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**NAVAL WAR COLLEGE
Newport, R.I.**

Remaining “Semper Paratus” in the 21st Century

by

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A paper submitted to the Faculty of the Naval War College in partial satisfaction of the requirements of the Department of Joint Military Operations.

The contents of this paper reflect my own personal views and are not necessarily endorsed by the Naval War College or the Department of the Navy.

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23 April 2008

ABSTRACT

The United States Coast Guard been designated as the Executive Agency within the Department of Homeland Security (DHS) responsible for maritime homeland security. Response efforts in the aftermath of 9/11 and Hurricane Katrina highlight the difficulties associated with trying to coordinate large scale operations that cross the boundaries of federal, state, and local authorities. Twenty first century threats require the ability to rapidly assess developing events and adjust response measures accordingly. The Coast Guard must continue to seek ways that will effectively leverage the full capacity of response assets at all levels of government. As such, the Coast Guard should institutionalize a Command and Control structure that is functional within the scope of the National Response Framework, and simultaneously provides the operational level commander with the ability to serve as a Joint Force Maritime Component Commander. In doing so, Coast Guard service doctrine needs to be developed that clarifies the role of the operational level commander, identifies a crisis action planning process, and addresses the various legal constraints associated with multi-agency response operations.

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*“In a post 9/11 and post KATRINA environment as part of DHS the good news is the Coast Guard has never been more relevant or visible. The bad news is that the Coast Guard has never been more relevant or visible!” – ADM Thad Allen, Commandant U.S. Coast Guard*¹

INTRODUCTION

The Maritime Transportation Security Act (MTSA) of 2002 designated the United States Coast Guard as the Executive Agency within the Department of Homeland Security (DHS) responsible for maritime homeland security.² As such, the Coast Guard has the herculean task of coordinating the governmental response for homeland security events occurring in the maritime domain. In the absence of formal legislation mandating unity of command across the interagency spectrum, achieving unity of effort will remain a significant challenge for the Coast Guard. To effectively lead the interagency response, the Coast Guard must develop a Command and Control (C2) structure that is functional within the scope of the National Response Framework and simultaneously provides the operational level commander with the ability to serve as a Joint Force Maritime Component Commander. Service doctrine needs to be developed that clarifies the role of the operational level commander, identifies a crisis action planning process, and addresses the various legal constraints associated with multi-agency response operations.

The Goldwater-Nichols Department of Defense Reorganization Act of 1986 sought to remove the barriers to effective joint operations within the United States military. While there have been growing pains over the past two decades, Joint doctrine has emerged as the Department of Defense’s foundational guidance for how the United States military intends to achieve unity of effort through unity of command. The 9/11 Commission Report cites the

¹ Gordon Peterson and Scott Truver, “All Threats, All Hazards,” *Naval Forces Journal IV* (August 2006): 104, <http://www.uscg.mil/comdt/articles/docs/PetersonTruver.pdf> (accessed 21 April 2007).

² U.S. Department of Defense / U.S. Department of Homeland Security. *The National Strategy for Maritime Security*, (Washington DC: 2005): 23.

importance of achieving unity of effort amongst the interagency community, and identifies the inherent difference between joint and cooperative action. “The agencies cooperated, some of the time. But even such cooperation as there was is not the same thing as joint action. When agencies cooperate, one defines the problem and seeks help with it. When they act jointly, the problem and options for action are defined differently from the start.”³

In September 2004, General Peter Pace, USMC, Vice Chairman of the Joint Chiefs of Staff, raised the question if subsequent legislation to Goldwater-Nichols that addresses interagency relationships was needed.⁴ The effectiveness of such legislation remains a widely debated topic. Proponents advocate that examples such as Joint Interagency Task Forces demonstrate the potential effectiveness of multi-agency operations.⁵ However, detractors argue that in the absence of a joint command structure, analogous to the Joint Chiefs of Staff, legislation alone would be ineffective.⁶ As the debate continues to unfold, leading interagency efforts for maritime homeland security will require the development of Coast Guard doctrine that provides the flexibility to operate “jointly” and “cooperatively.”

DISCUSSION

Following the terrorist attacks of 9/11, the United States was forced to reevaluate how it perceived threats to the homeland. Determining whether a threat should be categorized as a Homeland Security or Homeland Defense mission is a potential source of confusion, as a developing situation may not fit neatly into traditional definitions of national defense or law

³ Thomas H. Kean, et al, 9/11 Commission, *9/11 Commission Report*, (New York: Barnes & Noble, 2004), 400.

⁴ Martin J. Gorman, “A Goldwater-Nichols Act for the U.S. government: Institutionalizing the interagency process,” *Joint Forces Quarterly* (October 2005): 51.

