

AIR WAR COLLEGE

AIR UNIVERSITY

COMMAND AND CONTROL OF MILITARY FORCES
IN THE HOMELAND

by

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A Research Report Submitted to the Faculty

In Partial Fulfillment of the Graduation Requirements

15 February 2008

Distribution A: Approved for public release; distribution unlimited.

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CONTENTS

CONTENTS.....	iii
DISCLAIMER	iv
FIGURES	v
TABLES	vi
BIOGRAPHY	vii
I. INTRODUCTION	1
Purpose.....	2
Scope and Methodology	3
Overview.....	4
II. BACKGROUND	5
III. POLARIZING DOMESTIC MILITARY ASSISTANCE	10
IV. COMMAND AND CONTROL IN THE HOMELAND.....	15
State Command.....	15
Parallel Command.....	21
Dual-Status Command.....	24
Federal Command.....	26
V. COMMAND AND CONTROL ANALYSIS.....	29
VI. RECOMMENDATIONS.....	40
VII. CONCLUSION.....	47
APPENDIX.....	49
1. National Guard Duty Statuses.....	49
2. Dual-Status Commands.	50
3. Command and Control Analysis: Facts, Assumption, Restraints, and Constraints.	51
4. Phases of Defense Support to Civil Authorities.	53
BIBLIOGRAPHY.....	54

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FIGURES

<i>Figure 1.</i> State Command and Control.....	17
<i>Figure 2.</i> Domestic Operations in Florida.....	18
<i>Figure 3.</i> Governor Equities	20
<i>Figure 4.</i> Parallel Command and Control.....	23
<i>Figure 5.</i> Dual Status Command and Control	25
<i>Figure 6.</i> Federal Command and Control.....	27
<i>Figure 7.</i> Command and Control Interest Map.....	30
<i>Figure 8.</i> Operational Plan Phases.....	44
<i>Figure 9.</i> CONPLAN 2501 Phases.....	53

TABLES

<i>Table 1.</i> Federal Policy Considerations	31
<i>Table 2.</i> State Policy Considerations	34
<i>Table 3.</i> Military Considerations	36
<i>Table 4.</i> Combined Considerations.....	38

BIOGRAPHY

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I. INTRODUCTION

“To serve in the National Guard is to accept a dual mission. You can be called on to defend the country against enemies abroad, or to protect lives and property here at home in times of local emergency.”¹

Richard B. Cheney
Vice President of the United States

The United States military and the state National Guard have a long and proud tradition of defending our nation from attack and assisting civil authority during times of crisis. Notwithstanding its primary federal purpose of fighting our nation’s wars, the frequency with which US military forces are employed for homeland security related missions has risen dramatically since 9/11. This change is understandable given the increase in the perceived and actual threat to our nation. The US military, which is one of the largest federal investments, is arguably the most versatile American organization in terms of capability and responsiveness. Fiscal appropriations by the Congress for US Armed Forces organizational structure, composition, and equipment are intended to satisfy the current National Military Strategy.

In an effort to streamline military roles and responsibilities for homeland defense (HLD) and civil support, several notable changes have taken place since 9/11. First, presidential authority established the United States Northern Command (USNORTHCOM) in 2002. Creation of USNORTHCOM consolidated domestic federal military activities under a single operational commander. Second, the National Guard reorganized itself at the state level and launched a series of homeland defense and security programs.² Likewise, the National Guard

¹ Richard B. Cheney, Vice President of the United States, (address, Rally for the Indiana Air and Army National Guard, Camp Atterbury, IN, 20 October 2006), http://www.whitehouse.gov/news/releases/2006/10/images/20061020-3_v102006db-0130jpg-515h.html (accessed September 2007).

² Briefing, US Northern Command, subject: State Engagement Program, 7 February 2007.

Bureau (NGB) also transformed itself by improving its national coordinating ability and refining its supporting role for state governments and the national defense community.³

Third, Congress changed the federal law (Title 32) that governs the National Guard to create the legal framework for the executive branch to employ the National Guard in HLD⁴ and civil support actions. In particular, the National Defense Authorization Act (NDAA) of 2004 amended Title 32 to allow National Guard commanders to retain their state commission after being ordered to active duty.⁵ This statutory change permits National Guard commanders, who are familiar with state and local areas of operations, the ability to serve in a “dual-status” capacity. Allowing commanders to serve in a “dual-status” capacity permits the unity of state and federal military efforts under a single commander.⁶

Despite these and other initiatives, improvements to the US ability to employ federal military capacity in support of civil authorities is contentious, in part, because of a lack of state and federal strategic cooperation over command and control authority. As a result, a political and operational rift has emerged in the state-federal support relationship creating the potential for a less than optimal response when the Department of Defense (DOD) provides support.

Purpose

The lack of unity of effort between the National Guard and federal military forces is a significant matter and must be resolved. Natural disasters such as hurricanes, tornados, floods, and earthquakes repeatedly demonstrate that catastrophes can strike unexpectedly and may quickly overwhelm the ability of local, county, tribal, and state governments to respond.

³ Ibid.

⁴ Homeland defense defined by the *Department of Defense Strategy for Homeland Defense and Civil Support* is the protection of US sovereignty, territory, domestic population, and critical defense infrastructure against external threats and aggression, or other threats as directed by the President.

⁵ US Code, *Relief from National Guard Duty When Ordered to Active Duty* (32 USC § 325), http://www.law.cornell.edu/uscode/html/uscode32/usc_sec_32_00000325----000-.html (accessed September 2007).

⁶ Ibid.

Incidents contained in national planning scenarios such as biological, nuclear, chemical, high explosive, and radiological events are also possible and may be even more overwhelming. It would be a tragedy if any state in the republic had difficulty in teaming with the federal military if any of these scenarios occurred. Since acceptance of federal military support implies saving more lives, easing suffering, and preserving property, the state-federal military support relationship must be improved for all disasters.

This paper examines the question of how command and control of military forces in support of civil authority can be achieved when the scope of a crisis requires federal involvement. Moreover, it recommends that the Title 32 dual-status command arrangement be mandated by federal and state executive order and institutionalized for all domestic military civil support responses including no-notice catastrophes unless a governor requests otherwise.

Scope and Methodology

Hundreds of issues ranging from constitutional questions to communications interoperability are raised when examining optimal command and control arrangements for the military in the homeland. The scope of this paper, however, is focused on state, federal, and military strategic considerations with respect to military support of civil authorities.

This paper draws extensively from news media, government reports, congressional testimony, and independent “think tank” documents. Existing laws and defense directives relevant to military support of civil authorities were reviewed and considered. Additionally, Joint Staff, USNORTHCOM, NGB, and state National Guard documents are referenced. The primary methodology for analyzing this information is an adaptation of the military decision-

making process and course of action (COA) analysis.⁷ All information contained in this report is unclassified.

Overview

Not having an agreed upon integrated command arrangement between the National Guard and federal military forces for domestic disaster response is counterproductive because it frustrates response efforts. The next Chapter examines the evolution of state and federal military homeland defense and civil support initiatives since 9/11. Chapter Three builds on this discussion by highlighting several contemporary disasters revealing the emergence of a political fracture between state and federal authorities over command and control. To address this issue, Chapters Four and Five describe possible domestic military command arrangements and analyze these options using a strategic interest framework to determine if an optimal solution exists. Drawing conclusions from this analysis, Chapter Six provides recommendations and implementation steps to improve domestic command and control. Lastly, Chapter Seven summarizes key points and concludes that avoiding the resolution of domestic command and control authority issues will cost the confidence of the American people and be paid for in political capital by the legislative and executive branches including the US military and National Guard.

⁷ US Department of the Army, *Staff Organization and Operations* (Washington, DC: Headquarters, Department of the Army, 1997), 5-1 - 5-31.

II. BACKGROUND

“The major institutions of American national security were designed in a different era to meet different challenges. They must be transformed.”⁸

*The National Security Strategy of the
United States of America*

The domestic role and utility of the National Guard was affirmed on 9/11 when the World Trade Center was attacked. In a disciplined and organized fashion, thousands of citizen soldiers returned home from their civilian jobs to don their military uniforms and reported in for duty before the towers collapsed. By the afternoon, a federally certified Civil Support Team and 2,490 National Guard troops were engaged in the New York response effort. Within 24 hours of the attack on the World Trade Center, 8,500 New York Army and Air National Guard members were supporting New York City by providing security and augmenting recovery efforts under New York state command and control.⁹ Weeks later, National Guard units around the country were patrolling airports, providing security for critical infrastructure, and assisting in securing the nation’s borders under the command of their respective governors.

In contrast to the New York state military response, the concerted domestic federal military response primarily consisted of launching federal status Air National Guard fighter jets to defend major metropolitan areas. Other activities, such as the Navy sailing toward New York, increasing force protection levels, and securing critical defense infrastructure were largely uncoordinated between the armed services and the national command authority. For example, on being informed that the Atlantic Fleet had departed Norfolk, steaming with aircraft carriers and cruisers toward New York, Secretary of Defense (SECDEF) Rumsfeld remarked that, “no one

⁸ George W. Bush, *The National Security Strategy of the United States of America* (Washington, DC: The White House, 2006), 43.

⁹ Briefing, US Northern Command, subject: National Guard Bureau Orientation, 30 March 2007.

[civil authority] had ordered the Atlantic Commander to do that”.¹⁰ The events of 9/11 made it clear the Pentagon lacked a unified command for coordinating and directing a federal military domestic response. As a result, less than a year later, President Bush signed a revised Unified Command Plan establishing USNORTHCOM. At a press briefing in April 2002, Chairman of the Joint Chiefs of Staff General Richard Myers, remarked, “[USNORTHCOM] will take our various homeland security missions being performed by various combatant commanders and put them under a single command.”¹¹ Not mentioned was that USNORTHCOM would be the first combatant command with geographic and operational responsibility in the domestic United States in the fifty year history of the Unified Command Plan. Further, its commander would have exclusive operational authority over domestic federal military operations for the first time since the Civil War.¹² The implications of this historic action and the relationship USNORTHCOM would have with the National Guard in performing its mission were never adequately addressed. Prior to the establishment of USNORTHCOM, Senator Christopher Bond (R-Mo) raised this concern to the Senate Defense Appropriations Subcommittee stating that, “the establishment of the Northern Command does not appear to have involved sufficient input from senior National Guard leaders.”¹³ More significantly, beyond the brief discussion in the Senate, the unilateral executive branch action establishing USNORTHCOM appears to have had little to no input from state governors, the National Guard, or the emergency management community.

Even though an exclusively domestic federal military command had been avoided throughout the Cold War, USNORTHCOM is conceptually sound in principle insofar as it is not

¹⁰ Richard A. Clark, *Against All Enemies* (New York: Free Press, 2004), 22.

¹¹ Gen Richard B. Myers, chairman, Joint Chiefs of Staff (address, Foreign Press Center, Washington, DC, 18 April 2002).

¹² The Constitution Project, “The Creation of the United States Northern Command: Potential Constitutional, Legal, and Policy Issues Raised by a Unified Command for the Domestic United States,” http://www.constitutionproject.org/pdf/Northcom_Interim.pdf (accessed September 2007).

¹³ Carl Osgood, “NORTHCOM Raises Legal, Constitutional Questions,” *Executive Intelligence Review*, 31 May 2002, <http://www.larouchepub.com/other/2002/2921usnorthcom.html> (assessed 5 December 2007).

formally assigned standing forces for responsibilities that constitutionally rest with the states and their National Guard on a permanent basis. This is in keeping with the warnings from James Madison contained in *Federalist* (No. 41) that cautioned:

Liberties of Europe, as far as they ever existed, have, with few exceptions, been the price of her military establishments. A standing force, therefore, is a dangerous, at the same time that it may be a necessary, provision. On the smallest scale it has its inconveniences. On an extensive scale its consequences may be fatal. On any scale it is an object of laudable circumspection and precaution.”¹⁴

USNORTHCOM improves upon the prior existing construct of the Secretary of the Army as the DOD Executive Agent for Military Support to Civil Authorities because it consolidates federal military command and control under a single joint command.¹⁵ By design, geographic combatant commands are operationally focused for contingencies impacting their area of responsibility (AOR). This organizational focus creates the opportunity for USNORTHCOM to plan and employ joint federal forces efficiently in the homeland. Creating efficiencies in leveraging federal military resources when and where it benefits the American public is a smart return on our national investment. Available federal military capacity that can be leveraged to support civil authorities more effectively than other means is in the public interest. However, the federal military involvement in the homeland should not be an end in itself, infringe on state responsibilities, or supplant state sovereignty.

