

USAWC STRATEGY RESEARCH PROJECT

**NATIONAL GUARD USE IN RESPONSE TO INCIDENTS OF NATIONAL
SIGNIFICANCE**

by

Colonel Allen L. Meyer
Iowa Army National Guard

Colonel James Roth
Project Adviser

This SRP is submitted in partial fulfillment of the requirements of the Master of Strategic Studies Degree. The U.S. Army War College is accredited by the Commission on Higher Education of the Middle States Association of Colleges and Schools, 3624 Market Street, Philadelphia, PA 19104, (215) 662-5606. The Commission on Higher Education is an institutional accrediting agency recognized by the U.S. Secretary of Education and the Council for Higher Education Accreditation.

The views expressed in this student academic research paper are those of the author and do not reflect the official policy or position of the Department of the Army, Department of Defense, or the U.S. Government.

U.S. Army War College
CARLISLE BARRACKS, PENNSYLVANIA 17013

Report Documentation Page

Form Approved
OMB No. 0704-0188

Public reporting burden for the collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to a penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.

1. REPORT DATE 30 MAR 2007		2. REPORT TYPE Strategy Research Project		3. DATES COVERED 00-00-2006 to 00-00-2007	
4. TITLE AND SUBTITLE National Guard Use in Response to Incidents of National Significance				5a. CONTRACT NUMBER	
				5b. GRANT NUMBER	
				5c. PROGRAM ELEMENT NUMBER	
6. AUTHOR(S) Allen Meyer				5d. PROJECT NUMBER	
				5e. TASK NUMBER	
				5f. WORK UNIT NUMBER	
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) U.S. Army War College, Carlisle Barracks, Carlisle, PA, 17013-5050				8. PERFORMING ORGANIZATION REPORT NUMBER	
9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES)				10. SPONSOR/MONITOR'S ACRONYM(S)	
				11. SPONSOR/MONITOR'S REPORT NUMBER(S)	
12. DISTRIBUTION/AVAILABILITY STATEMENT Approved for public release; distribution unlimited					
13. SUPPLEMENTARY NOTES					
14. ABSTRACT See attached.					
15. SUBJECT TERMS					
16. SECURITY CLASSIFICATION OF:			17. LIMITATION OF ABSTRACT	18. NUMBER OF PAGES	19a. NAME OF RESPONSIBLE PERSON
a. REPORT unclassified	b. ABSTRACT unclassified	c. THIS PAGE unclassified			

ABSTRACT

AUTHOR: Colonel Allen L. Meyer

TITLE: National Guard Use in Response to Incidents of National Significance

FORMAT: Strategy Research Project

DATE: 8 February 2007 WORD COUNT: 6,000 PAGES: 26

KEY TERMS: Defense Support to Civilian Authorities (DSCA), Department of Homeland Security, Emergency Management Assistance Compact (EMAC), Homeland Security Presidential Directive (HSPD), National Incident Management System (NIMS), National Response Plan (NRP), Posse Comitatus Act

CLASSIFICATION: Unclassified

The purpose of this paper is to discuss current issues regarding the use of the National Guard in response to Incidents of National Significance (INS). It will address the background of the Department of Homeland Security in the United States, with a focus on the National Guard's role relative to the broader Defense Support to Civilian Authorities mission during an INS. It will include a discussion regarding the Emergency Management Assistance Compacts as a mechanism for employing the National Guard across state borders, and contrast that with using the National Guard in a Federalized status.

Hurricane Katrina, the first INS to occur under the National Response Plan, generated a large response from various state and Federal agencies, including the National Guard. This enabled the identification of several issues that impacted on the ability of the National Guard to respond. Two changes to statute made since the response to Hurricane Katrina are described, and their effectiveness is analyzed. Several issues that remain to be addressed are discussed. The paper concludes with four recommendations intended to facilitate a more timely, effective, and efficient response in the event of future INS.

NATIONAL GUARD USE IN RESPONSE TO INCIDENTS OF NATIONAL SIGNIFICANCE

The purpose of this paper is to discuss current issues regarding the use of the National Guard in response to Incidents of National Significance (INS). It will address the background of the Department of Homeland Security (DHS) in the United States, with a focus on the National Guard's role relative to the broader Defense Support to Civilian Authorities (DSCA) mission during an INS. It will include a discussion regarding the Emergency Management Assistance Compact (EMAC) as a mechanism for employing the National Guard across state borders, and contrast that with using the National Guard in a Federalized status.

Hurricane Katrina, the first INS to occur under the National Response Plan (NRP), generated a large response from various state and Federal agencies, including the National Guard. This enabled the identification of several issues that impacted on the ability of the National Guard to respond. Two changes to statute made since the response to Hurricane Katrina are described, and their effectiveness is analyzed. Several issues that remain to be addressed are discussed. The paper concludes with four recommendations intended to facilitate a more timely, effective, and efficient response in the event of future INS.

Background

The attacks of 11 September 2001 clearly demonstrated significant weaknesses in the Homeland Security of the United States. In response to the attacks, President George W. Bush worked with Congress to enact the Homeland Security Act of 2002 (HSA), and create the DHS. The primary mission assigned to the DHS by the HSA is to: "prevent terrorist attacks within the United States; reduce the vulnerability of the United States to terrorism; and minimize the damage, and assist in the recovery, from terrorist attacks that do occur within the United States."¹ Although the primary mission has a terrorist nexus, the HSA went on to specify that "the primary responsibilities of DHS shall include: 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."²

President Bush proceeded to issue a series of Homeland Security Presidential Directives (HSPDs). Notable among them was HSPD-5, Management of Domestic Incidents, issued on 28 February 2003, with the stated objective of ensuring "that all levels of government across the

Nation have the capability to work efficiently and effectively together, using a national approach to domestic incident management.”³ In HSPD-5, the President tasked the Secretary of Homeland Security (SHS) to “develop... and administer a National Incident Management System (NIMS).”⁴ The NIMS would “provide a consistent nationwide approach for Federal, state, and local governments to work effectively and efficiently together to prepare for, respond to, and recover from domestic incidents, regardless of cause, size, or complexity.”⁵ It also directed the SHS to develop and administer a National Response Plan (NRP), to “integrate Federal Government domestic prevention, preparedness, response, and recovery plans into one all-discipline, all-hazards plan.”⁶

A companion directive to HSPD-5, HSPD-8 was issued on 17 December 2003, and directed the development of a “national preparedness goal.”⁷ It directed the SHS, in cooperation with other Federal departments and agencies, to coordinate “the preparedness of Federal response assets, and the support for, and assessment of the preparedness of State and local first responders.”⁸ The HSPD-8 included a requirement for the SHS to “establish and maintain a comprehensive training program to meet the national preparedness goal.”⁹ It also directed the program to be established in “maximum collaboration with State and local governments and appropriate private sector entities.”¹⁰

