’s responsibilities, it is instructive to understand the responsibilities of the Secretary of Homeland Security which include:

1. Prepare, submit for review, and administer the National Incident Management System (NIMS). The NIMS is to “provide for interoperability and compatibility among Federal, State, and local capabilities” and put in place “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” (HSPD-5 2003).

2. “Develop, submit for review to the Homeland Security Council, and administer a National Response Plan (NRP).” “This plan shall integrate Federal Government domestic prevention, preparedness, response, and recovery plans into one all-discipline, all-hazards plan” (HSPD-5 2003).

The *NRP* is most important document for any observer wishing to understand the homeland security system. This capstone document for homeland security was published in December 2004. This plan will be addressed separately in the next chapter; however, the importance and timing of its publication in relation to other key documents is critical.

### National Defense Strategy

In the forward of the March 2005, *National Defense Strategy (NDS)* Secretary of Defense Donald Rumsfeld explains that the current “strategy emphasizes the importance of influencing events before challenges become more dangerous and less manageable” (*NDS* 2005, iii). This succinctly captures the externally focused theme of the strategy. While defining the role of the Department of Defense, the *NDS* says, “The attacks of 11 September gave us greater clarity on the challenges that confront us . . . A reactive or

defensive approach would not allow the United States to secure itself and preserve our way of life as a free and open society. Thus, the United States is committed to an active defense of the nation and its interests” (NDS 2005, 1).

What is significant about this defense strategy is its lack of focus on internal defense. On the subject of homeland defense, the NDS remains committed to an offensive, homeland defense mindset and only refers to the internal DSCA responsibilities of DOD in four passages (see below). When DSCA is mentioned it is only in the vaguest, most general terms--almost as an afterthought. It is hard to imagine that the military service’s senior planners would have been moved to focus much of their efforts on DSCA operations given the broad guidance below.

**Protecting the homeland.** Each partner nation in the coalition against terrorist extremism has a special interest in protecting its own homeland. The Defense Department contributes to protecting the U.S. homeland by sustaining the offensive against terrorist organizations by:

- Conducting military missions overseas; Sharing intelligence;
- Conducting air and maritime defense operations;
- Providing defense support to civil authorities as directed; and
- Ensuring continuity of government. (NDS 2005, 8)

Another layer in an active, layered approach is the immediate physical defense of the United States. At the direction of the President, the Department will undertake military missions at home to defend the United States, its population, and its critical infrastructure from external attack. Our missile defense program aims to dissuade adversaries by imposing operational and economic costs on those who would employ missiles to threaten the United States, its forces, its interests, or its partners.

In emergencies, we will act quickly to provide unique capabilities to other Federal agencies when the need surpasses the capacities of civilian responders and we are directed to do so by the President or the Secretary. Under some circumstances, the

Department will provide support to outside agencies for one time events of limited scope and duration. (NDS, 2005, 10)

At home, we are increasing the capabilities of our domestic partners local, state, and federal-to improve homeland defense. This Department seeks effective partnerships with domestic agencies that are charged with security and consequence management in the event of significant attacks against the homeland. In doing so; we seek to improve their ability to respond effectively, while focusing the unique capabilities of this Department on the early defeat of these challenges abroad. (NDS, 2005, 15)

**Defend the homeland.** Our most important contribution to the security of the U.S. homeland is our capacity to identify, disrupt, and defeat threats early and at a safe distance, as far from the United States and its partners as possible. Our ability to identify and defeat threats abroad before they can strike-while making critical contributions to the direct defense of our territory and population is the sine qua non of our nation's security.(NDS, 2005, 17)

#### Strategy for Homeland Defense and Civil Support

In DOD's defense, it did publish a more homeland specific document in June of 2005, entitled the "*Strategy for Homeland Defense and Civil Support*, but the guidance is still vague. It often reads more like a brainstorming document that is inviting someone to develop for them a more comprehensive plan. The word "training" is used only seven times in the entire forty-page document, and when it is it is often used as a noun, not an action verb. In other words, it is not a strategy; it is a concept paper that tries to lay out a few vague principles for planners to follow. It fails to put forth a decision matrix that explains when certain forces (National Guard versus Reserves versus Active Duty forces) will be alerted, what tasks these forces will be expected to execute, how they will be trained beforehand, or how command and control will be accomplished.

All of DOD's documents, taken in their entirety, demonstrate that a doctrinal hole definitely exists between what DOD is expected to do and what it has indeed planned and prepared its forces to do. If DOD's preparedness to conduct operations within the US

were judged solely on the documents it has published to date, it would be a stretch to say there is much of a plan at all--other than create a layered defense that destroys the enemy before it can reach our nation's shores. Certainly there are areas in which DOD has made a concerted effort, such as in the area of chemical, biological, radiation, and nuclear response, but this is not a full DSCA plan. Hurricane Katrina breeched all of the layers of defense when it hit the US therefore it is little surprise that the response was conducted in an ad hoc manner.

This review of the foundational documents affecting homeland security can be summarized in the following general terms. The President and the DOD have the authority, and a moral responsibility, to act within the US when the capabilities of local and state entities are overwhelmed. While the PCA prevents the casual, day-to-day use of federal military forces within the US for law enforcement purposes, US law has provided the President with the authority to act quickly when law and order breaks down following a catastrophe. Next, 11 September has led to many organizational changes within the federal government, but these changes have focused almost exclusively on preventing and responding to acts of terrorism vice responding to all natural or man-made catastrophes. As this study will show in chapter 4, the *NRP* attempts to turn these theories into a plan of action, but DOD's *National Defense Strategy* and *Strategy for Homeland Defense and Civil Support*, which were signed and released after the *NRP*'s publication, fail to provide the services a clear mission and description of what is expected of them. In other words, prior to Katrina, there were plenty of ideas and concepts, but there was also a lot of ambiguity. With this in mind, the author will now shift focus and explain the

methodology used to analyze this problem in greater detail. The methodology to be used will be described next in chapter 3.



## CHAPTER 3

### RESEARCH METHODOLOGY

The research methodology to be used for this study is straightforward in nature. Unlike most forms of comparative analysis, this study does not seek to answer which course of action is better; instead it seeks to identify the voids in the Army's strategic and operational planning as it relates DSCA operations and implementing the President's guidance. In other words, has the intent put forth in all of the planning documents been processed through the Army's bureaucratic system and turned into action and capabilities?

It is the author's assertion that readiness does not come about by accident. At the tactical level, readiness is the byproduct of realistic training. At the operational and strategic levels, it occurs when organizations are given clear and feasible tasks with a suitable purpose, and the resources to carry out the mission. The common thread throughout this idea is planning. Where there is no planning, allocation of resources (troops, training, time, and others), command and control structure, or appropriate policy, there cannot be an effective response.

In the aftermath of 11 September, the DHS was created to provide the umbrella authority for the entire homeland security planning process. Many fine ideas have been developed and much has been written, but have these thoughts been distilled into Army capabilities and readiness? For this reason, the methodology for this study will center first on the Department of Homeland Security's *NRP* and determining the tasks it assigns to DOD, and by extension, the Army. Second, it will evaluate whether or not this guidance

is being transformed into actual plans and capabilities. Remember the fundamental question this study is attempting to answer; is the role of US federal troops when responding to catastrophic natural disasters and other national emergencies within the US clearly defined, and what is the Army doing to prepare to meet these requirements? To date, the author has not seen a document that provides any sort of mission analysis to determine what tasks DOD and the Army was expected to physically execute and to what standards the Army was expected to execute them (for example how fast, with how much notice, and others).

Therefore, chapter 4 will focus almost exclusively on the *NRP*; the “all-discipline, all-hazards plan that establishes a single, comprehensive framework for the management of domestic incidents” (*National Response Plan 2004*, iii). The purpose of doing so is to identify DOD and the Army’s assigned roles. That is not to say that the Army’s obligations are limited to the NRP. Instead, the author wants to evaluate the degree to which DHS and DOD has defined the Army’s mission.

Next, this study will evaluate the Army’s efforts to prepare for DSCA (Defense Support to Civil Authorities) operations. In chapter 5, the author will conduct a DOTMLPF analysis (Doctrine, Organization, Training, Materiel, Leadership and Education, Personnel, and Facilities). In conducting this analysis, the author will attempt to identify who in the Army is, or should be, responsible for writing the doctrine, shaping the organizational composition, identifying the training requirements, obtaining the materiel, executing the leadership development and education training, identifying the personnel requirements and acquiring the facilities needed to execute DSCA operations.

If no one is doing this work, it is unlikely the Army will have a legitimate DSCA capability in the near future.

Before proceeding further, the concept of DOTMLPF and DOTMLPF analysis must be explained and understood by the reader. DOTMLPF is a concept that is based on the Joint Capabilities Integration and Development System or JCIDS (see Chairman of the Joint Chiefs of Staff Manual 3170.01B, *Operation of the Joint Capabilities Integration and Development System*, 11 May 2005 for a full explanation). This work will not attempt to explain the JCIDS process; however, the author learned to analyze and evaluate Army and DOD programs, while assigned to the Center for Army Lessons Learned, by conducting what he calls DOTMLPF analysis. DOTMLPF analysis is not a doctrinal term, but as explained below, the author will employ this method of analysis in chapter 5. As such, readers must understand the mental model behind this analysis.

Bottom line, the military in general, DOD specifically, develops capabilities in a methodical manner. It invests time, personnel and financial resources in order to provide capabilities and operational options to the President and the nation during times of crisis. For instance, in order to be capable of deploying 10,000 infantry Soldiers half-way around the world in 24 hours notice, DOD maintains a rapidly-deployable, airborne capability. Developing and maintaining this capability requires more than good ideas and brave paratroopers. These requirements include the elements of DOTMLPF. The Infantry Center at Fort Benning, and the US Army Airborne School which is assigned to the Infantry Center, writes the doctrine, determines and recommends to the Department of the Army the organizational structure, training, materiel, leadership and education instruction, personnel, and facilities required to ensure this capability is ready to go when

called upon. The Infantry Center is the Army proponent for airborne operations. If the Secretary of Defense decides to modify the Army's airborne capability in some manner, it will require a change to one or more DOTMLPF elements. The Infantry Center will have a leading role in implementing these changes for the Army. At the Joint level, this same process would be used to develop or maintain the US Air Force capabilities required to deliver these airborne forces. This is a small example of the Joint integration aspect of the JCIDS and DOTMLPF process.