⁵ James Jay Carafano “Herding Cats: Understanding Why Government Agencies Don’t Cooperate and How to Fix the Problem” (lecture, Heritage Series 15 Jun 2006), <http://www.heritage.org/Research/NationalSecurity/hl955.cfm> (accessed 04 April 2007).

⁶ Gorman, “Goldwater-Nichols: Institutionalizing interagency process”51.

enforcement.⁷ Rather, the situation is likely to develop in the “seams of ambiguity,” somewhere between those traditional categorizations.⁸ Homeland Security is defined in the National Strategy for Homeland Security as, “A concerted national effort to prevent terrorist attacks within the United States, reduce America’s vulnerability to terrorism, and minimize the damage and recover from attacks that do occur.”⁹ Homeland Defense is defined in Joint Doctrine as, “The protection of United States sovereignty, territory, domestic population, and critical infrastructure against external threats and aggression or other threats as directed by the President.”¹⁰

In an effort to properly categorize a developing maritime event, The Maritime Operational Threat Response Plan (MOTR) was developed. This plan pre-designates federal agencies with “lead agency” responsibility based upon the following six criteria: (1) US government desired outcome, (2) Agency authorities, (3) Agency capabilities, (4) Agency asset availability, (5) Magnitude of the threat, (6) Existing law.¹¹

The MOTR is based on the concept of regressive planning, in that the desired national outcome is determined prior to exploring how response measures will be employed.¹²

The MOTR process is conducted virtually (VTC or conference call) through national level command centers and is initiated if one of the following five “triggers” is met:

(1) Any specific terrorist or state threat exists and US agency response action is or could be imminent. (2) More than one federal department or agency has become substantially

⁷ Tom Goss, ‘Who’s in Charge?’ New Challenges in Homeland Defense and Homeland Security,” *Homeland Security Affairs* II, no.1 (April 2006): 1, <http://www.hsaj.org/?article=2.1.2> (accessed 04 April 2007)

⁸ Ibid.

⁹ U.S. President. *National Strategy for Homeland Security*. Washington DC: Office of Homeland Security, 2002) 2.

¹⁰ Chairman, U.S. Joint Chiefs of Staff, *Homeland Defense*, Joint Publication (JP) 3-27 (Washington, DC: CJCS, 12 July 2007), GL-8.

¹¹ Ibid., V3-V4.

¹² Ivan T. Luke, *D.O.D.’s Role in Maritime Homeland Defense and Security*, (Newport, RI: Naval War College, August 2006), 6.

involved in responding to the threat. (3) The agency or department either lacks the capability, capacity, or jurisdiction to address the threat. (4) Upon resolving the threat, the initial responding federal department or agency cannot execute the disposition of cargo, people, or vessels acting under its own authority. (5) The threat poses a potential adverse effect on the foreign affairs of the United States. Additionally, the MOTR provides a process for dispute resolution amongst agencies and facilitates the transition of the lead designation from one agency to another.¹³

Employment of the MOTR process alone does not guarantee success. However, the process does provide the means for efficient and effective communication for addressing a developing threat.¹⁴ Following the designation of lead federal agency status, individual agencies must promulgate agency doctrine that directs the manner in which operations are to be planned and conducted.

The Role of Doctrine

Joint Publication 1-02, Department of Defense Dictionary of Military and Associated Terms, defines doctrine as, “Fundamental principles by which the military forces or elements thereof guide their actions in support of national objectives. It is authoritative but requires judgment in application.”¹⁵ While services and organizations offer some variation to this definition, the overarching theme is doctrine serves to connect national level objectives with tactical level action. Doctrine functions as a conduit by providing an organization with

¹³ U.S. Joint Chiefs of Staff, Joint Publication (JP) 3-27, V 2-3.

¹⁴ Joseph DiRenzo III and Christopher Doane, “The MOTR Process: Ensuring Unity of Effort in Maritime Security,” *DomPrep Journal* Vol III Issue 2, (February 2007): 16, <http://www.domesticpreparedness.com/pub/docs/DPJournal0207.pdf> (accessed 12 April 2007).

¹⁵ Chairman, U.S. Joint Chiefs of Staff, *Department of Defense Dictionary of Military and Associated Terms*, Joint Publication (JP) 1-02 (Washington, DC: CJCS, 12 April 2001), 69.

a common philosophy, language, and purpose.¹⁶ It is created to support the commander and is applicable at the tactical, operational, or strategic level.¹⁷

Naval doctrine has been described as occupying one of four echelons. Fourth and third echelon doctrine represent the lowest two levels, and provide single unit and multi-unit tactics, techniques and procedures (TTP) respectively. Second echelon doctrine serves the operational level commander and proscribes campaign planning procedures and the application of operational art. First echelon doctrine is the highest and includes strategic level guidance which includes policy and law.¹⁸

First echelon doctrine is intended to be broad and belief based, telling its audience what to think, without necessarily proscribing what to do.¹⁹ In developing Coast Guard service doctrine that provides direction on how the Coast Guard intends to conduct operations in its role as the lead federal agency, it is necessary to address second echelon concerns. In doing so, however, first echelon guidance must be consulted to ensure service doctrine is in alignment and supportive of strategic objectives.

