

U.S. NORTHERN COMMAND COUNTERTERRORISM  
RESPONSE FORCE REQUIREMENT

A thesis presented to the Faculty of the U.S. Army  
Command and General Staff College in partial  
fulfillment of the requirements for the  
degree

MASTER OF MILITARY ART AND SCIENCE  
Homeland Security Studies

by

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Fort Leavenworth, Kansas  
2016

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<b>REPORT DOCUMENTATION PAGE</b>			<i>Form Approved</i> <i>OMB No. 0704-0188</i>		
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<b>1. REPORT DATE (DD-MM-YYYY)</b> 10-06-2016		<b>2. REPORT TYPE</b> Master's Thesis		<b>3. DATES COVERED (From - To)</b> AUG 2015 – JUN 2016	
<b>4. TITLE AND SUBTITLE</b>  U.S. Northern Command Counterterrorism Response Force Requirement			<b>5a. CONTRACT NUMBER</b>		
			<b>5b. GRANT NUMBER</b>		
			<b>5c. PROGRAM ELEMENT NUMBER</b>		
<b>6. AUTHOR(S)</b>  Major Matthew D. Bartels			<b>5d. PROJECT NUMBER</b>		
			<b>5e. TASK NUMBER</b>		
			<b>5f. WORK UNIT NUMBER</b>		
<b>7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES)</b> U.S. Army Command and General Staff College ATTN: ATZL-SWD-GD Fort Leavenworth, KS 66027-2301			<b>8. PERFORMING ORG REPORT NUMBER</b>		
<b>9. SPONSORING / MONITORING AGENCY NAME(S) AND ADDRESS(ES)</b>			<b>10. SPONSOR/MONITOR'S ACRONYM(S)</b>		
			<b>11. SPONSOR/MONITOR'S REPORT NUMBER(S)</b>		
<b>12. DISTRIBUTION / AVAILABILITY STATEMENT</b> Approved for Public Release; Distribution is Unlimited					
<b>13. SUPPLEMENTARY NOTES</b>					
<b>14. ABSTRACT</b>  As the combatant command authority for the continental United States, U.S. Northern Command (USNORTHCOM) serves as the link between the Department of Defense (DOD) and our federal and civil law enforcement partners. The Defense Support of Civil Authorities is mandated by every service and the responsibilities are echoed in <i>The National Security Strategy of the United States of America</i> and other supporting capstone documents. The traditional focus for Title 10 services has been abroad and on homeland defense vice homeland security. The growing threat of violent extreme terrorist organizations and their ability to conduct a catastrophic terrorist attack within the homeland may be an indicator for the DOD to address this possible vulnerability. This thesis researches that if and when federal and civil law enforcement become overwhelmed in such an attack, what Title 10 asset is prepared to respond under the authority of USNORTHCOM, and what coordination and training has been conducted.					
<b>15. SUBJECT TERMS</b> USNORTHCOM, DSCA, Counterterrorism, Homeland Security, Title 10, Title 32, Posse Comitatus, Insurrection Act					
<b>16. SECURITY CLASSIFICATION OF:</b>			<b>17. LIMITATION OF ABSTRACT</b>	<b>18. NUMBER OF PAGES</b>	<b>19a. NAME OF RESPONSIBLE PERSON</b>
<b>a. REPORT</b>	<b>b. ABSTRACT</b>	<b>c. THIS PAGE</b>			<b>19b. PHONE NUMBER (include area code)</b>
(U)	(U)	(U)	(U)	77	

MASTER OF MILITARY ART AND SCIENCE

THESIS APPROVAL PAGE

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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

U.S. NORTHERN COMMAND COUNTERTERRORISM RESPONSE FORCE REQUIREMENT, by Major Matthew D. Bartels, 77 pages.

As the combatant command authority for the continental United States, U.S. Northern Command (USNORTHCOM) serves as the link between the Department of Defense (DOD) and our federal and civil law enforcement partners. The Defense Support of Civil Authorities is mandated by every service and the responsibilities are echoed in *The National Security Strategy of the United States of America* and other supporting capstone documents. The traditional focus for Title 10 services has been abroad and on homeland defense vice homeland security. The growing threat of violent extreme terrorist organizations and their ability to conduct a catastrophic terrorist attack within the homeland may be an indicator for the DOD to address this possible vulnerability. This thesis researches that if and when federal and civil law enforcement become overwhelmed in such an attack, what Title 10 asset is prepared to respond under the authority of USNORTHCOM, and what coordination and training has been conducted.

## ACKNOWLEDGMENTS

A sincere thank you to the members of my thesis committee who guided me and organized my thoughts throughout the research and writing. The committee was chaired by Lieutenant Colonel Mitch Hoines, USMC, and assisted by Dr. Tim Hentschel, and Lieutenant Colonel Monique Guerrero, USA. I would be remised not to also give a special thanks to Mrs. Ann Chapman for assisting me with formatting and editing the thesis. I would also like to thank my wife, Lindsay, and motivator one and motivator two, Avery and Troy respectively, for their support throughout the countless hours of research and typing I conducted while in computer defilade.

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## ACRONYMS

CBRNE	Chemical, Biological, Radioactive, Nuclear, and high yield Explosives
DHS	Department of Homeland Security
DOD	Department of Defense
DSCA	Defense Support of Civil Authorities
EOC	Emergency Operations Center
FBI	Federal Bureau of Investigation
FEMA	Federal Emergency Management Agency
HRT	Hostage Rescue Team
ISIL	Islamic State of Iraq and the Levant
MEU	Marine Expeditionary Unit
NIMS	National Incident Management System
NLE	National Level Exercise
NRP	National Response Plan
SOF	Special Operations Forces
SOP	Standard Operating Procedure
USNORTHCOM	United States Northern Command
U.S.C.	United States Code



## CHAPTER 1

### INTRODUCTION

To preserve the freedoms guaranteed by the Constitution of the United States, the Nation must have a homeland that is secure from threats and violence, including terrorism. Homeland security (HS) is the Nation's first priority, and it requires a national effort. The Department of Defense (DOD) has a key role in that effort.

—Joint Chiefs of Staff, Joint Publication 3-26, *Homeland Security* (2005)

Nassim Nicholas Taleb introduced the theory of a “Black Swan” event in 2007.<sup>1</sup>

It is described “as an event in human history that was unprecedented and unexpected at the point in time it occurred; however, after evaluating the surrounding context, domain expert can usually conclude that it was bound to happen.”<sup>2</sup> The terrorist attacks on 9/11 are examples of “Black Swan” events in recent American history.<sup>3</sup> Implementing proactive measures in today's complex environment where clear delineations across the spectrum of conflict no longer exist is often viewed as a challenging task concerning homeland security. Strategists and military planners are constantly adapting the ways and means to maintain an advantage in this multi-dimensional environment.

The purpose of this study is to identify if there is a requirement for United States Northern Command (USNORTHCOM) to establish a designated Title 10 counterterrorism response team to strengthen Defense Support of Civil Authorities (DSCA) response. Additional DSCA counterterrorism training requirements may

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<sup>1</sup> Nassim Nicholas Taleb, *The Black Swan: The Impact of the Highly Improbable* (London: Penguin, April 2007), 400.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

strengthen USNORTHCOM Title 10 response to potential terrorist attacks within the homeland. The problem is that USNORTHCOM currently lacks a designated Title 10 counterterrorism response force to reinforce federally led homeland security efforts during a national crisis. Title 10 of the United States Code (U.S.C.) outlines the role of armed forces under federal code signed by Congress.<sup>4</sup> It provides the legal basis for the roles, missions, and organization of each of the services as well as the U.S. DOD. Each of the five subtitles deals with a separate aspect or component of the armed services.

National and state policy makers may assume military forces will be readily available to defend the homeland when required; however, an alarming vulnerability may exist. The 2013 attacks at the Kenyan Westgate Mall and the 2015 attacks in Paris, France highlight the amount of manpower required to respond to and neutralize a small-scale terrorist attack. Title 10 forces may be a viable option to reinforce a federal response to help safeguard the American public. Proactive training and coordination measures need to be evaluated and prioritized for future interoperability.

The establishment of USNORTHCOM in the spring of 2002 implemented the necessary command structure to bridge the lines of communications between Title 10 forces with state and federal authorities. The National Guard is strongly suited for natural disaster response; however, they may lack the mission specific type and duration of training required to respond to a complex terrorist attack in an urban environment.

USNORTHCOM can recommend every service to proactively train, man, equip, and

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<sup>4</sup> U.S. Congress, House, Committee on Armed Services, Title 10 United States Code Armed Forces, 112th Cong., 1st sess. (Washington, DC: U.S. Government Printing Office, July 2011), codified at U.S. Code §375, accessed 14 November 2015, <https://www.gpo.gov/fdsys/pkg/CPRT-112HPRT67344/pdf/CPRT-112HPRT67344.pdf>, 1695.

certify an on-call Title 10 response force to possibly reduce this vulnerability and improve interagency integration for homeland security.

Currently, mutual aid response among law enforcement entities provides sufficient reinforcement for mass casualty incidents, but manpower and training restraints limit response effectiveness. Although law enforcement training and coordination has improved over the past decade, as apparent in the Washington Navy Yard shooting, shortfalls with interoperability, command authority, and structured response are still apparent as evident in the after actions reports conducted by responding federal, civil, and military entities.<sup>5</sup>

The hypothesis for this research is: In the interests of national security, USNORTHCOM may require the capability to deploy an available DOD counterterrorism response force specifically trained to reinforce interagency partners within the United States. USNORTHCOM can designate every service to proactively train, man, equip, and certify an on-call Title 10 response force to reduce this vulnerability and improve interagency integration for homeland security. Urban environments are dynamic and demand large numbers of forces to ultimately neutralize and resolve a chaotic situation.<sup>6</sup> For example, if a minimally trained fifteen- to twenty-

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<sup>5</sup> Michael Lane Smith, "Unsung Heroes: The Combat-Decorated Marine Who Sprang Into Action When The Washington Navy Yard Was Attacked," Task and Purpose, 6 August 2015, accessed 27 January 2016, <http://taskandpurpose.com/unsung-heroes-the-combat-decorated-marine-who-sprang-into-action-when-the-washington-navy-yard-was-attacked/>.

<sup>6</sup> Department of the Navy (DON), Headquarters, U.S. Marine Corps (HQMC), Marine Corps Warfighting Publication (MCWP) 3-35.3, *Military Operations on Urbanized Terrain (MOUT)* (Washington, DC: U.S. Government Printing Office, 26 April 1998), accessed 9 January 2016, <http://www.marines.mil/Portals/59/MCWP%203-35.3.pdf>, 1-1.

man terrorist cell executed a complex attack on an iconic American venue, the current USNORTHCOM response does not expedite the deployment of a counterterrorism task force already trained and certified with their interagency counterparts. This vulnerability can be reduced by tasking a Title 10 asset that will fall under combatant command authority with direct liaison to a federally led Emergency Operations Center (EOC).

### Problem Statement

USNORTHCOM currently lacks a designated Title 10 counterterrorism response force to reinforce federally led homeland security efforts during a national crisis. The National Guard annually trains with the Federal Emergency Management Agency (FEMA) and active duty Title 10 units for DSCA response. The exercises typically focus on natural disaster response, riot control, or Chemical, Biological, Radiological, Nuclear, and Explosives (CBRNE) scenarios. With the heightened threat of a radicalized homegrown or transnational terrorist attacks within the continental United States, a possible vulnerability may exist beyond the current National Guard and law enforcement solution. A designated service may be able to implement DSCA counter terrorism training to existing training exercises and venues should USNORTHCOM designate a Title 10 force with response to a homeland crisis. There appears to be an opportunity for the DOD to expand relations with interagency partners through liaison and certification exercises that will proactively train for a counterterrorism response and reduce this USNORTHCOM vulnerability.

### Research Questions

1. Is there a requirement for USNORTHCOM to establish and designate a Title 10 counterterrorism response force to strengthen DSCA response in a terrorist attack?
2. Is the National Guard capable of serving as a counterterrorism response force and can they effectively respond to a terrorist attack within the United States?