To demonstrate this concept using a development issue, consider the impact across the DOTMLPF spectrum if there is a proposal to add--for convoy protection--two MK-19 grenade launchers to every transportation company in the Army. Using the DOTMLPF analysis method, consider first the changes this would require to the Army's transportation doctrine. Consider the organizational changes this would create for each of these companies. Imagine how this change would alter the weapons qualification and other training plans for each company. What about the materiel requirements; weapons, ammo, vehicle modifications kits? Leadership development and education programs, from initial entry training to the transportation officer's basic and advanced courses, would need to be changed to account for this additional firepower. Next, who is going to operate these weapons systems within these companies and where will these personnel come from? Last, there will likely be a need for additional MK-19 ranges, larger arms rooms, and other facility changes throughout the Army. If nothing else, readers should appreciate the size of the ripple effect caused by the smallest of changes to an organization as big as the US Army. Consequently, the DOTMLPF analysis model is also

an excellent method for evaluating the complexity of developing a legitimate DSCA capability that can respond rapidly to a major disaster in a short amount of time.

Hence, by determining whether or not the Army's role in responding to the NRP has been clearly defined, and whether or not the Army is addressing the DOTMLPF factors that will enable it to carry out these tasks, the appropriate measures to determine what must be done to insure a timely response in the future can begin. While the information will certainly not address all of the Army's shortcomings, it will begin a systematic process that should illuminate where the Army stands today, and what it must do to succeed in the future. Again, this is not a methodology that can be used to evaluate the merits of one course of action over another. Instead, it is designed to evaluate whether or not the Army is headed in the right direction to finding the answers to this growing challenge. Figure 3 summarizes the process into graphic form.

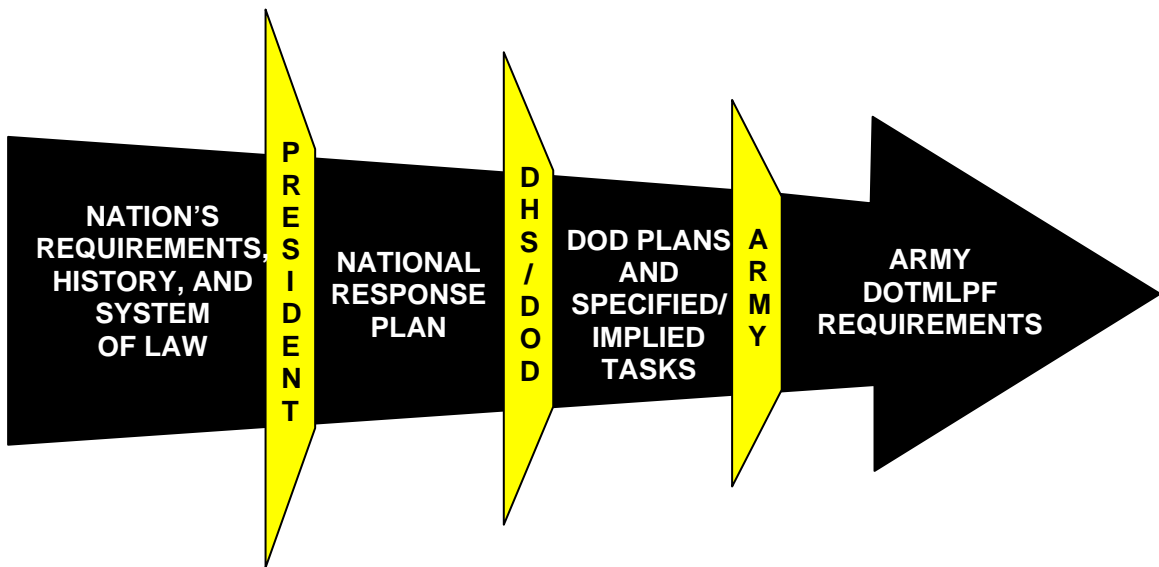


Figure 3. Methodology Summarized into Graphic Form

## CHAPTER 4

### THE NATIONAL RESPONSE PLAN

The *NRP*, the capstone document for homeland security, was published in December 2004. The *NRP* was the “nation’s plan” that was in effect at the time of Hurricane Katrina’s landfall. The document itself is massive, consisting of more than 400 pages of information. The plan is pivotal; one, it consolidates the Bush Administration’s homeland security policies into one document; two, it consolidates the individual response plans of all the federal agencies into one national strategy. Given the importance of this document, it is critical that it be examined closely.

As noted in chapter 2, the NRP:

[P]rovides the structure and mechanisms for the coordination of Federal support to State, local, and tribal incident managers and for exercising direct Federal authorities and responsibilities. The NRP assists in the important homeland security mission of preventing terrorist attacks within the United States; reducing the vulnerability to *all natural and manmade* hazards; and minimizing the damage and *assisting in the recovery* from any type of incident that occurs [emphasis added]. (*National Response Plan* 2004, iii)

First and foremost, the *NRP* must be recognized for what it is, a government wide plan. The 426 page *NRP* begins with a letter of agreement between 32 Federal departments and agencies. Along with DOD, the other signatories of the *NRP* range from the Department of Agriculture to the Department of Veterans Affairs, and the Central Intelligence Agency to the Tennessee Valley Authority. As signatories, all of these departments and agencies agree to support the *NRP* in its entirety.

The next section of the *NRP* serves as a letter of instruction that lays out the implementation plan. The *NRP* was not published until December 2004. Sadly, the implementation plan may shed the first light into why the national response was not as

smooth as it should have been. According to the implementation instructions, implementation was to occur in three phases. Phase I would be January and February of 2005. Phase II would be March and April of 2005. Phase III would run from May until the end of December 2005. Hurricane Katrina and its aftermath occurred in August and September of 2005, or in the middle of Phase III. The implementation goals for each phase are provided below.

Phase I – Transitional Period (0 to 60 days): This 60-day timeframe is intended to provide a transitional period for departments and agencies and other organizations to modify training, designate staffing of NRP organizational elements, and become familiar with NRP structures, processes, and protocols.

Phase II – Plan Modification (60 to 120 days): This second 60-day timeframe is intended to provide departments and agencies the opportunity to modify existing Federal interagency plans to align with the NRP and conduct necessary training.

Phase III – Initial Implementation and Testing (120 days to 1 year): Four months after its issuance, the NRP is to be fully implemented, and the INRP, FRP, CONPLAN, and FRERP are superseded. Other existing plans remain in effect, modified to align with the NRP. During this timeframe, the Department of Homeland Security (DHS) will conduct systematic assessments of NRP coordinating structures, processes, and protocols implemented for actual Incidents of National Significance (defined on page 4 of the NRP), national-level homeland security exercises, and National Special Security Events (NSSEs). These assessments will gauge the plan's effectiveness in meeting specific objectives outlined in Homeland Security Presidential Directive-5 (HSPD-5). At the end of this period, DHS will conduct a 1-year review to assess the implementation process and make recommendations to the Secretary on necessary NRP revisions. Following this initial review, the NRP will begin a deliberate 4-year review and reissuance cycle. (*National Response Plan 2004*, ix)

While the plan provided clear implementation timelines, few experienced members of the Federal government would (or should) have expected such a colossal plan to be implemented “four months after its issuance.” That observation aside, the *NRP* does offer a unifying vision for how the government at all levels as well as the private sector are supposed to respond in times of crisis--regardless of the type of crisis. A key

piece of this integration effort is that it requires all of the federal agencies to incorporate the *NRP*'s terminology, principles and procedures into their own internal plans. Coordination is not limited to only the federal government. State, local and tribal governments as well as nongovernmental organizations are "requested" to do likewise. The private sector, at least those who represent or support "critical elements of infrastructure or key resources whose disruption may have national or major regional impact, are encouraged (or in some cases required by law) to develop appropriate emergency response and business continuity plans and information-sharing and incident-reporting protocols" that are integrated into local, state and federal plans (*National Response Plan 2004*, x).

While putting forth their plan, the authors of the *NRP* seemed to recognize that another major purpose of the *NRP* is to educate the nation on the topics of homeland security, incident management within the US and the basic capabilities contained within America's departments and agencies. Given this educational requirement, the *NRP* starts at the ground level by introducing readers to the basics of homeland security and crisis management. First, readers are introduced to the NIMS. According to the *NRP*, the NIMS "Provides a nationwide template enabling Federal, State, local, and tribal governments and private-sector and nongovernmental organizations to work together effectively and efficiently to prevent, prepare for, respond to, and recover from domestic incidents regardless of cause, size, or complexity" (*National Response Plan 2004*, 1). The NIMS is intended to be a flexible system that can be activated according to the scale of the crisis and supersedes other national plans that have been approved in the past; such as, the "U.S. Government Interagency Domestic Terrorism Concept of Operations Plan



(CONPLAN), and Federal Radiological Emergency Response Plan (FRERP)” (*National Response Plan 2004*, ix). In its most basic terms, the *NRP* lists federal organizations, and their general capabilities, like spices on a shelf that can be selected and mixed to meet any requirement.

Next, the document attempts to define the boundaries of the plan by explaining that the *NRP* is not intended to be used every time a minor crisis befalls America. Instead, the *NRP* is reserved for “Incidents of National Significance.” An incident of national significance are “those high-impact events that require a coordinated and effective response by an appropriate combination of federal, state, local, tribal private-sector and non-governmental entities in order to save lives, minimize damage, and provide the basis for long-term community recovery and mitigation activities” (*National Response Plan 2004*, 3). As this definition alludes to, an incident of national significance does not always require a natural disaster or man-made catastrophe. An incident of national significance could be declared when intelligence officials receive credible information on an imminent terrorist attack, during National Special Security Events, such as the presidential conventions, Super Bowl, and others, or any time the DHS Secretary is directed to “assume responsibility for managing a domestic incident by the President” (*National Response Plan 2004*, 3). It is worth noting, however, that most of the examples provided deal almost exclusively with responding to terrorist threats or the aftermath of terrorist attacks. This intense focus on terrorism is one of the document’s constant shortcomings. While the focus is understandable given the driving forces behind its creation, in the aftermath of Hurricane Katrina, it appears that natural disasters were addressed as an afterthought.