Strategic Guidance

*We will strive to create a fully integrated national emergency response system that is adaptable enough to deal with any terrorist attack, no matter how unlikely or catastrophic, as well as all manner of natural disasters.*²⁰ – NSMS

The National Strategy for Homeland Security serves as the overarching strategic level guidance for the conduct of homeland security affairs. In this document, the Department of

¹⁶ Milan N. Vego, *Joint Operational War: Theory and Practice*, (Newport, RI: Naval War College 2007), XII-3.

¹⁷ James Tritten, "Naval Perspectives on Military Doctrine," *Naval War College Review* Volume XLVIII, no. 2, (Spring 1995), 24.

¹⁸ Wayne P. Hughes, Jr, "Power in Doctrine" *Naval War College Review* Volume XLVIII, no. 3, (Summer 1995), 17-22.

¹⁹ Hughes, "Power in Doctrine," 24.

²⁰ President, *National Strategy for Homeland Security*, 42.

Homeland Security was charged with integrating all federal response plans into one single comprehensive plan.²¹ The result is the National Response Framework.

Additional guidance is provided in The National Strategy for Maritime Security (NSMS), which was created by direction of National Security Presidential Directive 41. The NSMS calls for the coordinated effort of the U.S. military, along with law enforcement agencies, in order to achieve a layered defense within the maritime domain.²² The maritime domain is defined as, “All areas and things of, on, under, relating to, adjacent to, or bordering on a sea, ocean, or other navigable waterway, including all maritime-related activities, infrastructure, people, cargo, and vessels and other conveyances.”²³ In addition, the NSMS cites the need for a high degree of interoperability supported by joint doctrine.²⁴

The U.S. Coast Guard Strategy for Maritime Safety, Security, and Stewardship was developed largely upon the principles outlined in these documents, and provides the strategic framework that governs Coast Guard operations. In particular, the strategy highlights the importance of establishing a comprehensive Command and Control (C2) system that will provide connectivity with other federal, state, and local partners. Furthermore, the strategy underscores the importance of maintaining the ability to integrate Coast Guard capabilities in support of national defense missions.²⁵

In light of these two objectives, and compounded by the reality that a maritime domain event may potentially transition between homeland security and homeland defense, it

²¹ Ibid., 42.

²² Department of Defense / Department of Homeland Security, *The National Strategy for Maritime Security*, 22.

²³ Ibid., 1.

²⁴ Ibid., 22.

²⁵ U.S. Coast Guard, *The U.S. Coast Guard Strategy for Maritime Safety, Security, and Stewardship* (Washington, DC: 2007), 43-47.

is imperative that the Coast Guard employ a C2 structure that can be easily incorporated within the National Response Framework or the Joint Force Commander construct.

ANALYSIS

National Response Framework

The National Response Framework (NRF) is intended to address how the Nation will conduct “all-hazards response.”²⁶ In support of the NRF, the National Incident Management System (NIMS) is a companion document designed to serve as the doctrinal component providing, “a consistent, nationwide template to enable Federal, State, tribal, and local governments, the private sector, and NGOs to work together to prepare for, prevent, respond to, recover from, and mitigate the effects of incidents regardless of cause, size, location, or complexity.”²⁷ The Incident Command System (ICS) functions as the C2 component within NIMS, and was adopted as a means of “achieving unity of effort through unified command.”²⁸ However, as specified in the NRF, the concept of unified command under this construct significantly differs from the principle of unified command observed in military operations.²⁹

ICS was specifically designed as a tool to coordinate, plan, and conduct on-scene response efforts in a multi-jurisdictional or multi-agency environment. Authority, responsibility, and accountability are maintained by the participating agency at all times. The underlying principle under the NRF is the coordination of effort in order to achieve mutually developed objectives.³⁰

²⁶ U.S. Department of Homeland Security, *National Response Framework* (Washington, DC: 2008), 1.

²⁷ *Ibid.*, 4.

²⁸ *Ibid.*, 10.

²⁹ *Ibid.*, 11.

³⁰ *Ibid.*, 10.