Recognizing the convergence and growing scope of state and federal military domestic missions, Congress amended Title 32 in the 2004 NDAA permitting National Guard commanders to retain their state commission after being ordered to active duty. The change allows a National Guard commander to command both federal and state military forces

¹⁴ Alexander Hamilton et al., *The Federalist Papers*, Ed. by Clinton Rossiter (New York, NY: Penguin Group, 2003), 254.

¹⁵ US Department of Defense Directive (DODD) 3025.15, *Military Assistance to Civil Authority*, 18 February 1997.

simultaneously (dual-status) in order to preserve unity of command at the operational level. Within months of this legislative change, dual-status command arrangements were successfully implemented in three National Special Security Events (NSSE) and in support of the US Customs and Border Protection's Border Patrol during Operation Winter Freeze.¹⁶ Each of these operations were coordinated extensively between USNORTHCOM, NGB, and the National Guard and were viewed as successful examples of state and federal military cooperation.

Building on this momentum, Congress amended Title 32 again in 2005 authorizing the SECDEF to “provide funds to a governor to employ National Guard units or members to conduct homeland defense activities”.¹⁷ With these laws in place, the opportunity to federally fund and decentrally leverage the National Guard under state authority for domestic operations was established. Together, these two amendments to Title 32 establish the framework for integrating state and federal military efforts while preserving the principles of federalism. These actions also supported the concept of an active, layered defense contained in the *National Defense Strategy* and reinforce DOD's HLD and civil support vision, which recognizes that, “the National Guard is particularly well suited for civil support missions.”¹⁸

Unfortunately, federal military support of civil authorities since 9/11 is proving to be more complicated than anticipated. Regardless of how effective USNORTHCOM is, or will become, in providing support to civil authorities, it is wasted effort if this support is not employed purposefully to advance state and federal civil support goals simultaneously. The national consternation caused by the uncoordinated National Guard and federal military response in the aftermath of Hurricane Katrina makes this point clear. The White House, the Congress,

¹⁶ For more information, see Appendix 2, Dual-Status Commands.

¹⁷ US Code, *Homeland Defense Activities: Funds* (32 USC § 902), http://www.law.cornell.edu/uscode/html/uscode32/usc_sec_32_0000902----000-.html#FN-1REF (accessed September 2007).

¹⁸ US Department of Defense, *Department of Defense Strategy for Homeland Defense and Civil Support* (Washington, DC: Government Printing Office, 2005), 35.

multiple think tanks, and the American public observed dysfunctional relationships and the lack of unity of command and effort by federal and state forces. To be sure, the military performed superbly at the tactical level, but according to Executive Office of the President the strategic and operational level, “lack of an integrated command structure for both active duty and National Guard forces exacerbated communications and coordination issues during the initial response.”¹⁹ The absence of unity of command degraded the unity of effort.

Louisiana Governor Blanco’s opposition to federalizing the state National Guard and her rejection of President Bush’s offer to appoint an active duty officer instead of using a state National Guard officer as a dual-status commander highlights the clash between top-down (federal) and bottom-up (state) philosophies. Some experts have argued that Hurricane Katrina is a political anomaly and should not be used for comparison purposes. Despite this opinion, it should be noted that Hurricane Katrina and the subsequent flooding of New Orleans was the first missed opportunity for USNORTHCOM and the National Guard to demonstrate the utility of a National Guard dual-status command for a no-notice event.

Regrettably, Hurricane Katrina is not the only example demonstrating a counterproductive struggle over the issue of command and control authority. Other notable examples reflecting confusion over command and control authority include Hurricanes Rita and Wilma in 2005. These civil support actions are discussed next to further illustrate how a subtle, but significant, degradation has occurred in the state-federal relationship with respect to military support of civil authorities.

¹⁹ US Executive Office of the President, *The Federal Response to Hurricane Katrina: Lessons Learned* (Washington, DC: The White House, 2006), 43.

III. POLARIZING DOMESTIC MILITARY ASSISTANCE

“Did we need a three-star general from Texas to come to direct our response? No, we did not.”²⁰

Major General Douglas Burnett
The Adjutant General of Florida

After witnessing the federal-state civil support complications and errors that occurred in the aftermath of Hurricane Katrina, Governor Perry of Texas was determined to lead the Hurricane Rita response by retaining command and control over the Texas National Guard. In response to a White House request to establish an active duty officer as a dual-status commander, Governor Perry requested Presidential authorization for a Texas National Guard officer to be approved as a dual-status commander.²¹ Fortunately, Hurricane Rita did not have the impact on Texas that Katrina had on Louisiana and significant federal military support was not required. Nevertheless, Governor Perry’s request went unfulfilled and unity of command under a dual-status arrangement never happened. Federal military forces operating in Texas answered to the federal chain of command that ran back to USNORTHCOM versus integrating with the state military response effort directly.

The stalemate over command and control left the impression with Governors and Guard members that a National Guard dual-status commander was not trusted to lead both state and federal forces for a disaster response. Reinforcing this notion, the Bush administration later suggested that the active military take a greater role in disaster response.²² In a speech delivered in Washington two months later, Governor Perry summarized his conviction regarding the importance of the National Guard retaining command and control by pointing out that “the

²⁰ Robert Block and Amy Schatz, “Local and Federal Authorities Battle to Control Disaster Relief,” *Wall Street Journal*, 8 December 2005.

²¹ Brian Newby, (chief of staff, Office of the Governor, Texas), interview by the author, 4 December 2007.

²² Associated Press, “Military Disaster Role Debated,” *Colorado Springs Gazette*, 5 November 2005.

Guard is fully integrated into the civil response force” and “in state disasters, the active duty military ought to be seen as our reserve force.”²³

By October of 2005, Hurricane Wilma was threatening Florida, creating the perfect storm for a state and federal showdown. Determined to be in place and ready to respond to any Federal Emergency Management Agency (FEMA) mission assignment, USNORTHCOM alerted the Fifth Army under the command of Lieutenant General Clark and began planning to establish a Joint Task Force (JTF) in Florida. A dual-status command arrangement was never proposed by USNORTHCOM. Upon discovering the pending deployment of federal military forces, Governor Bush of Florida called the Secretary of the Department of Homeland Security (DHS), Mr. Chertoff and complained that the federal government’s unilateral actions were insulting to him personally and the citizens of Florida.²⁴ A rumor spread throughout the response community that if federal forces tried to cross state lines police troopers would meet them at the border. In the end, Fifth Army did not deploy a JTF and DHS did not dispatch a Principal Federal Official (PFO).²⁵ Florida survived Hurricane Wilma and despite a superb recovery, the response would have benefited with federal assistance because the demand for ice outstripped supplies due to the power for over six million people being out.²⁶

Two significant themes emerge from these experiences. First is the reluctance of a state to give up its sovereignty and authority during a crisis. Second is the state’s desire to have its own National Guard commander in command of *all* military forces that are in support of a state response. More importantly, these cases illustrate a trend in the state/federal relationship and

²³ Governor Rick Perry, “Federalizing Disaster Response” (lecture, The Heritage Foundation, Washington, DC, 7 November 2005).

²⁴ Block & Schatz, “Local and Federal Authorities Battle to Control Disaster Relief.”

²⁵ Principal Federal Official is the Federal official designated by the Secretary of Homeland Security to act as his/her representative locally to oversee, coordinate, and execute the Secretary’s incident management responsibilities under HSPD-5 for Incidents of National Significance. For more information, see the Department of Homeland Security *National Response Plan*.

²⁶ Block & Schatz, “Local and Federal Authorities Battle to Control Disaster Relief.”

evidence that federal assistance can be viewed as a complicating factor rather than a solution even in a crisis. Where federal military forces are concerned, it reflects an unacknowledged tension that exists in USNORTHCOM's inability to integrate with the National Guard and seamlessly support state requirements during a contingency.

In addition to these cases, several other factors are reinforcing state concerns regarding a shift in the state/federal relationship. First, it has not gone unnoticed by state leaders that in the two years since Hurricane Katrina and in the three years since the establishment of the dual-status authority provision, a plan to operationalize the congressionally authorized Title 32 authority is conspicuously missing.²⁷ For example, the Command and Control annex of USNORTHCOM's Concept Plan (CONPLAN) 2501, *Defense Support of Civil Authorities*, does not acknowledge the dual-status command arrangement. The reference to the National Guard in the Operations annex is listed under the Support and Coordination Relationships section below the non-DOD supporting Organizations paragraph and states:

Coordination with the non-Federalized National Guard (NG). National Guard forces operating in a non-Federalized status operate under State control when performing civil support operations. USNORTHCOM will coordinate with the National Guard Bureau (NGB) *as needed* (emphasis added). NGB is the channel of communication between USNORTHCOM and the National Guard of the states.²⁸

Additionally, the three command and control diagrams offered by the annex focus exclusively on a federal only response and ignore the National Guard entirely.

Second, in the two years since Congress legislated authority for the SECDEF to "provide funds to a governor to employ National Guard units or members to conduct homeland defense activities" a policy providing clear guidance on what is considered, "necessary and appropriate"

²⁷ The Council Of State Governments, "Resolution In Support Of The Governors' Power To Control The National Guard," <http://www.csg.org/pubs/Documents/National%20Guard%20Resolution.pdf> (assessed 14 December 2007).

²⁸ US Northern Command Concept Plan (CONPLAN) 2501-05, *Defense Support of Civil Authorities*, April 2006, J-8.

is still missing. Today National Guard Title 32 missions such as providing support to DHS along the US southern border in Operation Jump Start operate under direction of the President rather than DOD.²⁹

Third, when the 2006 NDAA amended the Insurrection Act and expanded presidential authority over the National Guard in public emergencies, state governors were stunned. Prior to its passage, the National Governors Association representing all governors from both political parties pleaded in a letter to the SECDEF to oppose the change because, “it would usurp the authority of governors to command the National Guard in response to a disaster.”³⁰

From a state’s perspective, connecting the dots between the controversy surrounding dual-status command and parallel command arrangements in the 2005 hurricane season response is not difficult. Governors as well as state officials are concerned with a federal encroachment on their political and constitutional responsibility and the safety of their citizens. During the early years of the Air National Guard, states confronted the same issue of command and control. The most basic problem in Air Force-Air Guard relations back then was the question of command authority.³¹ On more than one occasion, the Air Force sought Congressional elimination of the Air Guard’s dual state-federal status.³² Sixty years later governors still fight to retain control over the National Guard and civil support operations conducted within their states. These tensions must be addressed if we are to ensure the best possible response that synergizes both state and federal military capability following a disaster.

²⁹ The Executive Office of the President, *Fact Sheet: Operation Jump Start: Acting Now to Secure the Border*, <http://www.whitehouse.gov/news/releases/2006/08/20060803-7.html> (accessed 25 September 2007).

³⁰ Janet, Governor Napolitano, Governor Tim Pawlenty, Governor Mark Sanford, and Governor Michael F. Easley, National Governors Association, letter to secretary, Department of Defense, 31 August 2006, <http://www.nga.org/portal/site/nga/menuitem.cb6e7818b34088d18a278110501010a0/?vgnextoid=ac86e362c5f5d010VgnVCM1000001a01010aRCRD&vgnnextchannel=4b18f074f0d9ff00VgnVCM1000001a01010aRCRD> (accessed 15 September 2007).