In Section III the *NRP* makes statements of great importance in light of the response to Katrina; it defines the roles and responsibilities of several key individuals and organizations, to include governors, mayors, and various federal agencies. Without becoming mired in the political finger-pointing that followed Katrina, a brief look at these roles and responsibilities is instructive in regards to fair expectations.

### Governors

As a State's chief executive, the Governor is responsible for the public safety and welfare of the people of that State or territory. The Governor:

- Is responsible for coordinating State resources to address the full spectrum of actions to prevent, prepare for, respond to, and recover from incidents in an all-hazards context to include terrorism, natural disasters, accidents, and other contingencies;
- Under certain emergency conditions, typically has police powers to make, amend, and rescind orders and regulations;
- Provides leadership and plays a key role in communicating to the public and in helping people, businesses, and organizations cope with the consequences of any type of declared emergency within State jurisdiction;
- Encourages participation in mutual aid and implements authorities for the State to enter into mutual aid agreements with other States, tribes, and territories to facilitate resource-sharing;
- Is the Commander-in-Chief of State military forces (National Guard when in State Active Duty or Title 32 Status and the authorized State militias);
- And Requests Federal assistance when it becomes clear that State or tribal capabilities will be insufficient or have been exceeded or exhausted.  
(*National Response Plan 2004*, 8)

### Mayors

A mayor or city or county manager, as a jurisdiction's chief executive, is responsible for the public safety and welfare of the people of that jurisdiction. The Local Chief Executive Officer:

- Is responsible for coordinating local resources to address the full spectrum of actions to prevent, prepare for, respond to, and recover from incidents involving all hazards including terrorism, natural disasters, accidents, and other contingencies;
- Dependent upon State and local law, has extraordinary powers to suspend local laws and ordinances, such as to establish a curfew, direct evacuations, and, in coordination with the local health authority, to order a quarantine;
- Provides leadership and plays a key role in communicating to the public, and in helping people, businesses, and organizations cope with the consequences of any type of domestic incident within the jurisdiction;
- Negotiates and enters into mutual aid agreements with other jurisdictions to facilitate resource-sharing; and
- Requests State and, if necessary, Federal assistance through the Governor of the State when the jurisdiction's capabilities have been exceeded or exhausted." (*National Response Plan 2004*, 8)

#### Secretary of Homeland Security

Pursuant to HSPD-5, the Secretary of Homeland Security 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. HSPD-5 further designates the Secretary of Homeland Security as the "principal Federal official" for domestic incident management. (*National Response Plan 2004*, 9)

#### Secretary of Defense

The Secretary of Defense authorizes Defense Support of Civil Authorities (DSCA) for domestic incidents as directed by the President or when consistent with military readiness operations and appropriate under the circumstances and the law. The Secretary of Defense retains command of military forces under DSCA, as with all other situations and operations. (*National Response Plan 2004*, 10)

Once the NRP has defined the role of its signatories and supporting entities, it shifts to the task of organizing these groups into one body. The vehicle it uses is the establishment of fifteen Emergency Support Functions (ESFs). ESFs are a group of functional areas that mutually support one another. For instance, ESF 3, Public Works

and Engineering, will invariably need assistance from ESF 1, Transportation, and ESF 2, Communications. For each ESF, a single coordinator, as well as several primary and supporting agencies, is identified. Which government agency is put in charge of each of these ESFs is dependant upon the subject matter expertise required. These broad-based functions are provided below in figure 4. The coordinator, or who is in charge of each ESF, is addressed further in table 1.

- ESF #1 - Transportation**
- ESF #2 - Communications**
- ESF #3 - Public Works and Engineering**
- ESF #4 - Firefighting**
- ESF #5 - Emergency Management**
- ESF #6 - Mass Care, Housing, and Human Services**
- ESF #7 - Resource Support**
- ESF #8 - Public Health and Medical Services**
- ESF #9 - Urban Search and Rescue**
- ESF #10 - Oil and Hazardous Materials Response**
- ESF #11- Agriculture and Natural Resources**
- ESF #12 - Energy**
- ESF #13 - Public Safety and Security**
- ESF #14 - Long-Term Community Recovery and Mitigation**
- ESF #15 - External Affairs**

Figure 4. Fifteen Emergency Support Functions

Source: Department of Homeland Security, 2004, *National response plan*, Available from [http://www.dhs.gov/interweb/assetlibrary/NRP\\_FullText.pdf](http://www.dhs.gov/interweb/assetlibrary/NRP_FullText.pdf), Internet, Accessed on 19 September 2005.

Before explaining the specifics of each ESF, it must be understood that the NRP operates on the premise that incidents “are handled at the lowest jurisdictional level possible” (*National Response Plan* 2004, 10). The NRP is, in essence, an overflow system to be used when requirements exceed capabilities at the local level. In a perfect

world, local officials would be able to take care of all their problems, but this is not realistic. Instead, when local officials are overwhelmed, they are expected to request assistance from the state. When requirements exceed the capabilities of the state, governors are supposed to request federal assistance. When approved by the President, DHS utilizes the NRP to establish a command and control infrastructure and assign tasks to the appropriate agencies. This functional area division of effort allows the DHS to tailor the composition of the response force based on the nature of the disaster and the agency expertise or resources required. The DOD is only one of the agencies involved. What makes DOD unique, however, is that DOD is assigned at least a supporting agency role or responsibility for every ESF.

In order to understand DOD's full role in responding to internal disasters, it is important to have a better understanding of what it has been called upon to do in the *NRP*. As mentioned earlier, the *NRP* is a massive 426 page document, but 332 pages consist of appendixes and annexes. In the spreadsheet below (figure 5), the author has attempted to condense the tasks assigned to DOD down into one, succinct spreadsheet. The spreadsheet is broken down by ESF and identifies the ESF coordinator and the central purpose of the ESF as outlined in each ESF annex. Then it defines the scope of each ESF. Next, it defines DOD's named roles and responsibilities as described in the actual annex.

While reading the spreadsheet, it is necessary to remember that the US Army Corps of Engineers, while part of the Army, maintains a unique relationship with the nation's state and local governments when compared to the Army's combat, combat support and combat service and support Soldiers. The author has carefully tried to

distinguish between these two portions where applicable. Second, the value of the spreadsheet is that it extracts from 130 pages of data those tasks that are related to DOD and the Army.

Table 1. Summary of Department of Defense Duties and Responsibilities as per the National Response Plan’s Fifteen Emergency Support Functions

ESF ESF Coordinator & Purpose of ESF	SCOPE OF ESF, (AS PER FIGURE-2, OF THE NRP)	DOD ROLE PER NRP MINUS USACE	SPECIFIC TASKS AND RESPONSIBILITIES IDENTIFIED IN NRP DEPARTMENTAL TASK MATRIX
ESF #1 - Transportation	1. Federal and civil transportation support	Supporting Agency	Provides staffing to the NRCC ESF #1 function and the RRCC ESF #1 when requested and upon approval by the Secretary of Defense.
	2. Transportation safety		
Coordinator: Department of Transportation	3. Restoration/recovery of transportation infrastructure		
	4. Movement restrictions		
	5. Damage and impact assessment		
<p>Purpose: Emergency Support Function (ESF) #1 – Transportation supports the Department of Homeland Security (DHS), assisting Federal agencies; State, local, and tribal governmental entities; and voluntary organizations requiring transportation for an actual or potential Incident of National Significance. Through the Department of Transportation (DOT)’s coordination role, ESF #1 integrates the DOT responsibility for Emergency Management of the Transportation System (EMTS) in the prevention/mitigation, preparedness, recovery, infrastructure restoration, safety, and security of the Nation and its transportation system.</p>			<p>Military transportation will be provided in accordance with the Defense Support of Civil Authorities section of the NRP and the Memorandum of Understanding between the Department of Defense and DOT concerning commercial aviation programs.</p> <p>Provides military transportation capacity from USTRANSCOM to move essential resources and assist in the contracting for civilian airlift. Also provides staff to the headquarters ESF #1 function and the regional ESF #1 when requested and upon approval by the SECDEF</p>
ESF #2 - Communications	1. Coordination with telecommunications industry	Supporting Agency	None Identified, however; Government Services Agency (GSA) is identified as responsible for coordinating with the Department of Defense on the use of military and deployed National Guard organizational telecommunications assets in support of an Incident of National Significance;
Coordinator: DHS/ Information Analysis and Infrastructure Protection/National Communications System	2. Restoration/repair of telecomm infrastructure		
	3. Protection, restoration, and sustainment of national cyber and information technology resources		
<p>PURPOSE: Emergency Support Function (ESF) #2 – Communications ensures the provision of Federal communications support to Federal, State, local, tribal, and private-sector response efforts during an Incident of National Significance. This ESF supplements the provisions of the National Plan for Telecommunications Support in Non-Wartime Emergencies, hereafter referred to as the National Telecommunications Support Plan (NTSP).</p>			