### Assumptions

The effectiveness of Title 10 response within the homeland given the restraints of laws and regulations, can be analyzed, measured, and evaluated through existing policy and historic examples. In addition, the examination of domestic terrorism attacks at the international level may provide insight to future threats within the homeland due to common tactics, techniques, and procedures utilized by violent extreme organizations. For this study, a terrorist related catastrophic attack surpasses the manpower demands, capabilities, and training of federal and local law enforcement. The effectiveness of DOD and interagency coordination is measured by the operational synchronization and compatibility during training and real world response. The goal is seamless integration between USNORTHCOM and the federal lead for a crisis within the United States territory.

Measuring levels of effectiveness and performance during a response to a catastrophic terrorist attack must be researched to provide possible recommendations to existing policy. This research will be conducted without bias, describing and comparing all available knowledge about the policies and tactics employed from every stakeholder. This thesis may be a relevant source to suggest further research useful for the integration of Title 10 forces with federal law enforcement when deemed necessary by the president.

The conclusions and suggestions might prove useful in policy making toward the future complex threats of terrorist attacks on American soil.

### Definitions of Terms

Defense Support of Civil Authorities (DSCA): Support provided by U.S. federal military forces, National Guard forces performing duty in accordance with Title 32, U.S.C., DOD civilians, DOD contract personnel, and DOD component assets, in response to requests for assistance from civil authorities for special events, domestic emergencies, designated law enforcement support, and other domestic activities. Support provided by National Guard forces performing duty in accordance with Title 32, U.S.C. is considered DSCA but is conducted as a state directed action. Also known as civil support.<sup>7</sup>

Homeland Defense: The Joint Staff within the DOD defines homeland defense as, “The protection of US territory, sovereignty, domestic population, and critical infrastructure.”<sup>8</sup> USNORTHCOM under the DOD has this primary responsibility. USNORTHCOM outlines four military objectives in support of homeland defense. The objectives are defend the homeland, promote security and deter aggression, fight and win the Nation’s wars and ensure military superiority.<sup>9</sup> It is important to understand the

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<sup>7</sup> Undersecretary of Defense for Policy, Department of Defense Directive 5111.13, *Assistant Secretary of Defense For Homeland Defense and Americas’ Security Affairs (ASD(HD&ASA))* (Washington, DC: Department of Defense, 16 January 2009), accessed 26 December 2015, <http://www.dtic.mil/whs/directives/corres/pdf/511113p.pdf>, 12.

<sup>8</sup> LTC Mark A. Russo, ARNG, “Homeland Security: Primary Role of the National Guard and the National Security Strategy” (Strategy Research Project, U.S. Army War College, Carlisle Barracks, PA, 19 March 2004), 3.

<sup>9</sup> U.S. Northern Command, *U.S. Northern Command’s Strategic Vision* (Peterson Air Force Base, CO, U.S. Northern Command, 11 September 2003), 11.

difference between homeland defense and homeland security, not only to understand how homeland security fits into history but the contemporary tasks required to support them.

Homeland Security: The Office of Homeland Security defines homeland security as “a concerted National effort to prevent terrorist attacks within the United States, reduce America’s vulnerabilities to terrorism, and minimize the damage and recover from attacks that do occur.”<sup>10</sup> The Office of Homeland Security identifies six critical mission areas: intelligence and warning, border and transportation security, domestic counterterrorism, protecting critical infrastructure, defending against catastrophic terrorism, and emergency preparedness and response.<sup>11</sup> The Office of Homeland Security also states that the Department of Defense’s contribution to homeland security is through its military missions overseas, military defense of the homeland and support to military authorities.<sup>12</sup>

The Insurrection Act: The Insurrection Act of 1807 is the set of laws that govern the ability of the president to deploy troops within the United States to put down lawlessness, insurrection and rebellion.<sup>13</sup> The laws are chiefly contained in 10 U.S.C. §§

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<sup>10</sup> National Security Council, *National Strategy for Homeland Security* (Washington, DC: The White House, October 2007), accessed 2 January 2016, [http://www.dhs.gov/xlibrary/assets/nat\\_strat\\_homelandsecurity\\_2007.pdf](http://www.dhs.gov/xlibrary/assets/nat_strat_homelandsecurity_2007.pdf), 3.

<sup>11</sup> *Ibid.*, 15-41.

<sup>12</sup> *Ibid.*

<sup>13</sup> Eric V. Larson and John E. Peters, *Preparing the U.S. Army for Homeland Security: Concepts, Issues, and Options* (Santa Monica, CA: Army Research Division, RAND Corporation, 2001), accessed 30 December 2015, [http://www.rand.org/pubs/monograph\\_reports/MR1251.html](http://www.rand.org/pubs/monograph_reports/MR1251.html), 244.

331-335.<sup>14</sup> The general aim is to limit presidential power as much as possible, relying on state and local governments for initial response in the event of insurrection.<sup>15</sup>

Posse Comitatus: The Posse Comitatus Act restricts the participation of the military in domestic law enforcement activities under many circumstances. A summary of key exceptions to the Posse Comitatus Act follows:

1. National Guard forces operating under the state authority of Title 32 (i.e., under state rather than federal service) are exempt from Posse Comitatus Act restrictions.
2. Pursuant to the presidential power to quell domestic violence, federal troops are expressly exempt from the prohibitions of Posse Comitatus Act, and this exemption applies equally to active-duty military and federalized National Guard troops.
3. Aerial photographic and visual search and surveillance by military personnel were found not to violate the Posse Comitatus Act.
4. Congress created a “drug exception” to the Posse Comitatus Act. Under recent legislation, the Congress authorized the Secretary of Defense to make available any military equipment and personnel necessary for operation of said equipment for law.<sup>16</sup>

Stafford Act: The Stafford Act is a 1988 amended version of the Disaster Relief Act of 1974. It created the system in place today by which a presidential disaster declaration or an emergency declaration triggers financial and physical assistance through

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<sup>14</sup> Use of Army and Air Force as Posse Comitatus, *U.S. Statutes at Large* 20 Stat. 152 (18 June 1878), codified at U.S. Code 10 § 331-335 (1878), accessed 14 November 2015, <https://www.gpo.gov/fdsys/granule/USCODE-2011-title18/USCODE-2011-title18-partI-chap67-sec1385>.

<sup>15</sup> Larson and Peters, 244.

<sup>16</sup> Use of Army and Air Force as Posse Comitatus, *U.S. Statutes at Large* 20 Stat. 152 (18 June 1878), codified at U.S. Code 18 § 1385 (1878), accessed 14 November 2015, <https://www.gpo.gov/fdsys/granule/USCODE-2011-title18/USCODE-2011-title18-partI-chap67-sec1385>.



FEMA.<sup>17</sup> The act gives FEMA the responsibility for coordinating government-wide relief efforts. The National Response Plan (NRP) includes the contributions of twenty-eight federal agencies and non-governmental organizations, such as the American Red Cross. It is named for Senator Robert Stafford (in Senate 1971-1989), who helped pass the law.<sup>18</sup>

Terrorism: “The unlawful use of violence or threat of violence, often motivated by religious, political, or other ideological beliefs, to instill fear and coerce governments or societies in pursuit of goals that are usually political.”<sup>19</sup>

### Limitations

The limitations to this study were constrained due to the amount of time and resources available to conduct the research while keeping the findings unclassified. Therefore, conclusions may have been subject to unintentional bias or errors of omission through the selection of the sources utilized to conduct this study. Additionally, this study focused on the issues of homeland security from the American perspective without addressing or speculating on any potential international relation impacts or effects. Lastly, the continual evolution of the mechanisms of homeland security will continue which may render the conclusion(s) and recommendation(s) of this study no longer applicable.

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<sup>17</sup> Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, codified at U.S. Code 42 (June 2007): 5121 et seq, accessed 28 November 2015, [https://www.fema.gov/pdf/about/stafford\\_act.pdf](https://www.fema.gov/pdf/about/stafford_act.pdf).

<sup>18</sup> Ibid.

<sup>19</sup> Joint Chiefs of Staff (JCS), Joint Publication (JP) 1-02, *The DOD Dictionary of Military and Associated Terms* (Washington, DC: U.S. Government Printing Office, 15 January 2016), accessed 21 February 2016, [https://www.dtic.mil/doctrine/new\\_pubs/jp1\\_02.pdf](https://www.dtic.mil/doctrine/new_pubs/jp1_02.pdf), 241.

### Scope and Delimitations

The scope of this study is limited to Title 10 training and integration for real world application with the federal agencies responsible to respond to a terrorism driven catastrophic threat or attack. This study did not propose exact legislative or legal language but rather focused on the strategic level concepts, policies, and themes that resulted from the analysis of the material. Additionally, this study did not address local law enforcement response and reinforcement in detail.

### Significance

The significance of this study is apparent and viable as observed the terrorist attacks around the world within the last year alone. The calculated attacks throughout Paris, France on 13 November 2015 depict the implications a small terrorist cell can impose on a stable nation state. Even within the most technologically advanced and secure countries, vulnerabilities exist in everyday life that terrorist groups can target and attack. Violent extreme organizations such as the Islamic State of Iraq and the Levant (ISIL) will exploit social media and the international refugee crisis to recruit and achieve their aim to destabilize their adversaries. For these reasons, large-scale American venues will remain high priorities on their target lists.

From lone wolves to organized terrorist cells, when the United States is attacked through calculated means with the end-state of a catastrophic terrorist crisis; the United States may require the reinforcement of Title 10 forces. In order to proactively train and coordinate for such a large-scale response, USNORTHCOM must designate and synchronize the actions of Title 10 counterterrorism forces to strengthen the DSCA requirement. Title 10 forces are already preparing for responses across the spectrum of

conflict where black and white lines no longer exist. The additional requirement to train and coordinate with interagency partners will only strengthen the future response at home and abroad.

## CHAPTER 2

### LITERATURE REVIEW

The flawed policies embodied in the 2010 Quadrennial Defense Review have left Northern Command with inadequate capacity: an insufficient number of personnel, without the necessary training, possessing very limited operational readiness.

—The Honorable Paul McHale, quoted in Department of Defense, *Defense Quadrennial Review*

This literature review is intended to provide the background of the current standing policies of USNORTHCOM's responsibilities with DSCA, laws associated, and relevant case studies which provide the necessary context for analysis and further recommendations. The capstone documents authorizing and describing the role of Title 10 forces within the realm of homeland security were of great importance to this research. As reflected in the Honorable Paul McHale's comments from his analysis of the 2010 *Quadrennial Defense Review*, it might appear that there is a gap between rhetoric and readiness in the DOD's DSCA roles and expectations.

During the course of the research, several key sources provided a considerable amount of relevant information regarding Title 10's role and authorizations for DSCA. The selected literature for this thesis reviewed congressional acts, presidential directives, Department of Homeland Security (DHS) strategy and doctrine, DOD doctrine, and federal regulations and laws that govern the use of Title 10 forces within the homeland. In addition, the author researched historic case studies of violent extreme organizational terrorism to provide historic context to an emerging domestic threat. The extent and accuracy of the researched literature allows for a thorough analysis prior to recommending any changes.

A careful review of a large collection of information and references from the Combined Arms Research Library also complimented the research. The abundance of material allowed for a comprehensive, complete, and sufficient document analysis of a wide variety of topics related to Title 10 DSCA operations and counterterrorism activities within the homeland. The material available was more than sufficient to conduct research on this topic. There was an extensive collection of doctrine, executive orders, books, congressional reports, and service school papers covering the topic of this thesis. The literature provided firsthand accounts, lessons learned, and after action reports from which answers were found for both the primary and secondary questions posed in this research paper.

The Homeland Security Act was signed into law by President George W. Bush in November 2002 in the aftermath of the 9/11 attacks.<sup>20</sup> The Homeland Security Act was a critical piece of literature to support this study because it established the DHS and the new cabinet-level position of Secretary of Homeland Security.<sup>21</sup> The author believes that this is the capstone document from which all future authorizations and collaboration in regards to DSCA will generate from. It was beneficial to begin the research with this act prior to expanding the scope of the research to presidential directives, USNORTHCOM related literature, congressional reports, and DOD publications.

Presidential decision directives specific to homeland security and national security narrowed the scope of the research to compliment executive priorities, strategy,

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<sup>20</sup> Homeland Security Act of 2002, Public Law 107–296, 107th Cong., *U.S. Statutes at Large* 116 Stat. 2135 (25 November 2002): HR 5005, accessed 9 January 2016, <https://www.gpo.gov/fdsys/pkg/PLAW-107publ296/pdf/PLAW-107publ296.pdf>.