³¹ Charles Gross, *The Prelude to the Total Force* (Honolulu, HI: University Press of the Pacific, 1985), 24.

³² *Ibid.*, 42.

The strategic damage from a polarized federal-state relationship cannot be overstated. Debating over command and control during a crisis wastes precious time and could potentially lead to future hesitation or outright rejection of federal assistance. Moreover, current DOD policies that block operational integration of federal military resources are counterproductive. Congressional foresight in 2003 codified that National Guard dual-status commands would be essential to bridge the US Constitution's division of responsibilities between the federal and state governments. Dual-status command preserves Presidential and Gubernatorial authority and leverages the tremendous US military capability for response in the homeland. Therefore, the question of why dual-status commands have not been wholeheartedly embraced for domestic military response after four successful experiences in 2004 must be examined. To explore this issue further, the next chapter examines and analyzes different command and control options.

IV. COMMAND AND CONTROL IN THE HOMELAND

“The teams and staffs through which the modern commander absorbs information and exercises his authority must be a beautifully interlocked, smooth-working mechanism. Ideally, the whole should be practically a single mind.”

General Dwight D. Eisenhower

Domestic emergency management doctrine is based on a tiered framework that originates at the local level and is progressively supported by additional response capability when needed. Since most emergencies are limited in scope and scale this policy is generally extremely successful. The benefits include rapid, efficient, and cost effective responses meeting the needs of the American public for most situations. The bottom up approach also encourages community resiliency and promotes self-sufficiency at the local level.

Unfortunately, not all disasters are limited in scale. Catastrophic events, while infrequent, do occur and can result in mass casualties, damage, and disruption exceeding the response capabilities of local and state government. Tiered response processes in catastrophic events are overwhelmed simply because public and private systems and infrastructure are incapacitated or destroyed. These situations require dynamic and flexible command and control arrangements to address the wide range of problems that will arise. Regardless of the scale and scope of a disaster, four basic military command and control options are available to our military and civilian leadership. These four options titled State Command, Parallel Command, Dual-Status Command, and Federal Command are presented next.

State Command

The first option is state command and consists purely of National Guard forces ordered to duty by a governor. Every aspect of National Guard employment is in accordance with state law

and funded by the state. Several hundred Guardsmen around the nation are in State Active Duty (SAD) every day performing state missions such as search and rescue, incident response, and critical infrastructure protection. These missions also provide a domestic deterrence against potential attackers and indirectly support the nation's HLD and HLS³³ missions. The other status that falls under state command is Title 32. In Title 32 status, Guardsmen perform duties to accomplish training for their federal mission or execute operational missions approved by the federal government such as counter drug or homeland defense activities. For example, the air sovereignty alert mission in support of Operation Noble Eagle and the ongoing southwest border support operations are Title 32 missions. Because the differences between SAD and Title 32 duty status are significant, Appendix 1 provides a comparison for reference.

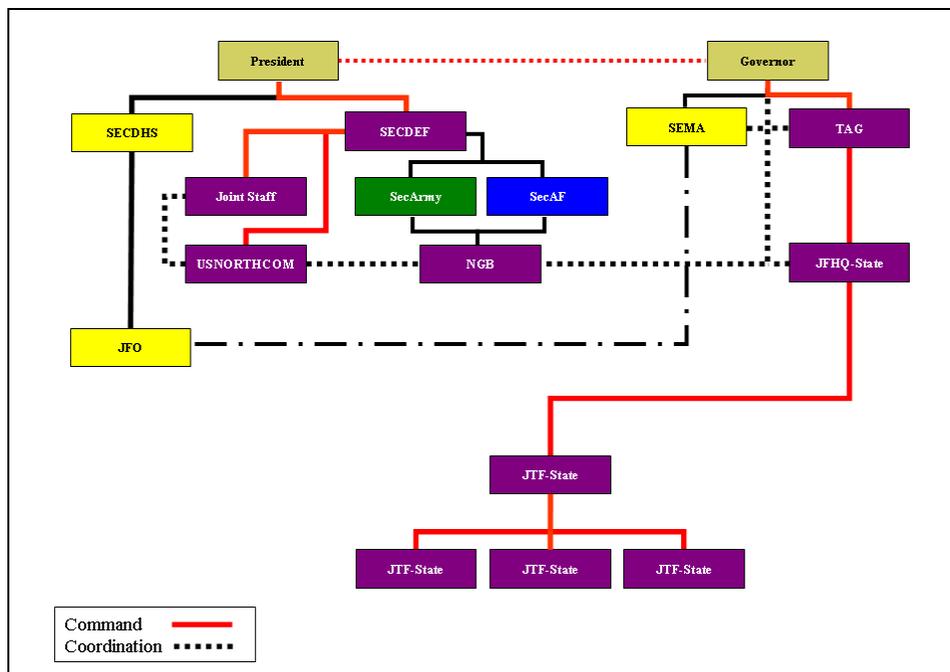
The concept of state command entails a state Joint Force Headquarters (JFHQ-State) providing command and control for all in-state National Guard forces. The JFHQ-State can also act as a joint service headquarters for national-level response efforts during contingency operations.³⁴ In this role, the JFHQ-State will generate a tailored JTF to assume tactical control of National Guard units supporting emergency response requirements. For operations that demand a large response force or multiple unique military capabilities (i.e. security, aviation, etc.) subordinate JTFs may be generated. A simplified national command and coordination diagram that portrays the state command and control structure is depicted in Figure 1 and reflects a generic multiple JTF-State structure illustrating the simplicity of state only coordination.

In the event a specific military capability is not available in state, assets can be requested through mutual aid agreement, the Emergency Management Assistance Compact (EMAC), other

³³ Homeland Security defined by the *National Strategy for Homeland Security* is the concerted national effort to prevent terrorist attacks within the United States, reduce America's vulnerability to terrorism, and minimize the damage and recover from attacks that do occur.

³⁴ National Guard Bureau, "Joint Force Headquarters - State Fact Sheet," <http://www.ngb.army.mil/features/HomelandDefense/jfhq/JFHQ-State.doc>.

emergency assistance compacts, or the Stafford Act. The utility of states sharing National Guard capability as well as other resources was well demonstrated during Hurricane Katrina.³⁵ Over the last two years, several initiatives have refined the EMAC coordination process considerably. For example, in large-scale response operations that involve the activation of the Federal Emergency Management Agency’s National Response Coordination Center (NRCC), the NRCC is staffed with EMAC, DOD, and NGB liaisons to ensure requests are properly coordinated and deconflicted at the national level.



SOURCE: National Guard Bureau.

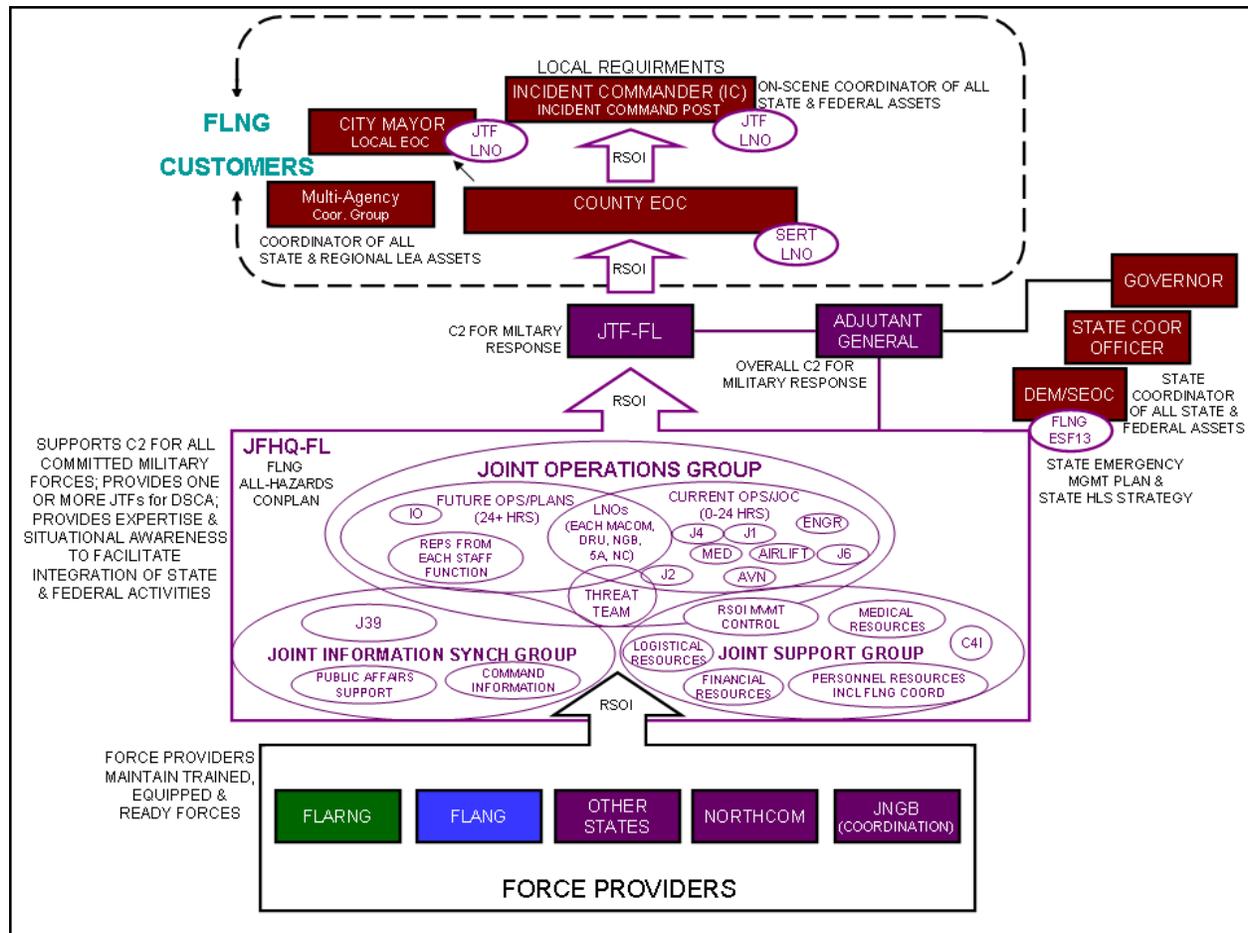
Figure 1. State Command and Control³⁶

As out of state forces arrive, the JFHQ-State is designed to provide Joint Reception, Staging, Onward Movement, and Integration (JRSOI) to synchronize them into ongoing operations. Since JRSOI may entail absorbing a massive infusion of military forces, a dedicated JTF may be established to handle the influx of personnel. For example, Figure 2 depicts the

³⁵ For more information on the see, *The Federal Response to Hurricane Katrina: Lessons Learned*.

³⁶ Briefing, National Guard Bureau, subject: National Guard Bureau Orientation, 30 March 2007.

Florida National Guard operational concept for doing this and graphically illustrates the synchronization of external non-federal resources into an ongoing response operation.



SOURCE: Florida National Guard.

Figure 2. Domestic Operations in Florida³⁷

Communication and coordination is provided in every JFHQ-State with an around the clock Joint Operations Center (JOC), which provides situational awareness and a common operating picture (COP) to state and federal stakeholders. Not only is every state JOC capable of classified and unclassified operations, they are tightly integrated with state emergency operations centers (EOCs) and staffed with experienced personnel.

³⁷ BG Buddy Titshaw, JTF Commander, Florida National Guard (address, National Guard Bureau Domestic Operations Conference, Las Vegas, NV, 23 March 2006).