ESF ESF Coordinator & Central Purpose of ESF	SCOPE, (AS PER FIGURE 2, OF THE NRP)	DOD ROLE PER NRP MINUS USACE	SPECIFIC TASKS AND RESPONSIBILITIES IDENTIFIED IN NRP DEPARTMENTAL TASK MATRIX
ESF #3 - Public Works and Engineering	1. Infrastructure protection and emergency repair	Supporting Agency	DOD/USACE is designated as the coordinator for ESF #3. As ESF coordinator, DOD/USACE coordinates meetings, plans, exercises, training, and other activities with DHS/EPR/FEMA, the private sector, and the ESF #3 support agencies.
	2. Infrastructure restoration		
Coordinator: DOD/U.S. Army Corps of Engineers	3. Engineering services, construction management		
	4. Critical infrastructure liaison		
PURPOSE: Emergency Support Function (ESF) #3 – Public Works and Engineering assists the Department of Homeland Security (DHS) by coordinating and organizing the capabilities and resources of the Federal Government to facilitate the delivery of services, technical assistance, engineering expertise, construction management, and other support to prevent, prepare for, respond to, and/or recover from an Incident of National Significance.			USACE, as the primary ESF #3 agency for response, provides direction and coordination of ESF #3 response-related activities and resources. DOD/USACE has developed a Field Guide that provides information on tools/processes used for ESF #3 mission support.
ESF #4 - Firefighting	1. Firefighting activities on Federal lands	Supporting Agency	Assumes full responsibility for firefighting activities on DOD installations.  Supports firefighting operations on nonmilitary lands with personnel, equipment, and supplies under the terms of the existing interagency agreement, providing liaisons as required.
Coordinator: Department of Agriculture/Forest Service	2. Resource support to rural and urban firefighting operations		
PURPOSE: Emergency Support Function#4- Firefighting enables the detection and suppression of wildland, rural, and urban fires resulting from, or occurring coincidentally with, an Incident of National Significance.			U.S. Army Corps of Engineers: Provides contracting services to urban and rural firefighting forces to obtain heavy equipment and/or demolition services as needed to suppress incident- related fires.
ESF #5 - Emergency Management	1.Coordination of incident management efforts	Supporting Agency	None listed in ESF coordination matrix.
	2.Issuance of mission assignments		
Coordinator: DHS/Emergency Preparedness and Response/FEMA	3. Resource and human capital		
	4. Incident action planning and Financial management		
PURPOSE: Emergency Support Function (ESF) #5 – Emergency Management is responsible for supporting overall activities of the Federal Government for domestic incident management. ESF #5 provides the core management and administrative functions in support of National Response Coordination Center (NRCC), Regional Response Coordination Center (RRCC), and Joint Field Office (JFO) operations.			



ESF ESF Coordinator & Central Purpose of ESF	SCOPE, (AS PER FIGURE 2, OF THE NRP)	DOD ROLE PER NRP MINUS USACE	SPECIFIC TASKS AND RESPONSIBILITIES IDENTIFIED IN NRP DEPARTMENTAL TASK MATRIX
ESF #6 - Mass Care, Housing and Human Services	1. Mass care	Supporting Agency	Fulfills mass care requirements for ice and water in coordination with mass care elements of ESF #6.
Coordinator: DHS/Emergency Preparedness and Response/FEMA	2. Disaster housing		Provides assistance by inspecting mass care shelter sites to ensure suitability of facilities to safely shelter victims.
	3. Human services		Provides assistance in constructing temporary shelter facilities in the affected area, as required.
<b>PURPOSE:</b> Emergency Support Function #6 – Mass Care, Housing, and Human Services supports State, regional, local, and tribal government and nongovernmental organization (NGO) efforts to address the nonmedical mass care, housing, and human services needs of individuals and/or families impacted by Incidents of National Significance.			Provides temporary housing support, such as temporary structures and expedited repair of damaged homes (to include temporary roofing or other repairs that facilitate reoccupation of minimally damaged structures), as necessary.
ESF #7 - Resource Support	1. Resource support (facility space, office equipment and supplies, contracting services, etc.)	Supporting Agency	None listed in ESF coordination matrix.
ESF Coordinator: General Services Administration			
<b>PURPOSE:</b> Emergency Support Function #7 – Resource Support assists the Department of Homeland Security (DHS), supporting Federal agencies and State, local, and tribal governments requiring resource support prior to, during, and/or after Incidents of National Significance.			

ESF ESF Coordinator & Central Purpose of ESF	SCOPE, (AS PER FIGURE 2, OF THE NRP)	DOD ROLE PER NRP MINUS USACE	SPECIFIC TASKS AND RESPONSIBILITIES IDENTIFIED IN NRP DEPARTMENTAL TASK MATRIX
ESF #8 - Public Health and Medical Services	1. Public health	Supporting Agency	Alerts DOD NDMS Federal Coordinating Centers (FCCs) (Army, Navy, Air Force) and provides specific reporting/regulating instructions to support relief efforts.
	2. Medical		Alerts DOD NDMS FCCs to activate NDMS patient reception plans in a phased, regional approach, and when appropriate, in a national approach.
ESF Coordinator: Department of Health and Human Services	3. Mental health services		At the request of HHS, DOD coordinates with ESF #1 to provide support for the evacuation of seriously ill or injured patients to locations where hospital care or services are available.
	4. Mortuary services		Using available DOD transportation resources, in coordination with the NDMS Medical Interagency Coordination Group (MIACG), evacuates and manages victims/patients from the patient collection point in or near the incident site to NDMS patient reception areas.
<b>PURPOSE:</b> Emergency Support Function (ESF) #8 – Public Health and Medical Services provides the mechanism for coordinated Federal assistance to supplement State, local, and tribal resources in response to public health and medical care needs (to include veterinary and/or animal health issues when appropriate) for potential or actual Incidents of National Significance and/or during a developing potential health and medical situation. ESF #8 is coordinated by the Secretary of the Department of Health and Human Services (HHS) principally through the Assistant Secretary for Public Health Emergency Preparedness (ASPHEP). ESF #8 resources can be activated through the Robert T. Stafford Act or the Public Health Service Act (pending the availability of funds) for the purposes of Federal-to-Federal support or in accordance with the memorandum for Federal mutual aid included in the National Response Plan (NRP) Financial Management Support Annex.			Provides available logistical support to health/medical response operations.
			Provides available medical personnel for casualty clearing/staging and other missions as needed including aero-medical evacuation and medical treatment. Mobilizes and deploys available Reserve and National Guard medical units, when authorized and necessary.
			Coordinates patient reception, tracking, and management to nearby NDMS non-Federal hospitals, VA hospitals, and DOD military treatment facilities that are available and can provide appropriate care.
			Provides available military medical personnel to assist HHS in the protection of public health (such as food, water, wastewater, solid waste disposal, vectors, hygiene, and other conditions).
			Provides available DOD medical supplies for distribution to mass care centers and medical care locations being operated for incident victims with reimbursement.
			Provides available emergency medical support to assist State, local, and tribal governments within the disaster area and the surrounding vicinity. Services may include triage, medical treatment, mental health support, and use of surviving DOD medical facilities near the incident area.
			Provides assistance in managing human remains, including victim ID and mortuary affairs.
			Provides evaluation and risk management support through use of Defense Coordinating Officers, Emergency Preparedness Liaison Officers, and Joint Regional Medical Planners.
			Provides available blood products in coordination with HHS.
			Provides DOD confirmatory laboratory testing support in coordination with HHS.

ESF ESF Coordinator & Central Purpose of ESF	SCOPE, (AS PER FIGURE 2, OF THE NRP)	DOD ROLE PER NRP MINUS USACE	SPECIFIC TASKS AND RESPONSIBILITIES IDENTIFIED IN NRP DEPARTMENTAL TASK MATRIX
ESF #9 - Urban Search and Rescue	1. Life-saving assistance	Supporting Agency	Serves as primary source for providing fixed-wing and/or rotary-wing transportation for US&R JMTs. Serves as secondary source for the following assistance:
ESF Coordinator: DHS/Emergency Preparedness and Response/FEMA	2. Urban search and rescue		1. Ground transportation of US&R task forces and JMTs within the affected area; 2. Mobile feeding units for US&R task forces and JMT personnel; and 3. Portable shelter (e.g., tents) for use by US&R task force and JMT personnel for eating, sleeping, and working.
<b>PURPOSE:</b> Emergency Support Function #9 – Urban Search and Rescue (US&R) rapidly deploys components of the National US&R Response System to provide specialized life-saving assistance to State, local, and tribal authorities during an Incident of National Significance. US&R activities include locating, extricating, and providing onsite medical treatment to victims trapped in collapsed structures. The National US&R Response System integrates US&R task forces, Joint Management Teams (JMTs), and technical specialists. The system is built around a core of task forces prepared to deploy immediately and initiate operations in support of ESF #9. These task forces are staffed primarily by local fire department and emergency services personnel who are highly trained and experienced in collapsed structure search and rescue operations and possess specialized expertise and equipment.			
ESF #10 - Oil and Hazardous Materials Response	1. Oil and hazardous materials (chem, biol, radiological, etc.) response	Supporting Agency	Provides OSC and directs response actions for releases of hazardous materials from its vessels, facilities, vehicles, munitions, and weapons.
ESF Coordinator: Environmental Protection Agency	2. Environmental safety and short- and long-term cleanup		
<b>PURPOSE:</b> Emergency Support Function #10 – Oil and Hazardous Materials Response provides Federal support in response to an actual or potential discharge and/or uncontrolled release of oil or hazardous materials during Incidents of National Significance when activated. The Federal Government also may respond to oil and hazardous materials Incidents of National Significance using mechanisms of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) without activating ESF #10. Those procedures are described in the Oil and Hazardous Materials Incident Annex. (Note: For the purposes of this annex, “hazardous materials” is a general term intended to mean hazardous substances, pollutants, and contaminants as defined in the NCP.)		<i>NOTE- U.S. Army Corps of Engineers (DOD/USACE): Provides response and recovery assistance to incidents involving radiological dispersal devices and improvised nuclear devices, pursuant to development of a Memorandum of Understanding between EPA and DOD/USACE.</i>  <i>NOTE- In addition, ESF #10 may be used to respond to actual or threatened releases of materials not typically responded to under the NCP but that, as a result of an Incident of National Significance, pose a threat to public health or welfare or to the environment.</i>	