<sup>21</sup> *Ibid.*

and desired political aim within the thesis. Homeland Security Presidential Directive-5, Subject: Management of Domestic Incidents, dated 28 February 2003 was reviewed. This directive is paramount to any research involving DSCA as it directly links Title 10 forces to the National Incident Management System (NIMS). The directive states in paragraph nine: “The Secretary of Defense shall provide military support to civil authorities for domestic incidents as directed by the President or when consistent with military readiness and appropriate under the circumstances and the law.”<sup>22</sup>

Also beneficial to the research of DSCA were three reports to Congress from the Congressional Research Service. Of importance to the research of federal laws and regulations that limit Title 10’s role within the homeland was a report by Charles Doyle and Jennifer Elsea, titled *The Posse Comitatus Act and Related Matters: The Use of Military to Execute Civilian Law*.<sup>23</sup> The authors of this report are a senior specialist in American public law and a legislative attorney respectively. Their ability to produce a detailed and well-constructed congressional report expedited the research regarding federal laws and regulations.

The second congressional report of great importance to the research was also by Jennifer Elsea. The report is from the Congressional Research Service and titled, *The*

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<sup>22</sup> U.S. President, Homeland Security Presidential Directive-5, *Management of Domestic Incidents* (Washington, DC: Department of Homeland Security, 28 February 2003), accessed 19 December 2015, <http://www.dhs.gov/publication/homeland-security-presidential-directive-5>, 2.

<sup>23</sup> Charles Doyle and Jennifer K. Elsea, *The Posse Comitatus Act and Related Matters: The Use of Military to Execute Civilian Law* (Washington, DC: Congressional Research Service, Library of Congress, August 2012), accessed 14 December 2015, <https://www.fas.org/sgp/crs/natsec/R42659.pdf>, 29.

*Military Commissions Act of 2009 (MCA 2009): Overview and Legal Issues.*<sup>24</sup> The report goes into detail comparing the Military Commissions Act of 2006 and the Military Commissions Act of 2009. This proved useful to the research by providing evidence and understanding of the legal changes DSCA has undergone within the last two years. The Military Commissions Act of 2009 could easily be amended in the future to expand DSCA requirements and opportunities for Title 10 forces.

The Congressional Research Service also conducted the last piece of congressional literature key to the research that helped bridge the gap between the DHS and USNORTHCOM. *Homeland Security: Scott Shepherd and Steve Bowman authored Establishment and Implementation of the United States Northern Command.* This report provided the background and intentions for USNORTHCOM and their roles within the homeland security.<sup>25</sup> The author recommends that any further research on DSCA include this congressional report, as it was critical to the research and analysis of doctrine and authorizations for the establishment of USNORTHCOM.

The fundamental document used in this research to gain a better understanding of USNORTHCOM was the *National Strategy for Homeland Security* signed in October of 2007 by President George W. Bush.<sup>26</sup> This literature ties USNORTHCOM with federal

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<sup>24</sup> Jennifer K. Elsea, *The Military Commissions Act of 2009 (MCA 2009): Overview and Legal Issues* (Washington, DC: Congressional Research Service, Library of Congress, 4 August 2014), accessed 20 January 2016, <https://www.fas.org/sgp/crs/natsec/R41163.pdf>, 1.

<sup>25</sup> Scott Shepherd and Steve Bowman, *Homeland Security: Establishment and Implementation of the United States Northern Command* (Washington, DC: Congressional Research Service, Library of Congress, February 2005), accessed 14 December 2015, <http://fpc.state.gov/documents/organization/44536.pdf>, 1.

<sup>26</sup> National Security Council, *National Strategy for Homeland Security*, 1.

authorities in support of homeland security. Additionally, the 2002 version of this document serves as the catalyst for the inception of USNORTHCOM. The establishment of USNORTHCOM on 1 October 2002 “marked the first time a single military commander has been charged with protecting the U.S. homeland since the days of George Washington.”<sup>27</sup> The author found this literature not only relevant to the thesis questions, but also helpful to grasp the missions, requirements, manpower restraints, and issues USNORTHCOM deals with today. Without previous USNORTHCOM experience, this document is strongly recommended as a starting point for USNORTHCOM in an unclassified setting.

Of doctrinal significance to the research, the 2014 version of Joint Publication 3-26, *Counterterrorism*, provided doctrinal guidance and answers to the DOD’s role and expectations with counterterrorism within the homeland.<sup>28</sup> The author found it difficult to find literature directly related to counterterrorism response within the homeland for Title 10 entities. This publication defines counterterrorism according to the DOD and provides joint doctrine for planning, executing, and assessing counterterrorism operations across the range of military operations. Joint Publication 3-28, *Defense Support of Civil Authorities* contained additional information in regards to DSCA, but mostly concentrated on traditional roles with the National Guard vice counterterrorism response.

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<sup>27</sup> U.S. Northern Command Office of History, “A Short History of United States Northern Command,” U.S. Northern Command, Peterson Air Force Base, CO, 31 December 2012, accessed 29 December 2015, <http://www.northcom.mil/Portals/28/Documents/Supporting%20documents/Historical/NORTHCOM%20History.pdf>, 5.

<sup>28</sup> Joint Chiefs of Staff (JCS), Joint Publication (JP) 3-26, *Counterterrorism* (Washington, DC: U.S. Government Printing Office, 24 October 2014), accessed 2 January 2016, [http://www.dtic.mil/doctrine/new\\_pubs/jp3\\_26.pdf](http://www.dtic.mil/doctrine/new_pubs/jp3_26.pdf), III-4.



Joint Publication 3-26 (2014) explains that when Title 10 forces are federalized in response, “DSCA includes support to prepare, prevent, protect, respond, and recover from domestic incidents including terrorist attacks, major disasters both natural and man-made, and domestic special events.”<sup>29</sup>

Lastly, the RAND Corporation conducted an advisory panel consisting of thirteen credible researchers that authored a detailed report titled, *Before Disaster Strikes - Imperatives for Enhancing Defense Support of Civil Authorities*.<sup>30</sup> The report by the advisory panel was submitted to the Secretary of Defense and members of the Committee on Armed Services, the U.S. Senate, and the U.S. House of Representatives.<sup>31</sup> This detailed report contained findings and recommendations by the RAND Corporation on the DOD capabilities for DSCA and was the final piece of key literature recommended for further research on this topic.

The literature reviewed for this thesis provided ample background information on the current standing policies regarding the role of Title 10 forces with DSCA and the DHS. The literature expanded the author’s understanding of the expectations of USNORTHCOM from the perspective of the president, Congress, and the DHS. The core documents supporting the role of Title 10 forces in homeland security, and the laws and

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<sup>29</sup> JCS, JP 3-26, 2014, II-8.

<sup>30</sup> Steve Abbot, et al., *Before Disaster Strikes, Imperatives for Enhancing Defense Support of Civil Authorities* (Washington, DC: Advisory Panel on Department of Defense Capabilities for Support of Civil Authorities After Certain Incidents, 15 September 2010), accessed 17 January 2016, <http://www.rand.org/content/dam/rand/www/external/nsrd/DoD-CBRNE-Panel/Report-Advisory-Panel.pdf>, 6.

<sup>31</sup> *Ibid.*

federal regulations are recommended for further review when researching a similar topic to this thesis.

## CHAPTER 3

### RESEARCH METHODOLOGY

#### Design

The research methodology for this study followed a design known as qualitative description. The research was conducted through the analysis of official publications, supporting documents, published literature and authenticated credible news reports. The collection of information did not involve any direct engagement with living persons through interviews, surveys, focus groups, observations, or other means. The research approach is as follows: (1) to research the history of USNORTHCOM and DSCA policy; (2) to research the laws and regulations associated with DSCA; (3) to research current USNORTHCOM DSCA training; (4) to research DSCA policy as it relates specifically to the U.S. Marine Corps; and (5) to research and analyze historical case studies relevant to the problem statement which included the Los Angeles riots, the Kenyan Westgate Mall attack, and the 2015 Paris attacks.

#### Analytical Criteria

The analytical criteria are the credibility of sources, relevance to the topic, and currency of the data. The research conducted on the November 2015 Paris attacks was primarily limited to credible and authenticated news releases due to their recent occurrence within the research timeline. All other areas of the research were expanded to every form of literature available. Due to the overall scope of the thesis, the selected research sources were heavily analyzed for quality and limited to avoid repetition.

## Methods

The research for the background and policy for USNORTHCOM was focused on official doctrine, policy and reports to congressional committees. *The National Military Strategy of the United States of America* and official presidential directives laid the groundwork for both USNORTHCOM and the DHS. It was paramount to analyze the natural interagency relationship from their conception in 2003 to make further recommendations of Title 10 forces assisting with DSCA operations.

The laws and regulations associated with DSCA within the homeland that enable and restrict Title 10 involvement were paramount to the research. U.S.C., and federal acts guiding DSCA practices and procedures remain the primary constraints with today's Title 10 support. Any further recommendations within the realm of DSCA cannot be feasible without addressing or analyzing legal ramifications or proposed changes.

Prior to making recommendations to DSCA mandated training, exercises, and future opportunities; it was essential to understand the current status quo. National level DSCA exercises pre- and post-USNORTHCOM shape the current culture that emphasizes training focused on natural disaster response preparedness, CBRNE, search and rescue, and riot control. The National Guard will remain the primary military reinforcement within these fields due to their unique relationship with state and federal authorities, but the lack of active duty DSCA exposure was apparent.

It was also necessary to review the Marine Corps' current policy and involvement with DSCA prior to making further recommendations in chapter 5. Current Marine Corps publications and official messages from Headquarters, U.S. Marines Corps were the focal point for this part of the literature review. Surprisingly, the direction and guidance from

Marine Corps command authorities have already set conditions for further DSCA training opportunities and real world application.

Lastly, it was necessary to research real world examples of homeland disturbances and attacks which posed opportunities for DSCA response. Researching the history of the Los Angeles riots provided historic context of National Guard and active duty response within the United States where state and federal authorities had to make decisions. Additionally, this crisis exposed the DSCA training preparedness and focus outside of standard natural disaster response.

The Kenyan Westgate Mall terrorist attacks in 2013 and Paris, France terrorist attacks in November 2015, exhibited the vulnerabilities present in modern society that can be exploited by violent extreme organizations. The singling out soft targets by small cells or lone wolves in other countries must be analyzed for future threat mitigation within the United States. The terrorist tactics, techniques, and procedures in regards to both targeting and assaulting are relevant to DSCA training for the U.S. military and interagency partners.

## CHAPTER 4

### ANALYSIS

During emergencies the Armed Forces may provide military support to civil authorities in mitigating the consequences of an attack or other catastrophic event when the civilian responders are overwhelmed. Military responses under these conditions require a streamlined chain-of-command that integrates the unique capabilities of active and reserve military components and civilian responders.

— General Richard B. Myers, quoted in Joint Chiefs of Staff, *The National Military Strategy of the United States of America*

This analysis intends to explore historic context that may support or negate Title 10 force involvement with DSCA operations. Historically, the DOD focused on the away game overseas within their primary role of homeland defense vice homeland security. As more frequent terrorist threats emerge from violent extreme organizations, the DOD may find itself supporting a crisis within the homeland “when the civilian responders are overwhelmed” as described in the above comments by General Myers in the 2004 *National Military Strategy*.<sup>32</sup>

#### NORTHCOM: History and Policy

USNORTHCOM was established to unify interagency and interstate efforts to defend our nation from attack or overwhelming natural disaster. On the heels of 9/11, it was established on 1 October 2002 “to provide command and control of the Department of Defense’s (DOD) homeland security efforts and to coordinate military support to civil

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<sup>32</sup> Joint Chiefs of Staff (JCS), *The National Military Strategy of the United States of America* (Washington, DC: U.S. Government Printing Office, 2004), accessed 5 December 2015, <http://archive.defense.gov/news/Mar2005/d20050318nms.pdf>, 10.

authorities.”<sup>33</sup> The 1,200-member staff of USNORTHCOM is the pivotal command to ensure that effective proactive and reactive measures are maintained in addition to being a catalyst for information sharing and productive interagency cooperation.<sup>34</sup>

Subsequently, The Homeland Security Act of 2002 created the DHS.<sup>35</sup>

The *National Strategy for Homeland Security* dated October 2007 is an unclassified document that provides guidance and direction to the stakeholders within the DHS to include the DOD.<sup>36</sup> Additionally, Joint Publication 3-26 (2014) specifically links the DHS mission to DOD counterterrorism efforts within the homeland:

Domestic CT [counterterrorism] operations are considered part of homeland security under the lead of DHS. DHS is considered primary for coordinating Executive Branch efforts to detect, prepare for, prevent, protect against, respond to, and recover from terrorist attacks within the United States. DOJ [Department of Justice] supports DHS for C, but could also be the primary federal agency for some situations. If tasked to support the primary agency for domestic CT operations, DOD would be in a supporting role, which would include any support for law enforcement purposes.<sup>37</sup>

A specific mission of USNORTHCOM states, “as directed by the President of the United States or Secretary of Defense, provide military assistance to civil authorities, including immediate crisis and subsequent consequence management operations.”<sup>38</sup> What

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<sup>33</sup> Shepherd and Bowman, 1.

