

The Dual Status Commander Construct in No-notice Multi-state Complex Catastrophes

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Abstract

In response to a natural disaster or other emergency, a governor has many state assets available to respond and provide support. If the state's disaster response needs exceed the ability to which the state can respond with its own assets, the governor may request additional assistance from the federal government. Defense Support of Civil Authorities (DSCA), or federal military support, is one type of assistance the U.S. government can provide. While DSCA offers many valuable response assets, the differing command and control frameworks of active, reserve, and National Guard forces may impede unity of the response effort. The Dual Status Commander (DSC) construct was created to provide unity of command in DSCA activities when the response includes both active and reserve forces. The DSC construct works well to synchronize DSCA activities in security events or disasters contained within single states and FEMA Regions. However, it is ill-suited to synchronize and coordinate DSCA response in no-notice multi-state catastrophes. This research project will examine the current DSCA and DSC structure, assess the use of DSCs in recent events, evaluate DSC shortcomings in a no-notice multi-state complex catastrophe, and provide recommendations for addressing these shortcomings.

The Dual Status Commander Construct in No-notice Multi-state Complex Catastrophes

[The Department of Defense] lacks official policy concerning the use of a [Dual Status Commander] for multi-state disaster response.

—Department of Defense Manual 3025.01¹

In response to a natural disaster or other emergency, a state governor has many assets available to respond and provide support. State and local law enforcement, first responders, and emergency management personnel all play a vital part in response and recovery activities. In addition, the state's National Guard possess critical and essential assets and capabilities upon which the governor may rely. However, as we have seen during countless disasters and crises, the nature and size of the response needed may quickly engulf the assets available and overwhelm the capabilities within the state. It is at this point a governor may request assistance from the federal government, and the Department of Defense (DoD) in particular.

The Department of Defense views the capability to assist states and local governments as a requirement vital to national security. In the 2014 Quadrennial Defense Review, the DoD described the three pillars of United States defense strategy. The first pillar, *Protect the homeland*, recognized the DoD's obligation "to support civil authorities in mitigating the effects of potential attacks and natural disasters."² This support, known as Defense Support of Civil Authorities (DSCA), is triggered when state and local civil authorities request federal military assistance "for domestic emergencies, law enforcement support, and other domestic activities, or from qualifying entities for special events."³ Further, two of the nation's Geographic Combatant Commands are now assigned DSCA as a core mission.⁴

Unity of effort is essential in joint unified actions such as DSCA that require coordination and cooperation between governmental departments, agencies, nongovernmental organizations (NGOs), and all branches of the military. Unity of effort means that despite the fact that each entity may have a separate and distinct function, all must come together and work toward one common goal or objective.⁵ Central to ensuring unity of effort is the principle known as unity of command, which holds that “all forces operate under a single commander with the requisite authority to direct all forces employed in pursuit of a common purpose.”⁶ Stated differently, common goals or objectives on the battlefield must be directed and prosecuted with one common voice. Otherwise, confusion will ensue, and the mission will fail for lack of a coordinated effort. Without unity of command or effort, battlefield forces under one command may pursue an objective which has already been secured by another. Other objectives may be bypassed altogether, with none of the commands realizing the omission. When there is one common command on the battlefield, such errors may be avoided. A unity of command facilitates a coordinated, synchronized attack.

Because the active and reserve component military and the National Guard forces of the various states serve under different command structures with different Commanders in Chief under the authority of different federal and state laws, a structure to provide unity of command and unity of effort in DSCA activities is required. The Dual Status Commander (DSC) construct was designed to provide unity of command and unity of effort in DSCA activities when the response includes active, reserve, and National Guard military support. The DSC construct works well to synchronize DSCA activities in security events or disasters contained within single states and FEMA

Regions. However, the current DSC structure is ill-suited to synchronize and coordinate DSCA response in no-notice multi-state catastrophes such as a series of large earthquakes in the New Madrid Seismic Zone. This research project will, in the context of a catastrophic New Madrid Seismic Zone earthquake, examine the current DSC structure, assess the use of DSCs in recent disaster events, evaluate DSC shortcomings in a no-notice multi-state complex catastrophe, and provide recommendations for addressing these shortcomings.