ESF ESF Coordinator & Central Purpose of ESF	SCOPE, (AS PER FIGURE 2, OF THE NRP)	DOD ROLE PER NRP MINUS USACE	SPECIFIC TASKS AND RESPONSIBILITIES IDENTIFIED IN NRP DEPARTMENTAL TASK MATRIX
ESF #11 - Agriculture and Natural Resources	1. Nutrition assistance	Supporting Agency	Assesses the availability of DOD food supplies and storage facilities capable of storing dry, chilled, and frozen food.
	2. Animal/plant disease & pest response		Assesses the availability of DOD transportation equipment, material handling equipment, and personnel for support.
ESF Coordinator: Department of Agriculture	3. Food safety/security		This responsibility is confined to the posts, camps, and stations within or adjacent to the affected area.
	4. Natural/cultural resources & historic properties protection & restoration		
<b>PURPOSE:</b> Emergency Support Function #11 – Agriculture and Natural Resources supports State, local, and tribal authorities and other Federal agency efforts to address: (1) provision of nutrition assistance; (2) control and eradication of an outbreak of a highly contagious or economically devastating animal/zoonotic disease, highly infective exotic plant disease, or economically devastating plant pest infestation; (3) assurance of food safety and food security (under Department of Agriculture (USDA) jurisdictions and authorities), and (4) protection of natural and cultural resources and historic properties (NCH) resources prior to, during, and/or after an Incident of National Significance.			Assesses the availability of laboratory and diagnostic support, subject matter expertise, and technical assistance that may be provided. Assists animal emergency response organizations, or others as requested and appropriate. Provides resources including senior Army Veterinary Corps Officers to function as Defense Veterinary Liaison Officers and Defense Veterinary Support Officers (who serve as the on-site point of contact for DOD veterinary functions) and other military Provides laboratory support to assist and augment the capabilities of APHIS. Assists in the development of response plans.
ESF #12 - Energy	1. Energy infrastructure assessment, repair, and	Supporting Agency	Department of Defense/U.S. Army Corps of Engineers Coordinates Emergency Power team missions with power-system restoration activities to establish priorities and efficiently provide support to a facility having power restored.
ESF Coordinator: Department of Energy	2. Energy industry utilities coordination		
	3. Energy forecast		
<b>PURPOSE:</b> Emergency Support Function #12 – Energy is intended to restore damaged energy systems and components during a potential or actual Incident of National Significance. Under Department of Energy (DOE) leadership, ESF #12 is an integral part of the larger DOE responsibility of maintaining continuous and reliable energy supplies for the United States through preventive measures as well as restorative actions.			

ESF ESF Coordinator & Central Purpose of ESF	SCOPE, (AS PER FIGURE 2, OF THE NRP)	DOD ROLE PER NPR MINUS USACE	SPECIFIC TASKS AND RESPONSIBILITIES IDENTIFIED IN NRP DEPARTMENTAL TASK MATRIX
ESF #13 - Public Safety and Security	1. Facility and resource security 2. Security planning and technical and resource assistance	Supporting Agency	DOD IS NOT MENTIONED IN MATRIX, AT LEAST NOT SEPARATE FROM USACE. However, "In the event that State and local police forces (including the National Guard operating under State control) are unable to adequately respond to a civil disturbance or other serious law enforcement emergency, the State legislature (or the Governor if the legislature cannot be convened) may request, through the Attorney General, Federal military assistance under 10 U.S.C. Chapter 15. The President may also use the military in a state to enforce Federal law or to protect constitutional rights. Pursuant to 10 U.S.C. 331-334, the President will ultimately determine whether to use the Armed Forces to respond to a law enforcement emergency. Under Title 10 authority, the President may federalize and deploy all or part of any State's National Guard. Procedures for coordinating Department of Defense (DOD) and Department of Justice (DOJ) responses to law enforcement emergencies arising under 10 U.S.C. 331-334 are set forth in the DOD Civil Disturbance Plan, February 15, 1991."
Coordinators: Department of Homeland Security Department of Justice	3. Public safety/security support 4. Support to access, traffic, and crowd control		
PURPOSE: Emergency Support Function (ESF) #13 – Public Safety and Security integrates Federal public safety and security capabilities and resources to support the full range of incident management activities associated with potential or actual Incidents of National Significance. SCOPE: ESF #13 provides a mechanism for coordinating and providing Federal-to-Federal support or Federal support to State and local authorities to include noninvestigative/non-criminal law enforcement, public safety, and security capabilities and resources during potential or actual Incidents of National Significance.			
ESF #13 capabilities support incident management requirements including force and critical infrastructure protection, security planning and technical assistance, technology support, and public safety in both pre-incident and post-incident situations. ESF #13 generally is activated in situations requiring extensive assistance to provide public safety and security and where State and local government resources are overwhelmed or are inadequate, or in pre-incident or post-incident situations that require protective solutions or capabilities unique to the Federal Government			

ESF ESF Coordinator & Central Purpose of ESF	SCOPE, (AS PER FIGURE 2, OF THE NRP)	DOD ROLE PER NRP MINUS USACE	SPECIFIC TASKS AND RESPONSIBILITIES IDENTIFIED IN NRP DEPARTMENTAL TASK MATRIX
ESF #14 - Long-Term Community Recovery and Mitigation	1. Social and economic community impact assessment	Supporting Agency	U.S. Army Corps of Engineers: Provides technical assistance in community planning and civil engineering, and natural hazard risk assessment expertise. Supports the development of national strategies and plans related to housing and permanent housing, debris management, and the restoration of public facilities and infrastructure.
ESF Coordinator: DHS/Emergency Preparedness and Response/FEMA	2. Long-term community recovery assistance to States, local governments, and the private sector		
	3. Mitigation analysis and program implementation		
PURPOSE: Emergency Support Function (ESF) #14 – Long-Term Community Recovery and Mitigation provides a framework for Federal Government support to State, regional, local, and tribal governments, nongovernmental organizations (NGOs), and the private sector designed to enable community recovery from the long-term consequences of an Incident of National Significance. This support consists of available programs and resources of Federal departments and agencies to enable community recovery, especially long-term community recovery, and to reduce or eliminate risk from future incidents, where feasible.			
ESF #15 - External Affairs	1. Emergency public information and protective action guidance	Supporting Agency	Depending on the nature and scope of the incident, all Federal departments and agencies support the NRP and are responsible for providing appropriate support for ESF #15 as required.
ESF Coordinator: Department of Homeland Security	2. Media and community relations		
	3. Congressional and international affairs		
	4. Tribal and insular affairs		
PURPOSE: Emergency Support Function (ESF) #15 – External Affairs ensures that sufficient Federal assets are deployed to the field during a potential or actual Incident of National Significance to provide accurate, coordinated, and timely information to affected audiences, including governments, media, the private sector, and the local populace. ESF #15 provides the resource support and mechanisms to implement the National Response Plan – Incident Communications Emergency Policy and Procedures (NRP-ICEPP) described in the NRP Public Affairs Support Annex.			

Source: Department of Homeland Security, 2004, *National response plan*, 107-233 Available from [http://www.dhs.gov/interweb/assetlibrary/NRP\\_FullText.pdf](http://www.dhs.gov/interweb/assetlibrary/NRP_FullText.pdf), Internet, Accessed on 19 September 2005.

Given the breadth of the roles and responsibilities listed above, it is impossible to research, within this one study, each of the ESFs. Instead, two ESFs--ESF 9, Urban

Search and Rescue and ESF13, Public Safety and Security--will be explored in greater depth in chapter 5. The first aim of this effort is to determine what DOD and the Army did with the *NRP*'s guidance, and decide whether or not the slow response to Hurricane Katrina can be partially attributed to a lack of planning, training or coordination. In other words, were DOD and the Army ready to execute the tasks they were assigned in the *NRP*? Second, were the tasks assigned to DOD and the Army appropriate and thorough enough to allow DOD and the Army to forecast what would be expected of them when a crisis occurred? Third, are there implied tasks in the *NRP* that the Army should have been prepared to carry out?

## CHAPTER 5

### FINDINGS

As described in the methodology, this chapter will utilize ESF 9, Urban Search and Rescue (US&R), and ESF 13, Public Safety and Security, to do three things; determine what, if anything, DOD and the Army did with the *NRP*'s guidance, evaluate the appropriateness and specificity of the tasks assigned to DOD and the Army, and determine whether or not the ESFs contain implied tasks that the Army should have been prepared to carry out? Next, the author will conduct an abbreviated DOTMLPF analysis of the institutional Army's DSCA efforts. The former will determine what the Army specifically is doing to prepare itself for future DSCA operations. The answer to these questions will provide the basis for the recommendations that will be offered in chapter six.

#### Emergency Support Function 9: Urban Search and Rescue

The *NRP*, under ESF 9, directs that DOD will serve as the primary source for fixed wing and rotary wing aviation assets in support of US&R joint management teams; and secondarily, it will provide ground transportation, mobile feeding units and portable shelter for US&R task forces. Given the relatively limited size of this task, DOD can respond with minimal prior planning. Therefore, as directed by the *NRP*, DOD is prepared to carry out its responsibilities as assigned under ESF 9, Urban Search and Rescue. However, in light of Hurricane Katrina, it would be easy to argue that DOD should be prepared to provide more substantial support than to transport the assessment



teams via air or ground into the affected area in question. To fully appreciate this idea, the composition of the assets assigned to ESF 9 must be understood.

US&R task forces are to be drawn, according to ESF 9 in the *NRP*, from the National Urban Search and Rescue Response System. The National Urban Search and Rescue System is composed of twenty-eight Task Forces spread across the US, as well as three Incident Support Teams. The members of these groups are not military service members. Instead, they are manned primarily by volunteers, such as fire fighters and other emergency service personnel. Their purpose is to find, rescue, and treat survivors after a disaster. Each Task Force includes sixty-two positions for individuals trained in US&R and other support tasks (for example, personnel, logistics, and transportation). At home station, the team draws from a pool of 130 on call, and trained members to build the 62 man team. Since the task forces are composed of volunteers, they must maintain a level of redundancy to ensure a full team can be staffed quickly when a crisis occurs.