<sup>34</sup> Ibid.

<sup>35</sup> Homeland Security Act of 2002.

<sup>36</sup> National Security Council, *National Strategy for Homeland Security*, 3.

<sup>37</sup> JCS, JP 3-26, 2014, V-9.

<sup>38</sup> William Knight, *Homeland Security: Roles and Missions for United States Northern Command* (Washington, DC: Congressional Research Service, Library of Congress, June 2008), accessed 14 December 2015, <https://www.fas.org/sgp/crs/homsec/RL34342.pdf>.

is the current state of readiness for this mission, and does USNORTHCOM maintain the readiness to achieve this standard consistent with the rhetoric of DHS's own strategy?

It is important to note that there are three primary mechanisms by which DOD would take part in a federal response to a domestic threat. Federal assistance, including DOD, would be provided: (1) at the direction of the President; (2) if the Secretary of Homeland Defense declares an event an Incident of National Significance; or (3) at the request of the Governor of the affected state in accordance with the Stafford Act.<sup>39</sup> The Standing Joint Force Headquarters North based at Peterson Air Force Base, Colorado "maintains situational awareness of USNORTHCOM's area of responsibility to allow rapid transition to a contingency response posture, and when directed, quickly deploys assets to support homeland defense and civil support operations."<sup>40</sup> For example, in September, 2004, USNORTHCOM tracked the path of Hurricane Ivan. As it approached, they pre-positioned water, food, and supplies close to the areas expected to be hit for immediate response in the aftermath.

Homeland Security Presidential Directive-5, Subject: Management of Domestic Incidents establishes single, comprehensive NIMS and assigns the Secretary of Homeland Security as the principal federal official for domestic incident management. Pursuant to the Homeland Security Act of 2002, the secretary is responsible for coordinating federal operations (and with agencies to include DOD) within the United

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<sup>39</sup> Joint Chiefs of Staff (JCS), Joint Publication (JP) 3-28, *Defense Support of Civil Authorities* (Washington, DC: U.S. Government Printing Office, 31 July 2013), accessed 2 January 2016, [http://www.dtic.mil/doctrine/new\\_pubs/jp3\\_28.pdf](http://www.dtic.mil/doctrine/new_pubs/jp3_28.pdf), ix.

<sup>40</sup> Knight, 2.



States to prepare for, respond to, and recover from terrorist attacks, major disasters, and other emergencies.<sup>41</sup>

As previously defined, the focal point of homeland security is American territory inclusive to coastal waters and territories legally claimed by the United States. A recent report to Congress hones in on the lack of definition for homeland security by sharply stating, “ten years after the 11 September terrorist attacks, the U.S. government does not have a single definition for ‘homeland security.’ Currently, different strategic documents and mission statements offer varying missions that are derived from different homeland security definition.”<sup>42</sup> Of the varying definitions, homeland security is best described as a “national effort to prevent aggression and terrorist attacks against the United States from within its own borders, reduce vulnerability to those attacks, minimize damage, and assist in recovery should an attack or domestic emergency occur.”<sup>43</sup>

As a combat command, USNORTHCOM has the exclusive dilemma of maintaining responsibility and authority for North America without the operational control of dedicated resources at their disposal. The following excerpt sheds light on the current gaps that USNORTHCOM is facing:

In short, USNORTHCOM needs the right people, in sufficient numbers, properly trained, with the necessary equipment, ready to rapidly execute operational plans.

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<sup>41</sup> U.S. President, Homeland Security Presidential Directive-5, 1.

<sup>42</sup> Jerome H. Kahan, “What’s in a Name? The Meaning of Homeland Security,” *Journal of Homeland Security Education* 2 (September 2008): 1, accessed 14 November 2015a <http://www.journalhse.org/v2jeromekahan.html>.

<sup>43</sup> Courtney Wirwahn, “Homeland Security and Homeland Defense: Protection from the Inside Out,” *National Security Watch* 03-3 (31 October 2003): 1, accessed 13 December 2015, [http://www.ausa.org/SiteCollectionDocuments/ILW%20Web-ExclusivePubs/National%20Security%20Watch/NSW\\_03\\_3.pdf](http://www.ausa.org/SiteCollectionDocuments/ILW%20Web-ExclusivePubs/National%20Security%20Watch/NSW_03_3.pdf).

Unless the policy errors hereafter highlighted in the 2014 Quadrennial Defense Review are promptly rectified, future leaders will be left with a critical gap between USNORTHCOM's missions and its capabilities to fulfill them.<sup>44</sup>

In theory, and in reality, a properly trained and manned USNORTHCOM according to the organizational charts is effective and vital to U.S. security. However, manning and resource shortfalls due to administration constraints gap the mission essential personnel required to fulfill the organization's mission statement.

In addition to the manning shortfalls USNORTHCOM faces, there is an institutional culture aversion to DSCA throughout the DOD. Many military and civilian leaders are focused overseas. They (the leaders) "believed that providing support to civilian authorities was a mission of secondary importance."<sup>45</sup> The National Guard emphasizes the need to overcome DOD's cultural resistance to domestic civil support missions:

Despite producing policy documents claiming that protecting the homeland is its most important function, the Department of Defense historically, has not made civil support a priority. This shortcoming is especially glaring in the post 9/11, post Hurricane Katrina environment. Ensuring that the homeland is secure should be the top priority of the Government of the United States.<sup>46</sup>

Like all combatant commands, USNORTHCOM is an active duty command. As a result, many of the cultural biases and tensions between active and reserve component forces permeate the working relationships between USNORTHCOM and the broader

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<sup>44</sup> The Heritage Foundation, *Critical Mismatch: The Dangerous Gap between Rhetoric and Readiness in DOD's Civil Support Missions*, Special Report #115 (Washington, DC: The Heritage Foundation, August 2012), accessed 13 December 2015, <http://www.heritage.org/research/reports/2012/08/critical-mismatch-the-dangerous-gap-between-rhetoric-and-readiness-in-dod-civil-support-missions>, 1.

<sup>45</sup> *Ibid.*, 2.

<sup>46</sup> *Ibid.*

National Guard community.<sup>47</sup> DSCA needs to be considered a greater Title 10 requirement by every service vice considering it the sole responsibility of the National Guard.

### DSCA Legal Constraints

Enacted by Congress under the provisions of Title 18, U.S.C. §§ 1385, the Posse Comitatus Act was originally passed on 18 June 1878 as an amendment to an Army appropriation bill.<sup>48</sup> The National Security Act of 1947, Title 10, Section 375 further directed that the Secretary of Defense publish regulations to ensure that any activity (including providing equipment, facility or personnel) does not include or permit direct participation by a member of the Army and Air Force in a search, seizure, arrest, or other similar activity unless authorized by law.<sup>49</sup> It was not until 1956 that Congress amended the Posse Comitatus Act to include the Air Force and moved the act to Title 18, U.S.C., Section 1385, stating, “Whoever, except in cases and under circumstances expressly authorized by the Constitution or an 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.”<sup>50</sup> Although the Posse

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<sup>47</sup> LTC Gary L. McGinnis, USA, “Revolutionizing Northern Command” (Strategy Research Project, U.S. Army War College, Carlisle Barracks, PA, 2010), 7.

<sup>48</sup> Doyle and Elsea, 43.

<sup>49</sup> U.S. Congress, House, Committee on Armed Services, Title 10 United States Code Armed Forces, U.S.C. §375.

<sup>50</sup> Use of Army and Air Force as Posse Comitatus, 10 U.S.C. §1385.

Comitatus Act does not address the Navy or Marine Corps, by DOD directives and regulations, they are under the same restrictions as the Army and Air Force.<sup>51</sup>

It is generally accepted that Posse Comitatus does not apply to the Army and Air National Guard while serving under state control because they operate under Title 32 authority and not Title 10 authority.<sup>52</sup> Since the Posse Comitatus Act does not apply to National Guard units while under state control, state governors have the flexibility to use National Guardsmen for law enforcement and in support of law enforcement missions. Once federalized, however, National Guard forces are subject to Title 10 and the Posse Comitatus Act.<sup>53</sup> As a result, states are reluctant to allow their forces to be called to active federal service during disasters like Hurricane Katrina.<sup>54</sup>

While the U.S. Constitution does not bar the use of active duty military forces in civilian situations or in matters of law enforcement, the U.S. government has traditionally refrained from employing federal troops to enforce the domestic law except in cases of civil disturbance.<sup>55</sup> The president is authorized by the U.S. Constitution and various

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<sup>51</sup> COL Thomas Heslin, Jr., USA, “Should the Posse Comitatus Act be Changed to Effectively Support Local Law Enforcement?” (Senior Service College, Fellowship Civilian Research Project, U.S. Army War College, Carlisle Barracks, PA, 2011), 2.

<sup>52</sup> Jennifer K. Elsea, *The Posse Comitatus Act and Related Matters: A Sketch* (Washington, DC: Congressional Research Service, Library of Congress, 2005), accessed 14 December 2015, <https://www.fas.org/sgp/crs/natsec/R42659.pdf>, 4.

<sup>53</sup> *Ibid.*

<sup>54</sup> George W. Bush, *Decision Points* (New York: Crown, 9 November 2010), 320.

<sup>55</sup> Jennifer K. Elsea and Chuck R. Mason, *The Use of Federal Troops for Disaster Assistance: Legal Issues* (Washington, DC: Congressional Research Service, Library of Congress, 4 August 2014), accessed 20 January 2016, <https://www.fas.org/sgp/crs/natsec/RS22266.pdf>, 1.

federal laws to employ the Armed Forces of the United States to suppress insurrections, rebellions, domestic violence, and disasters under an assortment of conditions and circumstances.<sup>56</sup> It is now DOD policy that National Guard forces have primary responsibility for providing military assistance to state and local government agencies, mostly under the command of the state's governor.

The Insurrection Act and the Stafford Act allow the president and/or Congress to abrogate the Posse Comitatus Act. Under the Insurrection Act, amended in 2007, Congress delegated the authority to the president to call forth the military during an insurrection or civil disturbance. Specifically, Title 10, U.S.C. §§ 331 authorizes the president to use military force to suppress an insurrection at the request of a state government.<sup>57</sup> This is meant to fulfill the federal government's responsibility to protect states against domestic violence. The Insurrection Act has been used to send armed forces to quell civil disturbances a number of times during U.S. history. The most recent example of this occurred during the 1992 Los Angeles riots. The Insurrection Act was also used after Hurricane Hugo in 1989, during which widespread looting was reported in St. Croix, Virgin Islands.<sup>58</sup> If the president decides to respond to such situations, generally upon the recommendation of the attorney general or at the request of a

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<sup>56</sup> McGinnis, 8.

<sup>57</sup> Insurrection Act of 1807, Title 10, United States Code Armed Forces, codified at U.S. Code §§ 332-333, accessed 19 December 2015, <http://uscode.house.gov/view.xhtml?path=/prelim@title10/subtitleA/part1/chapter15&edition=prelim>. Neither the request nor permission of the governor of the affected state is required to invoke the Insurrection Act.