New Madrid Seismic Zone

Residents of Northeast Arkansas, Western Tennessee, and Southeast Missouri were violently tossed from their sleep at 2:15 A.M on Monday, December 16, 1811. The cause was a magnitude 7.7 earthquake, centered on the small town of Marked Tree, Arkansas. The large quake was followed over the next eight weeks by series of successive aftershocks of similar magnitude along the 125-mile zigzag-shaped New Madrid Seismic Zone (NSMZ).⁷ The earthquakes were felt as far away as Boston Massachusetts.⁸ However, because settlements in the Mississippi River Valley were scarce in the early nineteenth century, loss of life and structural damage were minimal.⁹

No longer a sparsely populated frontier, a similar series of earthquakes in the NMSZ today would be exponentially more catastrophic. Encompassing major cities such as St. Louis, Missouri and Memphis, Tennessee, the NMSZ today is home to interstates and highways, bridges, oil and gas pipelines, nuclear and conventional power plants, and communications networks and nodes. Because of the potential impact of an 1811 and 1812-type NMSZ event today, a nationwide disaster response exercise named National Level Exercise 2011 (NLE 2011) utilized such a scenario.¹⁰ An impact estimate prepared prior to NLE 2011 determined that a series of New Madrid

quakes mirroring those of 1811-1812 would affect eight states and over seven million people, predicting 3500 deaths and 85,000 injured. Damage estimates included over a million buildings damaged or destroyed, 3600 bridges damaged or destroyed, 2.6 million households without electricity, and a million households without water. Cost of the disaster at the time of the study was projected at \$300 billion.¹¹

Each affected state would certainly exercise its disaster response plans in reaction to such an event. State and local law enforcement, first responders, emergency management personnel, and the National Guard would be deployed in full force. However, the resources available would be dwarfed by the needs and work required almost immediately. A NMSZ quake of this size would be classified by the Federal Emergency Management Agency (FEMA) as a Level 1 incident, which is a large, national-level incident that overwhelms local, state, and regional resources and requires an extreme amount of federal assistance and coordination.¹² Multi-state response and recovery requirements in a NMSZ event of this magnitude would overpower available state and local resources virtually as soon as the ground stopped shaking.¹³ Although usually first requiring a request from a state's governor, the President of the United States would be expected to issue a "Stafford Act declaration" for each of the affected states almost immediately. Along with that declaration, the President would offer simultaneous federal assistance, to include aid from FEMA, the Department of Justice, and the DoD.

National Response Framework

The National Response Framework is the nation's handbook for disaster and emergency response.¹⁴ Within this framework, disaster response is a decentralized, local function, with state and local governments having the primary responsibility for

responding to its disasters and other emergencies. Key components of a state's disaster response structure will include the state's emergency management agency, its National Guard, and county emergency coordinators. Other key players will include other state agencies and departments, state and local law enforcement agencies and other first responders, and non-governmental agencies such as the Red Cross and other civic and religious organizations. It is to these assets that state and local officials will turn first for emergency response.

In addition to a state's organic disaster response capabilities, a Governor may request aid from other states or the federal government. The Emergency Management Assistance Compact (EMAC) is an interstate agreement between all fifty states, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands pledging mutual support in times of emergencies and disasters.¹⁵ Through the EMAC system, states have identified, pre-planned, and coordinated National Guard and civilian disaster response assets that are ready to deploy when requested. Examples of resources available through EMACs include National Guard, law enforcement, medical, firefighting and hazardous material handling, transportation, and search and rescue assets.¹⁶ The state governor may contact the President and request federal support when the disaster response needs of a state exceed the ability to which the state can respond with its internal capabilities or with resources available through EMACs.

The Federal Emergency Management Agency is an agency within the Department of Homeland Security, and it is the federal entity charged with supporting and enabling the state and local disaster preparedness and response effort.¹⁷ Its mission is to facilitate emergency management preparedness before a disaster, enable

a well-synchronized response during an emergency event, and coordinate recovery efforts after the disaster strikes.¹⁸ The Federal Emergency Management Agency provides a “nationwide template” to organize and synchronize all emergency management efforts from the national to the local level utilizing the framework of the National Incident Management System.¹⁹

At the national level, FEMA operates the National Response Coordination Center (NRCC), a multiagency center tasked with coordinating the federal government’s response to disasters, emergencies, or other incidents.²⁰ The NRCC is the national provider of planning, resource allocation, and situational awareness in preparation for and during an emergency or disaster.²¹ Its activation and composition is conditionally scalable, from normal office staff during steady-state operations to full Manning during Level 1 incidents.²²