The national US&R system is organized under FEMA. A portion of the FEMA website is dedicated to the national US&R system. Within this part of the FEMA website, readers can download the *Urban Search and Rescue (US&R) Incident Support Team (IST) Operations Manual* (Draft, January 2000). A review of this 242 page document provides compelling evidence that DOD may not be as integrated with the national US&R system as most Americans would believe. Within this large manual the word “army” is used five times, twice when referring to the Salvation Army and three times when referring to the Army Corps of Engineers. DOD is mentioned eight times, once in the glossary and seven other places where the department is sighted as a possible source for transportation, housing, or other support for their teams. The most in depth guidance

Incident Support Team leaders are given is contained in one of the checklists in the back of the manual. Incident Support Team leaders are directed to “Contact DOD and ESF #8 Medical Services Unit (MSU) for information” pertaining to the “Air medical evacuation plan for transport of ESF #9 personnel, if local medical community cannot supply/support patient load” (FEMA 2000, 212).

Under ESF 9, the US Coast Guard, as a member of DHS--not DOD--is directed to be prepared to assist “in water rescue in areas of inundation and” provide “aircraft and boat assets” (*National Response Plan 2004*, 173-178). DOD is not assigned such a direct responsibility. This is an amazing oversight considering, first, the high demand for search and rescue assets the week following Hurricane Katrina’s landfall. Second, not only does DOD have a Joint Publication that addresses search and rescue (JP 3-50.2, *Doctrine for Joint Combat Search and Rescue*) it states in Appendix A, *US Army Combat Search And Rescue Capabilities*, that all Army MEDEVAC units, helicopter units, Long-range surveillance units, watercraft units, and available maneuver forces can be used to conduct combat search and rescue. Granted, the Army and the other Joint services concentrate on combat search and rescue, but many of these skills should be readily transferable to non-combat search and rescue operations that only involve transporting personnel to safety. In the case of Hurricane Katrina, helicopter assets were obviously the most appropriate vehicles for the situation. While the Army did eventually surge aviation assets to the region, US Coast Guard assets were left to handle the vast majority of the operations.

The confusion with regards to DOD and the Army’s untapped capabilities during Hurricane Katrina is succinctly captured in recently released recordings of video

teleconferences that took place with the President hours before Hurricane Katrina made landfall. An extract of the Associated Press story reference the video is provided:

One snippet captures a missed opportunity on Aug. 28 for the government to have dispatched active-duty military troops to the region to augment the National Guard.

[Chertoff] Are there any DOD assets that might be available? Have we reached out to them?

[Brown] We have DOD assets over here at EOC (emergency operations center). They are fully engaged. And we are having those discussions with them now.

[Chertoff] Good job.

In fact, active duty troops weren't dispatched until days after the storm. And many states' National Guards had yet to be deployed to the region despite offers of assistance, and it took days before the Pentagon deployed active-duty personnel to help overwhelmed Guardsmen. (Associated Press 2006)

The tasks assigned to DOD and the Army in ESF 9 are direct and to the point, and DOD fully met these obligations when they were asked to do so (for example, a 1st Cavalry Division Helicopter flew the assessment to New Orleans to survey damage shortly after the Hurricane's departure allowed the aircraft to fly). However, in light of the time that went by while Americans were stranded on their rooftops and the enormous amount of search and rescue resources DOD possesses, DOD should have been tasked to do much more. Although most active duty Army helicopters are not equipped with rescue hoist mechanisms like the US Coast Guard helicopters that responded, these rotary wing assets could have been used immediately, both day and night, to support rescue efforts. During future DSCA operations in which a lack of roads or bridges prevents civilian rescue forces from saving American citizens, the active military should be used to the fullest extent required. This is not a PCA issue based on the spirit in which the PCA was written. Search and rescue efforts have nothing to do with law enforcement or the abuse

of federal power. In fact, the authors of the PCA would probably be deeply disturbed if Americans were left to suffer because of this legislation.

### Emergency Support Function 13: Public Safety and Security

Perhaps the most egregious portion of the *NRP*'s pre-Katrina plan is ESF 13, Public Safety and Security. As described in the spreadsheet in chapter 4, the purpose of ESF13 is to integrate Federal assets with local and state activities when required. The scope of these activities "include non-investigative/non-criminal law enforcement, public safety, and security capabilities and resources during potential or actual Incidents of National Significance" (*National Response Plan 2004*, 213). The clearest and most in-depth DOD-related portion of the annex is as follows:

In the event that State and local police forces (including the National Guard operating under State control) are unable to adequately respond to a civil disturbance or other serious law enforcement emergency, the State legislature (or the Governor if the legislature cannot be convened) may request, through the Attorney General, Federal military assistance under 10 U.S.C. Chapter 15. The President may also use the military in a state to enforce Federal law or to protect constitutional rights. Pursuant to 10 U.S.C. 331-334, the President will ultimately determine whether to use the Armed Forces to respond to a law enforcement emergency. Under Title 10 authority, the President may federalize and deploy all or part of any State's National Guard. Procedures for coordinating Department of Defense (DOD) and Department of Justice (DOJ) responses to law enforcement emergencies arising under 10 U.S.C. 331-334 are set forth in the DOD Civil Disturbance Plan, February 15, 1991. (*National Response Plan 2004*, 214)

To say the least, the ESF hardly provides the detailed guidance a matter of this magnitude would seem to deserve. After studying ESF13, readers discover that in its most basic terms, the plan is to use local law enforcement first, then the state National Guard, then federal law enforcement, in that order; and when all else fails the Army, DOD's executive agent for civil disturbance operations, will be called upon to solve the problem. If the explanation provided above is correct, all the details are provided in the

*DOD Civil Disturbance Plan*, February 15, 1991. There are several problems with this arrangement.

First, neither the ESF nor the *DOD Civil Disturbance Plan* helps clarify the question of who is in charge or when authority will shift from one headquarters to another. While unity of effort (for example, everyone working together toward one goal) is more important than unity of command (everyone working for one boss), organizations must know who is in charge. In layman's terms, the *NRP* simply says, "it depends." This is insufficient and no amount of interagency complexity can justify this lack of organization. While USNORTHCOM is certainly working today to clarify the lines of authority for future operations, the documents that were available at the time of Hurricane Katrina's landfall, and are still in effect today, are insufficient and create nearly as much confusion as they eliminate.

Second, while attempting to find and read the *DOD Civil Disturbance Plan*, all "Google" internet searches produced links to conspiracy-themed websites describing the Civil Disturbance Plan, also known as Operation Garden Plot, in the worst possible light. Not only will interested citizens or planners reading the *NRP* be unable to find this crucial reference on the Internet, they will also be inundated with links accusing the US of unthinkable acts.

Without providing additional academic advertisement to these questionable works, Garden Plot is accused of playing a significant role in numerous nefarious activities. According to Frank Morales in a paper titled *U.S. Military Civil Disturbance Planning: The War At Home* "Garden Plot may have been operative prior to and during the assassination of Martin Luther King, Jr. William F. Pepper, a long time associate of

the King family, and attorney for the late James Earl Ray, claims that the orders to kill King, which were delivered to Special Forces operatives in Memphis, were tied to the Garden Plot operation. Pepper states that the orders to kill King ‘appeared to come from the office of the Joint Chiefs of Staff and were issued under the umbrella of the anti-black terrorist operation Garden Plot which was a part of the overall US Command antiriot operation CINCSTRIKE which was activated with the outbreak of any major riot’ [Orders To Kill 1995, 424]” (Morales 2006, endnote 23). Other websites accuse the US military of planning to establish of concentration camps in America during times of insurrection and to subjugate US military forces to the United Nations (read: New World Order). While some may dismiss these sites as the ranting of disgruntled or even deranged civilians, the sheer number of negative sites referencing Garden Plot is troubling, if not down right suffocating to the process of trying to research the NRP and understand how this system is supposed to work. As most civilian readers would have less experience than the author navigating government websites, this is something of an information operations failure. At a minimum, DOD and DHS should not allow the fringe to be unchallenged spokespeople on the Internet for their organizations and the plans they have prepared.

If for no other reasons than those discussed here, ESF 13 must be rewritten and the “*DOD Civil Disturbance Plan, February 15, 1991*” should be rescinded without delay. The new Civil Disturbance Plan should be given a different title due to the bad publicity and absurd allegations surrounding Garden Plot. Those portions of the new plan that are unclassified should be released to the public, as their content could serve to both enlighten the public to the complexity of responding to domestic crises, but also to

discredit those who would have the world believe that DOD and the US Army are prepared to turn the US into a Gestapo state. The safeguarding of the American people need not be a controversy, and accept for specific operational details, this plan need not be a secret.

Therefore, the answers to the questions proposed at the beginning of this chapter are clear. The Army's role in responding to ESF 13 is not sufficiently explained in the *NRP*. In addition, it states that all of the details with regards to civil disturbance operations are contained in a plan that was written ten years before 11 September. DOD and the Army have not adequately updated their manuals either. Until April 2005--less than four months prior to Katrina's landfall--FM 19-15, *Civil Disturbances* published 25 November 1985, was the US Army's civil disturbance field manual. On 18 April 2005, FM 19-15 was superseded by FM 3-19.15, *Civil Disturbance Operations*. And finally, it appears that in order to fully capture the myriad of implied tasks that are not contained in ESF 13 but would need to be accomplished in order to successfully respond to a domestic crisis, the Army will need to conduct a top to bottom review of its DSCA plans and policies.

The Army cannot be expected to execute a plan as vague as the one put forth in the *NRP*. While DSCA operations, by their very nature, will be complex, the authors of the *NRP* must develop straightforward policies that capture the circumstances in which federal troops will be called upon. Last, federal troop involvement needs to cease to be an all or nothing proposition. Federal troops have much to offer the states other than the law enforcement activities regulated by the PCA. By learning to support the National Guard in areas outside of law enforcement activities (for example transportation, logistics,

engineering, medical support, search and rescue operations, environmental clean up assistance, agricultural response activities, or mortuary affairs to name a few), National Guard units could be freed up to help prevent crises from descending into chaos or escalating into insurrections.