The ICS construct provides specific direction with regards to the structure and staffing for the management of response operations. This model was originally developed as a means to coordinate the efforts of Federal, State, and local wild-land fire agencies in the 1970s.³¹ The central figure in this structure is the Incident Commander who is responsible for all response activities.³² In support of the Incident Commander there are two staffs; the Command Staff (Public Information Officer, Safety Officer, and Liaison Officer) and the General Staff which is led by four designated Section Chiefs (Operations, Planning, Logistics, and Finance/Admin).³³ This basic construct provides significant flexibility, as it can be built upon depending upon the severity and scope of the incident. For larger events, multiple Incident Commands that are subordinate to an Area Commander may be established.³⁴

The draft version of the NRF received intense bi-partisan scrutiny from Congress due in part to its perceived lack of operational plans. In a letter addressed to the Secretary of Homeland Security, the Senate Committee on Homeland Security and Governmental Affairs wrote, “The inadequate response to Hurricane Katrina clearly demonstrated the importance of educating elected officials at all levels about disaster response. However, over six years since the terrorist attacks of September 11 and over two years since Hurricane Katrina, we still do not have sufficient operational plans for governing the response to disasters.”³⁵

The final version of the NRF included National Planning Scenarios that are intended to serve as the central component of the planning process, and designed to represent the

³¹ Ibid., 48.

³² Ibid., 50.

³³ Ibid., 49-50.

³⁴ See figure 1.

³⁵ Senators Lieberman, Collins, Landrieu, to Secretary Chertoff, letter, 23 October 2007.

<http://proquest.umi.com/pqdweb?did=1370795141&sid=2&Fmt=3&clientId=18762&RQT=309&VName=PQD> (accessed 03 April 2008).

“gravest dangers facing the United States.”³⁶ These threats are categorized into eight Key Scenario Sets: 1) Explosives Attack 2) Nuclear Attack 3) Radiological Attack 4) Biological Attack 5) Chemical Attack 6) Natural Disaster 7) Cyber Attack 8) Pandemic Influenza.³⁷ For each scenario there are three levels: Strategic Plan, National-Level Interagency Concept Plan, and Federal Department and Agency Operations Plan. The operations plan requires federal agencies to describe in detail how support will be provided to the interagency concept plan.³⁸

The updated NRF has been well received by local emergency management officials who’ve praised the new framework as a result of greater emphasis being placed on coordination and local response efforts.³⁹ Furthermore, ICS has been proven to be an effective method for coordinating interagency incident response.⁴⁰ Nevertheless, the NRF does not prescribe a methodology for crisis action planning that the Coast Guard could implement while leading interagency response efforts in the maritime domain. In addition, differing from the measures employed by the military, the NRF is not intended to provide a means for the transfer of authority over assets from one agency to another.

TACON and the role of the JFMCC

In leading the multi-agency response, the Coast Guard may be given Tactical Control over Department of Defense assets.⁴¹ With this designation, a unique relationship is established between these forces and the Coast Guard operational commander. This relationship differs significantly from all other inter-agency responders, and has legal implications that need to be clarified.

³⁶ Department of Homeland Security, *National Response Framework*, 73.

³⁷ *Ibid.*, 75.

³⁸ *Ibid.*, 73.

³⁹ Carol Eisenberg. “New emergency plan restores local authority,” *Newsday*, 23 January 2008, A26.

⁴⁰ Ivan Luke, “*Homeland Security-Civil Support: How DOD plugs into the Interagency C2 Structure*,” (Newport, RI: Naval War College, September 2007), 6.

⁴¹ Department of Defense / Department of Homeland Security, “Memorandum of Agreement For Department of Defense Support to the United States Coast Guard for Maritime Homeland Security,” (Washington, DC: 2006).

The United States military defines “Command” as the legal basis over which a Commander is given authority over designated forces.⁴² “Control” is the manner in which the Commander exercises and synchronizes those designated forces in an effort to achieve unity of command.⁴³ In the conduct of joint military operations the commander may chose to exercise command authority over forces via service component or functional component commands. In both cases, a relationship of “supported” and “supporting” commander can be established. The supported commander is responsible for the development and execution of operation plans and orders, with the supporting commander providing augmentation forces or other assistance to the supported commander.⁴⁴

Within a functional component command, responsibilities are divided along functional lines such as land, maritime, and air rather than along service lines. In this regard, a Joint Force Maritime Component Commander (JFMCC) exercises command over all maritime assets assigned, regardless of service affiliation. The JFMCC functions at the operational level of war and is focused on operational art and the employment of force to achieve strategic objectives.⁴⁵

Command relationships are further developed through the designation of OPCON and TACON, which have very specific meanings that are worth highlighting. Operational Control (OPCON) provides a supported commander with full authority to organize and employ forces in whatever manner the commander believes is necessary to accomplish the mission. Tactical Control (TACON), which is inherent in OPCON, provides the supported

⁴² U.S. Joint Chiefs of Staff, Joint Publication (JP) 1-02, xvi.

⁴³ Ibid., xvi.

⁴⁴ Chairman, U.S. Joint Chiefs of Staff, *Joint Operations*, Joint Publication (JP) 3-0 (Washington, DC: CJCS, 17 July 2006), GL-30.