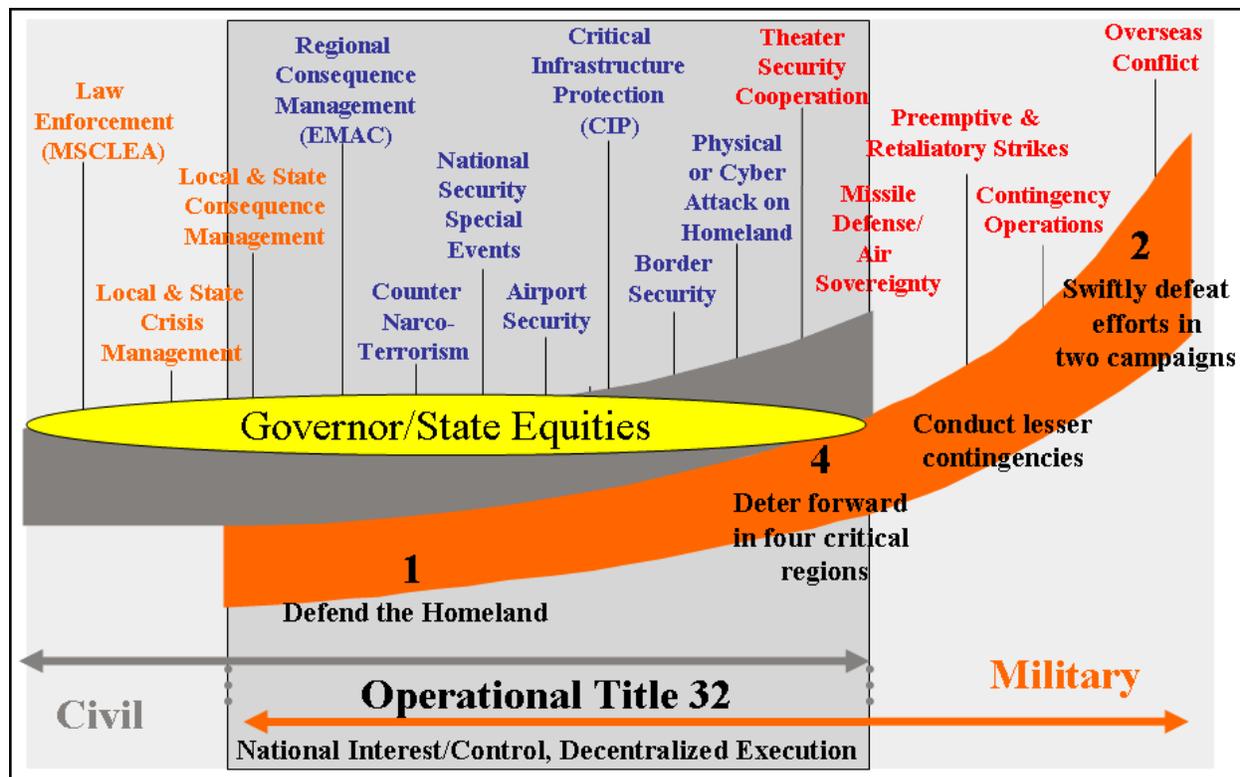
The primary advantages of the state command option include the preservation of state sovereignty over the response effort, detailed local area knowledge, clear lines of command, unity of effort, unity of command, avoidance of Posse Comitatus restrictions, and fast response times. With a pure state Guard response, governors retain their constitutional authority and control. Additionally, this option maximizes familiarity with local conditions, resources, personalities, and organizations.

Because governors' constitutional responsibilities span a wide range of issues ranging from enforcement of civil order to protecting critical infrastructure, the National Guard is a powerful capability in supporting a governors' ability to discharge their duties of office effectively. Figure 3 overlays several of these equities against the National Defense Strategy and shows the range of possible duty statuses to highlight the overlapping state-federal relationship. Viewed in this manner, it is apparent why programs such as WMD Civil Support Teams (WMD CST), CBRNE Enhanced Response Force Packages (CERFP), and National Guard Rapid Reaction Forces (NGRF) are considered essential by every state. Each of these initiatives is an expression of the state pursuing its responsibilities to secure its own citizens while establishing capabilities that can be shared to meet regional or national needs.

Activating a state command is relatively simple because state emergency management plans integrate the capabilities of state National Guard units and in some cases those of neighboring states. For example, Florida and Georgia have standing agreements for sharing resources in addition to the EMAC, which can tap resources nationally.

Another advantage of state command is that emergency management personnel, first responders, and Guardsmen at all levels are typically highly networked and have a comprehensive understanding of the local political, geographic, social, cultural, and industrial

environment. At the senior level of state government, the Adjutant General (TAG), State Emergency Management Director, and Director of HLS are usually members of the governor’s cabinet and their respective organizations are tightly integrated. In several states, the TAG is triple hatted with all three responsibilities. In many other states, the TAG wears the hat of the Emergency Management Director or the Director of Homeland Security.³⁸



SOURCE: National Guard Bureau.

Figure 3. Governor Equities³⁹

Exercising a pure state command option creates an inherently fast National Guard response because Guard units are community based throughout the nation. The ability to generate forces rapidly from over 3,200 locations nationwide is essential to being effective on the ground within the first 72 hours of a disaster. The fact that over 2,500 Guardsmen were

³⁸ MG Timothy J. Wright, director of operations, National Guard Bureau, “Keynote Address,” http://proceedings.ndia.org/7030/Wright-Keynote_Brief.pdf (accessed 15 October 2007).

³⁹ LTG Steven H. Blum, chief, National Guard Bureau (address, NGB J-3 Domestic Operations Conference, Las Vegas, NV, 21 March 2006).

participating in the New York City response on 9/11 is proof of this statement. Finally, because the National Guard is a reserve force, it provides a tremendous return on investment from a fiscal perspective. National Guard personnel costs are dramatically lower because the majority of its members are “part-time” and the “full-time” expenses associated with active duty personnel are avoided in steady-state operations.

The key disadvantage of the state command option is that it cannot absorb federal military capability under its authority. For example, under emergency response authority, federal military forces can only coordinate with the National Guard because of separate legal authorities. The inherently limited statutory framework of the state command option means achieving true unity of effort is not possible. This conclusion is well documented in the Hurricane Katrina lessons learned.⁴⁰

Parallel Command

The second command option introduces federal military forces under the command and control of USNORTHCOM. For civil support operations, the federal military responds to DOD approved requests that originate from an incident command within a state and USNORTHCOM employs capabilities that operate in parallel with state Guard forces. The underlying assumption for this approach is the federal military is available and prepared to respond. Additionally, it is assumed that the National Guard will already be operationally engaged given their proximity and ability to respond rapidly.

Parallel state/federal commands have been used exclusively since Operation Winter Freeze in 2004 for operations ranging from the deployment of Navy salvage divers to multiple JTFs with thousands of soldiers. In all cases, USNORTHCOM operates in support of a federal

⁴⁰ For more information, see *The Federal Response to Hurricane Katrina: Lessons Learned*.

agency responsible for an Emergency Response Function (ESF) with the exception of ESF-3, Public Works and Engineering, which is the responsibility of the Army Corps of Engineers. The federal response occurs in support of the already ongoing state response. Every request is evaluated against the following DOD criteria⁴¹ before SECDEF approval is granted:

- Cost - Who is going to pay or reimburse DOD?
- Appropriateness - Should DOD be the provider?
- Risk - What are the potential health and safety risks to DOD forces?
- Readiness - Will the assistance have an adverse impact on the unit's primary mission?
- Legality - What is the authority that permits the assistance requested by civil authorities?
- Lethality - Is there any potential for the use of lethal force by or against DOD forces?

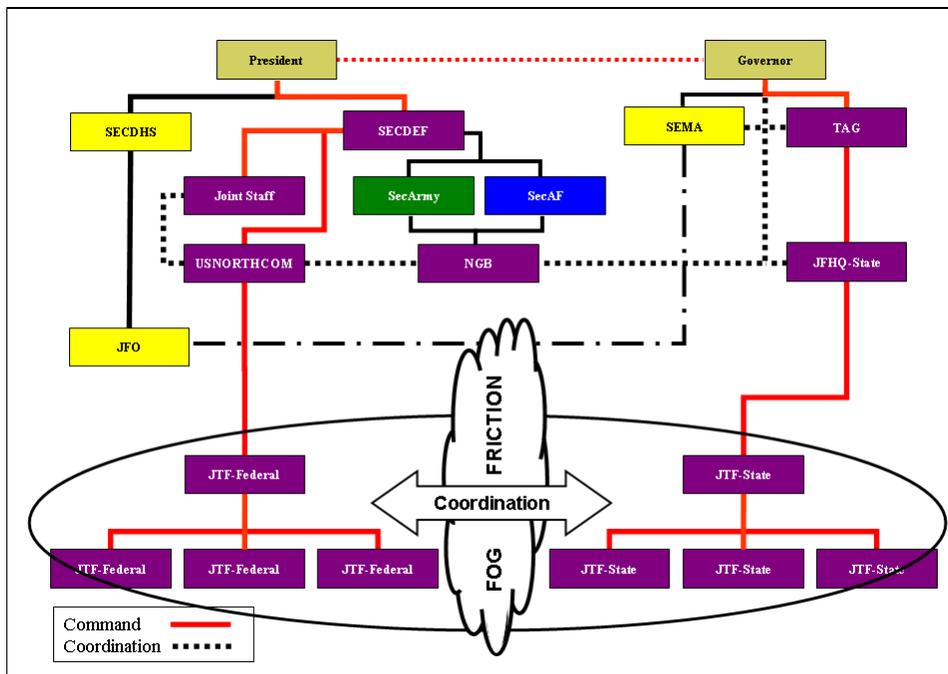
With respect to command and control, the concept of operations is to match an appropriate structure to meet the span of control requirements for the magnitude of the requested response. For example, in a small-scale operation, the Defense Coordinating Officer (DCO) may act as a Joint Force commander. For larger responses, a dedicated JTF or a Functional Component Command may be employed.

The advantage of this approach is the ability to coherently employ the resources of the federal military in support of a disaster response. As a combatant command, USNORTHCOM can coordinate and direct joint federal military forces at the strategic level to support the affected state. Federal and state military chains of command, authorities, and accountability are clear from the tactical level on up.

The disadvantage of a parallel command operation is the increased complexity of activity coordination due to the division of command at the operational level. State sovereignty is not challenged because the federal military JTF is executing mission assignments generated from the

⁴¹ US Department of Defense Directive (DODD) 3025.15, *Military Assistance to Civil Authority*, 18 February 1997, 3.

Joint Field Office (JFO) in support of a state requirement. Parallel command military operations can be problematic in the chaotic environment of a disaster recovery because control of information, timely decision-making, synchronization, interoperability, and situational awareness are degraded when command and control is divided. The generic parallel command and control structure depicted in Figure 4 illustrates the organizational divide and the high degree of effective coordination that must occur at the operational and tactical level for this option to be effective.



SOURCE: National Guard Bureau.

Figure 4. Parallel Command and Control⁴²

Parallel command arrangements are contrary to both civil and military doctrine. Under the authority of Presidential Directive 5, *Management of Domestic Incidents*, the National Incident Management System (NIMS) and the Incident Command System (ICS) explicitly

⁴² Briefing, National Guard Bureau, 30 March 2007.

recognize the need for unity of command to clarify reporting relationships and eliminate the confusion of multiple, conflicting directives.⁴³

Additionally, Joint Publication (JP) 1, *Doctrine for the Armed Forces of the United States*, states, “Command is central to all military action, and unity of command is central to unity of effort.”⁴⁴ Moreover, JP 3-16, *Joint Doctrine for Multinational Operations* emphasizes that the use of a parallel command structure should be avoided if at all possible because of the absence of a single commander.⁴⁵ Despite the universality of unified command doctrine and the authoritative nature of this guidance, the parallel command option has been employed exclusively and with mixed results since 2005.