Doctrine, Organization, Training, Materiel, Leadership and  
Education, Personnel and Facilities Analysis

Last, an abbreviated DOTMLPF analysis of the Army's preparations and readiness to conduct DSCA operations with active duty forces will be conducted. Before proceeding, a few guidelines must be established and assumptions made. First, since the landfall of Hurricane Katrina, many changes have been made or are in the process of being made. This study, which is limited to the timeframe of late 2005 to early 2006, cannot be redrafted as each organizational change is made. For this reason, this author has chosen to focus as much as possible on what was in place before Katrina's landfall. Occasionally, in the interests of the reader, information regarding significant shifts in policy or organization has been inserted. Second, it must be understood from the start that the central problem with trying to identify a single Army proponent or organization to be responsible for each of the DOTMLPF areas is the fact that DSCA is not a branch specific capability; it is one of the four major types of military operation, the others being offensive, defensive and stability, security, transition, and reconstruction operations. In other words, all branches of the Army can be called upon to conduct tasks in support of DSCA operations. For this reason, it is unlikely that one single branch of the Army, such as the infantry, military police, or engineers, can be placed in charge of DSCA operations. Last, DSCA operations has to date been treated in a piecemeal manner;



branches have simply addressed areas that fall within their purview and those wishing to study the subject have been required to research each branch specific topic individually. Obviously, one proponent needs to be identified, but no one organization will be able to carry out all of the duties alone.

Instead, each of the Training and Doctrine Command's (TRADOC) schools and centers will need to participate in a collaborative effort that should be led by the US Army Combined Arms Center (CAC) at Fort Leavenworth, Kansas. The CAC is uniquely suited to oversee this effort. First, CAC is the direct headquarters of nearly all of the Army's schools and centers (for example, the US Army Infantry Center, the US Army Intelligence Center, and others), minus the Judge Advocate General's School and a few other unique programs. Second, the integration of these various schools and center's efforts--in order to facilitate combined arms operations--is the stated mission and purpose of CAC. Third, CAC falls directly beneath, and can mobilize the support of TRADOC, the lead agency for nearly all of the Army's doctrine, training, and leader development and education efforts. Given TRADOC's overall experimentation, doctrine development, training development and lessons learned mission, as well as its ownership of the Army's school system and several other analytical organizations such as the TRADOC Analysis Center, it has great influence over the other DOTMLPF areas that are not directly within its authority, for example, organization, materiel, personnel, and facilities.

As alluded to above, while researching this paper over the previous eight months, organizational changes that effect DSCA operations are already being made. Primarily, the Army has established US Army Northern Command (ARNORTH). In discussions with members of ARNORTH, it was learned that ARNORTH is already working in

concert with TRADOC, CAC, and the Army National Guard of each state on many issues. This is a positive development, but this in no way changes the fact that CAC should be the Army lead for DSCA operations. To explain the logic behind this assertion, consider again the Army proponent for airborne operations; it is the US Army Infantry Center (USAIC) at Fort Benning, not the 82nd Airborne Division. This is because the 82nd Airborne Division does not own the doctrine writers, training developers, schools or other analysts necessary to conduct the day-to-day management and implementation of the DOTMLPF areas related to airborne operations. Of course USAIC works closely with the 82nd Airborne Division, it would be foolish not to do so, but the Division cannot perform the duties or fulfill the responsibilities of the proponent, USAIC.

For DSCA operations, ARNORTH and the National Guard Bureau (NGB) are much like the 82nd Airborne Division. ARNORTH and the NGB will be the Army's most frequent planners and executors of DSCA operations, but it will require CAC and the combined efforts of the TRADOC schools and centers to perform the many duties of the proponent which span the DOTMLPF spectrum. It is worth stressing though, that since the active duty Army will most often be reinforcing the National Guard or performing duties normally assigned to National Guard units when deployed to conduct DSCA operations, it is critical that active duty forces learn from the expertise and insight that the National Guard can offer.

Doctrine. The Combined Arms Doctrine Directorate (CADD) at Fort Leavenworth, a subordinate directorate to CAC, should assume responsibility for writing the Army's DSCA doctrine. In doing so, it will need to assemble and divide up this responsibility with many of the schools and centers that fall underneath the CAC. For

instance, the US Army Military Police School should remain in charge of civil disturbance operations as this is primarily a law enforcement operation. On the other hand, the Army Medical Department, which owns a host of elements such as the Army Department of Preventive Health Services, Department of Veterinary Services, and the US Army School of Aviation Medicine, should be working closely with CADD, if they are not already doing so, to develop DSCA-specific Army doctrine for responding to epidemics, animal disease outbreaks, and preparing soldiers to respond to mass casualty operations. The US Army Chemical School should obviously develop the DSCA doctrine related to responding to chemical, biological, radiation, and nuclear attacks. The US Army Intelligence Center and Fort Huachuca should be developing the doctrine for conducting intelligence operations within the US and be responsible for ensuring this doctrine does not violate the rights of American citizens and the intelligence oversight laws of the US.

These are but a few examples, but the principle is simple and straightforward; all of the different branches of the Army will have, and must have, input into the development of the Army's DSCA doctrine. CAC, working through CADD, must combine the efforts of these institutions into one body of DSCA doctrine. CAC will also have to coordinate with the Joint Allied Doctrine Directorate to ensure this Army doctrine is incorporated at the Joint level as well.

Organization. This is an area in which ARNORTH, in conjunction with the NGB, must be heavily involved. These two elements will have expertise and insight that CAC, CADD, and the TRADOC schools and centers cannot replicate. These institutional organizations will be able to capture many of the requirements in their doctrinal

publications, but as each state is organized a little differently for various threats and contingencies, ARNORTH and the NGB will need to carefully evaluate their recommendations. This is not an argument against CAC being the proponent; it is just an area that will require close coordination by all parties.

Training and Leader Development and Education. These are two areas in which TRADOC, with CAC in the lead, is obviously well suited to serve as the Army proponent. It is important, however, that the difference between training and leader development and education be understood. Training prepares Soldiers to perform specific tasks and is best conducted either within their units or within specific training courses. Training can also include unit participation in training events such as Joint Readiness Training Center rotations or Emergency Deployment Readiness Exercises. The TRADOC School and Centers help units to prepare for these training events by preparing Army Training and Evaluation Program manuals and other publications. In these documents the tasks, conditions, and standards for performing specific duties are spelled out and help commander at all levels to prepare their units to conduct their assigned missions. In total, TRADOC is involved in training at nearly all levels.

Leader development and education is much more general and broad based in nature, and takes place throughout TRADOC in all of its schools. This could include the addition of DSCA related training to all of the Army's officer and non-commissioned officer's basic and advance courses, as well as the Command and General Staff College and the Army War College. If the Army's leaders are not educated on the importance and principles of DSCA operations, it is unlikely they will invest the time necessary to train and prepare their units to conduct such operations. Therefore, regardless of who the

proponent is, TRADOC will be deeply involved in preparing the Army to execute the DSCA mission.

Materiel, Personnel and Facilities. These are three areas in which TRADOC and its subordinate elements can influence more effectively than they can direct. Based upon the performance of various organizations in TRADOC sponsored training events, TRADOC can make informed suggestions to the Department of the Army Staff and Chief of Staff of the Army (CSA) on behalf of ARNORTH and the NGB, but often cannot directly make the changes. Instead, TRADOC, by virtue of its role in writing the doctrine, can make powerful suggestions to the Army leadership. However, much like determining organizational requirements, TRADOC, CAC, CADD, and the TRADOC schools and center will have to work closely with ARNORTH and the NGB before making recommendations. Again, this is because each state and threat scenario will have different materiel, personnel and facilities requirements.

In the end, it would appear the *NRP* recognizes the importance of DOD, but it has not determined how it will integrate active duty forces short of an insurrection. DOD on the other hand knows it could be called upon at anytime, but it has not established a formal system to develop the capabilities it fears it may need one day. As the previous pages and Hurricane Katrina have demonstrated, much is expected of DOD regardless of what the *NRP* says. DOD forces represent the force of last resort after all of the elaborate plans have failed and all local, state and non-DOD resources have been exhausted. For this reason, DOD and the Army must see beyond the limited guidance contained within the *NRP* and do what it knows is the right thing.

This is not a new concept to DOD or Army leaders who routinely use the military decision making process to determine what is really needed to accomplish an assigned mission. Two of the early steps of the military decision making process include listing the specified tasks and determining the implied tasks that need to be accomplished. Given the state of the NRP, and the Army's preparedness prior to Hurricane Katrina's landfall, it would appear the Army chose to stick to the specified tasks and not read too deeply into the plethora of implied tasks that needed to be accomplished. This lack of initiative must be replaced with a collaborative effort that harnesses the very expertise and 'can do' attitude that the Federal government and the American people have come to expect of its armed forces. Unless DOD and the Army takes the initiative, they will continue to be perceived as not fully committed to conducting DSCA operations, and the results will likely show during the next disaster response.

## CHAPTER 6

### RECOMMENDATIONS AND CONCLUSIONS

New Orleans and the other gulf coast areas that were affected by Hurricane Katrina can hardly qualify as a new battlefield, but they mark DOD and the Army's growing involvement and responsibilities in the area of Defense Support to Civil Authorities. DOD and the Army can resist these changes, but only at the risk of US politicians interceding at a later date in a manner that will be driven by politics versus military necessity. This study's recommendations recognize that doing nothing is no longer an option; however, changing for change's sake is wrong. Instead, the recommendations that follow will focus on building a system in which responsibilities are kept primarily at the local and state level, while also clearly delineating the role of the active duty force and matching expectations with the resources to succeed.

Unfortunately, the hardest changes do not fall within the military parameters of DOTMLPF. Instead, they are matters of policy or law. Policy and law trumps DOTMLPF change recommendations; one, because it place boundaries on the changes that military leaders can make; two, the military has no jurisdiction over local and state officials unless such authority is specifically granted by the President or Congress and three, DOD is not in charge of homeland security and all that homeland security entails. Herein lies the major challenge; how can federal troops help without hindering local efforts, support without suffocating state leaders in federal bureaucracy, and be proactive without overstepping its authorities? While this paper only focuses on the military portion of this problem, the recommendations below sometimes fall outside the jurisdiction of the

military. Recommendations that are external to the Army will be listed first, and then those which are internal to the Army will be discussed.