The DHS published the NRP in December of 2004.¹¹ It included a letter of agreement signed by Federal departments and agencies and other organizations, committing their support to the NRP concepts, processes and structures. Signatories to the NRP included Secretaries of the Departments of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Homeland Security, Housing and Urban Development, Interior, Justice, Labor, State, Transportation, Treasury, and Veterans Affairs, as well as a variety of other Federal Agencies.¹²

The NRP provided for a phased implementation, including a 60 day phase I period to transition, and a 60 day Phase II period for modifying existing plans to align with the NRP. After the first two phases, the NRP would be fully implemented and DHS would “conduct systematic assessments of coordinating structures, processes, and protocols implemented for actual INS, national-level homeland security exercises, and National Special Security Events (NSSEs)” to “gauge the plan’s effectiveness in meeting objectives of HSPD-5.”¹³

The NRP is based on several planning assumptions. One assumption is that “incidents are typically managed at the lowest possible geographic, organizational, and jurisdictional level.”¹⁴ Another assumption is that “the combined expertise and capabilities of government at all levels, the private sector, and nongovernmental organizations will be required to prevent, prepare for, respond to, and recover from INS.”¹⁵ A third assumption is that an INS may

“overwhelm capabilities of State, local, and tribal governments, and private-sector infrastructure owners and operators.”¹⁶

The NRP defines an INS as “an actual or potential high-impact event that requires robust coordination of the Federal response in order to save lives and minimize damage, and provides the basis for long-term community and economic recovery. The Secretary of Homeland Security, in consultation with other departments and agencies, and the White House, as appropriate, declares INS.”¹⁷ “For INS that are Presidentially declared disasters or emergencies, Federal support to States is delivered in accordance with relevant provisions of the Stafford Act.”¹⁸ “While all Presidentially declared disasters and emergencies under the Stafford Act are considered INS, not all INS necessarily result in disaster or emergency declarations under the Stafford Act.”¹⁹ “The Secretary of Homeland Security will manage the Federal government’s response following the declaration of an INS.”²⁰

“Under provisions of the Stafford Act and applicable regulations, a governor may request the President to declare a major disaster or emergency if the governor finds that effective response to the event is beyond the combined response capabilities of the State and affected local governments.”²¹ “DHS can use limited pre-declaration authorities to move initial response resources closer to a potentially affected area.”²² “In a major disaster or emergency as defined in the Stafford Act, the President ‘may direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law in support of State and local assistance efforts...’²³

The NRP was established with several annexes, including annexes for various emergency support functions, support annexes, and incident annexes. The incident annexes are designed for response to situations requiring specialized application of the NRP.²⁴ One incident annex of importance within the context of this paper is the Catastrophic Incident Annex (NRP-CIA), which established “the context and overarching strategy for implementing and coordinating an accelerated, proactive response to a catastrophic incident.”²⁵ This annex established “protocols to preidentify and rapidly deploy key essential resources that are expected to be needed to save lives and contain incidents.”²⁶

“The Federal government responds to most natural disasters when the affected state(s) requests assistance because the disaster is of such severity and magnitude that an effective response is beyond the capabilities of the state and local governments.”²⁷ This system is generally referred to as a “pull” system because it depends on states determining what they need and requesting it from the Federal government.²⁸ An important feature of the NRP-CIA is

that it establishes the basis for a proactive or “push” Federal response, rather than a reactive, or “pull” response.

States may also request assistance from other states when the requirements to respond to incidents exceed their capacity to respond. This assistance is coordinated through participation in the EMAC.²⁹ “EMAC provides the legal structure for states to request assistance from one another as well as a menu of resources, such as temporary shelters and cargo aircraft, which may be available from other member states. Importantly, this assistance can, and often does, come from participating states’ National Guards.”³⁰ A National Guard response within the EMAC system could be either in a State Active Duty status, or Title 32 Federally funded status.

The battle cry “Call out the National Guard” resonates in the minds of most Americans when catastrophe strikes. However, the role of the National Guard in response to INS is rarely discussed in the NRP. When the National Guard is discussed in the NRP, it is primarily to describe the distinction between National Guard in a State Active Duty status, or Title 32 Status as an exception to DSCA.³¹ This makes sense once you understand the unique roles of the National Guard and the distinctions between statuses in which the National Guard may be employed.

The National Guard traces its history back to the earliest English colonies in North America when on 13 December 1636, the General Court of Massachusetts Bay Colony ordered the organization of the Colony’s militia companies into three regiments.³² The Constitution specifically addresses the militia, and distinguishes between service to the States, and service when called into the actual service of the United States.³³ This distinction is codified in Title 32 of the United States Code.

The National Guard trains and operates under the control of state and territorial governors, unless ordered to Federal duty.³⁴ “Governors can order National Guard personnel to perform full-time duty, commonly referred to as ‘State Active Duty.’”³⁵ In this state capacity, National Guard personnel are paid according to state law, using state funds,³⁶ and are not subject to the Posse Comitatus Act, so they may perform law enforcement functions.³⁷

National Guard personnel can also be activated without their consent under the authority of 32 U.S.C. 502(f). “They receive Federal pay and benefits and are entitled to certain legal protections as though they were in Federal service, but they remain under the control of their governor and are therefore not subject to the restrictions of the Posse Comitatus Act.”³⁸ This status was expanded and further clarified when Title 32 was amended by adding Chapter 9 – Homeland Defense Activities by Public Law 108-375 on 28 October 2004. Chapter 9 defined

Homeland Defense Activities, and established guidelines for use of the National Guard in a Title 32 status in performing such activities.³⁹

A third status under which National Guard personnel can be activated is a purely Federal status under Title 10 of the U.S. Code. In Federal status, they operate under the control of the President, and are generally subject to the Posse Comitatus Act. Therefore, they cannot perform law enforcement functions unless expressly authorized by the Constitution or an act of Congress. One such express authorization is contained in Chapter 15 of Title 10 U.S.C. At the time of the response to Hurricane Katrina, Chapter 15 was titled 'Insurrection.' It allowed the President to call the militia, including the National Guard,⁴⁰ into Federal service for certain purposes, including the suppression of insurrection against a state government, at the request of that government.⁴¹ The chapter was expanded and renamed "Enforcement of the Laws to Restore Public Order" with the enactment of the 2007 Defense Authorization Bill.⁴² These changes are explained in detail in the section titled "Related Statutory Changes Since the Response to Hurricane Katrina."

Hurricane Katrina – A Case Study

When Hurricane Katrina made its final landfall along the Louisiana/Mississippi border on 29 August 2005, it quickly became one of the largest natural disasters in the history of the United States. Despite a massive deployment of resources and support from both military and civilian agencies, many have regarded the Federal response as inadequate. As local, state, and Federal governments responded in the days following Katrina, confusion surfaced as to what responsibilities the military has, and what capabilities it would provide in planning and responding to a catastrophic event.⁴³

Hurricane Katrina provided the first requirement to respond to an INS after the implementation of the NRP. It was also the first wide-scale use of the National Guard in a Title 32 status in response to an INS. Such use was enabled by the addition of chapter 9 to Title 32 of the U.S. Code. While this paper is not intended to be an after action review of the response to Hurricane Katrina, it will examine the actions taken related to the use of the National Guard.