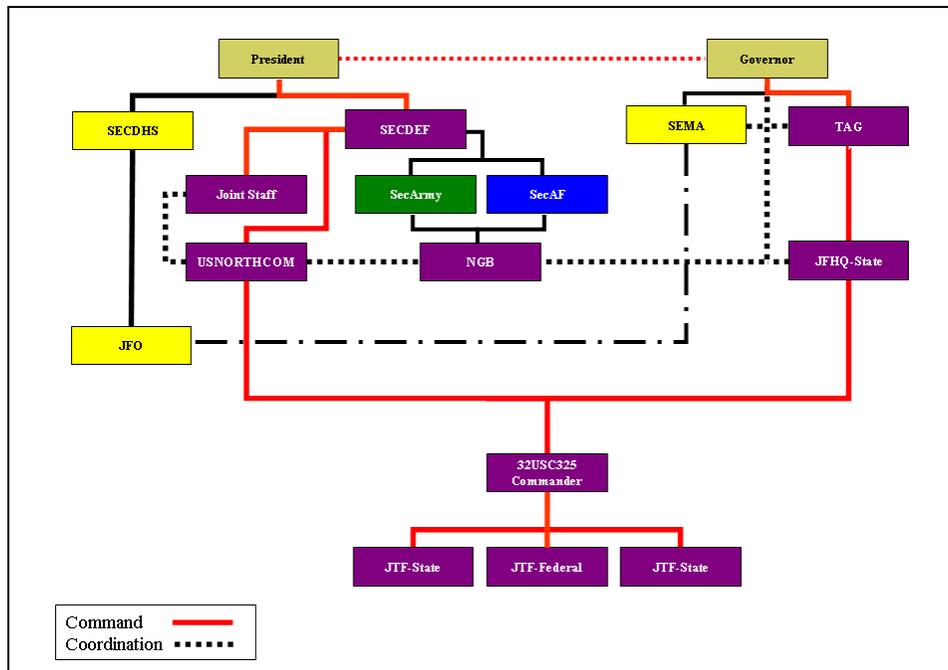
Dual-Status Command

The dual-status command structure combines the advantages of the state command option and the parallel command option. The dual-status command structure addresses the unity of command dilemma directly. Under this construct, a National Guard commander on Title 32 status is ordered to federal active duty (Title 10 status), retaining his or her state commission when activated. This “dual-status” provides the statutory authority for one person to command both state and federal military forces simultaneously. This permits the dual-hatted commander to control a unified military response at the operational level in support of the state. In Figure 5, a notional dual-status command illustrates the chain of command beginning with the president and governor. National Guard forces in SAD or Title 32 status perform state missions under the authority of the governor and assigned Title 10 federal forces perform Defense Support of Civil Authority (DSCA) for USNORTHCOM.

⁴³ US Department of Homeland Security, *National Incident Management System* (Washington, DC: Government Printing Office, 2004), 11.

⁴⁴ Joint Publication (JP) 1, *Doctrine for the Armed Forces of the United States*, May 2007, IV-1.

⁴⁵ Joint Publication (JP) 3-16, *Joint Doctrine for Multinational Operations*, March 2007, II-7.



SOURCE: National Guard Bureau.

Figure 5. Dual Status Command and Control⁴⁶

The advantages of the dual-status command include a governor retaining authority over the response, clear lines of command, and the ability to integrate federal military forces operationally to achieve unity of effort. Conversely, Presidential command and control is preserved. Every advantage previously described for the state command applies to the dual-status command. Additionally, the dual-status command promotes the control of information, timely decision-making, synchronization, interoperability, and situational awareness for both state and federal forces. This option also complies with the Congressional intent of 32 USC § 325 and JP 1 with respect to establishing unity of effort.

Another advantage of the dual-status command is that it has the ability execute interstate operations with assigned Title 10 forces. This is possible because a dual-status commander with Title 10 authority can operationally direct Title 10 assigned forces regionally. Disasters such as an earthquake along the New Madrid fault line, which would affect multiple states, could be

⁴⁶ Briefing, National Guard Bureau, 30 March 2007.

effectively managed with dual-status commands located in each state with assigned federal military forces. The operational flexibility to direct federal military forces to wherever they are most needed regionally would reduce the interstate seams that currently exist and improve the application of military capability.

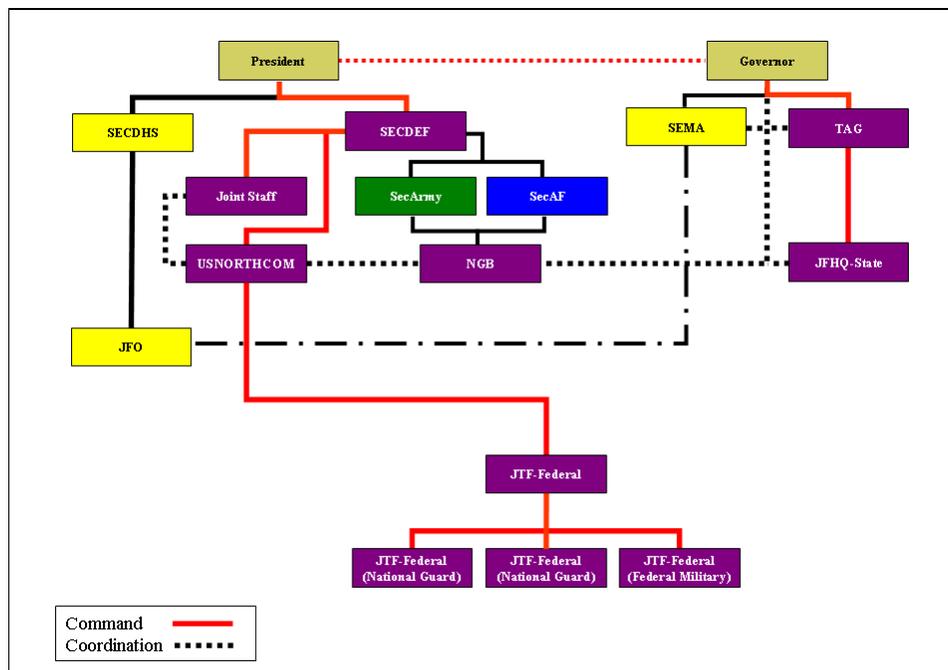
The disadvantages include the complexity of the current request process for dual-status approval, potential conflicting strategic level guidance, and separation of the legal lines of operation. For a dual-status command to be established a commander must be authorized by the President of the United States (the President) and consented to by the governor. Either sovereign executive may initiate the process. Until dual-status commanders are routinely pre-approved, reacting quickly to a disaster will be challenging. Conflicting strategic guidance can also potentially present problems for a dual-status commander. These conflicts would only originate between the President and a governor in which case a deadlock would require negotiation between both sovereign executives. Finally, a dual-status command risks utilizing state and federal forces in operations prohibited by law. An example of this would be federal forces performing law enforcement activities.

Federal Command

The final option is a pure Title 10 federal command. In this command arrangement, all National Guard forces are federalized and integrated with active duty forces under the command and control of USNORTHCOM. Resorting to this option is unlikely unless an extreme event unfolds and a state is completely overwhelmed and government ceases to operate. Under these conditions, the President is constitutionally obligated to restore public order and enforce the laws of the United States. The President is empowered under Title 10 to “call into Federal service such of the militia of any State, and use such of the armed forces, as he considers necessary to

enforce those laws or to suppress the rebellion.”⁴⁷ Once state civil authorities regain the ability to provide for the rule of law and can maintain public order the control of National Guard forces can be transferred back to state authority.

The concept of operation is to mobilize National Guard forces using the JFHQ-State and integrate them into the responding federal JTFs or Functional Component Commands illustrated in Figure 6. The federal government unilaterally makes decisions and Presidential involvement is expected to be significant until functioning civil authority is restored in the affected state.



SOURCE: National Guard Bureau.

Figure 6. Federal Command and Control⁴⁸

The advantage of a federal command is it preserves US sovereignty, leverages the Total Force, and establishes unity of command and effort. The disadvantages include compromising state sovereignty, the political cost of federalizing the National Guard, and the economic cost of taking charge of the response.

⁴⁷ US Code, *Use of Militia and Armed Forces to Enforce Federal Authority* (10 USC § 332), http://www4.law.cornell.edu/uscode/html/uscode10/uscode10_00000332---000-.html (accessed November 2007).

⁴⁸ Briefing, National Guard Bureau, 30 March 2007.

Not having a standardized approach for command and control of civil support events is detrimental because it complicates response effectiveness and cohesion when it is most needed. Recognizing that every disaster response will be unique, determining the one “best” option that optimizes National Guard and federal military command and control is problematic. Given this dilemma, the next Chapter analyzes these command and control options to determine if an optimal command and control structure exists.

V. COMMAND AND CONTROL ANALYSIS

The purpose of unity of command is to ensure unity of effort under one responsible commander for every objective.⁴⁹

The following analysis compares command and control options to determine the best course of action (COA) to optimize a joint National Guard and federal military response for all civil support contingencies. The methodology used is an adaptation of the military decision-making process and establishes the facts, assumptions, restraints, and constraints considered in the command and control options discussion. The framework of this analysis is predicated on the three strategic considerations relevant to domestic operations and aims to optimize future operational activities by providing commanders the maximum flexibility to overcome unforeseen events. The order, in which these considerations are presented, is not a reflection of priority as they are all equally pertinent.

The first strategic consideration examined is the federal interest. These interests include preserving US sovereignty, enforcing law and order (i.e. preserving Constitutional guarantees), assisting state recovery, managing political costs, and minimizing economic costs. All three branches of the US government influence federal interests, but for the purpose of this discussion, the most relevant branches are Congress, which provides the ways and the Executive, which determines the ends and means. Second, are state considerations that include preserving state sovereignty, enforcing state and federal law and order, and assisting local recovery activities. Similar to federal interests, state interests are concerned with confidence in government, security, restoring its affected communities, and political and economic costs. The third strategic consideration includes military factors that support achieving national and state political goals. These objectives include unity of command, unity of effort, response time, readiness, simplicity,

⁴⁹ Joint Publication (JP) 3-0, *Joint Operations*, September 2006, A-2.

and the economy of force. This list is not suggesting that the objectives of offense, mass, maneuver, and surprise are not important, rather their nature is not as relevant for the range of military operations that are anticipated in supporting disaster relief.

Using the federal, state, and military strategic considerations as a framework, an optimal command and control solution theoretically lies at the intersection of these interests. This ideal solution should also account for the range of legal statutes established by federal and state law. Together these factors define the command and control interest map depicted in Figure 7.

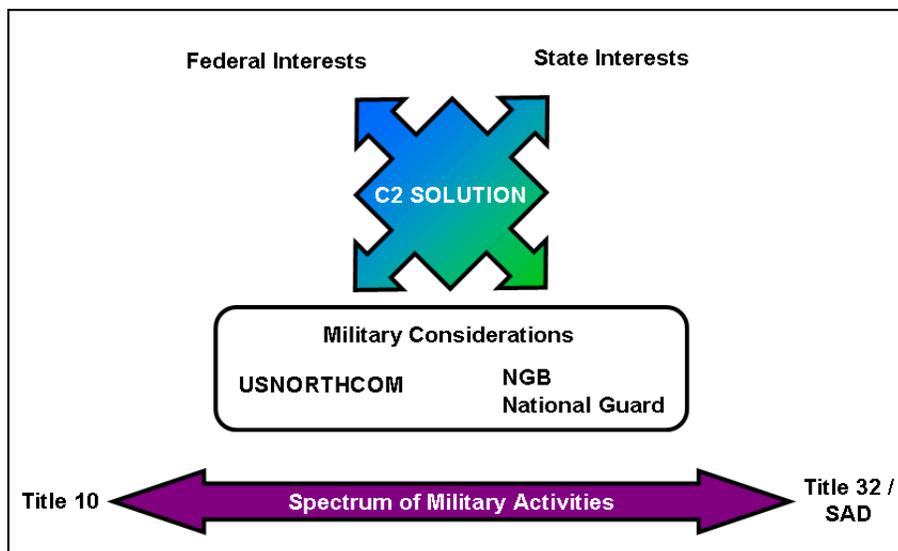


Figure 7. Command and Control Interest Map

To ensure a common baseline is established prior to analyzing each of the strategic considerations, the relevant facts, assumptions, restraints, and constraints are provided in Appendix 3 to complement the previous discussion on command and control.