⁴⁵ Chairman, U.S. Joint Chiefs of Staff, *Command and Control for Joint Maritime Operations*, Joint Publication (JP) 3-32 (Washington, DC: CJCS, 26 December 2006), III-1.

commander with the authority to direct the employment of assigned forces as necessary in order to complete the mission. Differing from OPCON, TACON does not permit the supported commander to reorganize forces that are provided to the receiving command.⁴⁶ As such, unity of effort in the U.S. military is driven through the formal establishment of unity of command based on authority.

The Joint Operation Planning Process serves as the basis for joint operational planning, and provides the mechanism for conducting contingency and crisis action planning (CAP).⁴⁷ Its seven step process provides a methodical approach to planning that is effective at all levels of command, and is applicable across the full range of military operations.⁴⁸ It is suggested that the operational planning process be conducted continuously, with the plan being modified as the situation develops.⁴⁹

Coast Guard Planning and Command Organization

Coast Guard service doctrine is not a new concept. A 1936 CG Headquarters Circular entitled “Service Doctrine” defined Coast Guard responsibilities as belonging to one of five categories; 1) General 2) Law Enforcement 3) Assisting Vessels and Saving Life and Property 4) Military Duties 5) Various Duties.⁵⁰ Coast Guard Publication 1 (Pub 1) was released in January 2002 and serves as the organization’s capstone publication. Pub 1 defines Coast Guard Roles as Maritime Security, Maritime Safety, Protection of Natural

⁴⁶ U.S. Joint Chiefs of Staff, Joint Publication (JP) 1-02, IV7-IV9.

⁴⁷ Chairman, U.S. Joint Chiefs of Staff, *Joint Operation Planning*, Joint Publication (JP) 5 (Washington, DC: CJCS, 26 December 2006), xi, x.

⁴⁸ Chairman, U.S. Joint Chiefs of Staff, *Joint Operation Planning and Execution System*, (JOPES) Volume 1 Planning Policies and Procedures, (Washington, DC: CJCSM, 3122.01A 29 September 2006), E-1.

⁴⁹ Vego, *Joint Operational War*, IX 64-65.

⁵⁰ U.S. Coast Guard, *Coast Guard Doctrine*, Headquarters’ Circular no. 126 (Washington, DC, 16 October 1936) <http://www.uscg.mil/history/regulations/HQCircular126.html>, (accessed 29 March 2008).

Resources, Maritime Mobility, and National Defense.⁵¹ While these missions remain applicable today, increased responsibilities such as “Lead Federal Agency” designation necessitate the creation of doctrine that specifically addresses this role.

As a result of the different command relationships that exist, neither the National Response Framework, nor Joint Doctrine, are suitable to be adopted wholesale. A hybrid C2 system that addresses how the operational commander will coordinate interagency (which may include state, local, and tribal governments) response efforts, in conjunction with the synchronization of Department of Defense assets placed under its TACON, is needed.

The U.S. Coast Guard Strategic Blueprint identifies the two Coast Guard Area Commanders as residing at the operational level. In this capacity, the Area Commanders are responsible for campaign level planning, and serve as the conduit between national level strategy and the tactical employment of resources.⁵² In support of campaign level planning, Coast Guard Publication 5 (Pub 5) is being developed. Pub 5 is intended to institutionalize organizational planning and facilitate planning efforts out over a five year period.⁵³ In addition, the Standard Operation Planning Process (SOPP) has been developed in an effort to, “standardize the core operational planning products currently in use” at all levels of the Coast Guard.⁵⁴ However, as stated in the Commandant Instruction that establishes the policies and procedures governing its implementation, the SOPP does not address crisis

⁵¹ U.S. Coast Guard, *U.S. Coast Guard: America’s Maritime Guardian*, CG Pub 1 (Washington, DC: 01 January 2002), 5.

⁵² U.S. Coast Guard, *U.S. Coast Guard Strategic Blueprint*, (Washington, DC: Headquarters U.S Coast Guard, COMDT, 2005), 14.

⁵³ U.S. Coast Guard, *Coast Guard Campaign Plans Memo* (Washington, DC: Headquarters U.S. Coast Guard, COMDT, 03 October 2007).

⁵⁴ U.S. Coast Guard, “Coast Guard Standard Operational Planning Process,” COMDTINST 3120.4 (Washington, DC: Headquarters U.S. Coast Guard, COMDT, 11 October 2007).

action planning.⁵⁵ As such, there is no Coast Guard equivalent to the Joint Operation Planning Process currently employed by DoD.