On 26 August, three days before Katrina made its final landfall, "the Louisiana National Guard began mobilizing 2,000 personnel while the Joint Forces Headquarters-Louisiana National Guard activated its Joint Operations Center (JOC) at Jackson Barracks in New Orleans to coordinate their emergency response operations."⁴⁴ Mississippi Governor Haley Barbour "directed Major General Harold Cross, Adjutant General of the Mississippi National Guard, to prepare to use the Mississippi National Guard for disaster relief operations."⁴⁵ "The Mississippi National Guard alerted military police and engineers, activated 750 personnel, and activated its

EOC in Jackson.”⁴⁶ This was done under the authority of the governors of the respective states as part of state-level preparations.

On 27 August, two days before final landfall, “Mississippi’s State Emergency Response Team (ERT) deployed to Camp Shelby while National Guard emergency rescue assets were deployed to three coastal counties.”⁴⁷ “The Louisiana National Guard deployed liaison officers to the thirteen southernmost parishes projected to suffer the greatest impact from the storm.”⁴⁸ “Alabama officials began pre-positioning supplies at staging areas and other locations throughout the State.”⁴⁹ Alabama National Guard troops were positioned in preparation for landfall, and Governor Bob Riley of Alabama offered Governor Kathleen Blanco of Louisiana and Governor Barbour assistance.⁵⁰

Also on 27 August, “President Bush signed a Federal emergency declaration for the State of Louisiana, following a request from Governor Blanco earlier that day. President Bush issued additional emergency declarations for Mississippi and Alabama the following day, after requests from the governors of those States.”⁵¹ “By declaring emergencies in these three States, the President directed the Federal government to provide its full assistance to the area to save lives and property from Hurricane Katrina’s imminent impact.”⁵² In accordance with the NRP, the declarations should also have been the trigger to consider Hurricane Katrina an INS, although it was not declared by Secretary Chertoff until 30 August.⁵³

On 28 August, the day before final landfall, predeployment of assets continued. Hundreds of Soldiers and Airmen of the Louisiana Army and Air National Guard arrived at the Superdome in New Orleans to provide a variety of support to the growing population in the “shelter of last resort.”⁵⁴ “Also early that morning, President Bush called Governor Blanco to urge that mandatory evacuation orders be issued for New Orleans.”⁵⁵ “After receiving a call from President Bush, Governor Blanco and Mayor Nagin held a joint press conference during which the Mayor ordered a mandatory evacuation of New Orleans.”⁵⁶

When Katrina made its final landfall on 29 August, “it devastated communications infrastructure across the Gulf Coast, incapacitating telephone service, police and fire dispatch centers, and emergency radio systems.”⁵⁷ “Most of the radio stations and many television stations in the New Orleans area were knocked off the air.”⁵⁸ “The complete devastation of the communications infrastructure left responders without a reliable network to use for coordinating emergency response operations.”⁵⁹ “Local emergency response officials found it difficult or impossible to establish functioning incident command structures in these conditions.”⁶⁰ “Without an incident command structure, it was difficult for local leaders to guide the local response efforts, much less command them.”⁶¹

“Governors Barbour and Blanco requested additional National Guard assets from other states through the EMAC to assist State and local emergency responders.⁶² National Guard forces continued to deploy to the region as States responded in the days following landfall.”⁶³ “Federal search and rescue assets from the Coast Guard, FEMA Urban Search and Rescue (US&R) Task Forces,⁶⁴ the Department of Defense (DoD),⁶⁵ and other Federal agencies worked in concert with State and local responders to rescue tens of thousands of people.”⁶⁶ “Within four hours of landfall, Army National Guard helicopters were airborne and actively performing rescue missions, with other National Guard personnel joining the effort on the ground.”⁶⁷

“Active duty military and National Guard personnel provided critical emergency response and security support to the Gulf Coast during the height of the crisis. State active duty and Title 32 National Guard forces that deployed to Louisiana and Mississippi operated under the command of their respective Governors.”⁶⁸ “Title 10 active duty forces, on the other hand, fell under the command of the President and had more limited civil response authority.”⁶⁹ “On 30 August, Deputy Secretary of Defense Gordon England authorized U.S. Northern Command (USNORTHCOM) and the Joint Chiefs of Staff to take all appropriate measures to plan and conduct disaster relief operations in support of FEMA.”⁷⁰ “USNORTHCOM established Joint Task Force Katrina (JTF-Katrina) at Camp Shelby to coordinate the growing military response to the disaster.”⁷¹ “By 1 September, JTF-Katrina, commanded by LTG Honoré, included approximately 3,000 active duty personnel in the disaster area; within four days, that number climbed to 14,232 active duty personnel.”⁷²

“By 2 September, nearly 22,000 National Guard Soldiers and Airmen had deployed to the region, breaking the National Guard’s previous record for the largest response to a domestic emergency.”⁷³ “Eventually, over 50,000 National Guard Soldiers and Airmen from fifty-four States, Territories, and the District of Columbia deployed to the Gulf Coast, providing critical response assistance.”⁷⁴ “Guardsmen performed a range of missions, including search and rescue, security, evacuations, and distribution of food and water. In Mississippi, National Guard forces prepared Camp Shelby as a staging point for incoming forces and also engaged in law enforcement support, debris removal, shelter support and other vital operations.”⁷⁵ “The robust active duty and National Guard response played a crucial role in the effort to bring stability to the areas ravaged by Hurricane Katrina.”⁷⁶

Related Statutory Changes Made Since the Response to Hurricane Katrina

There are several critical issues that were apparent in the preparation for and response to Hurricane Katrina. Although the robust response saved lives and restored order, it was

criticized for the initial delays that occurred. Two significant changes relating to use of the military in response to INS were made when Congress passed the 2007 Defense Authorization Bill on 30 September 2006, and President Bush signed it on 17 October 2006. These changes are explained, and their potential impact is evaluated.