The Federal Emergency Management Agency is divided into ten Regions that support all fifty states to better assist and support state and local governments with disaster preparedness and response. Within each region, FEMA operates a Regional Response Coordination Center (RRCC) similar in function to the NRCC. It serves as link between the NRCC and the supported Regional states, and like the NRCC is scalable based upon the condition.²³ If a significant event is planned or occurs that requires a coordinated federal response, the RRCC will establish and deploy a Joint Field Office (JFO) to the event area.²⁴ The JFO ensures that the federal response is integrated and synchronized on-scene with the state and local effort.²⁵

In most scenarios, federal response to an event would be managed by the JFO and the RRCC. However, in Level 1 events requiring an extreme amount of national

resources, FEMA will transition incident support responsibilities from the RRCC to the NRCC and will deploy an Incident Management Assistance Team (IMAT) to the impacted area.²⁶ The IMAT's purpose is to provide a unified command and first line coordination on the national or event level. Upon deployment, the IMAT will establish a Unified Coordination Group (UCG), which is composed of a Federal Coordinating Officer, senior officials from the involved agencies and organizations, and coordinating officers from the affected states.²⁷ The UCG is responsible for the execution and coordination of the federal response and synchronizing those efforts with those of the affected states. The NRCC may assume immediate control of the response in the event of a catastrophic no-notice event.²⁸ Transition to the IMAT would then occur as soon as it was deployed and operational.

Defense Support of Civil Authorities

Defense Support of Civil Authorities is federal support provided by the DoD in response to emergencies, law enforcement support, or certain special events.²⁹ U.S. Northern Command (USNORTHCOM) is the Geographic Combatant Command covering the continental United States, and its core missions are to defend the U.S. homeland and provide DoD support to civil authorities.³⁰ U.S. Army North (ARNORTH), the army component command of USNORTHCOM, is the combatant command tasked with commanding and coordinating DSCA.³¹ In support of this mission, ARNORTH is organized to provide multiple levels of defense support to state and local governments.

At the national level, ARNORTH has established Joint Task Force Civil Support (JTF-CS), a joint task force (JTF) headquarters whose primary mission is to provide command and control, response capability, and support to civil authorities in the event of a chemical, biological, radiological, and nuclear (CBRN) event in the United States.³²

It can also provide command and control for non-CBRN DSCA missions when directed.³³ In addition, ARNORTH has the ability to stand up a separate JTF when required specifically for natural disaster DSCA missions in order to coordinate and control DoD support.³⁴

United States Army North is also integrated into each FEMA Region. Defense Coordinating Elements (DCE) assigned to each Region consist of a Defense Coordinating Officer (DCO), a deputy DCO, and a staff of planners and liaison officers to provide each Region with the capability to coordinate DoD DSCA support into the Region's incident response.³⁵ In addition, each Region maintains a Regional Emergency Preparedness Liaison Officer (REPLO) group to coordinate Army Reserve DSCA support, and a number of State Emergency Preparedness Liaison Officer (SEPLO) teams to serve as DSCA subject matter experts for each supported state.³⁶

Duty Status

Although multi-layered, DSCA appears fairly straightforward. State and local governments are in charge of their own emergency response, and they can request federal support when they cannot meet the demands internally or through EMACs. FEMA coordinates and synchronizes the federal support, and the DoD is available to provide additional resources if needed. So, what is the complexity that requires a DSC? The answer is duty status.

There are three duty statuses in which military forces can serve: Title 10, Title 32, and State Active Duty. Title 10 (T10) forces are those in active or reserve federal service under the authority of Title 10 of the United States Code.³⁷ The active duty Army, Navy, Air Force and Marine Corps service components are T10 forces. The reserve components of these T10 forces, such as the Army Reserve and the Air Force

Reserve, also serve under T10. Title 10 soldiers, sailors, airmen, and marines serve under a federal chain of command, ultimately for the President of the United States. National Guard forces may also serve under T10 when they are mobilized and called into federal service by the President in times of national emergency or in support of overseas military operations such as Operation Iraqi Freedom and Operation Enduring Freedom.³⁸

The National Guard falls under Title 32 (T32) of the U.S. Code. While there are a limited number of Guardsmen assigned to National Guard Bureau (NGB) under T10, the traditional “drilling-status” National Guard soldiers and airmen serving in the 54 states and territories are governed by T32. However, the duty status of a Guardsman can quickly become more complicated. These Guardsmen can be ordered to duty in one of two different duty statuses when activated to respond to emergencies or disasters. The first is State Active Duty (SAD).³⁹ Governors have the authority to call his or her state’s Guard soldiers and airmen to SAD in response to emergencies and disasters. In this status, the state retains command, control, and financial liability of the force.