The Commandant of the Coast Guard (COMDT) and staff operate at the strategic level. As previously stated, the two Area Commanders reside at the operational level, with nine Coast Guard District Commanders serving as the senior components at the tactical level.⁵⁶ If the Coast Guard were to implement a C2 organization modeled in alignment with the Joint Task Force construct, Area Commanders would assume the role of the Joint Force Maritime Component Commander (JFMCC).⁵⁷

The employment of the Area Commander as a notional JFMCC works well for several reasons. The span of control for the Area Commander is manageable, and the District Commander is well positioned to direct the tactical employment of all Coast Guard resources. As a result of a Memorandum of Agreement (MOA) between DOD and DHS, the U.S. Coast Guard may be given TACON over DOD assets in support of maritime homeland security events. The MOA specifically designates either the Commandant of the Coast Guard or Area Commanders as the supported commanders, with USNORTHCOM, USPACOM, USSOUTHCOM, and USJFCOM designated as supporting commanders or force providers.⁵⁸ In addition, it provides a demarcation for the operational commander between those forces for which the Area Commander has TACON over (Coast Guard forces and DoD forces), and those resources provided from the interagency where no TACON relationship exists, but coordination is still required. Furthermore, should the situation

⁵⁵ Ibid.,

⁵⁶ U.S. Coast Guard, *U.S. Coast Guard Strategic Blueprint*, (Washington, DC: Headquarters U.S Coast Guard, COMDT 2005), 11.

⁵⁷ See figure 2.

⁵⁸ Department of Defense / Department of Homeland Security, "Memorandum of Agreement For Department of Defense Support to the United States Coast Guard for Maritime Homeland Security," (Washington, DC: 2006).

necessitate a transition from homeland security to homeland defense, this configuration provides the Joint Force Commander with the option of leaving the Coast Guard Area Commander as the JFMCC.⁵⁹

The JFMCC construct at the operational level may then be supported at the tactical level by a configuration modeled in alignment with ICS.⁶⁰ The Coast Guard District Commander would function as the Incident Commander. Tactical level management would be divided into different branches, with Coast Guard Sector Commanders responsible for coordinating all shore based forces and senior afloat commanders responsible for coordinating surface and air assets.

Legal Authority

The Coast Guard is unique in that its legal authority is derived from both Title 10 and Title 14 of United States Code.⁶¹ Defined as a military service at all times, the Coast Guard is the only service not constrained by the Posse Comitatus Act, and therefore maintains its statutory law enforcement authority at all times.⁶²

The American Bar Association's Hurricane Katrina Task Force Subcommittee Report concluded that there currently exists adequate legal oversight governing the use of the military in relief efforts.⁶³ Nevertheless, the report acknowledges confusion resulting from the Stafford Act and its perceived effect on posse comitatus restraints. "The Stafford Act envisions use of all resources of the federal government –including military resources – in catastrophic incident response, but it does not override prohibitions on agency activities such

⁵⁹ Chairman, U.S. Joint Chiefs of Staff, *Homeland Security*, Joint Publication (JP) 3-26 (Washington, DC: CJCS, 02 August 2005), II-14.

⁶⁰ See figure 3.

⁶¹ 10 U.S.C. Sec. 101, 14 U.S.C. Sec.1 .

⁶² U.S. Joint Chiefs of Staff, Joint Publication (JP) 3-26, II-14.

⁶³ American Bar Association, Hurricane Katrina Task Force Subcommittee Report, (Washington DC: February 2006), 23. <http://www.nationalstrategy.com/Portals/0/PDFs/SCOLN20Katrina%20Report%20Feb%202006%202.pdf> (accessed 04 April 2008)

as those imposed by posse comitatus. Thus, the Stafford Act ...is not an exception and does not empower the military to enforce domestic law.”⁶⁴

Coast Guard forces routinely operate with other law enforcement agencies at the federal, state, and local level. In spite of this familiarity, the potential always exists that there will be confusion regarding jurisdiction and policies governing the use of force. Coast Guard policy regarding Use of Force is provided in the Coast Guard Law Enforcement Manual. However, as a result of this manual’s designation as “For Official Use Only” (FOUO), widespread circulation outside of the Coast Guard is unlikely. Joint Doctrine specifically states that it is the responsibility of “Individuals in positions of leadership to understand applicable legal authorities for all boarding operations.”⁶⁵ Coast Guard doctrine should define further those applicable legal authorities, specifically those pertaining to use of force.

RECOMMENDATIONS

As the Coast Guard continues to develop service doctrine, a specific publication addressing Lead Federal Agency responsibilities and procedures needs to be developed. Through this publication, the Coast Guard should promulgate a standard C2 structure to be implemented when operating as the LFA for maritime homeland security. As suggested, this C2 structure should be functional within the scope of the NRF and facilitate the Area Commander assuming JFMCC responsibilities. Campaign and crisis action planning should reside solely with the Area Commander, whose staff is prepared to assume the role of a JFMCC within a Joint Task Force should the need arise. District Commanders remain employed as the senior tactical level commanders and are prepared to carry out response operations as the Incident Commander under an ICS construct. Consistency in application is

⁶⁴ Ibid.