One change was contained in section 1076 of the new law which made several modifications to Title 10, Chapter 15 of the U.S. Code. The heading of this chapter was changed from “Insurrection” to “Enforcement of the Laws to Restore Public Order.” The rewrite to Chapter 15 broadens the President’s ability to deploy troops within the United States to enforce the laws. Under this act, the President may “employ the armed forces, including the National Guard in Federal Service, to restore public order and enforce laws...when the President determines that the authorities of the State or possession are incapable of maintaining public order as a result if a natural disaster, epidemic, serious public health emergency, terrorist attack, or other condition.”⁷⁷

The change to Chapter 15 could become very contentious, because it broadened the circumstances under which the President can use the military in exception to Posse Comitatus. Although it is presumably intended to enable a more rapid response, and to enable unity of command, it could have the opposite result. This should be an option of last resort only, and deployment of National Guard forces in this capacity should be avoided for several reasons. First, in accordance with the NRP, the state and local efforts normally begin prior to provision of Federal assistance. Therefore, actions to respond under state authority with Guard assets will typically already be in progress before initiation of the Federal response. Second, the state or territorial governors and National Guard leaders know what capabilities they have available, and the impact of deploying those capabilities to another area. Third, the governors have the authority to order the specific National Guard Soldiers and Airmen that are needed to duty for the response. In many situations, the response force needs to be tailored to the situation, and this can best be done by the leadership within each state. Attempting to manage this through the respective service channels would likely cause unnecessary delays in getting Guard Soldiers and Airmen mobilized. Fourth, since the change only applies when the President determines the state authorities are “incapable of maintaining public order,” the Guard Soldiers and Airmen that respond could serve in several duty statuses during the same response, i.e. State Active Duty, to Title 32, to Title 10, and back to Title 32. Hence, they would start under command authority of their governor, change to Federal authority, and then back to their governor.

Another significant change expanded the operations of the Civil Support Teams (CSTs). “Congress established CSTs to deploy rapidly to assist local incident commanders in determining the nature and extent of an attack or incident; provide expert technical advice on WMD response operations; and help identify and support the arrival of follow-on state and Federal military response assets.”⁷⁸ These Federally resourced National Guard teams “are trained and exercised in nuclear, biological, and chemical specialties, and skilled in reconnaissance, medical support, logistics, administration, communications, air liaison, and security.”⁷⁹ The CSTs proved invaluable to the Katrina response.⁸⁰ During Katrina, their employment was constrained by the legal aspects of CST deployment, as some states interpreted the law to mean they were only authorized to be used for WMD incidents.⁸¹ Section 532 of the new law amended Section 12310 of Title 10 of the U.S. Code to specifically include a “natural or manmade disaster in the United States that results in, or could result in, catastrophic loss of life or property.”⁸² This is a positive change that will improve access to the CSTs in the future.

Critical Issues, and Recommendations for the Way Ahead

Despite all of the heroic efforts during the response to Hurricane Katrina, there were several critical issues related to the National Guard role in the overall response. They are discussed, and several recommendations are offered to enhance the effectiveness and efficiency of the response to future INS.

Issue: A “Pull” System Creates Delays During a Response to an INS.

The EMAC system is designed to be used as a “pull” system which relies on the state(s) that are affected knowing what capabilities they require, and what states may have those capabilities available. An EMAC agreement is a legally binding, contractual arrangement which makes the requesting state responsible for reimbursing all out-of-state costs of agreed to support.⁸³ The paperwork involves a formal request from the affected state for specific support, and an estimate of cost generated by the supporting state if they determine they can support the request. The requesting state then has to approve the costs to create a legally binding document. Although this system has proven to be effective in small-scale response situations, this cumbersome process led to delays in the National Guard response to Hurricane Katrina.

In order to mitigate the delays, and to facilitate a more rapid and robust response, LTG H. Steven Blum, the Chief of the National Guard Bureau, and LTG Clyde Vaughn decided to initiate a ‘push’ system to get more National Guard Soldiers and Airmen on their way to the affected area. LTG Blum “held a video teleconference on 31 August to solicit assistance from

each of the 54 states and territories for both Louisiana and Mississippi. States responded rapidly to the urgent need and decided to worry about the authorizing paperwork later.”⁸⁴

“Since these forces were activated in state-to-state agreements they were on state active duty and subject to the rules and entitlements authorized by their respective home states.”⁸⁵

“On 7 September, Deputy Secretary of Defense Gordon England approved Title 32 status retroactive to 29 August.”⁸⁶ Taking this step sooner would have reduced the amount of time taken to bring Soldiers on duty, because each state could have used Title 32 funds to bring Soldiers and Airmen on duty in anticipation of the requirement to respond. Under the authority provided in Chapter 9 of Title 32 of the U.S. Code, this step could have been taken anytime after President Bush signed the emergency declaration on 27 August 2005.

The proactive steps taken by the NGB leadership demonstrated bold initiative and undoubtedly led to a more rapid response. However, they did not generate an efficient response. A better system to assess the capabilities needed for the response, and then determining what entity can best generate those capabilities, would facilitate a more timely, effective, and efficient response to future INS.

The NRP-CIA was never initiated during the response to Hurricane Katrina. The Secretary of Homeland Security should have invoked the NRP-CIA “to direct the Federal response posture to fully switch from a reactive to proactive mode of operations.”⁸⁷ The NRP was written so that a Presidential disaster declaration should automatically make the situation an INS, and an INS should trigger the NRP-CIA.⁸⁸ Even if it had been initiated, the NRP-CIA would not have automatically triggered a full response. Since the National Guard remained part of the State and Local response, their role is not addressed in the NRP-CIA.

Recommendation 1

Create standing JTF coordination units within the National Guard that do not have a “warfight” overseas mission, and therefore maintain a singular focus on preparing to respond to INS. During a response, they would deploy to a location where they can orchestrate the flow of the necessary forces into the JOA. They would work in coordination with DHS and National Guard of the affected states to determine requirements, and they would coordinate with NGB, USNORTHCOM, and National Guard state Joint Operations Centers to source identified requirements. When not involved in response, they would work closely with USNORTHCOM, FEMA, and other Federal, state and local agencies to develop contingency plans for potential INS. They would also work closely with NGB staff to determine what National Guard resources may be available to respond to INS.

Recommendation 2

Modify the NRP-CIA to include immediate consideration for DoD to allow National Guard response in Title 32 status. This would enable NGB to work with the individual states to start bringing Guardsmen onto duty and preparing to move to the Joint Operations Area (JOA). Also, follow the existing NRP premise that a Presidential declaration makes the situation an INS, and the INS triggers the NRP-CIA. Caution must be taken to ensure that the “push” of resources is coordinated to ensure the capabilities needed are “pushed,” with minimal duplication or gaps in capability.

Issue: Lack of Unity of Command, and Unity of Effort between National Guard and DoD Elements

“In the overall response to Hurricane Katrina, separate command structures for active duty military and the National Guard hindered their unity of effort. USNORTHCOM commanded active duty forces, while each State government commanded its National Guard forces. For the first two days of Katrina response operations, USNORTHCOM did not have situational awareness of what forces the National Guard had on the ground.”⁸⁹ “Neither the Louisiana National Guard nor JTF-Katrina had a good sense for where each other’s forces were located or what they were doing.”⁹⁰ “As a result, some units were not immediately assigned missions matched to on-the-ground requirements. Further, FEMA requested assistance from DoD without knowing what State National Guard forces had already deployed to fill the same needs.”⁹¹