<sup>58</sup> Doyle and Elsea, 2.

governor, he must first issue a proclamation ordering the insurgents to disperse within a limited time.<sup>59</sup>

Another relevant federal law is the Robert Stafford Disaster Relief and Emergency Assistance Act. Congress enacted Title 42, U.S.C. §§ 5121-5206 to authorize the president to make a wide range of federal aid available to states that suffer natural or manmade disasters. In order to receive federal assistance though, the governor must first execute the state's emergency plan and make a determination that state capabilities are insufficient to deal with the circumstances. However, the Stafford Act does not allow federal active duty military forces to patrol civilian neighborhoods for the purpose of providing security from looting and other activities.

Additional federal laws enable the command and control of military forces. Title 32, U.S.C. §§ 325 requires the consent of the governor to allow a Title 10 officer to exercise command over Title 32 members, even when that officer is a member of that state's National Guard who has been ordered to active duty. National Guard officers can exercise dual-status command under Title 32, U.S.C. §§ 325 and federal officers may accept state commissions when offered by a governor under Title 32, U.S.C. §§ 315. While there is no specific law or policy for state command or even tactical control of federal forces, it may not matter.

The fact is both the president and the states' governors have sufficient legal authorities that provide command and control options for active and National Guard military forces. Therefore, the friction between federal and state powers is not necessarily a command and control issue from a legal standpoint. Instead, the problem is more about

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<sup>59</sup> Elsea and Mason, 3.

minimizing the political friction that results from the unity of effort options exercised by DOD rules, regulations, and military doctrine.<sup>60</sup>

The following case studies provide historic context to further analyze the possible requirement and role of a Title 10 DSCA response force. The Los Angeles riots, although not a counterterrorism response provides excellent historic context to evaluate the proficiency of the National Guard and Title 10 response in support of a federalized crisis. The terrorist attacks at the Kenyan Westgate Mall in 2013 and the most recent one in Paris, France in 2015 depict the types of emerging threats seen within the United States and the tactics, techniques, and procedures associated with violent extreme terrorist cells.

### Los Angeles Riots

#### Background

The 1992 Los Angeles Riots are the most profound civil disturbance in recent U.S. history, resulting in the deaths of fifty-four people and causing more than \$800 million in property damage throughout Los Angeles County.<sup>61</sup> Excessive use of force by the Los Angeles Police Department on Rodney King after a police chase on 3 March 1991 escalated tension between law enforcement and the predominantly African American neighborhoods across Los Angeles. At the time, rival gangs dominated many of the Los Angeles neighborhoods and the Los Angeles Police Department had openly admitted they had “lost the streets.”<sup>62</sup> Sparked by the acquittal of all four officers on trial

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<sup>60</sup> McGinnis, 8.

<sup>61</sup> James Delk, *Fires and Furies: The L.A. Riots* (Palm Springs, CA: ETC Publications, 1995), 26.

<sup>62</sup> *Ibid.*, 320.

for assault, and the acquittal of three out of the four for excessive force, the riots began the day of the verdict on 29 April 1992.<sup>63</sup>

Prior to the verdict of the Rodney King case, the California Army National Guard had “repeatedly been assured they would not be needed for any disturbances” by the office of the Governor.<sup>64</sup> At 3:15 p.m. local time on 29 April 1992, the verdict was announced and the governor requested the 40th Infantry Division (Mechanized) of the California National Guard just after 9:00 p.m. Within six hours, there were 2,000 National Guardsmen marshaled in southern California. Roughly five hours later, units from the National Guard’s 49th Military Police Brigade were mobilized and attached to the division.<sup>65</sup> Tasking authority to the Title 32 National Guard forces initially came from the sheriff’s EOC where commanders from the Los Angeles Police Department and military were co-located with a representative from the California Governor’s Office of Emergency Services. The unexpected nature of the emergency caused the National Guard commanders to activate and deploy the closest units to Los Angeles first.

On the third day of the riots, “it appeared to the LA Mayor and the California Governor that the National Guard was deploying too slowly to effectively handle the

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<sup>63</sup> Don Hazen, ed., *Inside the L.A. Riots: What Really Happened – and Why It Will Happen Again* (Austin, TX: University of Texas Institute for Alternative Journalism, 1992), 89.

<sup>64</sup> Christopher M. Schnaubelt, “Lessons Learned in Command and Control from the Los Angeles Riots,” *Parameters* (Summer 1997): 2, accessed 7 November 2015, <http://strategicstudiesinstitute.army.mil/pubs/parameters/Articles/97summer/schnau.htm>.

<sup>65</sup> *Ibid.*, 2.



problem.”<sup>66</sup> The National Guard was constrained by an abundance of logistical shortfalls such as misplaced riot gear, ammunition mix ups, and miscalculated helicopter re-supplies. The California governor requested federal Title 10 DOD support from the president and the authorization to federalize the National Guard. Ultimately, the California National Guard deployed 10,465 soldiers that were subsumed by Joint Task Force-Los Angeles. The Army’s U.S. Forces Command controlled command authority for the joint task force. In addition, roughly 1,500 Marines from the 1st Marine Division out of Camp Pendleton, California deployed in support. Due to the Posse Comitatus Act, under the federalization of Joint Task Force-Los Angeles, “the Guard was about 80 percent less responsive supporting law enforcement agencies.”<sup>67</sup> By the fifth day of the riots, Los Angeles County was largely quiet. Joint Task Force-Los Angeles remained in support of DSCA operations until day eleven and officially stood down on 9 May.

### Lessons Learned

In the aftermath of the riots, there are many specific areas of concern from which DSCA operations can be better planned, supported, and implemented. The riots occurred prior to the establishment of USNORTHCOM. If USNORTHCOM had been established, they could have better prepared and supported three primary areas prior to and during the riots: (1) command and control; (2) DSCA training prior to the riots; and (3) logistical staging and re-supply.

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<sup>66</sup> William W. Mendel, “Combat in Cities: The LA Riots and Operation Rio” (Foreign Military Studies Office, Fort Leavenworth, KS, July 1996), 1.

<sup>67</sup> Schnaubelt, 1.

The synchronization of proper command authority between federal and state, in regards to military, law enforcement, and political authority caused significant problems throughout the riots. Then California Governor Pete Wilson, “called for federalization of the counter-riot effort without consulting with the National Guard Commanders in charge and on-scene,” or at the request of the state representative for emergency services located in the EOC.<sup>68</sup> From the top-down, there was an apparent disconnect amongst the leadership with communication and tactical control. Under enormous amounts of political pressure, both the governor of California and mayor of Los Angeles, guided priorities and objectives at the tactical level of operations in a political and media vacuum, vice listening to bottom-up refinement and plausible courses of action from law enforcement and military leadership.<sup>69</sup>

Under the command of the Los Angeles County Sherriff’s Department, the EOC was “slow to get established and did not provide the kind of coherent operational direction that would facilitate unit employment.”<sup>70</sup> In essence, the EOC took tactical control of the crisis without utilizing Standard Operating Procedures (SOPs) that were previously exercised according to doctrine and policy. Proper command authority and mutually supporting relationships between the National Guard and local law enforcement were figured out on the fly vice pre-planned for this type of crisis. The California National Guard was tasked and integrated to support local law enforcement in sizes and tactical formations outside the realm of their military training and unit SOP. There were

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<sup>68</sup> Mendel, 2.

<sup>69</sup> Delk, 320.

<sup>70</sup> Schnaubelt, 1.

several success stories at the tactical level of operations, where young, talented, small unit leaders made proper and ethical decisions. However, as a whole the DSCA operations directed from the EOC were counterproductive and confusing.

Prior to the riots, the annual training of National Guard units in support of DSCA operations were inadequate. Interagency relationship building exercises and staff coordination down to the tactical level of operations were insufficiently tested. The California National Guard had annually conducted a Battle Command Training Program and Exercise Warfighter. This was a yearly exercise designed validate National Guard response and command and control. However, due to budget restraints and lack of federal oversight, the scope of these exercises did not validate the integration of SOPs in support of DSCA. It is important to note that National Guard staff officers did attend state interagency coordination training prior to the riots, but the focus was on earthquake response and other natural disasters. The staff training exercised the lines of communication between military and civil response to natural disasters, but they did not validate civil disturbance response or validate doctrine/policy EOC functions and procedures.<sup>71</sup>

There was not an emphasis placed on civil disturbance training from the state level to the National Guard. At the time, there was a system of Mutual Aid in place amongst California law enforcement agencies, fire departments, and other emergency services. “The concept of mutual aid was that if a particular sheriff or police department became overwhelmed by local event, the state Office of Emergency Services would

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<sup>71</sup> Mendel, 2.

coordinate the dispatch of reinforcements from other jurisdictions.”<sup>72</sup> Essentially, the National Guard would not be requested and/or activated until all available law enforcement entities had been committed to the response. “Absolutely no one, civilian or military, expected a situation wherein the National Guard would be needed in the streets in a matter of hours.”<sup>73</sup> This reality would be unacceptable by today’s DSCA standard.

The logistical shortfalls throughout the riots highlighted the importance of maintaining pre-staged supplies and proactive planning measures. The California National Guard responded to the riots without enough riot shields, facemasks, batons, flak jackets, ammunition, and other various items. Although the riot gear physically existed within their inventories, they were on loan to various organizations and not properly staged for quick access and distribution. In addition, lock plates were to be installed in every M16 and M16A1 rifle prior to deploying National Guardsmen “to prevent automatic firing during civil disturbances.”<sup>74</sup> Due to the rapid response of the California National Guard, this complex and timely armory maintenance was not conducted and the soldiers reinforced DSCA operations with fully automatic rifles.

The ammunition supply for the guardsmen was stored in a separate location from the marshalling areas. The National Guard helicopters utilized to pick up the ammunition were not fueled and ready for flight operations.<sup>75</sup> In addition, the ammunition was not properly staged on pallets and ready for re-supply upon arrival of the CH-47 Chinook

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<sup>72</sup> Mendel, 2.

<sup>73</sup> Delk, 89.

<sup>74</sup> Ibid., 103.

<sup>75</sup> Mendel, 1.

helicopters. Ammunition had to be hand loaded onto the birds, which caused significant delays to the deployment of California National Guard from the marshalling areas.<sup>76</sup>

Although the lack of logistical preparedness may or may not have been avoided with the presence of USNORTHCOM, a proficient unit consistently trained in exercises beyond natural disaster and CBRNE response would have maintained a better state of readiness and alert.

### Kenyan Westgate Mall Attack

#### Background

On Saturday 21 September 2013, “four terrorists associated with the Somali based terrorist organization Al-Shabaab launched an armed assault using rifles and hand grenades at the Westgate Shopping Mall in Nairobi, Kenya.”<sup>77</sup> At least seventy people died, over 175 injured and several others held hostage when a group of Islamists fighters stormed Kenya’s high-end Westgate Mall in Nairobi and randomly opened fire on shoppers enjoying their weekend.<sup>78</sup> Reportedly, the Islamist fighters shouted in the local Swahili language that Muslims would be allowed to leave while all others were subjected

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<sup>76</sup> Mendel, 2.

<sup>77</sup> New York City Police Department, “Analysis of Al-Shabaab’s Attack at the Westgate Mall in Nairobi, Kenya,” 1 November 2013, accessed 3 January 2016, <https://assets.documentcloud.org/documents/894158/westgate-report-for-shield-website.pdf>, 4.

<sup>78</sup> Daniel E. Agbibo, “Al-Shabab, the global jihad, and terrorism without Borders,” *AlJazeera*, 24 September 2013, accessed 2 January 2016, <http://www.aljazeera.com/indepth/opinion/2013/09/al-shabab-global-jihad-terroris-201392484238627603.html>.

to their bloodletting.<sup>79</sup> Citizens from the United States, France, Canada, United Kingdom, Australia, and New Zealand were among those killed. Of note, it took almost four days before authorities declared the scene safe.<sup>80</sup>

The Somali-based and al-Qaeda-linked Islamist terrorist group, Al-Shabaab (the youth in Arabic) has since claimed responsibility for the horrific attack through its Twitter account.<sup>81</sup> In one tweet, the Islamist group said, “The Mujahideen entered #Westgate Mall today at around noon and are still inside the mall, fighting the #Kenyan Kuffar inside their own turf.”<sup>82</sup> The victims of this attack included males and females, ranging in age from eight to seventy-eight years of age and from thirteen different countries.<sup>83</sup> The majority of these casualties most likely occurred within the first hour of the attack.<sup>84</sup> Additionally, the terrorists made a conscious effort to target non-Muslims during the attack.<sup>85</sup>

### Lessons Learned

The central lesson learned from the Westgate Mall attack as described in the New York Police Department’s analysis that terrorists seek high profile attacks and that this

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<sup>79</sup> Agbiboa.