⁶⁵ U.S. Joint Chiefs of Staff, Joint Publication (JP) 3-27, V-11.

imperative in order to reduce confusion amongst internal, as well as external, audiences. The MOA between DOD and DHS limits the transfer of TACON authority of DOD assets to the USCG Commandant or Area Commanders.⁶⁶ Extending this authority to District Commanders may provide smoother integration of DOD assets as the District Commander is functioning as the senior tactical level commander. This option would also alleviate the need to provide liaison staff, in addition to responding tactical assets, to coordinate with the Area Command staff.

Policies governing legal matters including Use of Force, Standing Rules of Engagement, Title 10 / Title 14 relationships, and Posse Comitatus need to be clearly articulated. Every effort should be made to answer these issues in a medium that is not designated FOUO or classified. Addressing these matters in one doctrinal product will facilitate wider circulation and greater familiarity for Coast Guard forces, as well as interagency partners.

The Area Command staff must ensure that operational level planning is conducted that ensures Coast Guard compliance with the National Response Framework. Specifically, the development and continual reassessment of plans addressing the eight Key Scenario Sets included in the National Planning Scenarios. Furthermore, the current void in crisis action planning should be rectified by adopting the JOPP as a baseline model. By implementing a standard methodology for planning, tactical level resources will be better prepared to provide input back into the on-going planning cycle. Similar to the requirement that all Coast Guard personnel complete ICS training up to a certain level (specific level determined by current assignment), a similar requirement should be implemented in an effort

⁶⁶ Department of Defense / Department of Homeland Security, "Memorandum of Agreement For Department of Defense Support to the United States Coast Guard for Maritime Homeland Security," (Washington, DC: 2006).

to institutionalize JOPP as the crisis action planning tool.⁶⁷ War games and table top exercises that employ the JOPP should be conducted in order to determine if any of the seven steps need to be modified, and to familiarize Coast Guard planners at the operational and tactical level with the process.

The pending organizational transformation that will combine the two Area Commanders into a single Operational Commander (OPCOM) should not change the organizational level responsibilities presented. OPCOM should remain the sole commander functioning at the operational level, thereby retaining responsibility for crisis action planning and prepared to serve as a JFMCC. OPCOM's ability to maintain an effective span of control could be stretched if multiple, large-scale homeland security events were to occur simultaneously. In an effort to maintain consistency, if such a scenario were to occur augmenting the OPCOM staff would be preferred to delegating operational level responsibilities to District Commanders. The nature of Coast Guard operations has created an organizational culture that promotes the concept of on-scene initiative.⁶⁸ Nothing incorporated in doctrine should run counter to this notion.

CONCLUSION

In the absence of legal authority that places all forces under the direct command and control of the Lead Federal Agency, the successful coordination of multi-agency response efforts will remain a difficult task. The MOTR should serve to answer the question, "Who's in charge?" amongst the federal agencies. The MOTR does not provide the guidance on how to effectively coordinate efforts once the Lead Federal Agency is designated.

⁶⁷ U.S. Coast Guard, "Clarification of Coast Guard Incident Command System Training Requirements," ALCOAST 106/07 (Washington, DC: Headquarters U.S. Coast Guard, COMDTNOTE 1540, 11 October 2007).

⁶⁸ U.S. Coast Guard, CG Pub 1, 52.

The significant differences in the relationship between DOD forces assigned to support the Coast Guard, and those other interagency assets contributing to maritime homeland security efforts necessitates a C2 structure that is standardized and understood by all participants. A hybrid construct that can function simultaneously under a Joint Task Force, as well as within the National Response Framework will help bridge the gap between federal, state, and local response efforts. In developing service doctrine that accomplishes these goals, Joint Doctrine and the National Framework provide outstanding points of reference. However, as discussed neither are sufficient alone to guide the course of a multi-agency response effort in the maritime domain. The adoption of a crisis action planning tool, along with the standardization of strategic, operational, and tactical level responsibilities is essential.

The Coast Guard has a proud tradition of contributing in whatever supporting role was asked of it. Twenty-first century threats require a change to this paradigm. The Coast Guard must now show that it truly is *Semper Paratus* and ready to lead from the front.