COA Analysis

This analysis considers only those command and control options that are suitable, feasible, acceptable, and distinguishable. Because the state command option is not suitable or feasible with respect to integrating National Guard and federal military forces it is not

considered. Federal command is considered however because it does integrate forces together despite the fact that they are under federal control. The command and control options examined are COA 1 – Parallel Command, COA 2 – Dual-status Command, and COA 3 – Federal Command. Using a scale of 1-3, with three being the most preferred, Tables 2, 3, and 4 rank the COAs against the federal, state, and military considerations. Finally, each consideration is weighted equally.

Federal Policy Considerations

In the first analysis, the federal considerations are evaluated against each course of action to determine the command and control option that best satisfies its strategic requirements. Each overarching interest examined is fundamental to preserving the ability of the US to provide a functional national government and security for its citizens during time of crisis.

Federal Policy Considerations	COA 1	COA 2	COA 3
Preserve US sovereignty	1	2	3
Enforce law / restore public order	1	3	2
Assist state recovery	1	3	2
Political Cost	2	3	1
Economic Cost	2	3	1
HIGH SCORE IS MOST PREFERRED	7	14	9

Table 1. Federal Policy Considerations

Preserve US sovereignty – US sovereignty is the responsibility of the federal government and federal command and control is appropriate for responding to contingencies where state government is ceases to exist, is no longer functioning, or is severely challenged in executing its constitutional responsibilities. COA 3 ranks the highest on this attribute because centralized national command and control is best suited to fill the political and operational vacuum expected to arise in these scenarios. COA 2 ranks ahead of COA 1 because anything less then the

catastrophic loss of state control favors a dual-status command because it better supports the control of information, timely decision-making, synchronization, interoperability, and situational awareness. Moreover, COA 2 decentralizes the execution of dealing with threats to operational commanders who are subject matter experts (SME) for their existing areas of operation (AO) and responsibility. For example, Operation Winter Freeze demonstrated the effectiveness of COA 2 because the dual-status commander was a National Guardsman who was intimately familiar with the AO. Moreover, the Operation Winter Freeze validated that dual-status command arrangement in supporting US sovereignty by assisting Border Patrol operations in support of ensuring US territorial integrity.

Enforce law / restore public order – COA 2 ranks highest because in a dual-status command arrangement efficiency gains in unity of effort are expected to improve the prioritization and allocation of limited forces, which will support synchronization of military support to law enforcement. Per the Posse Comitatus Act (PCA), federal military forces can provide civil support, but cannot become directly involved in law enforcement.⁵⁰ An exception to the PCA does exist in 10 USC § 332 and federal forces can provide law enforcement support under limited and extraordinary circumstances in which case COA 3 would prevail and is why it outranks COA 1. Finally, COA 2 is expected to be more effective than COA 3 due to the AO expertise that a dual-status commander will have.

Assist state recovery – Because a dual-status command can be established prior to the arrival of federal forces and National Guard forces will remain after they redeploy, this structure offers the best option with respect to continuity and responsiveness for both the state and federal government. Investing in the empowerment of state and local level capability also increases the resiliency of our communities at the grass roots level, reduces federal dependency, and

⁵⁰ About USNORTHCOM, <http://www.northcom.mil/About/index.html> (accessed September 2007).

encourages self-sufficiency. Scenarios that involve widespread incidents may also exhaust the ability of the federal military to assist and the strength of local resiliency will be critical to response and recovery operations. Additionally, dual-status commands could operate regionally with assigned Title 10 forces and therefore can provide interstate flexibility. COA 1 ranks last because it is less efficient organizationally than COA 3 where a single chain of command is expected to produce a greater degree of unity.

Political Cost – COA 3 is ranked last because depriving a state of its control in a civil support (most likely) scenario is viewed as high in political cost. This statement is supported experientially beginning with the aftermath of Hurricane Katrina and the flooding in New Orleans when President Bush was reluctant to involuntarily mobilize the National Guard and implement a pure federal response. COA 2 received the highest score because it creates a supportive, win-win relationship that builds on existing synergies and expertise.

Economic Cost – COA 2 ranks at the top for economic cost because a dual-status command is optimized to synchronize both state and federal forces in supporting state and regional responses reducing the possibility for duplication of effort and wasting valuable resources. Evidence of these savings are documented in the after action reports of Operation Winter Freeze which noted, “by combining the command and control structures of the active and Guard organizations involved in the operation, the taxpayers reaped a savings of more than \$8 million.”⁵¹ COA 3 ranks last because the pure federal command is expected to incur the highest costs due to logistical factors, inefficiencies, and expense of utilizing DOD resources.

⁵¹ MSgt Bob Haskell, “Winter Freeze Wrap-Up,” *USNORTHCOM News*, 22 March 2005, <http://www.northcom.mil/News/2005/032205.html> (accessed 17 September 2007).

State Policy Considerations

In the second analysis, state considerations are evaluated against each course of action to determine the command and control option that best satisfies its strategic requirements. Each overarching interest examined is fundamental to preserving the ability of a state to govern in a crisis environment.

State Policy Considerations	COA 1	COA 2	COA 3
Preserve state sovereignty	2	3	1
Enforce law / restore public order	2	3	1
Assist local recovery	2	3	1
Political Cost	2	3	1
Economic Cost	2	3	1
HIGH SCORE IS MOST PREFERRED	10	15	5

Table 2. State Policy Considerations

Preserve state sovereignty – The top ranking of COA 2 reflects the policy position of the National Governors Association, National Guard Association of the US, and supports the insistence by states for dual-state command arrangements dating back to the NSSE’s of 2004. Today, the dual-status command is a top priority as evidenced by Colorado’s request for a dual-status commander prior to the announcement of the Democratic National Convention as a NSSE last spring.

Enforce law / restore public order – Similar to the rationale for the federal consideration, COA 2 is the highest ranking because the PCA does not apply to National Guard forces and a dual-status commander is well positioned to support law enforcement requirements in the aftermath of a disaster.

Assist local recovery – For the same reasons that a dual-status command is the preferred COA by the federal analysis it is also preferred by the state analysis because it offers the most benefits. Specifically, dual-status command optimizes responsiveness, continuity,

empowerment, resiliency, and flexibility for a state because it integrates both National Guard and federal forces under a single operational commander. Prior to the establishment of USNORTHCOM, Major General Richard Alexander, retired, raised this point to the Senate Appropriations Committee stating that, “Use of the National Guard as a primary fusion agent in executing a balanced integrated national domestic security strategy preserves the Constitutional role of the sovereign states and assures that governors and other state and local civil authorities remain responsible and accountable for the public safety and security of their state, territory, and local jurisdictions.”⁵² This accountability in turn promotes citizen responsibility and improves self-sufficiency at the local level. Federal command ranks last because long-term recovery is considered unsustainable and impractical for the federal military. This is not to say that short-term assistance is not useful, but when considering that the first 72 hours following a disaster are the most critical and nearly all federal military support will likely arrive outside of that time frame it does not score well.

Political Cost – COA 2 scored the highest because it establishes the conditions for political state and federal mutual gain and capitalizes on strengthening relationships versus weakening them. COA 3 ranks last because it strips authority away from the state. Unless a governor formally requests for the President to take over their state response COA 3 will return a low score.

Economic Cost – COA 2 ranks at the top for the same reasons it did in the federal analysis. Specifically, COA 2 is expected to provide the maximum efficiencies in employing military capability and therefore offers the best circumstances for minimizing expenditures and cost. Further, COA 3 ranks last primarily because of greater inefficiencies and the higher costs associated with the logistics.

⁵² Carl Osgood, “NORTHCOM Raises Legal, Constitutional Questions.”

Military Considerations

In the third analysis, military considerations are evaluated against each COA to determine the command and control option that best satisfies relevant military objectives applicable for any engagement short of war in the homeland. Each military principle is examined in the context of achieving state and federal political objectives.

Military Considerations	COA 1	COA 2	COA 3
Unity of Command	1	2	3
Unity of Effort	1	3	2
Response Time	2	3	1
Readiness	3	2	1
Simplicity	3	1	2
Economy of Force	2	3	1
HIGH SCORE IS MOST PREFERRED	12	14	10

Table 3. Military Considerations

Unity of Command – Federal command ranks highest because it is the only option that produces true unity of command. Dual-status command ranks second highest because it integrates National Guard and federal forces under a single chain of command and unifies state and federal capability. Moreover, creating unity of command under a National Guard dual-status commander leverages existing processes, expertise, and relationships and serves as a force multiplier versus a force competitor with respect to ongoing operations.

Unity of Effort – Documented dual-status commands have consistently demonstrated that unity of effort is a significant benefit with respect to synchronizing the National Guard with the federal military. Because a dual-status command integrates federal and National Guard forces together under one organization, the control of information, timely decision-making, interoperability, and situational awareness is enhanced. In contrast, the issues raised by parallel

command such as the challenges of communication and coordination in the chaos of a response effort reduce its utility.

Response Time – Because the National Guard will most likely be the first military responder, a dual-status command option will always be more agile, provided it is automatically implemented in a contingency. Parallel command out ranks federal command because it is expected to take less time to implement than mobilizing the reserves and deploying active duty forces.

Readiness – The parallel command option is ranked highest because it can be implemented immediately whereas currently a dual-status and federal command will need to be coordinated between a governor and the President. Additionally, a parallel command does not require specific training or unique approval.

Simplicity – Parallel command is currently the most simplistic option because dual-status command is currently not practiced regularly and pure federal command will be politically challenging to justify. Commanders are not routinely pre-approved for dual-status command and federal command requires a presidential mobilization. However, the consequence of parallel command is the organizational divide that exists from the tactical to the strategic level and the demand for effective vertical and horizontal coordination.

Economy of Force – Because it is expected that a single commander with subject matter expertise can more effectively assess and employ forces, the dual-status command is ranked the highest. The integrated dual-status command staff is expected to prioritize, synchronize, and employ limited state and federal forces more efficiently than a parallel command because it is integrated. Additionally, the dual-status commander has the training, experience, relationships, and subject matter expertise to lead joint forces operationally in their area of responsibility.

Dual-status commands can also employ their Title 10 forces regionally allowing for the best use of limited resources over widespread areas. COA 1 ranks second because a divided command is by definition inefficient and therefore expected to be more wasteful than COA 2.

Combined Considerations

Using the same ranking methodology as with each of the three individual analyses, Table 5 reveals that the dual –status command is overwhelmingly the preferred COA. The conclusion is that dual-status command best satisfies federal, state, and military considerations and is the best choice for optimizing a National Guard and federal military response for civil support contingencies.

Combined Considerations	COA 1	COA 2	COA 3
Federal Policy Considerations	1	3	2
State Policy Considerations	2	3	1
Military Considerations	2	3	1
HIGH SCORE IS MOST PREFERRED	5	9	4

Table 4. Combined Considerations

Clearly, this framework and analysis is a subjective exercise because the categories are abstract and flexible and subject to interpretation. Despite this, it does provide a starting point and methodology for collaborative thinking about how to optimize command and control in the homeland that can be adopted by OSD, USNORTHCOM, NGB, and the National Guard. More importantly, this particular analysis demonstrates the potential benefits of dual-status command and its ability to satisfy federal, state, and military interests across the entire spectrum of military operations in the homeland. Furthermore, this analysis supports establishing dual-status commands as a viable command and control option for civil support contingencies. To

accomplish this, several steps will need to be taken to make dual-status commands a reality and these steps are the focus of the next chapter.

