

AIR COMMAND AND STAFF COLLEGE

AIR UNIVERSITY

DISASTERS WITHOUT BORDERS:

Designing a Military Command and Control Construct for Catastrophic Multistate Events

by

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A Research Report Submitted to the Faculty

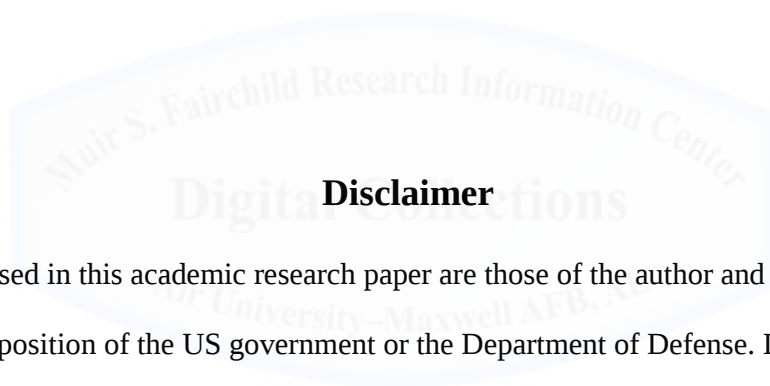
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ABSTRACT

The purpose of this paper is to evaluate the current command and control paradigms used to integrate federal and state military forces, from multiple states, during a catastrophic event within the United States. The paper employs the problem/solution methodology in order to evaluate policies, organizational structures, and the application of operational art in designing the optimal command and control (C2) construct for multistate events. Among the key findings are the need for an operational framework for multistate responses, a requirement for an operational level commander, the necessity for the National Guard to participate in C2 outside state borders, and the need for a dual status commander with a vested authority to command military forces from a coalition of affected states. Key recommendations include a call for the Council of Governors to lead efforts to develop strategic multistate C2 guidance and for National Guard Bureau to implement this guidance into plans, exercises, and Department of Defense guidance. A new domestic command and control paradigm is needed to improve flexibility and agility of limited capabilities, increase unity of effort, build situational awareness, and preserve the U.S. federalist system of government while supporting civil authorities.

INTRODUCTION

The Mississippi River Valley cuts through the heart of the United States along a slow, lazy path leading to the Gulf of Mexico. Roughly halfway between Chicago and New Orleans, sits the quaint little town of New Madrid, Missouri. The town would be relatively unknown except for it sits atop a fault line which produced some of the strongest earthquakes in United States history over the winter of 1811 and 1812.

Experts from the University of Illinois, Virginia Tech University, and George Washington University have produced models that indicate if an earthquake measuring 7.7 magnitude on the Richter scale happened along the New Madrid fault line today, the United States would be faced with a disaster response of unparalleled national destruction. Within moments of the initial shockwave, over 715,000 buildings would be damaged or destroyed in an eight state area.¹ If such an event were to occur, initial casualties are estimated to result in over 85,000 injured and 3,500 fatalities.² In excess of 9 million people will be displaced from their homes, of which 2 million will need emergency shelter while the rest attempt to leave the region as utility outages exacerbate the direct damage from the earthquake.³ Over 40,000 search and rescue personnel would be needed to go from house-to-house, across 140 counties while navigating a transportation network plagued by over 3,500 damaged bridges and overpasses.⁴

All levels of state, local, and federal governments, the private sector, and the military would be mobilized to respond and assist. Coordinating and integrating such a monumental response would require immense unity of effort and a prepared team of decision makers. The current military command and control (C2) construct for domestic events is focused primarily on the state level and below. A viable construct for dealing with large multistate events is lacking and

there is cause for concern that the construct is woefully inadequate to handle the scale of a catastrophe along the lines described.

Presently, during a disaster event that occurs in a single state, federal and state military forces are seamlessly integrated into the civilian response utilizing the dual status commander (DSC) construct, where a single military officer can command both active duty and National Guard forces. Fortunately, the DSC construct has proven to be a successful and effective C2 structure within the boundaries of a single state. A disaster large enough to encompass several states, however, strains the effectiveness of the current DSC command and control construct. The current operating C2 construct is neither efficient, effective, responsive, nor capable of organizing and coordinating a military response across a large interstate affected area.

What command and control construct is best suited to provide the most effective military response and promote unity of effort during a largescale, multistate, catastrophic event? This paper explores the answer to this question. The paper maintains that the optimal command and control construct, in response to multistate disasters, utilizes a dual status commander at the operational level, agreed upon by all of the affected states, to integrate, coordinate, and synchronize joint forces within a multistate coalition response. Such a commander would coordinate active duty and National Guard forces at a level above the state dual status commander, but below the combatant command level.

An additional layer of command and control is needed during a multistate response for several reasons. First, once a disaster becomes large enough to encompass multiple states the conceptual framework of strategic, operational, and tactical levels of response shift dramatically, resulting in a gap of leadership between the strategic and tactical levels. The need to meet national objectives while supporting the needs of multiple states requires a commander who is

solely responsible for coordinating forces at the operational level. Senior military commanders within each state must remain focused upon the tactical level response within each state without the burden of incorporating national level objectives into their response.

Secondly, specialized capabilities, of which there is generally high demand and limited quantities, should be employed at the operational level of a response. During a catastrophic event, some capabilities may be more efficiently utilized if centrally coordinated and prioritized instead of being parceled out to the individual state level.

Furthermore, due to the present fractured nature of multistate C2 arrangements, it has been noted during past events and exercises that situational awareness surrounding the military response suffers. Streamlining the C2 structure under an operational level commander and the resulting reporting mechanisms will potentially increase situational awareness for all agencies involved in the response effort.

Finally, the goal should be unity of effort across the whole of government, which requires cooperation towards common objectives through unified action. Unified action is best achieved through unity of command, which is one of the bedrock principles of joint operations. In order for a single commander to have the trust of the affected governors, he or she needs to have been previously selected and willfully agreed upon by a coalition of states. During a no-notice multistate catastrophic event, the lack of a unified command, and therefore lack of unity of effort, will further exacerbate the problem, resulting in the potential for unnecessary loss of lives.

This research employs a problem/solution framework in analyzing the optimal C2 structure and its implication on a no-notice, multistate disaster. Military command and control is more art than science, requiring a subjective analysis of its optimal use. The paper employs a review of established doctrine, current literature, and interviews of subject matter experts.

To define the scope of the paper, a review of background subjects will be reviewed to include the foundation of command and control, operational frameworks, and the typical command and control construct used in a single state disaster response. The background will also define to problem of providing military command and control during a complex multistate catastrophe. The analysis section explores the strengths and weaknesses of the proposed optimal command and control paradigm.

The research concludes with key recommendations to include calling for the National Guard to recognize shifts in operational frameworks during multistate events, for the Council Governors to lead the effort in issuing strategic guidance on coordinating multistate responses, and for National Guard Bureau to implement that guidance into plans, exercises, and the various forms of Department of Defense issuances.

BACKGROUND

The intricacies of the problem and proposed solutions presented within this paper require a review of the domestic use of command and control within the United States. The section outlines the current command and control paradigm within a single state disaster event, the key stakeholders, and some statutory limitations. Additionally, it presents the specific challenges of command and control during a complex, multistate catastrophe.