National Guard forces may also be brought to active duty status in support of homeland defense activities, when approved by the President or Secretary of Defense. Guardsmen in this category will be governed by T32.⁴⁰ Pay and allowances for National Guard soldiers and airmen under T32 are funded by the federal government, and the general rule is that Guardsmen on active duty under T32 are commanded and controlled by their Governor and Adjutant General.⁴¹ The following table points illustrates the differences between T10, T32, and SAD.⁴²

Table 1. Comparison of Duty Statuses

	Title 10	Title 32	State Active Duty
Command and Control	President	Governor	Governor
Funding	Federal	Federal	State
Duty Location	Worldwide	United States	United States, with Host State Approval

While in most cases governors will welcome federal military assistance after a major disaster or emergency, these legal restrictions concerning command and control of the three possible duty statuses will quickly surface as an issue. Because T10 personnel serve under a federal chain of command, T10 officers cannot command T32 or SAD personnel. Further, because T32 and SAD troops remain under the leadership of their state chain of command, T32 or SAD officers cannot command federal T10 troops. Because of the likelihood of these two different chains of command promoting different missions, objectives, and priorities, the lack of unity of command caused by the presence of T10 military personnel working side-by-side with T32 and SAD troops poses a significant obstacle to achieving a unified, synchronized, and coordinated disaster response effort.

The History of the Dual Status Commander

Just as unity of command is essential on the battlefield, it is also so in the event of a DSCA disaster response. However, the multiple duty statuses of the soldiers, sailors, airmen, and marines that may be present in one area performing a DSCA mission poses a challenge to unified command. A T10 officer cannot command and control a SAD Guardsman, and a T32 National Guard officer cannot direct T10 marines.

It is thus clear to see that command and control quickly becomes a significant obstacle when military personnel from multiple duty statuses are deployed to a common area and engaged in a common mission such as disaster recovery. To solve this problem, the DSC construct was created.

The theory behind the DSC construct is that by having an officer simultaneously hold both a federal and state commission, he can then command troops regardless of their duty status. The DSC traces its origin to 2000, when Congress approved a law to allow active duty officers detailed to a state National Guard to accept a commission within that state.⁴³ Four years later, the 2004 National Defense Authorization Act (NDAA) enacted a provision that allowed a National Guard officer to serve on active federal duty and retain his state commission at the same time.⁴⁴ Although these laws were “on the books” when Hurricane Katrina struck in August 2005, they were not utilized in any way to facilitate command and control of the active, reserve, and National Guard troops responding to the disaster.⁴⁵

After reviewing the military response to Hurricane Katrina in the months and years after the event, it became evident to the DoD, NGB, and the state governors that an improved mechanism to command and coordinate DSCA activities needed to be devised.⁴⁶ One plan, favored by the DoD, called for the National Guard to be federalized by the President in times of domestic emergencies.⁴⁷ Concerned about the prospect of losing control of the National Guard during the times that a state needs them the most, the state governors vehemently opposed this proposal.⁴⁸ Finally, in 2010 the Council of Governors proposed the DSC concept in a “Joint Action Plan for Developing Unity of Effort,” and the plan was agreed upon by the DoD.⁴⁹ Congress formally included the

concept into the 2012 NDAA.⁵⁰ The act stated that “[w]hen the Armed Forces and the National Guard are employed simultaneously in support of civil authorities in the United States,” the DSC “should be the usual and customary command and control arrangement, including for missions involving a major disaster or emergency.”⁵¹

The DSC was tested for the first time just ten months later. Hurricane Sandy struck the east coast of the United States, focused on New Jersey and New York.⁵² In anticipation of the storm’s landfall, six states established DSCs.⁵³ Of the six, only New York and New Jersey actually employed DSCs to command and control the DSCA effort.⁵⁴ Much has been written regarding the successes and failures of the DSC’s first use during Hurricane Sandy.⁵⁵ The use of DSCs during the Hurricane Sandy response was a success, but there were areas for improvement. Questions of the DSCA command structure and knowledge of the DSC construct and DSCA principles in general caused issues.⁵⁶ For example, there was confusion among some T10 formations on who controlled or assigned their missions.⁵⁷ Another well-known example is the “Invasion of Staten Island,” when elements of a Marine Expeditionary Unit deployed from the *USS Wasp*, landed in New York City and began recovery operations without the knowledge, assignment, or approval of the DSC.⁵⁸