### Recommendations External to the Army

#### Recommendation 1: Strategic

The federal military must learn to efficiently support the National Guard, rather than try to prepare to take over or assume their duties and responsibilities.

First and foremost, city and state government must remain the first lines of defense in all matters related to emergency response; the best the federal government can hope to achieve is that it establishes a system in which local and state officials are efficiently supported. It should be noted that nothing in the author's research leads him to believe the federal government is capable of responding more efficiently than the states--regardless of federal resources and training. City and State responders, due to their physical proximity to the crisis and their familiarity with the people, leaders and unique characteristics of the area, automatically possess a twenty-four to seventy-two hour advantage over the federal government. Local officials and responders have, or should have, an intuitive understanding of the situation based on past experience and institutional expertise, as well as the ability to anticipate second and third order effects on the population. It is this reality that makes some of the evacuation decisions made in New Orleans and Baton Rouge, prior to Hurricane Katrina's landfall, doubly hard to comprehend. It does show the importance of leadership, and the difference between understanding a situation and taking decisive action.

Nevertheless, unless a state is proven unwilling or incapable of responding to a crisis, they must be allowed--unimpeded by the federal government--to execute their



responsibilities to the best of their ability. This is frustrating to most Americans who want their fellow citizens cared for immediately, but any critic must understand the repercussions of shifting responsibilities to the federal authorities. First, unless one is willing to challenge some of the central pillars of the US Federalist system--namely, the principle of state's rights and local jurisdiction--it is hard to imagine that the US Courts would allow federal military forces to assume much more of a role. Second, if the federal government seized for itself and its active military forces a larger role in responding at the local level, the result would likely be lower, not higher, levels of disaster readiness. Put differently, if federal forces became the lead military entity for responding to all major disasters, it is unlikely that local and state officials would continue to invest millions of dollars annually in disaster response planning, and training. In addition, unscrupulous politicians may find it even easier to blame the federal government for their woes rather than preparing for and solving their own problems at the lowest possible level. While judging the response of the civilian leadership within New Orleans and Louisiana in the aftermath of Hurricane Katrina is beyond the purview of this study, some officials seem to have already fallen into this trap. Last, any federal troop response will almost certainly equal a slower response than that which can be provided by a state's National Guard. In the aftermath of a major disaster, while federal troop commanders would be mobilizing and briefing their personnel on the situation, city and states would be busy responding and executing locally developed response plans. The federal government must compliment these efforts, not stymie them.

## Recommendation 2: Strategic

Legislation is needed to update the constraints of the PCA and clarify the military's role in responding to domestic disasters.

The common fiber that runs through all federal troop deployments within the US during the last 100 years is controversy and legal debate. This wastes not only legal resources, but also precious planning time during periods of crisis. The aim here is not to create new legal concepts. The spirit and intent of the PCA is still legitimate and should be maintained. However, words do matter, especially in matters of the law. The semantic obstacles that must be negotiated to determine what is right and wrong when it comes to deploying federal troops during times of crisis is harmful to the very citizens the PCA was intended to protect.

The PCA, as explained in chapter 2, is too often misquoted by people who have little understanding of the intent behind the legislation. The authors did not intend to keep American forces from coming to the aid of suffering American civilians. It did, however, mean to place limits on how federal officials deploy federal troops and to prevent politicians from using federal military forces for their own political aims. These boundaries need to be clarified through new, post-11 September and post-Katrina legislation.

First, federal troops need to be more clearly defined. The law should distinguish between combat forces that carry weapons and provide a security or law enforcement function, and non-combat forces that only provide administrative, informational, logistical, engineering or other types of non-combat support. Non-combat forces should be allowed to carry weapons for self-defense purposes, but they should not be used to

enforce the law or restore order through physical force--unless of course the President has invoked the powers contained in the Insurrection Act.

Second, establish in writing that except in rare or extraordinary circumstances, all military support will come from the National Guard of the state affected or adjacent states as arranged via the Emergency Management and Assistance Compact agreements. In parallel with this idea, it should be further declared that federal troop involvement will take place in one of two manners, in a “security and or law enforcement role” or in a “non-combat support role.” In conjunction with the previous paragraph, combat forces should only be used to support the former and non-combat forces to support the latter.

Third, authority to deploy non-combat troops in a support role should reside with the Secretary of Defense, thereby reducing the partisan emotions surrounding such decisions. Using a helicopter from an active duty Army division to rescue a stranded American civilian should not be a controversial idea. By keeping this authority within the military chains of command, it will allow military commanders within the National Guard to quickly request non-combat support from DOD without getting the Commander-in-Chief involved. Of course, if these requests for support are denied by the Secretary of Defense, the commander of the state’s National Guard forces can elevate the request through civilian leadership channels.

However, in line with the authors of the PCA and the Insurrection Act, the deployment of federal troops in a security and or law enforcement role must be reserved for the rarest of situations; when local and state officials are either unable or unwilling to enforce the nation’s laws or protect the American citizens within their constituency. The Insurrection Act, which was discussed in detail in chapter 2, currently provides the

President sufficient recourse for times when a state or city government refuses or is unable to handle a crisis or enforce law and order. President Bush could have evoked the Insurrection Act in New Orleans, but he chose not to do so. Regardless, authority to deploy combat forces into a state should remain with the President and only be used when the conditions described in the Insurrection Act are present. This process is expanded upon in the next recommendation.

### Recommendation 3: Strategic

The federal government must reduce the public's historical fear of federal troops by adding checks and balances (a domestic War Powers Act) and making the process transparent to the American People.

Evoking the Presidential powers contained in the Insurrection Act is certainly a political decision, even during catastrophic times, but the creation of checks and balances would help to reduce the volatility of such a decision when its use is appropriate. Much like the War Powers Act regulates how the Commanders-in-Chief can deploy forces abroad; a domestic War Powers Act would benefit the nation at this time. It would not only enable the President to deploy federal combat forces into a state quickly, but it would also prevent the Executive Branch from abusing this power by limiting the duration of the deployment to only 10 days--unless the time is extended by a simple-supermajority (60 percent of the Congressional members available) of both the House of Representatives and the Senate. Conversely, a supermajority (60 percent of the total Congress) could vote to over ride the President and end a domestic deployment at any time. By limiting the timeframe, governors would not be as likely to fight to hang on to their National Guard forces, knowing they will likely be back under their control within

10 days or less, and federal troop commanders and the President will be forced to recognize the longer term role of National Guard troops in responding to domestic crises. In other words, federal troops will simply serve as a brief surge in capability, not the force of choice, and only until states can execute Emergency Management and Assistance Compact supported plans and gain control over the situation once more.

### Recommendations Internal to the Army

#### Recommendation 1: Operational

Designate the CAC at Fort Leavenworth the Army proponent for Defense Support to Civil Authorities.

As discussed in chapter 5, CAC is uniquely positioned to champion the Army's DSCA efforts as they relate to each of the DOTMLPF areas. This work must be done in close coordination with ARNORTH and the NGB, but CAC must lead the effort in order to harness the expertise of all of the TRADOC schools and centers. Until the Army integrates DSCA operations into the institutional Army, DSCA will continue to be conducted on an ad hoc basis. Also, CAC should work through the Joint Allied Doctrine Directorate to push this doctrine to the Joint level for all of the service's benefit. A new CAC directorate for DSCA operations may be needed if this plan is approved. However, since the majority of the work would be carried out by other CAC directorates and subordinate organizations, a small coordinating staff is all that would be required. An alternative course of action would be to place the responsibility directly within CADD.

## Recommendation 2: Tactical

Once CAC is established as the Army proponent for DSCA, it should host a series of conferences that would bring together all of the organizations that contribute to the DSCA effort and begin building the plan for formally addressing each of the DOTMLPF areas. This will mean delegating responsibilities to each of the TRADOC schools and centers and establishing milestones for action. Once this is completed and adequate time has been provided to the subordinate headquarters, a follow up conference should be conducted with the Chief of Staff of the Army, the Commanding General of TRADOC, the Director of the National Guard Bureau, and the Commanding General of ARNORTH (or NORTHCOM). At this conference, CAC's plan for integrating DSCA operations throughout the Army should be presented and approved by the Chief of Staff of the Army. Once this plan is approved, it should be reviewed and revised annually.

## Conclusions

In April 1980, Operation Eagle Claw, sometimes referred to as Operation Desert One or the failed attempt to rescue the hostages being held in Iran, offered the military a dilemma similar to the one it faces today after Hurricane Katrina. Obviously, it too was viewed as a failure by the media and the public. Simultaneously, it was a watershed moment for the US, the DOD, and especially the US special operations community. Two decades later, in the high desert mountains of Afghanistan, the results of years of hard work were put on display as Army special forces Soldiers, some on horseback, would direct laser-guided bombs launched by the Air Force and Navy into Taliban targets. The difference in outcomes was not bravery--nor will. Surprisingly, it was not the technology

either. Instead, it was the development of a permanent and highly trained special operations force, as well as the integration of the Joint Services.

In the aftermath of Operation Eagle Claw, the Joint Special Operation Command was created. The Goldwater-Nichols Act established the Unified Combatant Command system and the Nunn-Cohen Amendment, passed shortly after Goldwater-Nichols, directed the creation of the US Special Operations Command. The Army also reorganized its special operations forces, and created several new organizations to include the 160th Special Operation Aviation Regiment, the 75th Ranger Regiment headquarter and the US Army Special Operations Command.

The changes made between 1980 and 2001 spanned the spectrum of DOTMLPF. The overarching theme was that the US military would no longer approach special operations on an ad hoc basis. DOD and the Army would be well served if it recognized the similarities. Success in future DSCA operations will not come about by accident. Instead, the Army, the NGB, NORTHCOM, DOD, the nation's governors, and the Congress must work together to build the operational organizations, administrative mechanisms, command and control networks and legislative policy to carry out these operations. Hurricane Katrina was the wakeup call; it is time for the country and the military to say "never again" and start taking action.

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