Foundations of Command and Control

According to joint military doctrine, “command” is “the authority that a commander in the armed forces lawfully exercises over subordinates by virtue of rank or assignment.”⁵ The founders designed the military to be under civilian authority; however, they limited that authority to the President of the United States as the head of the executive branch of government. Most

state constitutions and laws similarly assign their governor as commander in chief of National Guard and state defense forces.⁶ Similarly, “control” is an authority that may be less than command but encompasses directing and managing forces in a manner consistent with a commander’s command authority.⁷ During a disaster response in the United States, the military will enter into a supporting role to civil authorities, as outlined in the National Response Framework (NRF), but shall retain command and control of the military forces through the military chain of command.⁸

National Response Framework

It is important to understand how civil authorities view a response within the domestic operational environment. Civilian governmental agencies utilize the Incident Command System (ICS), beginning at the lowest level of a response and then building and adapting as needed in order to effectively and efficiently integrate all aspects of a response.⁹

ICS supports the National Response Framework, which is national level doctrine and strategy for how the whole of government responds to disasters. The NRF utilizes a doctrinal perspective focusing on three levels of a response, local or tribal, state, and national.¹⁰ Figure 1 illustrates the tiered response, which helps responders visualize and define roles and responsibilities dependent on the size, severity, scope, and complexity of the situation. According to the National Response Framework, as an incident changes in complexity, the response perspective and organizational

structures should also change, flexing and adapting in a scalable manner.¹¹

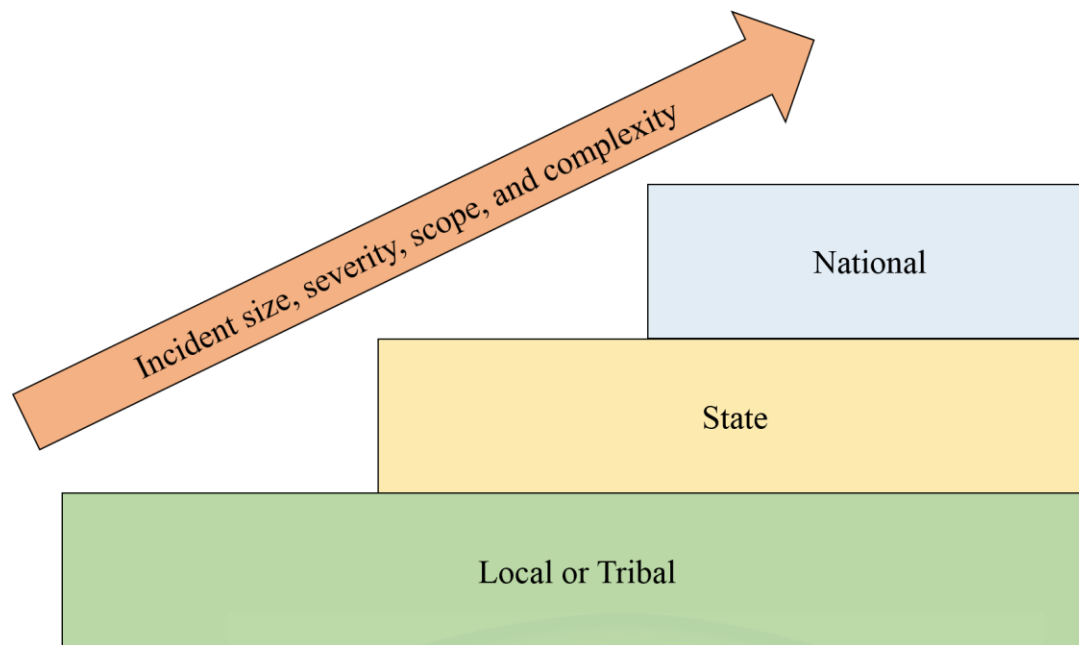


Figure 1. National Response Framework Tiered Response

Military Command and the Domestic Operational Environment

Three basic levels of command authority reside within the military, (1) combatant command, (2) operational control, and (3) tactical control.¹² Combatant command provides a combatant commander the ability to exercise or delegate certain authorities, organize subordinate commands, and establish plans, policies, priorities, and requirements for the command.¹³ A combatant commander is one of the nation's most senior officers who takes his or her direction directly from the strategic guidance of the President or Secretary of Defense. Combatant command authority allows the combatant commander to deploy, employ, direct, control and coordinate the actions of forces assigned or attached to the command in order to accomplish assigned missions throughout the entire theater.¹⁴

The command authority known as operational control allows a commander to designate objectives, organize subordinate commands, and employ forces in order to accomplish a particular mission.¹⁵ One of the key attributes of this command relationship is the ability to organize commands and forces. When combined with the ability to designate objectives, create plans and employ forces in support of national strategic objectives, this becomes a key component within the military response.

Tactical control is the authority “limited to the detailed direction and control of movements and maneuvers” which directly affects the accomplishment of certain tasks.¹⁶ A major distinction is that a commander with tactical control cannot organize forces, designate mission objectives, or provide direction over administrative or logistical support.¹⁷

Conceptual Framework of Military Operations

The United States military is not specifically designed or organized to conduct civil support operations. During a disaster response, the military must integrate its organizational structures and doctrinal perspectives with civil structures and response perspectives. Common military perspectives of the operating environment include tactical, operational, and strategic levels of engagement. These levels are a conceptual framework from which commanders can visualize the various parts and provide context to the whole response. By dividing the military response into strategic, operational, and tactical levels, commanders can “design and synchronize operations, allocate resources, and assign tasks” to the appropriate forces.¹⁸ Figure 2 is a visual depiction of

the military levels of the operating environment and their major associated functions.

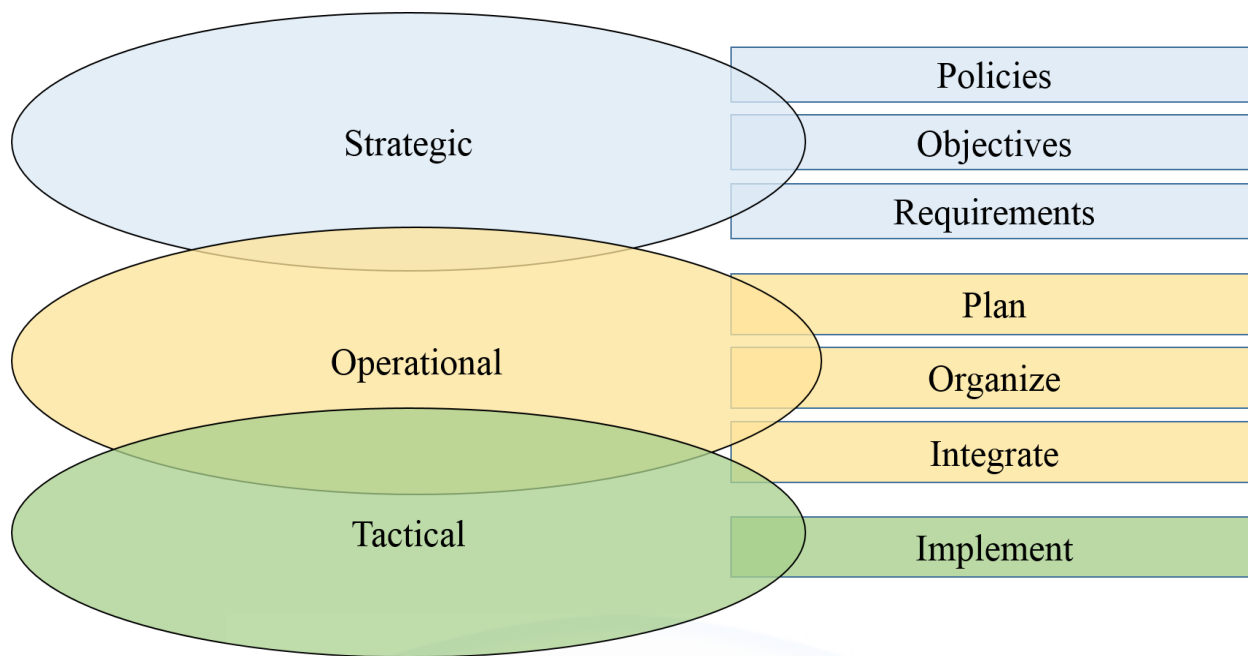


Figure 2. Military Levels of the Operating Environment

The President establishes national level objectives and requirements at the strategic level. National resources are then committed to accomplishing the stated strategic objectives.¹⁹ Combatant commanders typically operate at this level, receiving guidance from the President and Secretary of Defense on what the over-all military strategy should be for the commander's area of responsibility. Admiral William Gortney, former Commander of U.S. Northern Command (USNORTHCOM) offered up some of his strategic objectives during a 2016 statement to the Senate Armed Services Committee. Admiral Gortney stated that USNORTHCOM must stand ready to provide a rapid and robust response during disasters and continue to build homeland partnerships.²⁰

At the operational level, commanders serve as the key link between the tactical employment of forces and the strategic objectives. "Operational art" is employed at this level to "determine how, when, where, and for what purpose" crucial military forces will be used.²¹ Arguably,

without this level of leadership, it will be difficult to coordinate, synchronize and link national level objectives to tactical level activities and maneuvers.