Dual Status Commanders have been used in a number of additional events since Hurricane Sandy, but none were in response to a no-notice natural disaster or emergency. Pre-planned and coordinated National Special Security Events (NSSE) such as the Democratic and Republican National Conventions, the annual Philmont National Boy Scout Jamboree, and major sporting events like the Super Bowl have seen the successful utilization of DSCs to coordinate, command, and control DSCA

assistance. A number of states established DSCs in preparation for the landfall of Hurricane Matthew in early October 2016. However, because the storm only skirted the East Coast, the states were able to respond to the disaster internally and DSCs were not needed.⁵⁹

Because of the localized nature of special security events or smaller-scale disasters contained within single states and FEMA Regions, along with the absence of competing emergency response requirements with other states, the DSC construct works well to synchronize DSCA activities in these types of scenarios. National Special Security Events and localized events such as Hurricane Sandy are well-served by the employment of a DSC. However, with the exception of the Hurricane Sandy response, DSCs have not been utilized during a disaster that spanned across multiple states or FEMA Regions. Does the concept work as well in a multi-state event, especially if the disaster is a no-notice event where there is no preparation time?

The Problem

Issues with the DSC construct quickly arise when the event increases in size and complexity. While the employment of a DSC provides unity of command among all DSCA activities within a state, multiple states in a common disaster may have differing interests, needs, or priorities. For example, if a very large earthquake occurred along the NMSZ equal to the one that struck in 1811-1812, it would be a “Maximum of Maximums” event that devastatingly impacts at least eight states in four FEMA zones.⁶⁰ Such a quake would be quickly labeled a “complex catastrophe” because it would result in “cascading failures of multiple, interdependent, critical, life-sustaining infrastructure sectors,” and would cause “extraordinary levels of mass casualties, damage, or disruption” to the population and the government.”⁶¹ Further, because of the likely

extreme level of damage to the area, the abilities of the states to respond internally would be exceeded by the need for life saving and life sustaining aid almost immediately. As a result, accelerated federal assistance would be pushed to the affected area as quickly as possible.⁶² Of course, DSCA would be part of this federal assistance. Transportation, aviation, fire and rescue, water purification, engineer, medical, and a myriad of other types of military support would be pushed to the disaster area as soon as possible. But if disaster response is a state and local function, who determines where a particular T10 military asset is employed? Who controls the unit, or determines the priority of support, favoring one state over another?

A number of issues such as these quickly surface, and they are issues that the current DSC concept cannot solve. One must remember that a DSC is appointed to command DSCA assets from the various duty statuses contained within a particular state. Yet the Level 1 complex catastrophe described in this example is literally a nationwide disaster. Each state will have a DSC commanding the DSCA recovery effort in that particular state, but none of these DSCs can command or synchronize the nationwide DSCA effort. As an example, if a T10 unit is sent to a particular location for a particular mission, there is no clear concept of what happens to the unit when that mission is complete. Does it go back to its home station? If not, where does it go? To whom and to which state does it report?

In addition, there is no current method to synchronize, deconflict, and prioritize EMAC utilization in a no-notice, multi-state, complex catastrophe. In response to a more typical emergency or disaster response such as a flood, tornado, or hurricane, an affected state may request support from another state in accordance with an

outstanding EMAC with little or no competition from other states. However, after a large, multi-state disaster, numerous affected states will likely be requesting EMAC assistance from the same states. For example, water purification would likely be a high-value commodity after such a large earthquake. All eight states impacted by the New Madrid scenario above currently have EMACs for water purification with six states whose National Guards maintain a Reverse Osmosis Water Purification Unit (ROWPU).⁶³ Of the six ROWPU states, two are among the eight states impacted by the earthquake. If three of the remaining six affected states all request assistance from the New Jersey ROWPU unit in accordance with an existing EMAC, to which state does the ROWPU go? Which state has priority? Who establishes and enforces that priority?