<sup>80</sup> New York City Police Department, “Analysis of Al-Shabaab’s Attack at the Westgate Mall in Nairobi, Kenya,” 4.

<sup>81</sup> Agbiboa.

<sup>82</sup> Ibid.

<sup>83</sup> New York City Police Department, “Analysis of Al-Shabaab’s Attack at the Westgate Mall in Nairobi, Kenya,” 4.

<sup>84</sup> Ibid.

<sup>85</sup> Ibid.

attack “clearly illustrates that armed assaults by terrorists on ‘soft’ targets such as a shopping mall are a simple, effective and easy to copy tactic.”<sup>86</sup> This attack “successfully raised Al-Shababb’s worldwide profile as a terrorist organization” and will remain the premier example of how to exploit soft high profile venues world-wide.<sup>87</sup>

The concept that four well-armed attackers with fundamental training can cause an international crisis killing seventy non-Muslim citizens from over five countries throughout a forty-eight-hour period is a high reward and low-risk opportunity for any terrorist organization. The last confirmed sighting of the terrorists on the mall’s CCTV system takes place twelve hours after the start of the attack.<sup>88</sup> It is unknown if the terrorists were killed or escaped the mall.<sup>89</sup>

Although this attack did not take place on American soil, under the direction of the president, the Federal Bureau of Investigation (FBI) assisted Kenyan authorities with the investigation. Opposing critics to U.S. involvement claimed that, “Direct US involvement would be the quickest way to provide al-Shabaab with the propaganda bonanza it needs to recruit a new generation of jihadists.”<sup>90</sup> Immediately following the crisis, the U.S. government insisted that it did not have firm proof that any American

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<sup>86</sup> New York City Police Department, “Analysis of Al-Shabaab’s Attack at the Westgate Mall in Nairobi, Kenya,” 4.

<sup>87</sup> Ibid.

<sup>88</sup> Ibid.

<sup>89</sup> Ibid.

<sup>90</sup> Scott F. Mann, “Tit-For-Tat: Kenya, Somalia, and the Resurgence of al-Shabaab,” *Small Wars Journal* (29 November 2013), accessed 2 January 2016, <http://smallwarsjournal.com/author/scott-f-mann>.

nationals took part in the Westgate attack. However, later reports indicated that at least one shooter had spent time in a predominantly Somalian neighborhood just outside of Minneapolis, Minnesota.<sup>91</sup> The FBI was “thought to be investigating the suspected involvement of al-Shabaab recruits from Somali communities in Minnesota and Maine.”<sup>92</sup> A number of U.S. citizens have been recruited to fight in Somalia from Minneapolis, which is home to 32,000 of the estimated 100,000 Somalis who have fled the country’s civil war and settled in the United States.<sup>93</sup>

A final important lesson learned from this attack is at the tactical level of operations. Specifically, the interoperability between responding units exhibited “poor coordination and lack of effective communication between police and military commanders that resulted in the military troops firing on members of the police tactical team, killing one officer and wounding the team commander.”<sup>94</sup> This highlights the importance of consistent military and police exercises to test and validate a common operating picture where tactics, communications, and procedures are synchronized to enhance mutual response.

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<sup>91</sup> Dan Roberts, “Obama Offers Support to Kenya as FBI Investigates American Involvement: US president pledges security help amid rumors American al-Shabaab recruits took part in Westgate shopping mall attack,” *The Guardian*, 23 September 2013, accessed 2 January 2016, <http://www.theguardian.com/world/2013/sep/23/kenya-westgate-attacks-obama-support>.

<sup>92</sup> Ibid.

<sup>93</sup> Ibid.

<sup>94</sup> New York City Police Department, “Analysis of Al-Shabaab’s Attack at the Westgate Mall in Nairobi, Kenya,” 4.



## Paris Attacks

### Background

On 13 November 2015, a terrorist cell conducted a series of coordinated attacks throughout Paris.<sup>95</sup> Three suicide bombers struck near the Stade de France in Saint-Denis, followed by suicide bombings and mass shootings at cafes, restaurants, and the Bataclan Concert Hall in Paris. In all, 129 people were killed and 368 wounded in addition to the seven attackers who died.<sup>96</sup>

The attacks were the deadliest in France since World War II, and the deadliest in the European Union since the Madrid train bombings in 2004.<sup>97</sup> France had already been on high alert due to the terrorist attack on 7 January 2015, which killed twelve civilians at the satirical weekly newspaper, *Charlie Hebdo*, in Paris,<sup>98</sup> and the thwarted Thalys train

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<sup>95</sup> Sybille Hamaide, "Timeline of Paris attacks according to public prosecutor," *Reuters*, 14 November 2015, accessed 2 January 2016, <http://www.reuters.com/article/us-france-shooting-timeline-idUSKCN0T31BS20151114>.

<sup>96</sup> Mary B. Marcus, "Injuries from Paris attacks will take long to heal," *CBS News*, 19 November 2015, accessed 2 January 2016, <http://www.cbsnews.com/news/injuries-from-paris-attacks-will-take-long-to-heal/>.

<sup>97</sup> Nafeesa Sayeed, "Paris Terror Attacks: Yes, Parisians are traumatized, but the spirit of resistance still lingers," *The Irish Independent*, 15 November 2015, accessed 2 January 2016, <http://www.independent.ie/world-news/europe/paris-terror-attacks/paris-terror-attacks-yes-parisians-are-traumatised-but-the-spirit-of-resistance-still-lingers-34201891.html>.

<sup>98</sup> Dan Bilefsky and Maia de la Baume, "Terrorists Strike Charlie Hebdo Newspaper in Paris, Leaving 12 Dead," *The New York Times*, 7 January 2015, accessed 2 January 2016, [http://www.nytimes.com/2015/01/08/world/europe/charlie-hebdo-paris-shooting.html?\\_r=0](http://www.nytimes.com/2015/01/08/world/europe/charlie-hebdo-paris-shooting.html?_r=0)Dan.

attack on 21 August 2015 where three Americans subdued a lone gunman aboard a train traveling from Belgium to France.<sup>99</sup>

ISIL immediately claimed responsibility for the attacks.<sup>100</sup> ISIL stated that they were conducted in retaliation for the French airstrikes on ISIL targets in Syria and Iraq.<sup>101</sup> French President François Hollande said that the attacks were “an act of war by ISIL.”<sup>102</sup> President Hollande vowed to “be unforgiving with the barbarians from Daesh (AKA ISIL),” and added that France would act within the law “in coordination with our allies, who are, themselves, targeted by this terrorist threat.”<sup>103</sup>

### Lessons Learned

Former Director of the U.S. National Counterterrorism Center, Michael Leiter, stated, “this will be a game-changer for how the West looks at this threat.”<sup>104</sup> The level of

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<sup>99</sup> Into Landauro and Sam Schechner, “Three Wounded in Attack on French Train,” *The Wall Street Journal*, 21 August 2015, accessed 2 January 2016, <http://www.wsj.com/articles/three-wounded-in-attack-on-french-train-1440187820>.

<sup>100</sup> Mariano Castillo, Margot Haddad, Michael Martinez, and Steve Almasy, “Paris suicide bomber identified; ISIS claims responsibility for 129 dead,” *CNN*, 16 November 2015, accessed 2 January 2016, <http://www.cnn.com/2015/11/14/world/paris-attacks>.

<sup>101</sup> *Ibid.*

<sup>102</sup> Adam Nossiter, Aurelien Breeden, and Katrin Bennhold, “Three Teams of Coordinated Attackers Carried Out Assault on Paris, Officials Say; Hollande Blames ISIS,” *The New York Times*, 14 November 2015, accessed 2 January 2016, <http://www.nytimes.com/2015/11/15/world/europe/paris-terrorist-attacks.html>.

<sup>103</sup> *Ibid.*

<sup>104</sup> Richard Engel and Jon Schuppe, “Paris Attacks: ISIS Supporters Celebrate, But Who’s to Blame?” *NBC News*, 14 November 2015, accessed 2 January 2016, <http://www.nbcnews.com/storyline/paris-terror-attacks/paris-attacks-isis-supporters-celebrate-whos-blame-n463321>.

sophistication and coordination of the attacks pointed more toward al-Qaeda and will bring the reach and threat of ISIL to a new level.<sup>105</sup> Some of the attackers were known to law enforcement officials prior to the attacks, and at least some of the attackers had residences in the Molenbeek area of Brussels, which is noted for its links to extremist activities.<sup>106</sup>

A counterterrorism expert said the fact that authorities knew the perpetrators suggests that intelligence was “pretty good” but the ability to act on it was lacking.<sup>107</sup> The number of Europeans who have links to Syria makes it difficult for security services to keep track of them all.<sup>108</sup> Evidence points to the attackers having regularly used unencrypted communications during the planning of the attack on 13 November.<sup>109</sup>

The commonality between every terrorist attack in France in 2015 is the religious driven motivation deeply entrenched within the attackers. These attacks exhibit the ability for large-scale Muslim terrorist organizations such as ISIL to recruit, train, equip, and

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<sup>105</sup> Engel and Schuppe.

<sup>106</sup> Alicia Parlapiano, Wilson Andrews, Haeyoun Park, and Larry Buchanan, “The Expanding Web of Connections Among the Parish Attackers,” *The New York Times*, 9 December 2015, accessed 2 January 2016, [http://www.nytimes.com/interactive/2015/11/15/world/europe/manhunt-for-paris-attackers.html?\\_r=0](http://www.nytimes.com/interactive/2015/11/15/world/europe/manhunt-for-paris-attackers.html?_r=0).

<sup>107</sup> Andrew Higgins, Kimiko de Freytas-Tamura, and Katrin Bennhold, “In Suspects’ Brussels Neighborhood, a History of Petty Crimes and Missed Chances,” *The New York Times*, 17 November 2015, accessed 2 January 2016, <http://www.nytimes.com/2015/11/17/world/europe/in-suspects-brussels-neighborhood-a-history-of-petty-crimes-and-missed-chances.html>.

<sup>108</sup> *Ibid.*

<sup>109</sup> Dan Froomkin, “Signs Point to Unencrypted Communications between Terror Suspects,” *The Intercept*, 18 November 2015, accessed 2 January 2016, <https://theintercept.com/2015/11/18/signs-point-to-unencrypted-communications-between-terror-suspects>.

direct small cells or lone wolves to conduct high profile attacks on vulnerable soft targets. New York City Police Commissioner William J. Bratton said the Paris attacks have changed the way law enforcement deals with security.<sup>110</sup>

### Analysis Conclusion

The analysis was intended to provide the federal authorizations and expectations which detail not only the opportunity for Title 10 forces to remain proficiently trained with DSCA operations; but the expectation to do so. If terrorist attacks from violent extreme organizations increase within the U.S. borders in terms of frequency and escalation, Title 10 forces may have to assist federal and civil authorities on a more frequent basis. The DOD may be required to balance its focus and efforts to support roles in both homeland security and homeland defense. The analysis of the aforementioned literature depicts the authorizations and requirement for DSCA operations and the case studies legitimize the growing threat from transnational threats who remain adversaries of the United States.

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<sup>110</sup> J. David Goodman, “New York City Police Commissioner Says Attacks Will Force Changes in Tactics,” *The New York Times*, 15 November 2015, accessed 2 January 2016, <http://www.nytimes.com/live/paris-attacks-live-updates/bratton-says-attacks-will-force-law-enforcement-to-change-tactics/>.

## CHAPTER 5

### CONCLUSIONS AND RECOMMENDATIONS

Recent history has taught that violent extreme organizations seek high profile attacks on vulnerable populated areas to reinforce their rhetoric and desired outcome. If terrorist attacks, similar to the Kenyan Westgate Mall attack and Paris, France attack increase within the United States, USNORTHCOM is required by the *National Military Strategy* to have a viable Title 10 force capable of responding and reinforcing civil authorities. Proactive measures should be taken to implement new requirements to the traditional DSCA responsibilities of Title 10 forces to address this threat.