The tactical level of a military operation generally involves the “employment and ordered arrangement of forces in relation to each other” and how they engage in their directed activities.²² Generally, tactical units or task forces are assigned specific military tasks that help meet operational objectives. As an example, during Hurricane Sandy, military forces conducted a range of operations at the tactical level from assisting in evacuations, supplying food, supplies, and fuel, medical welfare visits, security patrols, flood mitigation, and pumping water from the subway system.²³

Typical Command and Control Structure During a Single State Response

Having covered the general military and civilian response frameworks, the discussion now turns to command and control of military forces during a single state response, statutory limitations, and guiding principles. Knowledge of how the military integrates active duty and National Guard forces during a single state response can provide a baseline from which to assess the complexities of a multistate response.

A single state disaster response follows the National Response Framework with a declaration of emergency at the local level first. Once the city or county within the state is overwhelmed, they will request assistance from the state. If the state is in danger of being overwhelmed or in need of specialized assistance then they will declare a state emergency and request assistance from the federal government.

The governor may activate the National Guard within their state anytime during the response process. The military chain of command within the state is simple, the National Guard Adjutant

General for the state is the principal military authority and all other military commanders are in a supporting role.²⁴ Even as national resources begin to flow into the state when requested, they all support the governor, respecting the sovereignty of the state and its elected leaders. Active duty military forces will also be in supporting role, integrating into the state military structure.

Doctrinally, according to Joint Publication 3-28, *Defense Support of Civil Authorities*, during civil support missions, a Federal Joint Task Force (JTF) should be established as dictated by operational requirements.²⁵ A JTF consists of a joint military force designed to complete limited objectives, accomplish specific missions, and does not require the need to control centralized logistics.²⁶ This JTF should be collocated with the Joint Field Office (JFO).²⁷

The JFO is a temporary coordination center where various federal agencies integrate their response into the existing state response.²⁸ Within the JFO, the Department of Defense (DoD) provides a Defense Coordinating Officer (DCO) who is the DoD's single point of contact with the Federal Coordinating Officer (FCO) and the State Coordinating Officer (SCO).²⁹ The Federal Coordinating Officer will vary depending on who is the lead federal agency, but during disasters it typically is a specially trained emergency manager from FEMA.³⁰

Similarly, the State Coordinating Officer is a state selected emergency manager who represents the authorities and responsibilities of the governor in responding to a state disaster.³¹ The Federal Coordinating Officer, Defense Coordinating Officer, State Coordinating Officer and others all come together to form the Joint Field Office, which functions as the Unified Command as described by the National Incident Management System.³²

The DCO is not the only military representative within the unified command structure during a state disaster. The National Guard also plays a key role. DoD has established 54 standing Joint

Force Headquarters within the states and territories to support federal and state missions.³³ Each state may also establish one or more JTFs under the direction and authority of the Adjutant General.³⁴ The Adjutant General holds the highest National Guard position within the state and is typically part of the governor's cabinet. Often times another senior National Guard officer will be appointed as the dual status commander, or DSC, in charge of the state JTF. The DSC or their representative will join the Unified Command structure within the Joint Field Office.

A Dual Status Commander is granted unique authorities as a military commander. An active duty service member operates under Title 10, U.S. Code (USC). A National Guard member may operate under several different statuses ranging from state active duty (SAD) to Title 32, USC to Title 10, USC. Service members, with the exception of a few mentioned below, can only be in one status at any one time. National Guard members fall under the authority of the either the President or the member's governor, depending on whether they are on, respectively, Title 10 or Title 32 orders. Guard members will always fall under the authority of the governor when in state active duty, and active service members will always fall under the direction of the president.

Military Authorities in United States Code

U.S. Code, Title 10, derived from Articles I and II of the Constitution, outlines the armed forces of the United States. The Constitution authorizes the President, as Commander in Chief, to establish the Department of Defense and assign a Secretary, with Senate approval, over the Department. The Secretary of Defense, by statute, is given the control over the military. Title 10 generally applies to military members who are in "active duty" as defined by Title 10, section 101. This designation specifically refers to members of the active military service and not to fulltime National Guard members. This "active duty" or "Title 10" status is a federal status under

the full command and authority of the President. National Guard and Reserve members called up by the President or Congress are placed into active status and transferred from state to federal control as a result. When not called up by the President, National Guard members are generally considered to be in U.S. Code, Title 32 status or in another status called state active duty or SAD.

Title 32 of U.S. Code outlines the organization, manning, equipping, and regulation of the National Guard. Congress, pursuant to its duty “to provide for organizing, arming, and disciplining, the militia,” has appropriated federal funding to the National Guard to ensure the members of the militia are ready to be called to duty in a manner that is commiserate with the active military service.³⁵ National Guard members in a paid status for training is generally considered a Title 32 status. While Federal funds are provided for both active National Guard training and inactive training, or “drills,” the actual authority to train members of the militia is reserved for the state.³⁶ As such, members in a Title 32 status are under the authority and control of the governor and the Adjutant General of the state.

State active duty is the term generally used when a governor calls up the National Guard at times other than during their regularly scheduled drill or training. While in SAD status, National Guard members are paid by the state in accordance with state statutes. Most National Guard units are called up to support the state and local authorities during disasters using SAD, providing the governor with the most flexibility in command and control.

The DSC is the one individual who can legally be in both a Title 32 and Title 10 status at the same time, hence the name dual status commander.³⁷ Figure 2 depicts the unique role of the DSC, who is able to receive direction from the President, through the Secretary of Defense and a combatant commander, and also receive direction from the governor and state Adjutant General. When the DSC issues orders to Title 10 forces assigned to the state, he or she is doing so on

behalf of the president. When issuing orders to Title 32 or SAD forces, the DSC is doing so on the behalf of the governor.

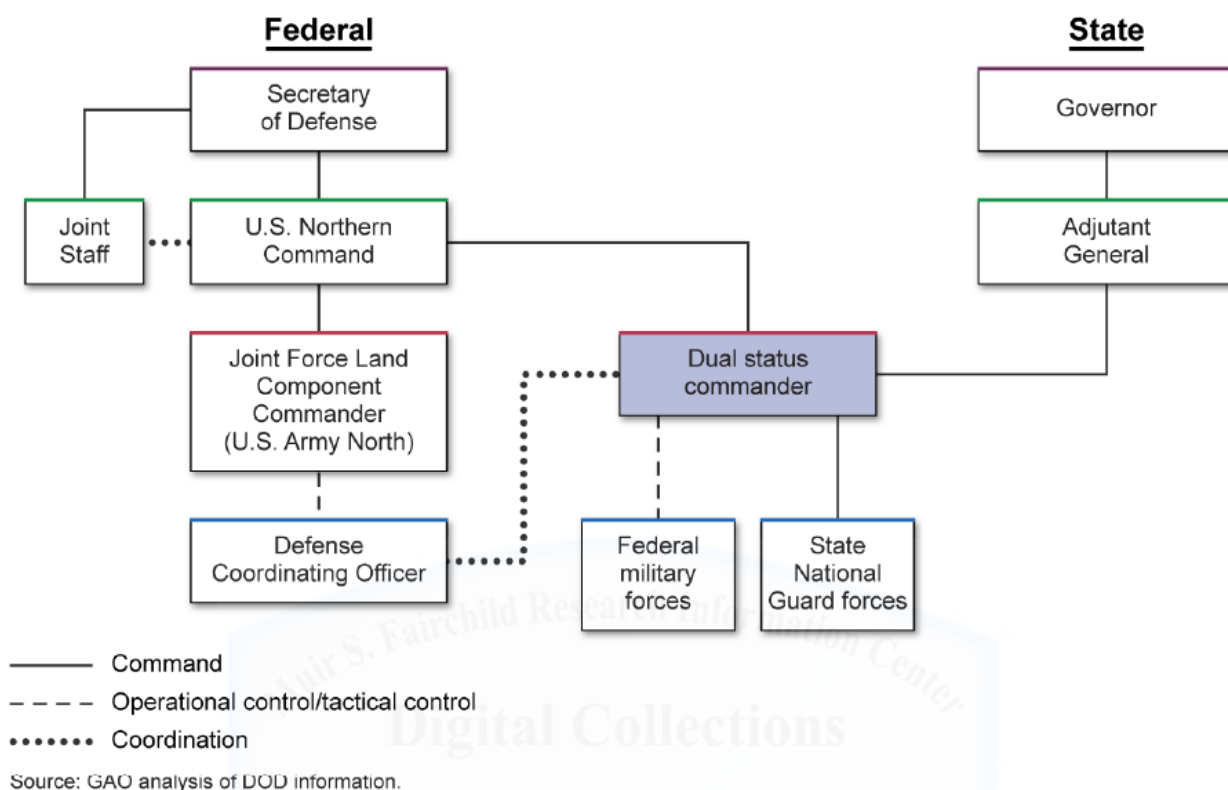


Figure 3. Command and Control in a Single State Construct (reprinted from United States Government Accountability Office, “Civil Support: Actions Are Needed to Improve DOD’s Planning for a Complex Catastrophe,” Report to Congressional Requestors (Washington, DC: September 2013), 17.)