The Government Accountability Office (GAO) recognized some of these shortcomings in 2013, when it reported that a gap existed in the ability to command and control federal military forces during a multi-state complex catastrophe.⁶⁴ In a follow-up report just over two years later, the GAO noted that USNORTHCOM and U.S. Pacific Command (USPACOM) DSCA plans had been updated to reflect the recommendations made by the 2013 GAO report, and that USNORTHCOM, USPACOM, and NGB were drafting DSC guidance in coordination with the DoD.⁶⁵ However, as late as August 2016, that guidance was still yet to come, as the DoD declared that it still lacked “official policy concerning the use of a DSC for multi-state disaster response.”⁶⁶

Command Options for Multi-state DSCA Events

The current DSC construct is ill-suited to synchronize and coordinate DSCA response in no-notice multi-state complex catastrophes. In the current system, there is no mechanism in place to establish priorities for DSCA resources. If one state can quickly grab T10 disaster recovery assets before neighboring states can act, it will

receive the support. If the state can initiate EMACs before neighbor states who also require assistance, the quick state will get the resources. Further, there is nothing in place to prevent a state from holding on to such assets once they are received. As a result, this current system cannot adequately synchronize DSCA response beyond the state level. A synchronized national response is essential because Level 1 complex catastrophes are national events with a need for resources and support far beyond that which are available. As a result, the nation must devise a new approach for command and control of DSCA operations during no-notice multi-state complex catastrophes.

There are a number of alternative options to the current system that can be pursued. One option is the “federalize everyone” method. In this approach, all National Guard troops utilized for DSCA would be activated in a T10 duty status by the President. Considered during the Hurricane Katrina response in 2005, this method would prevent the command and control issues created by multiple duty statuses.⁶⁷ However, other issues would arise. First, this approach would seem to violate the principles of federalism and state sovereignty. Disaster response and emergency management is a state and local function, led by the governor of the state. Absent short-term immediate response authority directly after the event, the President and the federal government cannot come in to a state and take over the response.⁶⁸ Further, it is highly unlikely any governor would willingly abdicate total control of disaster response and recovery, along with the state’s National Guard, to the federal government. Governor Blanco of Louisiana was not willing to do so in the days after Hurricane Katrina, and governors today would be just as reluctant.⁶⁹

Another problem caused by the “federalize everyone” approach is that this option restricts the ability of the United States to provide DSCA law enforcement assistance. The *Posse Comitatus Act* (PCA) is a federal statute which prohibits the use of federal military forces for law enforcement purposes inside the United States, except during times of insurrection.⁷⁰ National Guard troops in a T32 or SAD status do not fall under the provisions of the PCA. As a result, Guardsmen can be assigned law enforcement missions. In the “federalize everyone” approach, if all military forces conducting DSCA missions are doing so in a T10 status, none of them would be legally able to perform law enforcement duties and functions in support of the response.

A variation of the “federalize everyone” approach is to federalize only the National Guard troops outside of the affected states, leaving the Guardsmen inside the affected states under the command and control of their state leadership. Any T10 and T32 DSCA support, to include as a result of an existing EMAC, would be apportioned and controlled by the President and the DoD. While this method would allow governors to retain control of their National Guardsmen, it gives them little say in how disaster response assets are allocated or priorities are established. State governors would most likely consider this method to be an attempt to encroach upon their state sovereignty in an area in which they are responsible to their citizens and constituents. As a result, it is unlikely that the governors would consent to this approach.

A second option for DSCA command and control during a multi-state complex catastrophe is to create a “super DSC.” In this approach, a single DSC would be selected to provide command and control of the DSCA response across the entire multi-state event. For this option to work, the “super DSC” would have to hold a federal

commission and commissions in the National Guard of every state in the affected area receiving DSCA support. Once so appointed, the “super DSC” could then apportion, prioritize, and synchronize the DSCA disaster response across the entire event, perhaps from the IMAT/UCG’s command center or JFO. However, the drawback to such a concept is that the principle of locally-focused response is sacrificed for ease of command and control at the event level. The risk is that the further a DSC gets away from the local recovery effort and the boundaries and needs of his home state, the more likely that his responsiveness to those local needs suffers. As a result, the state’s governor loses control of his state’s disaster response, a responsibility which he bears to the people of his or her state. For this reason, the nation’s governors are not likely to approve this approach.

Another problem with the “super DSC” approach is that it relies on one commander to control, supervise, synchronize, and coordinate DSCA operations at all levels, from the national event level to individual unit activities. One commander cannot possibly do it all. Corps commanders cannot and do not manage platoons on the battlefield, and there should not be such a requirement on a DSC during a disaster response. However, by taking some of the benefits of a “super DSC” and applying them in a multiple layered approach, a viable third option may be created.