VI. RECOMMENDATIONS

“We have to make sure that we’re working together every day as committed members of the same team. It’s too important to screw this up.”⁵³

General Victor Renuart
Commander, US Northern Command

Recognizing that the first dual-status command in our nation’s history was established in 2004, it is understandable that there is a reluctance to use it in a crisis when lives are on the line. However, when the benefits of a dual-status command and the polarizing effect that parallel commands have had on the federal-state relationship are considered, it is counterproductive not to pursue the development of this hybrid arrangement. Therefore, the following recommendations should be adopted to guide DOD, USNORTHCOM, and NGB actions for developing dual-status command as the primary command and control option for all domestic military civil support responses including no-notice catastrophes unless a governor requests otherwise.

First, dual-status commanders should be pre-approved to improve readiness and minimize bureaucratic obstacles during a contingency. Every state should certify at least two senior National Guard commanders in the Dual-Status Title 10/32 JTF Commander’s course. This list of certified commanders should then be approved by USNORTHCOM and NGB and submitted to the respective state governor for consent. Following the governors consent, the list should be coordinated with the SECDEF and forwarded to the President for annual approval. This pool of pre-approved commanders can then be quickly tapped for no notice events. Finally, the President should issue a Presidential Decision Directive (PDD) recognizing state and federal

⁵³ Gen Victor Renuart, commander, USNORTHCOM (address, National Guard Association of the US, San Juan, PR, 27 August 2007).

responsibilities and order that dual-status command be used to the maximum extent practical for domestic operations. Following this PDD, governors should issue similar directives and gain approval from their respective state legislatures.

The second step in developing the expertise and competence required to execute a dual-status command is the training of future commanders and their staffs. Fortunately, a program sponsored by NGB in coordination with USNORTHCOM is currently providing dual-status JTF commander certification. What is missing today is similar training for National Guard and Active Duty personnel who will provide the staff functions for the dual-status commander. These command staff personnel will need to efficiently interoperate, effectively coordinate with interagency partners, plan for domestic operations, and be aware of the legalities of combined state/federal military operations. For example, rules of force and intelligence collection in the homeland are complex subjects that must be understood prior to a crisis. In addition to staff training, exercises are required to provide an environment for deconflicting operational roles and responsibilities and refining training curriculum.

Select JFHQ-State staff and other National Guard personnel in each state along with USNORTHCOM staff members in subordinate components such as Army North (ARNORTH) should receive this comprehensive training to master integrating military command and control activities. In addition to solidifying nationwide operational expertise, integrated staff training will foster the institutionalization of domestic operating best practices between state and federal military forces. This outcome is important for optimizing federal military support because a common lexicon for civil military operations is missing. For example, in the 1992 Los Angeles riots, active component and California National Guard served together in a single joint command

and doctrinal issues arose between federal military forces and law enforcement units as the following quote illustrates:

Police officers responded to a domestic dispute, accompanied by marines. They had just gone up to the door when two shotgun birdshot rounds were fired through the door, hitting the officers. One yelled ‘cover me!’ to the marines, who then laid down a heavy base of fire...The police officer had not meant ‘shoot’ when he yelled ‘cover me’ to the marines. [He] meant...point your weapons and be prepared to respond if necessary. However, the marines responded instantly in the precise way they had been trained, where ‘cover me’ means provide me with cover *using firepower*...over two hundred bullets [were] fired into that house.⁵⁴

Developing the doctrine for National Guard and federal force integration across the nation will reduce inefficiencies, confusion, and complexity during an actual response. This standardization also fosters the establishment of sound domestic operating concepts that can provide for deconflicting operational roles and responsibilities while leveraging federal military assets more rapidly, when and where it makes sense. For instance, dual-status commands could assimilate federal immediate response forces and other approved federal military capability into ongoing operations to achieve effects quickly. This will alleviate negative public perception of idle federal military capability and reduce reluctance of federal installation commanders to participate in local responses.

Third, USNORTHCOM and National Guard exercises should be integrated to practice National Guard dual-status command, validate and refine plans, and provide National Guard and federal leadership an opportunity to build relationships. This recommendation builds on developing staff expertise by exercising field units in tactical scenarios. Full-scale exercises that involve actual versus notional participants is key to refining blended state/federal military operational issues, tactics, techniques, and procedures, which will be vital to delivering the maximum supporting or supported effects in a crisis. Additionally, exercises will also help

⁵⁴ Christopher M. Schnaubelt, “Lessons in Command and Control from the Los Angeles Riots,” *Parameters*, Summer 1997, 88-109.

identify tactical, operational, and strategic issues with organizational structure, composition, and processes. Army Field Manual 3-0, *Operations*, states that, “synchronization often requires explicit coordination and rehearsals among participants” and given that the National Guard will be present in any homeland response it is critical to the success of future responses to include them in every exercise.⁵⁵

Fourth, it is recommended that each National Guard JFHQ-State in coordination with USNORTHCOM develop a dual-status CONPLAN and draft a dual-status JTF memorandum of understanding (MOU) for SECDEF approval. The Commission on National Guard and Reserves second report to Congress similarly recommends that:

As part of Department of Defense efforts to develop plans for consequence management and support to civil authorities that account for state-level activities and incorporate the use of National Guard and Reserve forces as first military responders, the Department of Defense should develop protocols that allow governors to direct the efforts of federal military assets responding to an emergency such as a natural disaster.⁵⁶

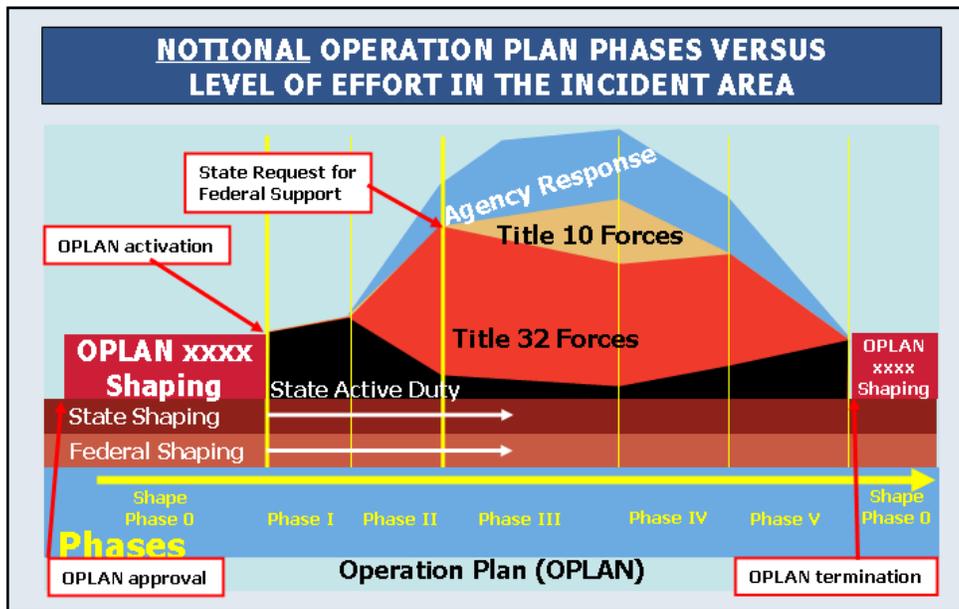
The dual-status plan should address the five phases of support depicted in Figure 8 and outlined in CONPLAN 2501 with respect to dual-status command to ensure smooth staging, deployment, employment, and transition of federal forces.⁵⁷ Moreover, the CONPLAN should provide the guidance for OPLAN development and address the potential for states providing National Guard capability through mutual aid agreements and emergency management compacts. This will improve the planning transparency required to improve federal and state military operations and reduce confusion with interagency partners vertically and horizontally during execution. Additionally, developing dual-status triggers and embedding them into the CONOP will reduce bureaucratic obstacles and streamline the establishment of dual-status commands, which in turn

⁵⁵ US Department of the Army, *Operations* (Washington, DC: Headquarters, Department of the Army, 2001), 4-17.

⁵⁶ US Commission on National Guard and Reserves, Report to the Congress, *Strengthening America's Defenses in the New Security Environment* (Washington, DC: Government Printing Office, 2007), 67.

⁵⁷ For more information regarding the phases of DSCA, see Appendix 4.

will increase the likelihood of their use. This planning effort should be facilitated by the NGB as the “channel of communications” between the DOD, USNORTHCOM, and the National Guard.



SOURCE: National Guard Bureau.

Figure 8. Operational Plan Phases⁵⁸

In this role, the NGB can promote and facilitate consistency and standardization nationally and establish the protocols and process on behalf of the states. Additionally, it is recommended that a memorandum be generated for SECDEF signature that articulates support of dual-status command for domestic operations and directs its institutionalization by incorporating it into future strategy and planning documents. Existing Joint Staff and USNORTHCOM plans overlook guidance in the DOD *Strategy for Homeland Defense and Civil Support*, which states:

Working with the Nation’s Governors and State Adjutants General, the Department of Defense must develop operational plans based upon the national planning scenarios that will integrate and synchronize military forces to achieve unity of effort in support of homeland security missions across the Nation.⁵⁹

⁵⁸ Briefing, National Guard Bureau, subject: Joint CONUS Communications Support Environment, 27 July 2007.

⁵⁹ Homeland Security Council, *National Strategy for Homeland Security* (Washington, DC: Executive Office of the President, 2007), 51.

SECDEF guidance will ensure that the dual-status command option is incorporated into future revisions of the DOD *Strategy for Homeland Defense and Civil Support*, Joint Publication 3-28, *Civil Support*, and the USNORTHCOM CONPLAN 2501, *Defense Support of Civil Authorities*.

Finally, DOD, USNORTHCOM, and NGB should advocate for congressional authorization for acting dual-status JTF commanders to be automatically federally recognized in a temporary grade of O-8 for the duration of the command. The senior flag officer rank of an O-8 is essential to execute the duties of a dual-status commander effectively due of the rank discrepancies between the National Guard and federal military. Additionally, the rank of O-8 will eliminate many organizational culture authority issues that may impede a response effort.

The opportunity cost of adopting these recommendations is marginal when compared to the benefits that a dual-status command can deliver. The principal financial investment required to implement these steps is in the exercises and staff training required to refine the tactics, techniques, and procedures for dual-status operations. The cost of developing the CONPLAN, OPLANS, and staffing of certified dual-status commanders is negligible.

The primary consequence of taking these actions will be on the existing USNORTHCOM and National Guard exercise programs. In particular, USNORTHCOM will need to expand or modify its exercise program to accommodate these new requirements. Implementing these steps will likely lead to an expanded footprint of National Guardsmen serving in Title 10 status at USNORTHCOM and the establishment of an active duty presence at the NGB as a result of increased need for collaboration. This will likely find resistance initially due to the organizational change and the strain it will have on all stakeholders, but as personnel are educated and gain experience, misconceptions will be dismissed because the practical benefits of dual-status command will become obvious. For example, DOD concern over serving under state

command will be dispelled because under a dual-status command federal military personnel are always under federal command.

Both state and federal civil authorities are expected to embrace the development of the dual-status command because it promotes interoperability, preparedness, and cooperation both horizontally and vertically, which implies that the public will be better served in a crisis. Moreover, the development of dual-status command as a reliable option for disaster response will provide increased flexibility in addressing each unique disaster response in the best possible manner.

To be sure, developing a reliable dual-status command option in every state will take time and effort, but neglecting its development as a viable alternative for our civil leadership is counterproductive. Dual-status command can be a win-win for the federal military, National Guard, and the American people if given a chance.

VII. CONCLUSION

“Each of your governors expects that the support from federal, as well as DOD resources is immediately available and transparent to them.”⁶⁰

General Victor Renuart
Commander, US Northern Command

With the establishment of USNORTHCOM the ability of the federal military to plan, organize, and conduct operations in the homeland has improved tremendously since 9/11. Specifically, the President established USNORTHCOM and the Congress amended Title 32 creating a dual-status authority that allows a National Guard commander to retain their state commission after being ordered to active duty. Despite these and other initiatives, improvements in the ability to employ federal military capacity in support of civil authorities is contentious, in part, because of a lack of state and federal cooperation over command and control authority. Specifically, dual-status command arrangements have been eschewed in favor of parallel command arrangements despite joint guidance that emphasizes the avoidance of parallel command. As a result, a political and operational rift has emerged in the state-federal support relationship creating the potential for a less than optimal response when the DOD provides support to civil authorities.