“The Commanding General of JTF-Katrina and the Adjutant Generals (TAGs) of Louisiana and Mississippi had only a coordinating relationship, with no formal command relationship established. This resulted in confusion over roles and responsibilities between National Guard and Federal forces and highlights the need for a more unified command structure.”⁹² A provision available under Title 32 of the U.S. Code that could have been used to achieve unity of command is commonly referred to as dual-hatting of an officer in a Federal/state status. This arrangement allows an officer to serve on active duty Title 10 status without being relieved from National Guard duty in their state or territory. Such an arrangement requires the approval of both the Governor involved and the President.⁹³ This tool has been used successfully in the past, but had never in response to an INS. This was not used during the response to Hurricane Katrina.⁹⁴

A variation of dual-hatting was proposed to Louisiana’s Governor Blanco. “The proposal would have put LTG Honoré under Blanco’s command in the chain-of-command over National Guard troops in Louisiana. In this proposal, LTG Honoré would have served in two capacities — first, as the commander of Federal troops ultimately answering to the President, and second,

as the commander of the Louisiana National Guard, answering to Blanco. This proposal was intended to establish a single command for all military operations in Louisiana. Blanco wrote to President Bush on 3 September, declining this proposal.⁹⁵ Her declination is understandable, since she already had an Adjutant General in charge, with situational awareness, existing relationships with other state and local agencies, and with the National Guard leaders of other supporting states.

Recommendation 3

Establish protocols for coordination, integration, and communication between the responding elements. Use the process that already exists for dual-hatting a National Guard Officer in a Title 32 status when it will create unity of command. The proposed variation of dual-hatting discussed above is not a viable solution, as it is counter to the underlying assumption of the NRP that “incidents are typically managed at the lowest possible geographic, organizational, and jurisdictional level.”⁹⁶ Although unity of command is preferred, it may not be achievable in all situations. When unity of command cannot be achieved, unity of effort remains paramount to mission success. This is important not only within the JOA, but also where requirements are being determined. Increased presence of National Guard Soldiers and Airmen in USNORTHCOM, and increased involvement of NGB staff and the states in planning and conducting exercises with USNORTHCOM and with FEMA would enhance unity of effort. This would lead to more effective and more efficient use of available resources. The USNORTHCOM State Engagement Program is one such initiative that should be expanded. Adoption of recommendation 1 would also significantly enhance this process.

Issue: The Ability of the National Guard to Respond Was Impaired by Involvement in the Global War on Terrorism, and Other Federal Missions

The degree to which the response was impaired is difficult to determine, but with thousands of Guard Soldiers and Airmen gone from their respective states in the incident area, the immediate reaction was smaller than it normally would have been. There were enough Guardsmen available nation-wide, and the proactive steps taken by the NGB leadership quickly compensated for the shortfalls in the JOA. Equipment shortages exacerbated by deployments also had an impact on the response.⁹⁷

“It has been suggested before that the National Guard be reorganized to focus on domestic missions.”⁹⁸ “This was opposed by the National Guard leadership, which continued to defend the importance of maintaining its combat capabilities.”⁹⁹ “This argument by the Guard

has received substantial support from DoD's evidenced need to use substantial numbers of National Guard troops in Iraq."¹⁰⁰

The authorization for the Army National Guard in the 2007 Defense Authorization Act is 350,000, and for the Air National Guard 107,000. The Army Reserve is authorized 200,000, the Air Force Reserve 74,900, the Navy Reserve 71,300, and the Marine Corps Reserve 39,600.¹⁰¹ That equates to an authorized strength in the Reserve Component of DoD that is not directly available to the governors of 385,800 or 45.8% of the 842,800 total Reserve Component authorized strength.¹⁰² They are also not available to DoD on an involuntary basis, because "Title 10 of the United States Code currently limits a unit or member of a reserve component from being involuntarily ordered to Federal active duty for disaster response."¹⁰³ The aforementioned change to Chapter 15 of Title 10 provides the President increased access, when it applies, but only during the period that meets the criteria.

A related issue is the amount of training that National Guard units may perform for the Homeland Security mission. Although it is widely recognized that the National Guard is expected to have a large role in response to INS, the funds that the National Guard is provided for training is controlled by DoD through the Services. Since DoD has the primary mission for the GWOT, and only a support mission during disaster response, their priority for training is understandably on GWOT related missions. Additionally, disaster response is not addressed in the ARFORGEN model, on which the organizational training plans are based.

Recommendation 4:

Congress should work with DoD to restructure the reserve component, and the applicable statutes to facilitate access to all reserve component entities. The solution to this is not to reorganize the National Guard to focus on domestic missions. The U.S. taxpayers do not need more singular-focused entities; rather they need more robust dual-mission capability. The restructuring of the reserve components could include bringing all of the reserve component forces under one overarching entity that serves the dual role the National Guard currently serves. In essence, it would continue to make all reserve components available to the President for Federal duty as an operational reserve to DoD, while also making them available to the governor when not on Federal duty. Steps are already being taken to ensure the National Guard is fully equipped with modern equipment that interfaces effectively with Active Component equipment, and this should be continued. Additionally, changes should be made to the funding and training parameters so additional training for disaster response can occur, and preparation to respond to INS should be addressed in the ARFORGEN model.

Conclusion

This paper has examined the National Guard's role in the response to INS. Since Hurricane Katrina necessitated the largest National Guard response to natural disaster in history, a case study analysis of the response identified some critical issues. Two related changes to statute that have been made since the response to Hurricane Katrina were discussed, and their effectiveness was analyzed. The first change broadened the circumstances under which the President can use the military in exception to Posse Comitatus. Four compelling reasons against using the National Guard under this exception were provided. The second change expanded the role of National Guard CSTs, which was assessed as a positive change. Despite the changes, three broad significant issues remain to be addressed. The first issue is that a "pull" system creates delays during a response to an INS. The second issue is that there was a lack of unity of command and unity of effort between National Guard serving under state authority, and DoD elements serving under authority of the President. The third issue is that the ability of the National Guard to respond was impaired by involvement in the Global War on Terrorism, and other Federal missions. Each issue was supported with discussion to further explain the issue.

Four recommendations were provided for additional change in order to address the issues. The first recommendation is to create standing JTF coordination units within the National Guard to orchestrate the flow of National Guard forces during an INS, and to support planning and training for contingency operations when not responding to an INS. The second recommendation is to modify the NRP-CIA to include immediate consideration for DoD to allow National Guard response in Title 32 status, and to follow the existing NRP premise that a Presidential declaration makes the situation an INS, and the INS triggers the NRP-CIA. The third recommendation is to establish protocols for coordination, integration, and communication between the responding elements. Additionally, use the process that already exists for dual-hatting a National Guard Officer in a Title 32 status. It will create unity of command. The fourth recommendation is to restructure Reserve Component forces to provide increased access and a more robust dual-role force.

The National Guard should continue to fill a critical role in the response to an INS. The need exists for better integration and coordination with other departments and agencies. Implementing the recommendations will enhance the capability of the National Guard to respond, and will generate a more effective and efficient overall response to future INS.

Endnotes

¹ *Homeland Security Act of 2002* (P.L. 107-296), United States Statutes at Large, sec 101, (2002).

² Ibid.