A DSC must be nominated and selected by his or her governor and agreed upon by the President. Typically a member of the National Guard is selected for the role and is temporarily granted Title 10 command authority. A Title 10 commander may also be selected to be a DSC and must become a National Guard member of that state by swearing an oath of allegiance to the state and governor. The DSC concept was created to promote unity of effort through unity of command during a disaster involving both state and federal military forces.

During a disaster response involving a single state, the DSC construct is important for timely integration of all military forces. The construct fulfills the military principles of unity of

command and also supports the civilian system of a coordinated unified command. The DSC construct has been shown to be effective in both planned and unplanned events. The DSC proved to be so successful that it has become the “usual and customary arrangement” whenever active duty and National Guard forces are simultaneously in support of civil authorities.³⁸ The DSC is one way to promote unity of effort, especially in the instance of a disaster occurring within the jurisdiction of a single state.

Principles of Unity

The goal of a whole of government response is to achieve unity of effort. Unity of effort is a doctrinal term used to describe the necessary “coordination and cooperation toward common objectives, even if the participants are not necessarily part of the same command or organization, which is the product of successful unified action.”³⁹ Unity of effort focuses the myriad of government, non-governmental and even private sector agencies towards actions that support the strategic objectives of the nation. Unity of effort becomes the underlining thread that connects strategic guidance with operational objectives and tactical actions.

In order to achieve unity of effort the military focuses on two additional concepts, unity of command and unity of action. Military doctrine on joint operations states, “unity of command means all forces operate under a single commander with the requisite authority to direct all forces employed in pursuit of a common purpose.”⁴⁰ As seen above, the DSC construct is an attempt at ensuring unity of command within a state.

In accordance with joint military doctrine, unified action is “the synchronization, coordination, and/or integration of the activities of governmental and nongovernmental entities with military operations to achieve unity of effort.”⁴¹ While unified action focuses on the sequential placement of pieces to make a whole, unity of effort focuses on the cooperation

necessary to produce a whole that is greater than the sum of its parts. In order to achieve the desired objectives, unity of effort requires coordinated and synchronized efforts and planning between all involved.

The Multistate Command and Control Dilemma

Attempting to piece together a response to potentially dozens of state and local jurisdictions results in extra challenges as seams in communication and collaboration become more evident. Retired General Steven Blum and Dr. Kerry McIntyre highlight these seams in their work *Enabling Unity of Effort in Homeland Response Operations*, in which they explore some of the frictions related to homeland responses. According to Blum and McIntyre, “the diffusion of authorities and capabilities across multiple agencies, organizations, and levels of government, coupled with the sheer size and complexity of the nation, creates an unavoidable friction that makes the simplest operations difficult and achieving unity of effort a daunting challenge.”⁴² There are natural inefficiencies and challenges in collaborating across jurisdictions within a single state, however, when multiple states are involved those inefficiencies and challenges are multiplied even further.

In 2010, the Council of Governors acknowledged a weakness in the relatively new dual status commander construct, essentially stating in their *Joint Action Plan for Developing Unity of Effort* that they did not have an answer to the challenge of how to provide command and control over a multistate disaster.⁴³ The governors acknowledged the fact that the likelihood of a multistate event occurring was statistically high and that a coordinated and rapid response would be needed in order to save lives.⁴⁴ The plan set forth by the Council of Governors asserts that the governor is the responsible agent and principal civil authority for a disaster within state borders.⁴⁵ The plan goes on to state that the principal military authority within the state will be

the Adjutant General and that the usual and customary arrangement to integrate federal and Guard forces is with the DSC.⁴⁶ When a disaster crosses borders, multiple governors will each be the responsible agent for their states and each will have the opportunity appoint a DSC.

When federal military forces are requested by a state, the federal government essentially enters into a support agreement with that state. When multiple states are involved, the supporting federal forces are divided up between the states and dispersed, causing a command and control challenge on the federal side. As the lines of coordination and communication increase, situational awareness and unity of effort decrease.

Figure 4 demonstrates the challenge of the multistate military response through an example involving the New Madrid earthquake scenario. Federal forces under the control of USNORTHCOM support each state individually. The establishment of a DSC within each state creates multiple areas of responsibility (AOR). The federal chain of command goes directly from the combatant commander down to the DSC within each state.⁴⁷

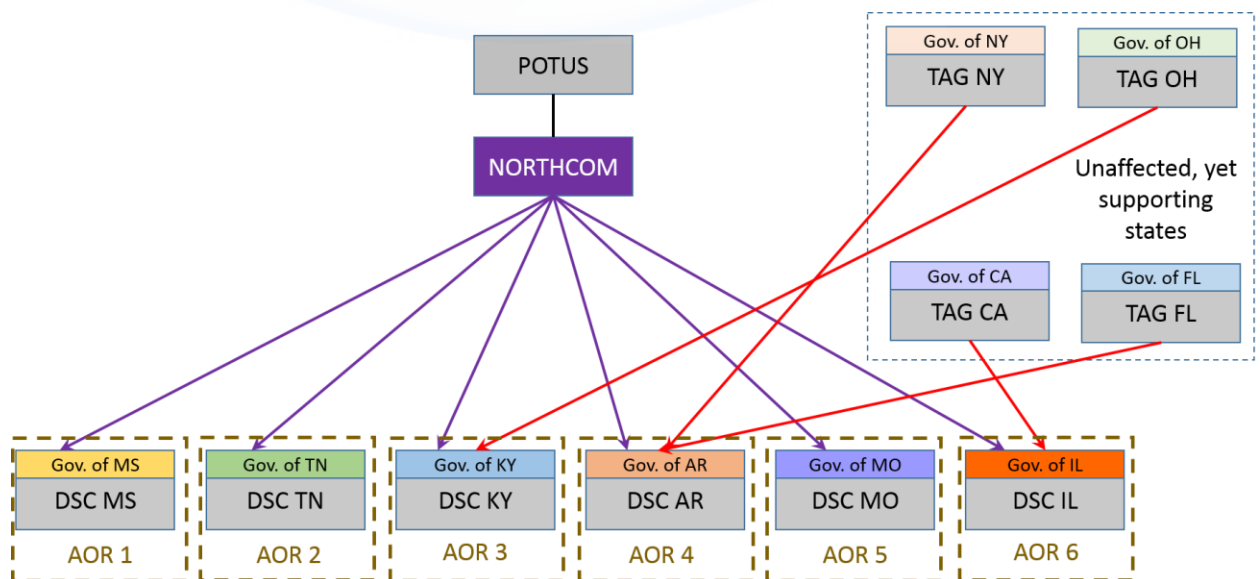


Figure 4. Example of a Current Command Construct for Multistate Events

Similarly, unaffected supporting states can also assist in the response as they enter into individual agreements between governors creating additional lines of coordination as seen in Figure 4. The Emergency Management Assistance Compact (EMAC) allows the governor of one state to request and receive resources, to include military resources, from a willing supporting state.⁴⁸ This crossflow of resources through mutual aid is independent of, but compatible with federal assistance.⁴⁹

While EMAC is a very useful way for one state to come to the aid of another state, it has the potential to complicate the overall C2 picture. During an EMAC agreement between two states, the supporting governor essentially assigns his forces to the requesting state in a SAD or Title 32 status.⁵⁰ The requesting governor agrees to reimburse the supporting state and while the supporting forces are generally under tactical control of the requesting governor, another line of C2 is introduced into the equation as the supporting governor naturally retains administrative responsibility of the supporting troops.