Despite this predicament, an examination of federal, state, and military interests against the various command and control options reveals that the dual-status command arrangement can achieve an optimal solution that leverages National Guard and federal military capacity in a win-win manner that will benefit the American public. Therefore, dual-status command should be developed as the primary command and control option for domestic military civil support response unless a governor requests otherwise.

⁶⁰ Gen Victor Renuart, address, 27 August 2007.

DOD, USNORTHCOM, and NGB must take action now to eliminate the barriers to implementing dual-status commands and reverse the counterproductive policy of exclusively relying on parallel command for contingency operations. Pre-approving potential commanders, training staffs, integrating domestic exercises, developing coordinated plans, and providing the requisite authority to execute this command arrangement will lay the foundation for optimizing the choices that our civil and military leadership will need to respond successfully in future disasters. Delaying action on this front will further exacerbate tenuous relationships, waste valuable political capital, and put lives and property at risk unnecessarily.

APPENDIX

1. National Guard Duty Statuses.

	State Status ANG/ARNG	State Status ANG/ARNG	Federal Status ANGUS/ARNGUS/ Militia
	<i>State Active Duty</i>	<i>Title 32</i>	<i>Title 10</i>
Command & Control	State Governor	State Governor	Federal President
Funding	State (all states and territories are different) (could be reimbursed pursuant to federal law)	Federal	Federal
Tort Immunity	IAW state law	FTCA Federal Tort Claims Act (28 USC §§ 2671 et seq)	FTCA Federal Tort Claims Act (28 USC §§ 2671 et seq)
PCA Posse Comitatus Act (18 USC § 1385)	Does not apply	Does not apply	Applies
USERRA Uniformed Services Employment and Reemployment Rights Act (38 USC §§ 4301-4333)	No, IAW state law	Yes	Yes
SCRA Service members Civil Relief Act (50 USC App. §§ 501 et seq.)	No, IAW state law	Only applies to NG personnel performing service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under 32 USC 502(f) for purposes of “responding to a national emergency declared by the President” and supported by Federal funds.	Yes
Mission Types	IAW state law	Training, duty in support of training, Counterdrug, CST, “homeland defense activities” under Chapter Nine, missions/training that comply with 2007 NDAA amendments to 32 USC 502(f)	Federal missions and any duty performed OCONUS ⁶¹
Discipline	State military code	State military code	UCMJ
Medical, Disability, and Other Benefits	IAW state law	Federal	Federal

⁶¹ Cross border emergency management operations that support regional compacts such as the Congressional approved Pacific Northwest Emergency Management Arrangement could potentially employ National Guard in SAD or Title 32 status. However, there is no precedent for utilizing the National Guard in bi-national regional relief operations. For more information, see Public Law 105-381, Nov. 12, 1998.

2. Dual-Status Commands.⁶²

The command and control construct for the G8 Summit, DNC, RNC, and Operation Winter Freeze represent landmark achievements. For the first time in our nation's history, the National Guard attained unity of command for all military forces operating in support of a major event. In each case, from one Joint Force Headquarters, a single National Guard officer commanded Guard units from multiple States operating under Title 32 authority, as well as Active Component Army/Navy/Air Force/Marine Corps Title 10 forces in a joint, intergovernmental/interagency environment.

G-8 Summit Conference in Savannah Georgia. National Guard forces supported the G-8 Summit Conference from 1 to 12 June 2004. At the apex, 4,870 Title 32 National Guard and 2,406 Active Component Title 10 forces supported the event. The defense and security missions included support to the Federal Bureau of Investigation (FBI), United States Secret Service (USSS), the Department of State, the State of Georgia, several counties along the Georgia coast, and the cities of Savannah and Brunswick.

2004 Democratic National Convention (DNC) in Boston, Massachusetts. National Guard forces supported the Democratic National Convention with Title 10 and Title 32 forces from 23 to 30 July 2004. 1,614 Title 32 National Guard and 256 Active Component Title 10 personnel supported the event.

2004 Republican National Convention (RNC) in New York City, New York. National Guard forces supported the Republican National Convention with Title 10, Title 32, and State Active Duty (SAD) forces from 23 August to 3 September 2004. 1,297 Title 32 National Guard, 360 State Active Duty (SAD) National Guard, and 307 Active Component Title 10 personnel supported the event.

Operation Winter Freeze. From November 2004 through January 2005, the National Guard and Active Component Title 10 forces, in support of the US Customs and Border Protection's Border Patrol, prevented illegal alien access along a 295-mile stretch of the US-Canadian border. The Border Patrol, as lead agency, and the National Guard kept suspected terrorists out of the country. The National Guard's primary mission was to detect, deter, and monitor suspicious actions using air assets. During the mission, the National Guard exposed three terrorist smuggling organizations.

⁶² US Department of the Army, *September 11, 2001, Hurricane Katrina, and Beyond, Army National Guard, Homeland Defense White Paper* (Pentagon, VA: US Army G5, 10 November 2005).

3. Command and Control Analysis: Facts, Assumption, Restraints, and Constraints.

Facts

- Existing Law
 - 32 USC 325 – Permits dual-status commander⁶³
 - 32 USC 902 – Permits SECDEF to fund governors to employ Guard for Homeland Defense Activities⁶⁴
 - 18 USC 1385 – The Posse Comitatus Act⁶⁵
- DOD Strategy for Homeland Defense and Civil Support recognizes expanded Title 32 “HLD activities” as a means to employ flexible and responsive NG units for HLD
- National Guard is an experienced and professional military force
- State-to-State mutual aid includes National Guard forces
- National Guard is embedded in over 3,200 communities nationwide
- USNORTHCOM provides Defense Support of Civil Authorities (DSCA) command and control of domestic federal military forces
- SECDEF authorizes federal military DSCA
- Governors authorize National Guard military support of civil authority
- A dual-status commander must be consented to by a governor and approved by the President

Assumptions

- The most likely federal military requirement will be civil support
- The most dangerous federal military requirement will be HLD
- Military support will be required to assist in saving lives, property, etc.
- Federal military support will be available and approved if requested
- Military commitments will continue to be strained by ongoing overseas deployments
- National Guard forces will be engaged operationally in SAD or Title 32 status before federal military support becomes available
- Disasters may affect multiple states

Restraints

- Federal military forces cannot be commanded by a SAD or Title 32 National Guard commander
- National Guard forces cannot be commanded by a Title 10 federal military officer
- Federal military forces are not permitted to conduct law enforcement activities per the Posse Comitatus Act⁶⁶

⁶³ US Code, *Relief from National Guard Duty When Ordered To Active Duty* (32 USC § 325), http://www.law.cornell.edu/uscode/html/uscode32/usc_sec_32_0000325----000-.html (accessed September 2007).

⁶⁴ US Code, *Homeland Defense Activities: Funds* (32 USC § 902), http://www.law.cornell.edu/uscode/html/uscode32/usc_sec_32_0000902----000-.html#FN-1REF (accessed September 2007).

⁶⁵ US Code, *Use of Army and Air Force as Posse Comitatus* (18 USC § 1385), http://www.law.cornell.edu/uscode/html/uscode18/usc_sec_18_00001385----000-.html (accessed September 2007).

⁶⁶ An exception to this exists in 10 USC § 332, but for the purposes of this analysis federal forces are considered to be restrained by the Posse Comitatus Act.

Constraints

- The President is responsible for enforcement of Constitutional protections
- State governors are responsible for enforcement of Constitutional protections and the general welfare of their citizens
- Military commanders are authorized to provide immediate response to requests from civil authorities to save lives, prevent human suffering, and mitigate property damage
- Title 10 forces will always remain under a federal chain of command
- SAD and Title 32 forces will always remain under a state chain of command

4. Phases of Defense Support to Civil Authorities.⁶⁷

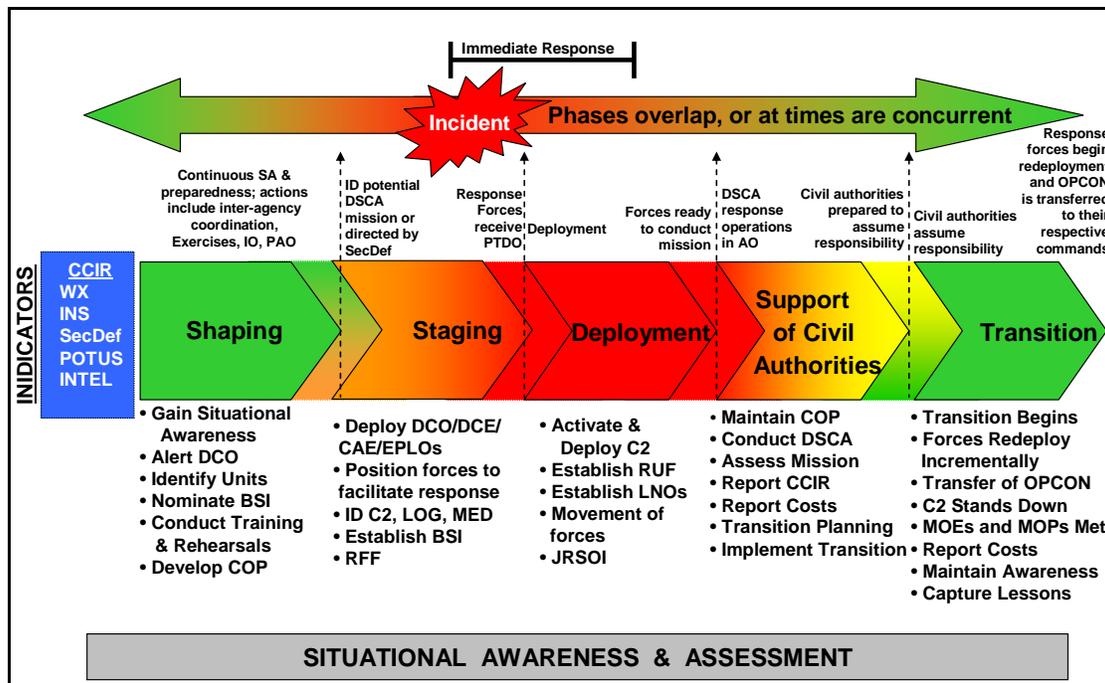
1. Phase I, Shaping. Phase I is continuous situational awareness and preparedness; actions include inter-agency coordination, exercises, and public affairs.

2. Phase II, Staging. Phase II begins with identification of a potential DSCA mission or when directed by SECDEF. The phase ends with DSCA response forces in receipt of a prepare to deploy order (PTDO). Success equals DCO/DCE deployment, coordination with state and local officials, and response forces positioned to facilitate quick response.

3. Phase III, Deployment. Phase III begins with response force deployment. The phase ends with initial response forces ready to conduct operations. Success equals forces deployed with enough capability to accomplish the mission and unity of effort with other responders.

4. Phase IV, Support of Civil Authorities. Phase IV begins when DSCA response operations commence. The phase ends with civil authorities prepared to assume responsibility for operations. Success equals civil authorities ready to respond effectively to continuing requirements.

5. Phase V, Transition. Phase V begins with civil authorities assuming control with no degradation of operations. The phase ends when response forces begin redeployment and OPCON is transferred to their respective commands. Success equals a complete transfer of responsibilities to civil authorities and a timely and safe redeployment to home station.



SOURCE: USNORTHCOM.

Figure 9. CONPLAN 2501 Phases⁶⁷

⁶⁷ USNORTHCOM Concept Plan (CONPLAN) 2501, *Defense Support of Civil Authorities*, April 2006, 13-14.

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