³ George W. Bush, *Homeland Security Presidential Directive/HSPD-5*, (Washington D.C.: The White House, 28 February 2003), 1.

⁴ Ibid, 3.

⁵ Ibid.

⁶ Ibid.

⁷ George W. Bush, *Homeland Security Presidential Directive/HSPD-8* (Washington D.C.: The White House, 17 December 2003), 3.

⁸ Ibid.

⁹ Ibid, 5.

¹⁰ Ibid, 4-5.

¹¹ U.S. Department of Homeland Security, *National Response Plan* (Washington, D.C.: U.S. Department of Homeland Security, December 2004), i. (Hereafter cited as *National Response Plan*)

¹² Ibid, iii-viii.

¹³ Ibid, ix.

¹⁴ Ibid, 6.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ U.S. Department of Homeland Security, *National Response Plan II Quick Reference Guide* (Washington, D.C.: U.S. Department of Homeland Security, May 2006), 2.

¹⁸ *National Response Plan*, 7.

¹⁹ Ibid.

²⁰ *National Response Plan II Quick Reference Guide*, 2.

²¹ Sections 402(a)(1) and 502(a)(1) of the Stafford Act, 42 U.S.C. § 5170a(1) and § 5192(a)(1); quoted in *National Response Plan*, 7.

²² Ibid.

²³ Ibid.

²⁴ *National Response Plan*, xiii.

²⁵ Ibid, CAT-1.

²⁶ Ibid.

²⁷ FEMA, *A Guide to the Disaster Declaration Process* (undated) available at http://www.fema.gov/pdf/rrr/dec_proc.pdf (last visited 21 January 2006); quoted in 109th Congress, *A Failure of Initiative Final Report of the Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina* (Washington, D.C.: U.S. Government Printing Office, February 2006), 30. (Hereafter cited as *A Failure of Initiative*)

²⁸ Interviews by Select Comm. Staff with City of New Orleans officials in New Orleans, LA (3-10 November 2005) [hereinafter Select Comm. New Orleans Interviews]; quoted in *A Failure of Initiative*, 30.

²⁹ *A Failure of Initiative*, 31.

³⁰ Ibid, 31.

³¹ *National Response Plan*, 42.

³² *The National Guard About Page*, available from <http://www.ngb.army.mil/About/default.aspx>; Internet; accessed 20 January 2007.

³³ U.S. Constitution, Article I, Section VIII, Article II, Section II.

³⁴ Steve Bowman, Lawrence Kapp, and Amy Belasco, *Hurricane Katrina: DoD Disaster Response CRS Report for Congress* (Washington D.C.: The Library of Congress, Congressional Research Service, September 2005), 7.

³⁵ Ibid.

³⁶ Ibid.

³⁷ Ibid.

³⁸ Ibid, 8.

³⁹ *Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005*, Public Law 108-375, sec. 512, 67 (28 October 2004).

⁴⁰ 10 U.S.C. § 311 states “(a) the militia of the United States consists of all able-bodied males at least 17 years of age and, except as provided in section 313 of title 32, under 45 years of age who are, or who have made a declaration of intention to become citizens of the United States and of female citizens of the United States who are members of the National Guard. (b) The classes of the militia are - (1) the organized militia, which consists of the National Guard and the Naval Militia; and (2) the unorganized militia, which consists of members of the militia

who are not members of the National Guard or the Naval Militia.”; quoted in Bowman, Kapp, and Belasco, 9.

⁴¹ Bowman, Kapp, and Belasco, 9.

⁴² *H.R. 5122 [109th]: John Warner National Defense Authorization Act for Fiscal Year 2007*, sec. 1076, available from <http://www.govtrack.us/congress/billtext.xpd?bill-h109-5122&show-changes=0>; Internet; accessed 4 January 2007.

⁴³ U.S. Government Accountability Office, *Hurricane Katrina Better Plans and Exercises Needed to Guide Military’s Response to Catastrophic Natural Disasters* (Washington, D.C.: U.S. Government Accountability Office, May 2006), 1. (Hereafter cited as *GAO Report On Hurricane Katrina*)

⁴⁴ Louisiana National Guard, Task Force Pelican, “Hurricane Katrina Overview of Significant Events,” 28 November 2005, 4; quoted in U.S. Department of Homeland Security, *The Federal Response to Hurricane Katrina: Lessons Learned* (Washington, D.C.; U.S. Department of Homeland Security, February 2006), 24. (Hereafter cited as *The Federal Response to Hurricane Katrina: Lessons Learned*)

⁴⁵ State of Alabama, Office of the Governor, *Executive Order No. 939* (Jackson, MS: 26 August 2005); quoted in *The Federal Response to Hurricane Katrina: Lessons Learned*, 24.

⁴⁶ U.S. Department of Defense, “Mississippi Guard Provide Relief to State,” *Armed Forces Press Service*, 8 September 2005, http://www.defenselink.mil/news/Sep2005/20050908_2648.html; quoted in *The Federal Response to Hurricane Katrina: Lessons Learned*, 24.

⁴⁷ Robert R. Latham Jr., Executive Director of the Mississippi Emergency Management Agency, written statement for a hearing on *Hurricane Katrina: Preparedness and Response by the State of Mississippi*, on 7 December 2005, submitted to the House Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina, 109th Congress, 1st session; quoted in *The Federal Response to Hurricane Katrina: Lessons Learned*, 26.

⁴⁸ Louisiana National Guard, Task Force Pelican, *Hurricane Katrina Overview of Significant Events*, 28 November 2005, 5; quoted in *The Federal Response to Hurricane Katrina: Lessons Learned*, 26.

⁴⁹ State of Alabama, Office of the Governor, “Governor Riley Says Supplies Ready to Assist Hurricane Victims,” news release, 28 August 2005: “Alabama has pre-positioned supplies . . . Governor Riley said the state already has 290,000 bags of ice, more than 250,000 gallons of water, 652,000 MREs (meals ready to eat), and 110,000 tarps measuring 20 feet by 25 feet.”; quoted in *The Federal Response to Hurricane Katrina: Lessons Learned*, 26.

⁵⁰ Office of the Governor of Alabama, “Governor Riley Briefed on State’s Hurricane Preparations,” news release, 27 August 2005; State of Alabama, Office of the Governor, “Governor Riley Says Supplies Ready to Assist Hurricane Victims,” news release, 28 August 2005; quoted in *The Federal Response to Hurricane Katrina: Lessons Learned*, 26.

⁵¹ The emergency declaration for Mississippi was requested by Governor Barbour on Saturday, 27 August 2005; the emergency declaration for Alabama was requested by Governor Riley on Sunday, 28 August 2005. Presidential states of emergency were declared for both States on 28 August. 70 Fed. Reg. 53239 (28 August 2005) (Mississippi); 70 Fed. Reg. 54061-62 (28 August 2005) (Alabama); quoted in *The Federal Response to Hurricane Katrina: Lessons Learned*, 27.