Another potential point of friction during a multistate homeland response is the vying for capabilities and resources between states. The current democratic construct of each state governor acting as the principal responsible authority creates a system in which each state is obligated to its residents to work in their best interest, which may not be in the best interest of their neighbors. During a complex catastrophic event, some resources and capabilities may be limited and in high demand.

Due to the formal nature of the EMAC process, once military forces are sent from one state to another they generally remain under the control and direction of that state until released or called back by their governor. Similarly, federal active duty forces assigned to one state are not

easily transferred to another state without consent of the supporting Defense Coordinating Officer and supported dual status commander. Normally this is not a significant issue; however, there are times when high demand forces are used inefficiently due to being assigned to a single state.

If states are in need of certain limited capabilities, it is likely that the state requesting the resource first will end up securing the asset through federal mission assignments or through EMAC instead of the state with the greatest need getting it. The result would be an inefficient use of a high-demand capability. While there is a finite amount of resources, especially in a catastrophic event, “the problem at its heart is not lacking resources and capabilities, but in being unable to bring them to bear at the right time and place, and in the right combination, to achieve effective results.”⁵¹

Under the current C2 construct, the synergies created from the local level, up through the state and federal level response in a single state disaster are diffused during a multistate event. Unity effort becomes elusive to the whole of government response when it comes to large, complex catastrophes.

In 2012 the Government Accountability Office (GAO) conducted a study, titled: *Homeland Defense: DOD Needs to Address Gaps in Homeland Defense and Civil Support Guidance* in which analysis reiterated the need for DoD guidance on how to best conduct multistate responses.⁵² The report identifies the fact that DoD’s concept of operations for supporting a multistate disaster did not address how to use the DSC in such a scenario even though it is the usual and customary arrangement.⁵³ The recommendation from that report called for the Assistant Secretary of Defense, USNORTHCOM, and National Guard Bureau to work together

to implement guidance on how to use the DSC in a multistate event.⁵⁴ At the time of publication for this paper, that guidance has still not been developed and implemented.

In September of 2013, a full year after Hurricane Sandy, the GAO completed another study called *Civil Support: Actions Are Needed to Improve DOD's Planning for a Complex Catastrophe*.⁵⁵ Within this particular report the GAO again identified the lack of C2 construct that prescribes “the roles, responsibilities, and relationships among command elements that may be involved in responding to such incidents across multiple states.”⁵⁶ The report goes into detail on several events that highlight the need for guidance on multistate events. It references National Level Exercise (NLE) 2011 which focused on an earthquake in the New Madrid Seismic zone and how the lack of a multistate C2 structure created uncertainty and regarding the roles of responding military forces.⁵⁷

The September 2013 report also addresses Hurricane Sandy and the uncertainty surrounding the roles of the various Defense Coordinating Officers, Dual Status Commanders, and the Joint Coordinating Element (JCE). The JCE was an attempt by USNORTHCOM to add an operational layer of C2 between the DSCs and the combatant commander. The uncertainty of the various C2 roles “hampered unity of command across state boundaries and created confusion regarding command and control relationships and force allocation across the affected multistate area.”⁵⁸ The final recommendation of the GAO was for USNORTHCOM to “develop, clearly define, communicate, and implement a construct for the command and control of federal military forces during multistate civil support incidents.”⁵⁹ The federal C2 construct is only part of the equation however, and to achieve unity of command and effort the federal C2 construct must be integrated with the state National Guard command elements as well.

The problem of designing the optimal C2 construct for multistate disasters is multifaceted and ongoing. Bringing together a whole of government approach to disaster response, while respecting the jurisdictions and authorities of sovereign states is acutely complex. The likelihood of a large military force being employed to respond to a multistate disaster is extremely high. The need for a well-defined and coordinated operational level C2 structure is equally high in order to mitigate additional loss of life during a complex catastrophe.

ANALYSIS

As outlined above, using a single state response framework and command construct to address multistate events has produce mostly confusion and inefficiencies in the past. The optimal command and control construct for a multistate disaster calls for a conceptual framework that encompasses a much larger scope than a single state response. The optimal construct should also decrease confusion through clear lines of command and control. Efficient use of limited resources should increase with an optimal command structure. The mark of an ideal multistate command and control construct will be unity of effort, through unity of action, through unity of command.

The Need to Recognize Operational Framework Shifts

The operational framework for a single state disaster response differs from that of multistate operational framework. During a single state military response, the Adjutant General for that state resides in the strategic level, implementing the guidance from the governor. Conceptually he shares this strategic level with the combatant commander. Figure 5 overlays the strategic, operational, and tactical framework onto a notional command structure within a single state.

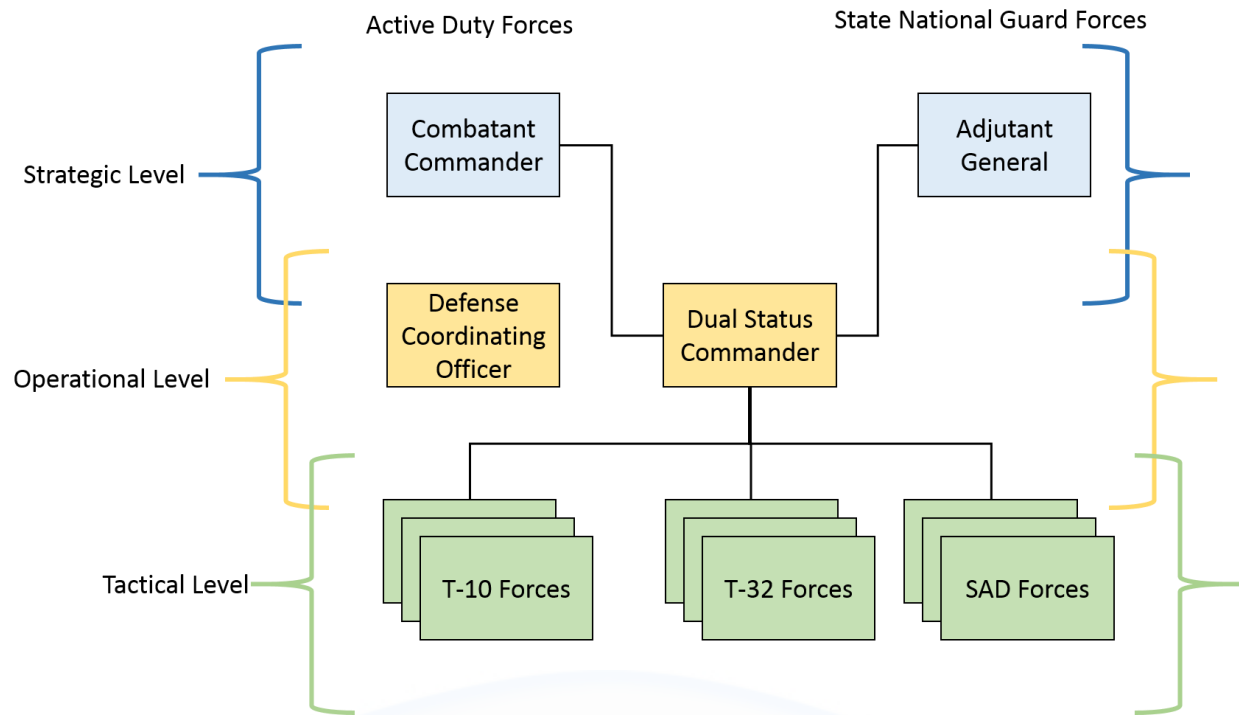


Figure 5. Strategic, Operational, and Tactical Framework in a Single State Event

At the tactical level, units are employed assisting civil authorities in the needed mission areas at the local level. The operational level consists of the dual status commander and the Defense Coordinating Officer integrating federal and state military forces into the statewide response. Since only one state is affected, the entire federal government is focused on coordinating with the DSC and integrating available resources into the response. In this manner, the DSC is truly the single commander who is planning and executing operations, organizing and employing state and federal military forces, and connecting the ends, ways, and means of operational art.⁶⁰