The homeland security doctrine indicates that the DOD should provide seamless integration into a federally led EOC upon a catastrophic crisis resulting from a terrorist attack. The DOD mirrors this requirement in both the DSCA joint publications and individual service requirements, with strict adherence to the Posse Comitatus Act. A Title 10 counterterrorism force responding within the homeland under the guise of the Insurrection Act will never assume the primary role in response to these types of attacks. They will only respond within the United States when civil and federal law enforcement authorities become overwhelmed and are unable to dedicate the manpower required to effectively control the crisis and safeguard the American people.

The conundrum for USNRTHCOM is to identify a suitable and feasible DOD entity that can assume the role of a Title 10 counterterrorism force in addition to their primary roles and responsibilities. The National Guard, U.S. Army, Special Operations Forces (SOF), and the Marine Corps are all viable candidates with components already suited for urban warfare and interagency synchronization. Of these options,

USNORTHCOM should identify a Title 10 entity that requires minimal additional training and funding, a force that can remain on-call for six to twelve months, and a service capable of rapidly deploying within the United States with organic command and control, air, and sustainment for a catastrophic event. Serving as the combatant command lead, USNORTHCOM can initiate the process to certify and fund this requirement through Congress and the Secretary of Defense.

Recommendation 1: Required Attributes for a  
DSCA Counterterrorism Response Force

Certification

USNORTHCOM should serve as the certification authority that validates the training and readiness of a DSCA counterterrorism force. A certification exercise should be conducted with the Title 10 force and the lead federal law enforcement counterterrorism response unit, the FBI Hostage Rescue Team (HRT). This certification exercise should also provide any specialized instruction from USNORTHCOM and federal law enforcement over the course of a seventy-two- to ninety-six-hour period. Training and validation directly from USNORTHCOM will ensure adherence to Title 10 legal constraints and provide seamless integration to a federally led EOC.

Time

A dedicated asset for USNORTHCOM must have the ability to serve as an on-call DSCA response force for a significant duration of time to ensure consistency, mission preparedness, and continuity for turnover with follow-on forces. Upon certification from USNORTHCOM, the Title 10 response force should remain on-call for no less than six

months. This will provide USNORTHCOM with a dedicated asset and reduce certification and coordination time.

### Training

The Title 10 force selected to serve as the DSCA counterterrorism response force should have a high level of proficiency in urban warfare and decentralized operations prior to additional USNORTHCOM mandated training with federal law enforcement. Standardized based training in Military Operations in the Urban Terrain, which involves high proficiency in room clearing and close quarter marksmanship should be pre-requisites for selection. These are vital qualities of any military or law enforcement entity conducting operations in an urban environment and cannot be instructed to a high level of proficiency during a certification exercise. In addition, the DSCA counterterrorism force can participate in USNORHCOM, DHS, and FEMA quarterly and annual National Level Exercises (NLE) across the country to maintain readiness.

### Manpower

The catalyst for the implementation of a Title 10 counterterrorism response force is derived from the manpower constraints of local and federal law enforcement when a catastrophe occurs. Therefore, the Title 10 response force should be able to reinforce the federally led situation with no less than 100 operators to assist with cordons, room clearing, and securing large populated areas. Martial law in Paris, France after the November 2015 attacks required hundreds of active duty military personnel to cordon off sections of the city while search operations for the remaining terrorists were conducted. The FBI HRT is already reinforced with law enforcement Special Weapons and Tactics

teams from the communities surrounding a crisis. A small Title 10 response force will not provide the federal authorities with an increased capability. However, a large 100- to 200-man force with a single command and control construct in direct support of the federal authority will greatly increase their ability to search for and defeat a terrorist cell.

### Rapid Response

The ability to rapidly respond to a large-scale terrorist attack within hours vice days is critical to the effectiveness and utility of a DSCA response force. The selected Title 10 force must have access to pre-staged gear, weapons, ammunition, and specialized equipment upon activation from USNORTHCOM. In addition, pre-designated air and sustainment to include berthing and communication infrastructure should be integrated in the staged assets. This will require the Title 10 force to remain in the continental United States throughout their on-call status and be primarily dedicated to this mission.

### Dedicated Air and Sustainment

Dedicated airlift and sustainment of food, ammunition, and equipment upon integration with an EOC is critical to rapid response and seamless integration. A dedicated Title 10 DSCA response force should not be limited solely to the operators on the ground. Federal and local law enforcement will not have the food and berthing capacity for a 100- to 200-man Title 10 force. The holistic approach of an expeditionary force capable with organic air and logistical self-sustainment will greatly increase response and operational effectiveness for USNORTHCOM.



## Command and Control

The dedicated Title 10 force should have a command and control authority capable of directing operations throughout the entirety of the response. Placed with or adjacent to the EOC, the Title 10 leadership will be capable of synchronizing the actions of the military forces with the law enforcement personnel already in place.

### Recommendation 2: Suitable Candidates for DSCA Counterterrorism Response

With an increased reliance on reserve components compared to other combatant commands, USNORTHCOM has placed a strong priority on maintaining the proficiency and response capabilities of National Guard units. The National Guard is the feasible solution for natural disasters, riot control, and specialized CBRNE response. However, serving in the capacity of Title 32 forces, the National Guard lacks the dedicated training time to acquire the capabilities of a response force proficient in military operations in the urban terrain consistent with interagency counterparts. This specialized training is paramount to effectively integrate and reinforce leading federal counterterrorism response entities such as the FBI's HRT.

In addition to training restraints, the ability to mobilize reserve personnel makes the National Guard a non-suitable candidate. As noted from the Los Angeles riots, the process of re-calling soldiers, drawing the necessary weapons, ammunition, and equipment will delay a response in terms of days vice hours. It is also important to note that the air and sustainment is not organic to most National Guard units and is often not co-located with the designated responding forces. These delays coupled with the

inadequate counterterrorism training, make the National Guard unable to achieve the timely response required of a counterterrorism response force.

The use of regular active U.S. Army forces was the next option considered to serve as a DSCA counterterrorism response force. On 1 October 2008, the 3rd Infantry Division's 1st Brigade Combat Team was assigned to USNORTHCOM, marking the first time an active unit had been given a dedicated assignment to Northern Command.<sup>111</sup> The force will be known as the "first dedicated chemical, biological, radiological and high-yield explosive (CBRNE) consequence management response force (CCMRF)" at USNORTHCOM.<sup>112</sup> During the first year as a CBRNE CCMRF, 3rd Infantry Division's 1st Brigade Combat Team served as an on-call federal response force for catastrophic events within the homeland that included terrorist attacks and other natural or manmade emergencies and disasters. Assigned as a subcomponent of the Joint Task Force-Civil Support, they conducted exercises to coordinate with local governments and interagency organizations and FEMA, under U.S. Army North at Fort Sam Houston, Texas in 2008.<sup>113</sup> Joint Task Force-Civil Support is a subordinate element of USNORTHCOM

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<sup>111</sup> MG Jeffrey A. Jacobs, USAR, "CCMRF and Use of Federal Armed Forces in Civil Support Operations," Association of the United States Army, July 2009, accessed 17 January 2016, <http://www.ausa.org/publications/armymagazine/archive/2009/7/Pages/CCMRfandUseofFederalArmedForcesInCivilSupportOperations.aspx>, 1.

<sup>112</sup> Ibid.

<sup>113</sup> Patti Bielling, "Top Army leader visits newly assigned Consequence Management Force," U.S. Northern Command, 15 September 2008, accessed 17 January 2016, <http://www.northcom.mil/Newsroom/tabid/3104/Article/563459/top-army-leader-visits-newly-assigned-consequence-management-force.aspx>.

whose primary mission is to assist civilian authorities in the event of a CBRNE incident.<sup>114</sup>

A detailed report conducted by RAND noted there is a lack of training authority within the CCMRF to ensure forces are consistently and properly trained.<sup>115</sup> Additionally, the DSCA specific training for the 3rd Infantry Division's 1st Brigade Combat Team has been solely focused on CBRNE vice counterterrorism response. The terrorist attacks conducted by ISIL and lone wolf actors require a more specialized response force that is capable of responding in a limited time window with organic assets that do not exist within the CCMRF. As of today, the CCMRF is not an adequate counterterrorism response force for USNORTHCOM and they do not possess the organic assets to modify their organizational structure to meet these demands. They will however, continue to serve as the premier Title 10 DSCA asset for CBRNE as reflected in their training, manning and equipment disposition, and composition.

The training, response capabilities, and current mission focus make the U.S. SOF ideally suited to serve as a counterterrorism response force for USNORTHCOM. SOF's traditional core missions and capabilities offer a unique and versatile joint force that can respond globally within hours. Their limitations to providing USNORTHCOM an on-call DSCA counterterrorism force lie in their operational demand to the other combatant commands and their numerically small team compositions. Every combatant command has operational control of some type of special operations response except for

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<sup>114</sup> Abbot et al., 21.

<sup>115</sup> Ibid., 11.

USNORTHCOM. Joint Publication 3-05, *Special Operations*, describes the relationship between the combatant command authorities and Special Operations Command:

United States Special Operations Command (USSOCOM) is a unified combatant command. It is unique among the combatant commands in that it performs Service-like functions and has Military Department-like responsibilities and authorities. A theater special operations command (TSOC) is a subordinate unified command of USSOCOM. TSOCs perform broad, continuous missions uniquely suited to special operations forces capabilities. Secretary of Defense has assigned operational control (OPCON) of the TSOCs and attached SOF tactical units to their respective geographic combatant commander (GCC) via the Global Force Management Implementation Guidance.<sup>116</sup>

A possible solution is to provide USNORTHCOM with assigned SOF assets to utilize as a designated DSCA counterterrorism response force within the United States. However, SOF's demanding deployment cycle and specialized role in homeland defense may inhibit their role in homeland security. SOF personnel are highly trained assets that are better suited for overseas consistent response than homeland on-call duties. Plain and simple, there are not enough SOF elements to support the DSCA mission set and even if there was, the amount of funding invested in their training and specialized skills are better suited for overseas operations.

SOF is clearly qualified to serve as a dedicated USNORTHCOM counterterrorism force and their ability to provide organic air and sustainment satisfies every aforementioned attribute required to fulfill this role. A dedicated DSCA counterterrorism team will need sufficient home station training time to conduct interagency certification and serve as a dedicated on-call asset within the United States for six to twelve months.

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<sup>116</sup> Joint Chiefs of Staff (JCS), Joint Publication (JP) 3-05, *Special Operations* (Washington, DC: U.S. Government Printing Office, 16 July 2014), accessed 23 January 2016, [http://www.dtic.mil/doctrine/new\\_pubs/jp3\\_05.pdf](http://www.dtic.mil/doctrine/new_pubs/jp3_05.pdf), ix.

For these reasons, time demands and mission relevance to their core skills may result in a mission misalignment of critical SOF capabilities.

The Marine Corps is another ideal option to provide USNORTHCOM with a specialized counterterrorism response force. Their deployment cycle of combat infantry units permit company size elements ranging from 100 to 200 infantrymen to serve as on-call counterterrorism response forces to USNORTHCOM for dedicated periods of six to twelve months. Their core capabilities and small unit leader focus is optimal for interagency integration that would require minimal additional training. Most importantly, the Marine Corps deploys as a self-supported expeditionary asset overseas that utilizes organic command and control, air, medical, and supply entities to maintain force projection and sustainment. This unique capability within the DOD is already in place conducting home station training prior to a deployment as part of a Marine Expeditionary Unit (MEU). The pre-deployment training window for a MEU is twelve to eighteen months within their home station assignment, thus requiring minimal time and external support to rapidly deploy to a catastrophic terrorist attack within the homeland.