⁵² On 27 August 2005, Governor Kathleen Blanco sent a letter to President Bush requesting an emergency declaration for the State of Louisiana. The letter stated, "I have determined that this incident is of such severity and magnitude that effective response is beyond the capabilities of the State and affected local governments, and that supplementary Federal assistance is necessary to save lives, protect property, public health, and safety, or to lessen or avert the threat of a disaster." The letter contained a list of "State and local resources that have been or will be used to alleviate the conditions of this emergency." It also certified that "the State and local governments will assume all applicable non-Federal share of costs required by the Stafford Act." Governor Blanco specifically requested "emergency protective measures, direct Federal Assistance, Individual and Household Program (IHP) assistance, Special Needs Program assistance, and debris removal" for all affected areas. She defined the affected areas as "all the southeastern parishes including the New Orleans Metropolitan area and the mid-state Interstate I-49 corridor and northern parishes along the I-20 corridor that are accepting the thousands of citizens evacuating," Kathleen Blanco, Governor of Louisiana, Letter to President Bush requesting that he declare an emergency for the State of Louisiana due to Hurricane Katrina (Baton Rouge, 27 August 2005). That same day President Bush declared a state of emergency in Louisiana. 70 Fed. Reg. 53238 (27 August 2005); quoted in *The Federal Response to Hurricane Katrina: Lessons Learned*, 27.

⁵³ *The Federal Response to Hurricane Katrina: Lessons Learned*, 41.

⁵⁴ *Ibid*, 29.

⁵⁵ "New Orleans Mayor, Louisiana Governor Hold Press Conference," *CNN*, 28 August 2005, <http://transcripts.cnn.com/transcripts/0508/28/bn.04.html>.; quoted in *The Federal Response to Hurricane Katrina: Lessons Learned*, 28.

⁵⁶ "New Orleans Mayor, Louisiana Governor Hold Press Conference," *CNN*, 28 August 2005, <http://transcripts.cnn.com/TRANSCRIPTS/0508/28/bn.04.html>. Louisiana law provides the parish presidents with the authority to issue mandatory evacuation orders. The law allows the Parish President to "Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the boundaries of the parish if he deems this action necessary for mitigation, response, or recovery measures." The law declares the penalty for violating such an order to be a fine not more than five hundred dollars, or confinement in the parish jail for not more than six months, or both. *Louisiana Homeland Security and Emergency Assistance and Disaster Act*, La. Rev. Stat. 29-727. Although a State responsibility, it is unclear how the State or Parish law enforcement authorities intended to enforce this order. The Mayor ordered a mandatory evacuation for the entire Parish of Orleans, with the exceptions of essential personnel of the Federal government, State of Louisiana and City of New Orleans, as well as essential personnel of regulated utilities and mass transportation services, hospitals and their patients, essential media, Orleans Parish Criminal Sheriff's office and its inmates, and the essential personnel of operating hotels and their patrons. The Mayor ordered every person not exempt to immediately evacuate the City of New Orleans, or if no other alternative was

available, to immediately move to one of the facilities within the City that would be designated a refuge of last resort.; quoted in *The Federal Response to Hurricane Katrina: Lessons Learned*, 28.

⁵⁷ U.S. Department of Homeland Security, "Hurricane Katrina DHS SITREP #36," 13 September 2005, 7; quoted in *The Federal Response to Hurricane Katrina: Lessons Learned*, 34.

⁵⁸ "Nearly one hundred radio and television stations remained off the air a month after Hurricane Katrina's landfall." Kenneth Moran, Director of the Office of Homeland Security, Enforcement Bureau, Federal Communications Commission, written statement for a hearing on *Hurricane Katrina and Communications Interoperability*, on 29 September 2005, submitted to the Senate Committee on Commerce, Science, and Transportation, 109th Congress, 1st session.; quoted in *The Federal Response to Hurricane Katrina: Lessons Learned*, 34.

⁵⁹ *The Federal Response to Hurricane Katrina: Lessons Learned*, 37.

⁶⁰ *Ibid.*

⁶¹ *Ibid.*

⁶² For example, see Governor Kathleen Babineaux Blanco, letter to Governor Bill Owens, entitled "Calling Certain Elements of the Colorado National Guard to Active Duty to Assist with Emergency Response Efforts Related to Hurricane Katrina," 1 September 2005. Governor Blanco signed similar memoranda with fifteen other States on the same date. EMAC was established to provide form and structure to interstate mutual aid. Approved by Congress in 1996 (Public Law 104-321), the EMAC membership has since grown to include 49 States, the District of Columbia, Puerto Rico and the Virgin Islands. Through EMAC, a disaster-struck member State may request and receive assistance from other member States quickly and efficiently, facilitated by the Compact's legal foundation. Once the conditions for providing assistance to a requesting State have been set, the terms constitute a legally binding contractual agreement that obligates States for reimbursement. See Emergency Management Assistance Compact, "About EMAC," <http://www.emacweb.org>; quoted in *The Federal Response to Hurricane Katrina: Lessons Learned*, 37.

⁶³ U.S. Department of Defense, National Guard Bureau, *After Action Review: Hurricane Response September 2005*, 21 December 2005, 57; quoted in *The Federal Response to Hurricane Katrina: Lessons Learned*, 37.

⁶⁴ U.S. Department of Homeland Security, Federal Emergency Management Agency, "Urban Search and Rescue Operations Completed: Hurricane Katrina Urban Search and Rescue Teams Are Due to Return Home," news release, 30 September 2005, <http://www.fema.gov/news/newsrelease.fema?id=19320.html>. FEMA pre-positioned US&R teams to the region and eventually deployed all twenty-eight National US&R teams within the first week after Hurricane Katrina's second landfall. FEMA US&R Task Forces, in conjunction with USCG, DoD, other Federal agencies, and State and local first responders, rescued over 6,500 people; quoted in *The Federal Response to Hurricane Katrina: Lessons Learned*, 38.

⁶⁵ Donna Miles, "Military Support to Katrina Relief Effort Continues to Grow," *American Forces Information Service*, 31 August 2005, <http://www.defenselink.mil/news/Aug2005/>

20050831_2576.html; quoted in *The Federal Response to Hurricane Katrina: Lessons Learned*, 38.

⁶⁶ *The Federal Response to Hurricane Katrina: Lessons Learned*, 38.

⁶⁷ Lieutenant General H. Steven Blum, written statement for a hearing on *Responding to Catastrophic Events: The Role of the Military and National Guard in Disaster Response*, on 20 October 2005, submitted to the House Committee on Government Reform, 109th Congress, 1st session; quoted in *The Federal Response to Hurricane Katrina: Lessons Learned*, 38.