When a large disaster crosses state boundaries and grows in magnitude, so does the needed command and control structure. As an example, the National Response Framework calls for there to be one Defense Coordinating Officer per FEMA region to act as the point of contact for the active duty military response. During Hurricane Sandy, however, the geographic size and

complexity of the storm resulted in the need for multiple Defense Coordinating Officers in New York alone along with others across the region.⁶¹

As the operation grows, it expands most notably in the tactical and operational levels of the response. As it does so, the framework changes, resulting in state DSCs becomes more tactically focused and less operationally focused in comparison to the over-all scope of the response. Hurricane Sandy was the first multistate disaster integrating both Title 10 and Title 32 military forces under dual status commanders during a no-notice event.⁶² New York and New Jersey both employed a dual status commander within their states, and in an effort to coordinate between the two, USNORTHCOM established the Joint Coordinating Element.⁶³ Neither the New York nor the New Jersey DSC were in a position to integrate military forces into the overall response anywhere other than within their state borders leaving a gap at the operational level since the Joint Coordinating Element has no jurisdiction over National Guard forces. Figure 6 provides context on how during a multistate event the coordination at the operational level becomes increasingly complex.

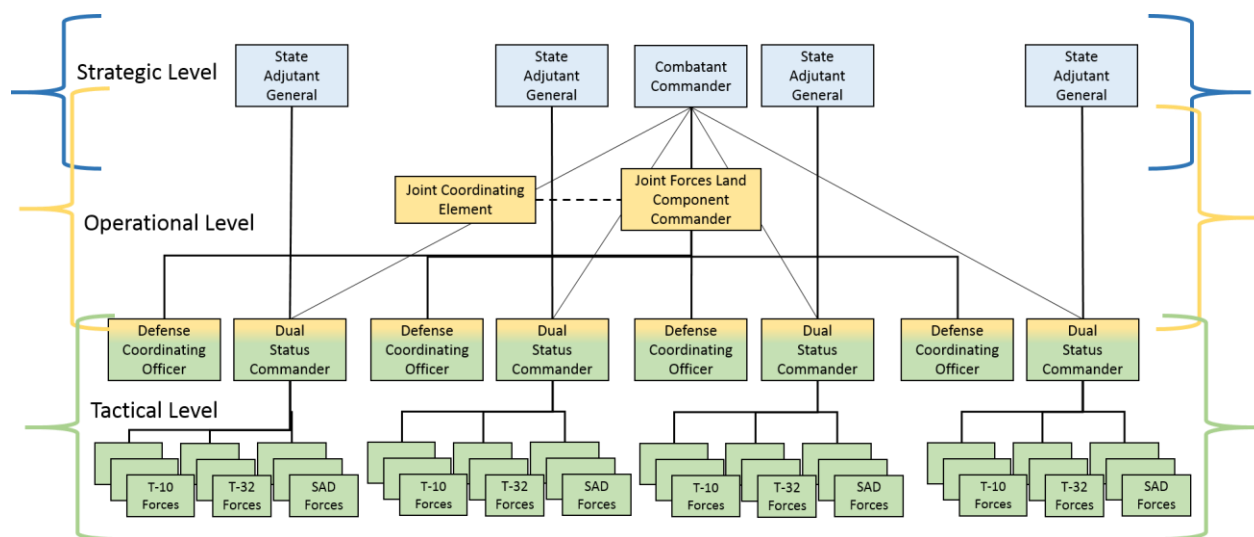


Figure 6. Strategic, Operational, and Tactical Framework in a Multistate Event

The amount of stakeholders at the strategic level also increases, which then increases the amount of strategic guidance and policy for the operational level commander to coordinate into a synergistic plan and cohesive objectives. As figure 6 illustrates, during a multistate event, as the DSCs become more tactically centric, a gap in collaboration between states becomes more evident as there is no entity designated to coordinate National Guard forces between the states at the operational level. Each dual status commander is reporting directly the state adjutant general and the combatant commander and no single entity is coordinating and integrating both active duty and National Guard forces between the states.

As noted previously, the National Response Framework calls for organization structures and concepts that adapt and change as the situation grows. The current command and control concept works well at the single state level; however, its rigidity during multistate events, results in stovepipes of effort focused on each state. Military leaders will do well to recognize the shift in operational frameworks during a multistate event that tends to drive the current DSC model down towards the tactical level and leaves a coordination gap at the operational level.

The Need for an Operational Level Commander

Civilian doctrine within the National Incident Management System presents a management concept called modular expansion and span-of-control.⁶⁴ Ideally, for a smaller response, leaders should only control three to five sections or individuals; during larger responses, limited leadership assets may necessitate expanding span-of-control to eight to ten sections.⁶⁵ Therefore, an increase in the amount of people and units results in additional layers of command and control. Using the civilian model for managing increasingly larger operations would lend credence to a need to add layers of military command and control to optimize effective span-of-control.

Title 10, active duty forces recognize the need for an operational level commander. As mentioned previously, since Hurricane Sandy turned into a multistate event, USNORTHCOM decided to deploy a Joint Coordinating Element, a JTF-like entity, to coordinate and integrate federal forces into the New York and New Jersey responses.⁶⁶ The Joint Coordinating Element commander was to serve as an intermediary commander between the individual state dual status commanders and the combatant commander. Instead of increasing collaboration, the added layer of command and control actually only added confusion and complexity.⁶⁷

Adding extra layers of bureaucracy to an already very bureaucratic process is a valid concern worth exploring further. Is another layer of command between state dual status commanders and the combatant commander actually needed? Some would argue that nothing higher than the state dual status commander is needed, since the DSC, through the Adjutant General, is the highest level of military authority within the borders of the state.⁶⁸ Critics also suggest that with additional layers comes more ambiguity on who should be coordinating with whom.

Mr. Ryan Burke and Dr. Sue McNeil, in their detailed case study on the dual status commander during Hurricane Sandy, call for eliminating the Joint Coordinating Element from future multistate responses due to the confusion of adding extra layers of coordination was ineffective.⁶⁹ Dr. McNeil, a professor of Public Policy and Administration at the University of Delaware and Mr. Burke, a doctoral student with a focus on military civil support operations, acknowledge that logically, during a multistate event such a layer is warranted, however without clear guidance and buy-in from all the stakeholders it fails to achieve its purpose.⁷⁰

Although Dr. McNeil and Mr. Burke do not support the Joint Coordinating Element construct, they do call for an entity to coordinate between the various Defense Coordinating Officers, citing a need to adjudicate requests coming from multiple DCOs and dual status

commanders.⁷¹ They go on to explain that the Joint Coordinating Element was ineffective based upon its lack of authority within the actual chain of command. One of Dr. McNeil and Mr. Burke's recommendations was to establish a commander to adjudicate between the DCOs and be the final approval authority within the multistate operating area.⁷²

Having a commander at the operational level, as described by Dr. McNeil and Mr. Burke is indeed needed. The concept needs to be taken a step further, however, and include National Guard forces into the equation at the operational level. Part of the failure of integrating the Joint Coordinating Element into the operational level during Sandy is due more to the fact that it only focused on half of the military response, the Title-10 federal forces. National Guard forces need to be integrated not only at the state level, but also at the operational level as well. Without support of the National Guard for an operational level C2 construct, attempts at establishing the needed cross-state coordination will continue to be challenged. Establishing the need for National Guard participation in command and control at a level above the states will solidify and streamline the entire military command and control process.

Need for National Guard Command and Control at the Operational Level

While few critics would argue that coordination needs to be expanded out across the operational level, an argument can be made that command and control, specifically unity of command, can only take place at the state DSC level. In fact, there is strong opposition among National Guard and state officials for any type of command and control of Guard troops at the national level. Some of the opposition is due to the political implications in a perceived loss of control over the situation and the assets under state control. Multiple interviews revealed that states are predominately reluctant to relinquish state control over their forces to military

authorities at the national level even if doing so were to make the disaster response more efficient.