The third option is called the “multi-layer DSC,” and it leverages the unity of command benefits of the “super DSC” at the event level while allowing the governors to maintain responsive state control of their own disaster relief. Recognizing that a Level 1 catastrophic event such as a major earthquake along the New Madrid seismic zone is a nationwide emergency, the foundation of the multi-layer DSC approach is the creation

of a national disaster response JTF.⁷¹ The JTF should be located near the FEMA NRCC, or the IMAT's JFO once it is established, and would integrate a liaison officer (LNO) into the NRCC or IMAT. In conjunction with the UCG, the JTF therefore would provide a whole-of-government "unity of effort" for national disaster response.⁷²

The JTF would be manned by personnel from USNORTHCOM's U.S. Army North (ARNORTH). A USNORTHCOM JTF designed and utilized for emergency response is not a new idea. As described above, USNORTHCOM's JTF-CS and TF-51 were created to provide command and control, response capability, and support to civil authorities during CBRN and other emergency events. This JTF, perhaps called JTF-Disaster Response (JTF-DR), should be created to provide the same function in support of DSCA activities conducted after a natural disaster.

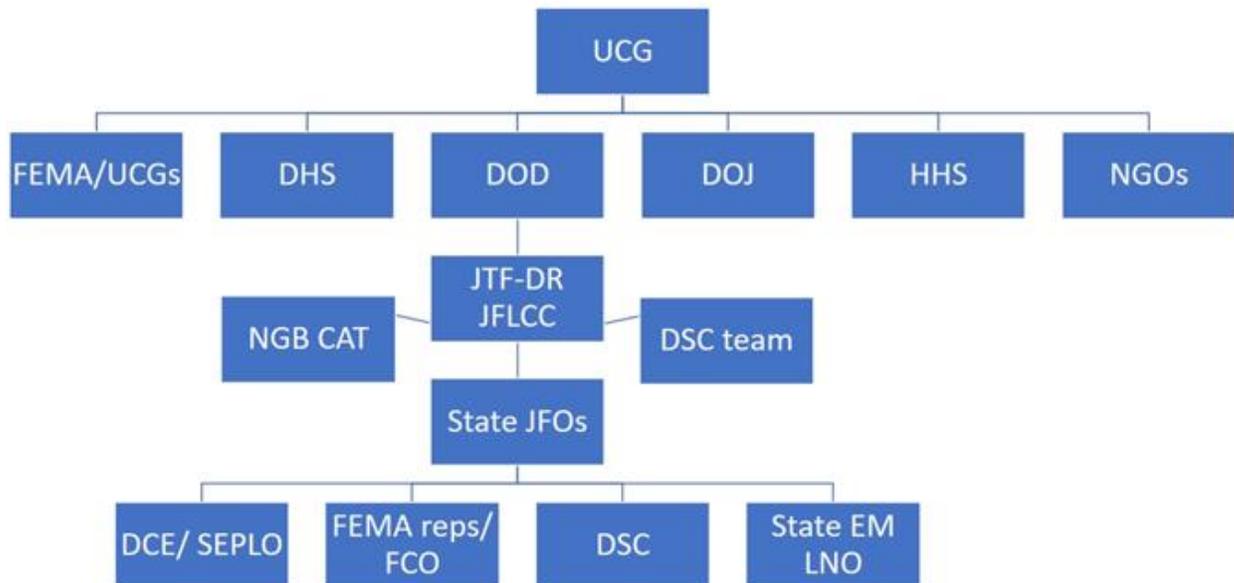
The JTF-DR would be led by a T10 general officer, designated as the Joint Force Land Component Commander (JFLCC). The JFLCC, likely a Lieutenant General, would have the President's and Secretary of Defense's authority to command and control the DSCA effort. The JTF-DR would contain elements from USNORTHCOM and ARNORTH and the NGB Crisis Action Team (CAT). Most importantly, each affected state would assign a DSC to the JTF. These DSCs, perhaps the Deputy Adjutants General from the affected states, would retain the authority to make DSCA decisions on the behalf and approval of his or her state Adjutant General and governor. The DSC team would serve as a clearinghouse for the coordinated DSCA response in concert with the JFLCC. It would allocate, control, prioritize, and synchronize T10 efforts and all EMAC requests among and within the states, and provide guidance for follow-on tasks when initial mission assignments were completed.