⁶⁸ U.S. Department of Defense, National Guard Bureau, Office of Legislative Liaison, "National Guard Status Comparison Chart," n.d., <http://www.ngb.army.mil/II/statuscomparison.asp>. State active duty and Title 32 forces are not subject to *posse comitatus* restrictions, see 18 U.S.C. § 1385 (Military forces generally may not perform domestic law enforcement), which bar Federal military forces from enforcing civil law. Thus, while serving in State active duty status or Title 32 status (which allows for Federal pay while under state command and control), the Army National Guard and the Air National Guard can directly assist civil authorities in maintaining peace and order. Lieutenant General Steven H. Blum, "A Vision for the National Guard," *Joint Force Quarterly*, December 2004, 36; quoted in *The Federal Response to Hurricane Katrina: Lessons Learned*, 42.

⁶⁹ U.S. Department of Defense, Under Secretary of Defense for Policy, *Manual 3025.1-M, Manual for Civil Emergencies* (Washington, D.C.: June 1994), para. C2.2. Active duty forces are authorized to perform critical functions such as rescue, evacuation, and emergency treatment of casualties; emergency restoration of power; debris removal; food distribution; roadway control, and emergency communications; quoted in *The Federal Response to Hurricane Katrina: Lessons Learned*, 42.

⁷⁰ Chairman of the Joint Chiefs of Staff, Execution Order, 30 August 2005; quoted in *The Federal Response to Hurricane Katrina: Lessons Learned*, 42.

⁷¹ JTF-Katrina was established at Camp Shelby on 28 August 2005 and activated three days later on 31 August. It served as U.S. Northern Command's forward joint command element for integrating the military component of the Federal response; quoted in *The Federal Response to Hurricane Katrina: Lessons Learned*, 42.

⁷² Donald H. Rumsfeld, Secretary of the Department of Defense, and General Richard Myers, Chairman of the Joint Chiefs of Staff, "Defense Department Operational Update Briefing," Tuesday, 6 September 2005. <http://www.defenselink.mil/news/Sep2005/d20050906slide.pdf>; quoted in *The Federal Response to Hurricane Katrina: Lessons Learned*, 43.

⁷³ 16,599 National Guard forces were deployed in 1989-90 following the San Francisco Loma Prieta earthquake. U.S. Department of Defense, National Guard Bureau, *After Action Review: Hurricane Response September 2005*, 21 December 2005; quoted in *The Federal Response to Hurricane Katrina: Lessons Learned*, 43.

⁷⁴ U.S. Department of Defense, Office of the Assistant Secretary of Defense for Homeland Defense, "DoD Support to Hurricane Katrina, OASD(HD) Executive Summary," 5 September 2005; U.S. Department of Defense, National Guard Bureau, *After Action Review: Hurricane*

Response September 2005, NGB J7, 21 December 2005; Lieutenant General H. Steven Blum, testimony on Hurricane Katrina: Preparedness and Response by the Department of Defense, the Coast Guard, and the National Guard of Louisiana, Mississippi, and Alabama, before the House Bipartisan Select Committee on Hurricane Katrina, United States House of Representatives, 109th Congress, 1st Session, 27 October 2005; quoted in *The Federal Response to Hurricane Katrina: Lessons Learned*, 43.

⁷⁵ U.S. Department of Defense, National Guard Bureau, *After Action Review: Hurricane Response September 2005*, 21 December 2005; quoted in *The Federal Response to Hurricane Katrina: Lessons Learned*, 44.

⁷⁶ *The Federal Response to Hurricane Katrina: Lessons Learned*, 44.

⁷⁷ *John Warner National Defense Authorization Act for Fiscal Year 2007*, Sec. 1076.

⁷⁸ DoD, Office of Assistant Secretary of Defense for Public Affairs, *DoD Announces Plans for 17 New WMD Civil Support Teams* (13 January 2000).; quoted in *A Failure of Initiative*, 229.

⁷⁹ *Id.*; Gerry Gilmore, *Guard-Staffed WMD Civil Support Teams Slated for Increase*, AMERICAN FORCES INFORMATION SERVICE (Washington), 20 January 2004; Donna Miles, *Guard Civil Support Teams Provide WMD Expertise to Communities*, AIR FORCE NEWS (Camp Robinson, AR), (26 May 2005). ; quoted in *A Failure of Initiative*, 229.

⁸⁰ *A Failure of Initiative*, 229.

⁸¹ *NGB After Action Review* 21 December 2005, 196.; quoted in *A Failure of Initiative*, 229.

⁸² *John Warner National Defense Authorization Act for Fiscal Year 2007*, sec. 532.

⁸³ U.S. Army War College, *How the Army Runs: A Senior Leader Reference Handbook, 2005-2006* (Carlisle Barracks, PA: U.S. Army War College, 30 September 2005), 473.

⁸⁴ *Army National Guard Binder* 19 December 2005.; quoted in *A Failure of Initiative*, 212.

⁸⁵ *A Failure of Initiative*, 207.

⁸⁶ Memorandum from Gordon England, Deputy Secretary of Defense, to Francis Harvey, Secretary of the Army, and Acting Secretary of the Air Force (7 September 2005).; quoted in *A Failure of Initiative*, 207.

⁸⁷ *A Failure of Initiative*, 3.

⁸⁸ *National Response Plan*, CAT-4.

⁸⁹ As noted in U.S. Department of Defense, National Guard Bureau (NGB J7), *After Action Review: Hurricane Response September 2005* (21 December 2005), 146, 168.; quoted in *The Federal Response to Hurricane Katrina: Lessons Learned*, 55.

⁹⁰ *The Federal Response to Hurricane Katrina: Lessons Learned*, 55.

⁹¹ U.S. Department of Defense, *Hurricane Katrina Initial Observations and Lessons Learned*. These deployments occurred under the EMAC system.; quoted in *The Federal Response to Hurricane Katrina: Lessons Learned*, 55.

⁹² U.S. Department of Defense, National Guard Bureau (NGB J7), *After Action Review: Hurricane Katrina Response September 2005* (21 December 2005).; quoted in *The Federal Response to Hurricane Katrina: Lessons Learned*, 55.

⁹³ *National Guard*, U.S. Code, Title 32, Sec. 325, available from <http://uscode.house.gov>; Internet; accessed 7 February 2007.

⁹⁴ Lieutenant General H. Steven Blum, Statement before the Senate Homeland Security and Government Affairs Committee on Hurricane Katrina, Second Session, 109th Congress, (9 February 2006).

⁹⁵ *A Failure of Initiative*, 206-207.

⁹⁶ *National Response Plan*, 6.

⁹⁷ Bowman, Kapp, and Belasco, Summary.

⁹⁸ *Ibid*, 15.

⁹⁹ "Katrina Likely to Fuel Debate Over Guard's Combat, Homeland Defense Roles," *Inside Defense*, 9 September 2005.; quoted in Bowman, Kapp, and Belasco, 15.

¹⁰⁰ Bowman, Kapp, and Belasco, 15.

¹⁰¹ Department of Defense Authorization Act for Fiscal Year 2007 , Statutes at Large, Sec 411.

¹⁰² The figures do not include the authorization for 10,000 in the Coast Guard Reserve.

¹⁰³ *GAO Report On Hurricane Katrina*, 28.