According to critics of national level involvement in controlling state military responses, in the immediate aftermath of hurricane Katrina President Bush attempted to integrate federal and military forces by convincing the Governors of Louisiana, Mississippi, and Florida to allow Lieutenant General Russell Honoré to hold dual status commander-like authorities, but each of the states refused.⁷³ As a result, federal forces acted independently from National Guard forces, effectively running two parallel military chains of command.⁷⁴ Due to the perception of a slow federal government response and the inefficient state response to Katrina, officials within DoD felt that during a large disaster event, it would be best handled at the federal level. Language was inserted into the 2007 National Defense Authorization Act (NDAA) that amended the Insurrection Act of 1807 and expanded the President's power to take control of state National Guard forces.⁷⁵

The original Insurrection Act allowed the president to activate and take control of the National Guard and federal military forces, without regard or permission of the governor, only to suppress "insurrection, domestic violence, unlawful combination, or conspiracy" that impedes the execution of state or federal laws.⁷⁶ The 2007 NDAA amendment expanded the president's authority to activate and take control of the National Guard without governor authorization "as a result of a natural disaster, epidemic, or other serious public health emergency, terrorist attack or incident."⁷⁷

The seemingly well-intentioned change to the Insurrection Act was met with fierce resistance as 49 state governors, and two territorial governors adamantly disagreed with the amendment, passing a resolution to repeal the act.⁷⁸ The Council of Governors even expanded their position

further by stating that all federal forces supporting a state disaster be under governor control, setting the stage for what is now the usual and customary use of the dual status commander.⁷⁹ In the 2008 NDAA Congress repealed the amendment to the Insurrection Act restoring governor control over National Guard forces and bolstering state's rights and sovereignty.⁸⁰

The result of DoD's push to be able to unilaterally activate the National Guard and place them under federal control following a disaster placed considerable strain on state and federal collaboration. The governor's did not trust DoD and built a significant coalition that eventually lead to the NDAA 2012. The 2012 NDAA made the dual status commander the usual and customary form of command and control within the United States allowing a single commander to lawfully exact the orders of the President to active duty forces and the orders of the governor to state forces.⁸¹

The political friction and distrust on both the federal and state factions resulting from the years of disagreement following Hurricane Katrina continues to linger. Governors are unlikely to submit to any form of Title 10 operational level C2 model, such as the Joint Coordinating Element, serving as the final intermediary between states. Lack of state support could be one of the reasons that the Joint Coordinating Element failed to effectively coordinate military forces during Hurricane Sandy.

States are not just reluctant to relinquish command to federal commanders; they are also hesitant to pursue having a multistate dual status commander. Colonel Ludwig Schumacher, in *Dual Status Command for No-Notice Events: Integrating the Military Response to Domestic Disasters*, makes the claim DSCs can only act on behalf of their selected state, which is the only tenable way to approach a multistate response.⁸² Colonel Schumacher, who served as the Joint Director of Military Operations at the Vermont National Guard, takes a strong stance in stating

that establishing a multistate DSC would “conflict with responsibilities of the governors” and that any multistate event should be run just like a single state event.⁸³ His concern is that any commander placed in charge of coordinating on behalf of the state who is not from that state will not have the state’s best interests in mind.

Conversely, it should be noted that a command arrangement can be made that would not limit or undermine the authorities of the governors during multistate disaster responses. The United States and partner nations around the world overcome similar arguments through the careful wording of coalition and multinational agreements. For instance, *Joint Publication 3-16, Multinational Operations*, outlines various forms of command and control constructs, such as parallel commands, integrated commands, and lead nation commands; all of which serve the greater good of the coalition without infringing upon sovereignty.⁸⁴

States can allow a military commander to represent the interests of more than one state at the operational level; doing so will require prior coordination and formal agreements between states who share common interests. The fundamental argument to this portion of the analysis, however, is that the National Guard should be the one responsible for addressing the gap in guidance on multistate military responses. The federal government has attempted to present solutions, however the National Guard continues to view multistate disasters from a single state lens. In order to establish the needed command and control at the operational level that supports state objectives, the National Guard must take the lead at designing a command and control construct that crosses state borders.

Need for a Dual Status Commander at the Operational Level

During a large multistate disaster, the federal government will establish strategic objectives that will include supporting the affected states but will also include continuity of government and

ensured national defense. An earthquake of the magnitude described in the opening of this paper will have far-reaching effects across the whole of government. Many second, third, and fourth order effects will surface in the hours and days following such a disaster. There will be an intense need to make the connection between national level, strategic objectives and the tactical response objectives within the affected states.

Some within the government will advocate federalizing the National Guard and placing them under the command and control of USNORTHCOM. However, this would be met with firm political resistance from the states. Expanding the dual status commander construct will achieve the same intent of bringing military forces under one commander, while respecting and upholding the executive sovereignty of state governments.

Presently, U.S. law allows for an officer in the military to hold a federal commission and a commission from a state. Individuals are prohibited from holding a commission from two or more states since a National Guard member cannot swear allegiance to more than one governor. In order to expand the dual status commander construct into the operational level, there needs to be either statutory changes made or states need to come to an agreement on command relationships.

Within Air Force doctrine exists what is known as Command Arrangement Agreements (CAA) which allow for special agreements to be made between commanders.⁸⁵ The Air Force and Air National Guard have been developing and refining these command agreements for years in support of the aerial firefighting missions.⁸⁶ Each year the governors of California, Nevada, and Wyoming sign a CAA that allows National Guard members in a Title 32, governor controlled status, to conduct wildland firefighting missions all across the United States. The governors place select portions of their forces under an Air Expeditionary Group commanded by

a National Guard or Active Duty commander who has the authority to command and control those assets in support of specified missions. The selected forces have a specific mission, fighting forest fires in support of the U.S. Forest Service, but due to the pre-arranged agreement, can be directed by a single commander to fight fires within any state.

A similar construct could be established by an association of states such as the states surrounding the New Madrid fault. Military leaders from those states could agree upon designating a DSC who is authorized to perform specific missions or operations utilizing specified roles and responsibilities on behalf of all the agreeing states. In this manner an operational level dual status commander could be designated to lead critical cross border efforts on behalf of all the participating states. While a vast majority of the military response will take place within the confines the individual states there are some capabilities that can be most efficiently used if managed at the operational level.

Certain limited resources reside within the military that would be in high demand during a multistate disaster. Examples would be airlift capabilities, aeromedical evacuation, search and rescue assets, and damage assessment reconnaissance just to name a few. Under the current command and control paradigms, the first state to request such assets, in the form of a federal mission assignment or an EMAC, would end up having these capabilities fall under their state C2 chains. Having such high demand assets under the control of a single state would prove to be inefficient.

Establishing a dual status commander with the authority to act on behalf of multiple states would allow for greater efficiency of the capability but also greater agility in responding those in the greatest need. In order for National Guard forces to flow easily between states they will need to be in Title 32 or Title 10 status. By having an operational level commander who is a

designated dual status commander, the use of federal statuses will bring the flexibility so that these limited capabilities do not get tied down into a single governor's state active duty system.

Some could argue that during a multistate event, if there are limited federal military capabilities, and competing states are seeking those capabilities, that the lead federal agency should be the arbiter of determining who receives resources and not a dual status commander.⁸⁷ Logically, if competing states were requesting the same limited capability at the same exact time, the lead federal agency could assess the needs of the two states and prioritize accordingly. The validity of that logic is challenged however in a situation in which one state requests the capability in advance of another state. Considering FEMA's "go big, go early and go fast," doctrine it could be argued that the lead federal agency is going to be primed to answer and respond to the first requestor and not necessarily the one with the greatest need.⁸⁸

The argument for letting a dual status commander centrally manage and assign high priority capabilities resides in the dual status commander's working knowledge of all the affected states. The optimal action would be that the governors entering into the command arrangement agreement would agree upon a vetted nominee who would presumably represent the interests of all the states equally. Allowing the governors and senior military leaders to choose their representative would increase stakeholder support for the entire process.