The disposition of Marine Corps forces allows USNORTHCOM to train and certify two counterterrorism response teams (one on each coast) with little interference to the operational demands for the infantry units. First Marine Expeditionary Force is located on the west coast in Camp Pendleton, California. Second Marine Expeditionary Force is located on the east coast in Camp Lejeune, North Carolina. As an infantry battalion assigned to the MEU conducting a pre-deployment training cycle, they can assign one infantry company on each coast to assume the additional role of the USNORTHCOM counterterrorism response force with little additional training and

equipment. An infantry company, commanded by a captain, could be augmented with select members from the battalion leadership for additional command and control flexibility and strength. Ultimately led by a battalion executive officer with the rank of major, each counterterrorism force can serve a six to twelve month on-call asset for USNORTHCOM and be organically supported by the MEU's air and supply assets.

The Marine Corps has one primary DSCA publication in concert with the other armed services. Marine Corps Warfighting Publication 3-36.2, *DSCA: Multi-service Tactics, Techniques, and Procedures for Defense Support of Civil Authorities (DSCA)*, is a multi-service publication that prescribes the general tactics, techniques, and procedures for DSCA.<sup>117</sup> From background information to introductory level guidance on legal guidelines, the publication provides every armed service with a common foundation. Of note, chapter 5 outlines “domestic activities and special events” and is limited to eight pages that feature basic information on natural disasters and CBRNE incidents.<sup>118</sup> The publication does not refer to Title 10 forces responding to and supporting terrorist activity or attacks.

In addition to Marine Corps Warfighting Publication 3-36.2, the Marine Corps has released two official Marine Administration Messages from Headquarters, U.S. Marine Corps which provide further guidance on DSCA. MARADMIN 589/05, Subj: USMC Roles and Missions in Homeland Defense and Defense Support of Civil

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<sup>117</sup> Army, Marine Corps, Navy, Air Force, MCWP, 3-36.2, *DSCA: Multi-Service Tactics, Techniques, and Procedures for Defense Support of Civil Authorities (DSCA)* (Washington, DC: U.S. Government Printing Office, September 2015), accessed 9 January 2016, [http://armypubs.army.mil/doctrine/DR\\_pubs/dr\\_a/pdf/atp3\\_28x1.pdf](http://armypubs.army.mil/doctrine/DR_pubs/dr_a/pdf/atp3_28x1.pdf), 1.

<sup>118</sup> *Ibid.*, 65.

Authorities, describes the Marine Corps' roles and missions in homeland defense and DSCA. It is limited to three pages in length; however, it provides background, standing command structure, and detailed information on the implementation of the NRP and the NIMS.<sup>119</sup> Specific verbiage outlines the reporting structure for Marine Corps units in response:

The Marine Corps provides support to a Lead Federal Agency (LFA) at the direction of the president or Secretary of Defense, by using our expeditionary warfighting capability to rapidly respond to a domestic incident in Support of Civilian Authorities.<sup>120</sup>

Additionally, the following excerpt sets conditions for the Marine Corps to respond to terrorist attacks:

Imminently serious conditions resulting from any civil emergency or attack may require immediate action by military commanders, or by responsible officials of other DOD Agencies, to save lives, prevent human suffering, or mitigate great property damage. When such conditions exist and time does not permit prior approval from higher headquarters, local military commanders and responsible officials of other DOD components are authorized to take necessary action to respond to requests from civil authorities. Such actions are referred to as immediate response. (Per ref e), The military commander, or responsible official of a DOD component or agency rendering such assistance shall report the request, the nature of the response, and any other pertinent information through the chain of command to the National Military Command Center (NMCC).<sup>121</sup>

Notably, the above direction and authorization enabled Marine Corps Security Forces at Marine Barracks, Washington, DC to respond to the active shooting crisis at the

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<sup>119</sup> Commandant of the Marine Corps (CMC), Marine Administrative Message (MARADMIN) 589/05, *USMC Roles and Missions in Homeland Defense and Defense Support of Civil Authorities* (Washington, DC, Headquarters, U.S. Marine Corps, 13 December 2005), accessed 9 January 2016, <http://www.marines.mil/News/Messages/MessagesDisplay/tabid/13286/Article/117580/usmc-roles-and-missions-in-homeland-defense-and-defense-support-of-civil-author.aspx>.

<sup>120</sup> Ibid.

<sup>121</sup> Ibid.

Washington Navy Yard on 16 September 2013.<sup>122</sup> However, the response occurred at a neighboring federal installation, which expedited the Title 10 response and mutual aid given the shared jurisdiction.

The second Marine Administrative Message from the Marine Corps, which provides guidance on DSCA, is MARADMIN 423/06, Subj: Training to Support Implementation of National Incident Mngt System and Natl Response Plan at USMC Domestic Installations. This message provides amplifying guidance on “training to support implementation of National Incident Management System (NIMS) and National Response Plan (NRP) at USMC domestic installations.”<sup>123</sup> Of note, this official message from the Headquarters, U.S. Marine Corps directs the Marine Corps to not only support but to also receive support from civil authorities when necessary.<sup>124</sup> The mission of this message is “to establish and announce minimum training requirements for designated USMC people in support of the implementation of NIMS and NRP on domestic USMC installations for domestic incident management.”<sup>125</sup> Common knowledge and proper utilization of NIMS and the NRP will set conditions for seamless integration of DSCA whether supporting or receiving. Additionally, this allows Marine Corps commanders to

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<sup>122</sup> Smith.

<sup>123</sup> Commandant of the Marine Corps (CMC), Marine Administrative Message (MARADMIN) 423/06, *Training to Support Implementation of National Incident Mngt System and Ntl Response Plan at USMC Domestic Installations* (Washington, DC: Headquarters, U.S. Marine Corps, 6 September 2006), accessed 9 January 2016, <http://www.marines.mil/News/Messages/MessagesDisplay/tabid/13286/Article/113551/training-to-support-implementation-of-national-incident-mngt-system-and-ntnl-re.aspx>.

<sup>124</sup> Ibid.

<sup>125</sup> Ibid.



integrate with interagency and civil authority partners to conduct DSCA training from tabletop exercises to large-scale response scenarios to include FEMA and NORTHCOM support and oversight.

The service guidance from the Marine Corps requires the leadership to train and support DSCA operations. The composition and home-station training windows of the MEUs create the ideal continuity of a medium size counterterrorism response force for USNORTHCOM. With minimal additional training and equipment requirements, these augmented elements with seasoned leadership, adaptable communication capabilities, and organic sustainment and air make them ideal for USNORTHCOM. Stationed on each coast, their ability to collectively organize, equip, and respond to a federally led operations center upon a catastrophic terrorist attack with the United States is the best solution for this requirement.

### Recommendation 3: DSCA Counterterrorism Training

The training required for a Title 10 counterterrorism force requires a USNORTHCOM certification beyond the annual NLEs. The DOD's "participation in National Level Exercises includes exercises that evaluate DOD linkages to homeland security through DSCA and homeland defense."<sup>126</sup> USNORTHCOM has the "primary responsibility for DSCA, conducts exercises to train and evaluate its DSCA capabilities at the direction of the Chairman of the Joint Chiefs of Staff."<sup>127</sup> The USNORTHCOM Commander has directed that the command will exercise with all ten FEMA regions in

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<sup>126</sup> Shepherd and Bowman, 4.

<sup>127</sup> Knight, 8.

consequence management exercises. Additionally, “(US) NORTHCOM’s Joint Task Force also conducts at least one regional and several Tactical Training Exercise/Seminar events each year with DHS components and National Guard entities.”<sup>128</sup> From improvised nuclear device detonation to hurricane preparation and response, USNORTHCOM is the overarching driving force that sets and maintains standards for DSCA requirements.

USNORTHCOM’s initiatives with NLEs and staff officer training opportunities enhance the National Guard’s ability to conduct standardized DSCA training according to doctrine. These exercises also foster mutually supported relationships through interagency cooperation that strengthen the lines of communication between DOD and federal law enforcement. Key National Guard stakeholders utilize USNORTHCOM’s formal exercises and training opportunities to refine and assess their unit’s SOPs but there is simply not enough time to proficiently train to every DSCA mission required by the *National Military Strategy* and the *Quadrennial Defense Review*.

A counterterrorism response team requires tactical level training exercises with federal law enforcement counterparts. The USMC counterterrorism forces on each coast can conduct a certification exercise at Quantico, Virginia prior to assuming the duties for USNORTHCOM. The infantry company selected to serve as the counterterrorism force can conduct a seventy-two- to ninety-six-hour certification exercise at one of the many urban warfare venues offered at Quantico. This base not only offers the ideal training sites for DSCA counterterrorism response, but it is home to the leading federal response entity, the FBI HRT. An interagency certification where the Marine Corps

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<sup>128</sup> Shepherd and Bowman, 8.

counterterrorism response team conducts a series of exercises with FBI HRT will set conditions for seamless response during a crisis. From the synchronization of communication assets to learning federal SOPs, the Marine Corps forces could be tested and certified under the supervision of a designated USNORTHCOM authority. From the guidelines of the Posse Comitatus Act, to the coordination and authority integration with a federally led EOC, USNORTHCOM can validate and certify the readiness status of these forces.

Recommendation 4: Counterterrorism DSCA  
Interoperable Equipment Sets

DOD forces often use encrypted communication equipment that is not interoperable with federal and civil authorities. The standard communication suite owned by an infantry company that would serve as a counterterrorism response force would require augmented assets from USNORTHCOM to effectively coordinate with a federal EOC. As part of the validation and certification exercise in Quantico, Virginia, each counterterrorism response force should be issued the federal law enforcement equivalent of the communication assets required to effectively conduct this mission set. Funded through USNORTHCOM, the representative assigned to certify each team would transfer the communication suites to the leadership of each force prior to the exercise. These communication suites, would travel back to the home station of each force and stand by in readiness for real world response.

Additionally, the counterterrorism response teams should be issued special badging from USNORTHCOM to validate each member's authorization when operating in a DSCA situation. The identification badges or cards would be kept on the individual

service member when conducting DSCA operations to validate their presence within the federal jurisdiction. Strict adherence to personnel rosters would be reported to the EOC by the Title 10 commander on-scene and the badging process would expedite daily accountability and medical related situations if and when a service member is wounded or killed while conducting DSCA operations.

### Conclusion

National and state policy makers may assume that military forces will be readily available to defend the homeland when required; however, a growing threat abroad may expand vulnerability currently present in USNORTHCOM. The 2013 attacks at the Kenyan Westgate Mall and the 2015 attacks in Paris, France highlight the amount of manpower required to respond to and neutralize a small-scale terrorist attack. *The National Security Strategy* signed by the president and the capstone documents for the DHS mandate USNORTHCOM have a Title 10 asset to respond and support federal and civil authorities during a terrorist crisis within the homeland.

Now is the time for USNORTHCOM to designate a specific service to proactively train, man, equip, and certify an on-call Title 10 response force to reduce this vulnerability and improve interagency integration for homeland security. Urban environments are dynamic and demand large numbers of forces to ultimately neutralize and resolve a chaotic situation.<sup>129</sup> For example, if a minimally trained fifteen- to twenty-man terrorist cell executed a complex attack on an iconic American venue, the current

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<sup>129</sup> DON, HQMC, MCWP 3-35.3, 1-2.

USNORTHCOM force structure does not have a certified Title 10 asset to rapidly respond.

The Marine Corps is the best-suited service to provide a Title 10 counterterrorism force that can remain on-call under combatant command authority with direct liaison to a federally led EOC. Upon certification by USNORTHCOM authorities at Quantico, Virginia, the Marine Corps can sustain one counterterrorism response force on each coast to fulfill this growing requirement for USNORTHCOM. As the threat of violent extreme organizations increases within the homeland, proactively planning and training between the DOD and federal law enforcement must follow in suit. The DOD has grown more joint amongst the services; now it must also expand the interagency relationships and interoperability with its federal partners. DSCA operations are a critical mission set required by every military service. The Marine Corps can strengthen USNORTHCOM's capabilities and response by establishing a DSCA counterterrorism force for homeland response.

## GLOSSARY

Homeland Defense. The protection of U.S. sovereignty, territory, domestic population, and critical defense infrastructure against external threats and aggression or other threats as directed by the president.

Homeland Security. A concerted national effort to prevent terrorist attacks within the United States; reduce America's vulnerability to terrorism, major disasters, and other emergencies; and minimize the damage and recover from attacks, major disasters, and other emergencies that occur.

National Defense. Any activity or effort performed to protect a nation against attack or other threats

National Security. Requirement to maintain the survival of the state through the use of economic, diplomatic, military, and political power.

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