Each affected state should also appoint a second DSC to provide command and control of the DSCA effort within the state, not differently from the way DSCs are employed currently. This second DSC must work in concert with the state DSC located at the JTF and his or her state leadership because he or she is given operational control of the DSCA forces sent to his state. Whether the state DSC is senior, equal, or junior to the DSC located with the JTF can be determined by the governor, but both DSCs would likely hold the rank of Brigadier General. The state DSC may operate out of the state's JFO, which will be established by FEMA within each affected state. If not co-located with the JFO, the state DSC must remain in close contact with it and the JTF-DR through the use of LNOs.

The state JFOs will be established to provide and prioritize resources to incident commanders for disaster response and recovery assistance to the affected states. Each state's JFO will include the state DSC, FEMA personnel to include a Federal Contracting Officer, as well as representatives from other governmental departments and agencies. The JFO will also be manned by a Defense Coordination Element (DCE) and a State Emergency Preparedness Liaison Officer (SEPLO) group from USNORTHCOM. In addition, each state JFO will contain LNOs from the state's emergency management department, other state agencies, and the state's National Guard headquarters.

An example of the JTF and JFO structure utilized in this “multi-layer DSC” option is shown below, in figure 1.

Figure 1. Multi-layer DSC and JTF structure



Recommendation

Of all the options, this “multi-layer DSC” structure seems to provide the best approach to provide command and control of military assistance during a multi-state complex catastrophe. It provides unity of command for DSCA operations at all levels from national to local, and synchronizes the effort laterally among all the affected states. It also maintains the principles of federalism and state sovereignty by providing for state and local management and control of the disaster response within that state. It does add what some may refer to as an additional bureaucratic layer to DSCA operations, but it is the absence of this layer that prevents the efficient employment of limited assets among competing but legitimate requests from multiple states. This is the very problem this paper attempts to address.

Although this study recommends the multi-layer DSC as the most responsive method to utilize DSCs in response to a no-notice multi-state complex catastrophe, there are many more opportunities for continued study and examination. This recommendation should be integrated into future combined multi-state disaster exercises such as Cascadia Rising or Vigilant Guard by USNORTHCOM, FEMA, NGB, and the states to test its viability. In addition, more research should be conducted on the topic, looking at other questions this approach may create. For example, once a disaster strikes, this multi-layer DSC structure, the JTF, and the state JFOs described here may take twenty-four hours or more to establish. These entities will likely take even longer to become fully functional. This gap in response time creates risk in the initial response immediately after the disaster. Perhaps this risk can be mitigated by simply having the JTF structure in place. In addition, further study could examine the proper command and control structure to be utilized when federal and state military forces are employed under the doctrine of Immediate Response Authority (IRA), before the DSCs and the JIATF are established. The multi-layer DSC structure will also have to integrate with existing EMAC and T10 resource request and force generation processes.

Conclusion

The Dual Status Commander (DSC) construct was designed to provide unity of command and unity of effort in DSCA activities when the response includes active, reserve, and National Guard military support. This is because the active and reserve component military and the National Guard forces of the various states serve under different command structures with different Commanders in Chief and under the authority of different federal and state laws. While the current DSC construct works well to synchronize DSCA activities during national special security events or disasters

contained within single states and FEMA Regions, it is ill-suited to synchronize and coordinate DSCA response after a no-notice multi-state catastrophe such as a series of large earthquakes in the New Madrid Seismic Zone. This research project examined this current DSC structure, assessed the prior use of DSCs, evaluated the shortcomings of the current DSC structure in response to a no-notice multi-state complex catastrophe, and provided a recommendation for a new DSC construct to address these shortcomings. The changes to the DSC construct recommended here provide unity of command for DSCA operations at all levels, from national to local, while maintaining the principles of federalism and state sovereignty. They also synchronize the DSCA effort laterally among all the affected states to ensure resources in high demand are properly allocated and not wasted.

We can continue to conduct DSCA the same way we have for the last ten years with little risk, as long as it is in response to pre-planned events and low-level disaster response. However, the odds are good that someday there will be an event of national significance to occur. It could be a large New Madrid or San Andreas earthquake, a nuclear detonation or “dirty bomb,” or a large pandemic event. If it is truly a Level 1 national catastrophe, we will only get one chance to “get it right.” The approach suggested here may not be the only way or even the best way, but it is better than the current way.

Endnotes

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