During past events and exercises, DoD officials have also reported a lack of situational awareness at the national level. The dilemma is compounded during multistate events due to each state's concern focused on providing situational awareness to the governor. Neither the governor nor the state adjutant general are required to report "up the chain" any further since they are the supported civil agency. No requirement or expectation exists for states to provide

situational awareness to their neighbors. This results in spotty and inconsistent crossflow of information at the operational level.

FEMA and DoD gain and maintain situational awareness by placing personnel in operations centers as liaison officers. Without an operational-level commander and staff to gather and synthesize input from the various liaison officers, USNORTHCOM does not have the situational awareness to prioritize requests.⁸⁹ This exact problem was revealed during the 2011 National Level Exercise which focused on a large earthquake along the New Madrid fault line. Military officials up and down the federal chain of command voiced concern over the lack of an operational-level command structure.⁹⁰ A major concern was that without good situational awareness at the operational-level, allocation of federal forces could not be prioritized or tracked.⁹¹ By leveraging the previously mentioned stakeholder support, a dual status commander, selected by the states to lead at the operational level, would also increase over-all situational awareness.

By utilizing a construct that is built around merging federal and state forces at the operational level and by having that commander selected and agreed upon by the affected governors there will be a greater sense of unified effort across the states. That sense of unity of action will result in greater situational awareness, flexibility in sharing limited capabilities across state borders and in ensuring the National Guard is an active participant in all levels of the military response during complex multistate disasters. Figure 7 portrays the unity of command, unity of action, and unity of effort possible when integrating active duty and National Guard forces at the operational level.

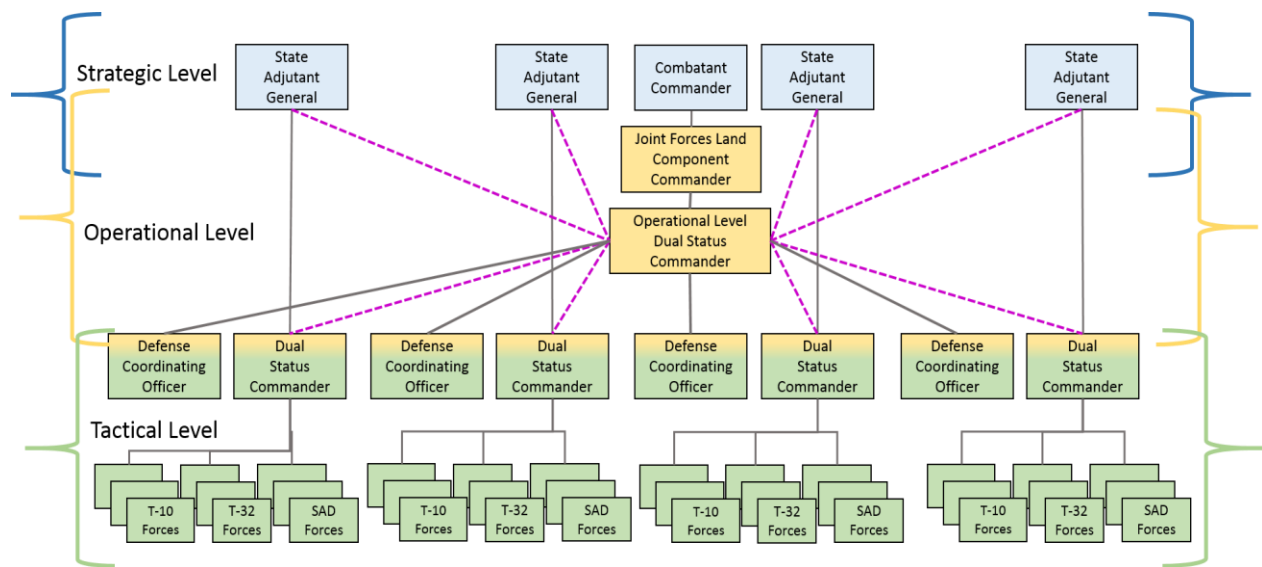


Figure 7. Operational Level Dual Status Commander

RECOMMENDATIONS

This paper set out to determine the optimal military command and control construct for a multistate disaster. Every situation will be unique, and as such, there is not a one-size-fits-all military approach to multistate disaster response. The following recommendations will set the foundation from which future commanders can employ operational art in designing the optimal command and control construct.

Strategic guidance is one of the key components the multistate disaster dilemma is missing. Senior elected officials need to provide guidance on how to conduct multistate events before Department of Defense Issuances and service specific doctrine and regulations can be updated. The Council of Governors, as the authors and primary proponents of the dual status commander construct, should lead efforts to address the missing guidance. Gubernatorial influence is needed to guide policymakers across the whole of government on how best to support the needs of the state. Ultimately, the federal government is in a supporting role to the state governments during a

disaster. By issuing guidance similar to the Joint Action Plan of 2010, Governors can directly influence future disaster coordination.

Secondly, another part of the problem is a gap in any “above state” command structures that are recognized and supported by the National Guard of the several states. The National Guard needs to seek ways to participate within the operational level. The 2012 NDAA greatly expanded the National Guard role within the Department of Defense. By embracing operational and strategic roles, and the responsibilities that come with those roles, the National Guard will be in a position to guide development of a command paradigm that supports state needs.

Furthermore, examination of the problem revealed that during a large multistate disaster the current construct lends itself to an “every state for itself” mentality. The Governors Association should foster smaller associations of states who share similar threats and have them work together developing regional plans and concepts of operations that utilize a multistate dual status commander. Prior planning and dedicated coordination between states before the event happens is key to complex multistate events. By implementing a “coalition mentality,” states will be able to maintain respect for individual sovereignty while maximizing the shared use of limited capabilities.

Finally, an underlying issue identified during this research is the lack of understanding of how the National Guard works writ large. Civil partners, active duty counterparts, and even Guard members themselves share confusion on National Guard authorities, accessibility, hierarchy, and capabilities. Homeland Defense and Domestic Operations are a significant portion of the Guard heritage, culture, and mission. As such the National Guard Bureau (NGB) should be the center of excellence on these subjects. NGB should begin by hosting short courses on the particulars of unique National Guard authorities and capabilities and should eventually strive to

establish its own professional military education curriculum. Through education, NGB will have the chance to develop tomorrow's leaders who are knowledgeable in all the National Guard has to offer during disaster response. These future leaders will be confident in their approach to complex civil military situations.

CONCLUSION

There is a significant difference in how federal and state military forces are integrated and employed during a smaller single state event compared to during a large multistate disaster. The operational framework applied to a multistate response varies significantly from one applied to a single state. During a single state response, the strategic, operational, and tactical levels of the response all fit nicely into the confines of the state's geographic boundaries as well as its military hierarchy. Conversely, as a disaster expands geographically, involving additional states the scope of the operational framework also expands. This expansion in mission scope exceeds the authorities of the traditional dual status commander as an operational level commander is now needed who can coordinate across multiple state borders.

The glaring absence of operational level unity of command during a multistate event becomes apparent as the federal military forces attempt to fill the gap with additional layers of command and control. The current model of the state dual status commander working directly for the combatant commander works well for a single state, but creates confusion and complexity during an event involving many states. The states, prone to hold onto their single state framework of operations, are reluctant to relinquish control over National Guard forces to the federal chain of command. The federal military chain in its appetite for greater situational awareness and predictability through control, ponders federalizing the Guard during a large event.

The optimal command and control construct would utilize a commander with dual status authorities, capable of providing command and control over federal and state forces. This commander would be nominated and supported by a coalition of states, who have agreed to work together through planning, exercising, and executing disaster response operations from a regional perspective. The nominated dual status commander would function at the operational level under the temporary authorities of a specified command arrangement agreement. From this vantage point the commander will be able to close the gap between national, strategic level objectives and the tactical response and recovery actions at the local level through the principles of unity of effort through unity of action, by unity of command.

Now is the time to address the nuances of multistate command and control issues. An earthquake in the middle of a winter night, much like the one that struck New Madrid, Missouri in 1811 will bring with it an immense amount of chaos, death, and destruction. In the minutes following such an event it will be too late to opine on optimal C2 constructs as every minute will be needed to save lives.

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