Figure 1

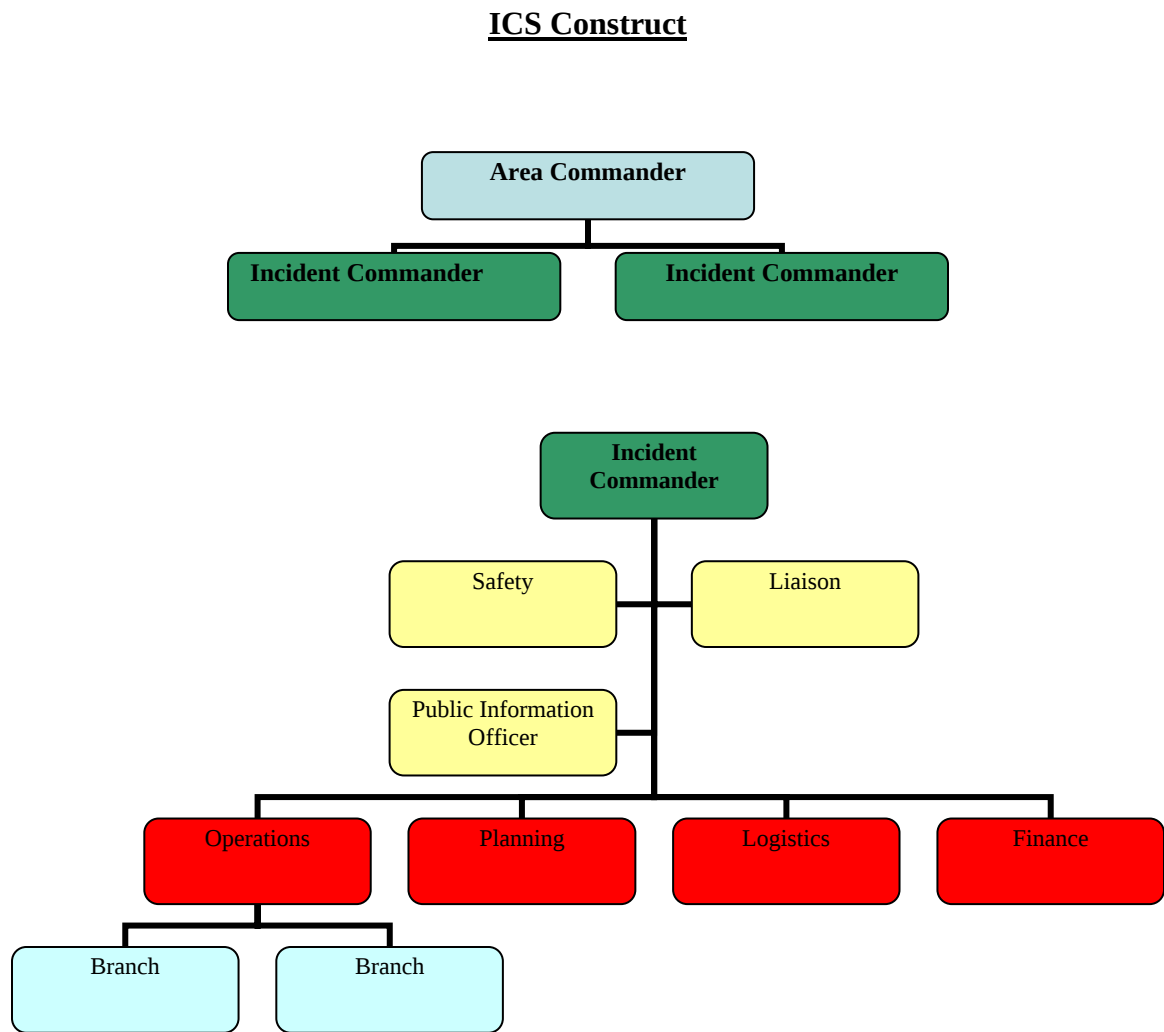
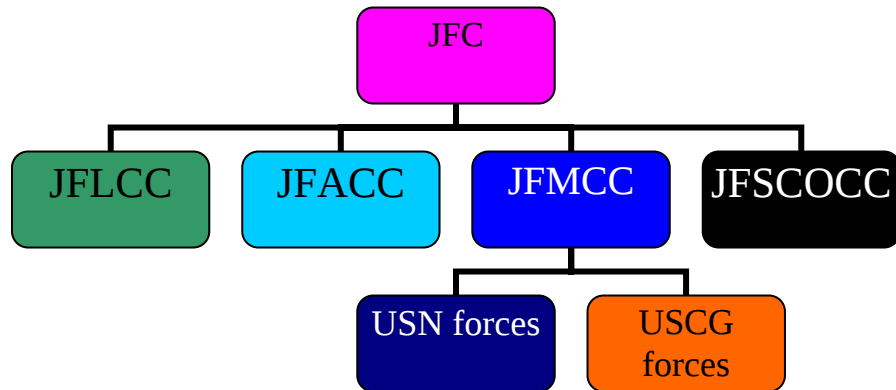


Figure 2

Functional Component Command
(Coast Guard forces supporting JFMCC)

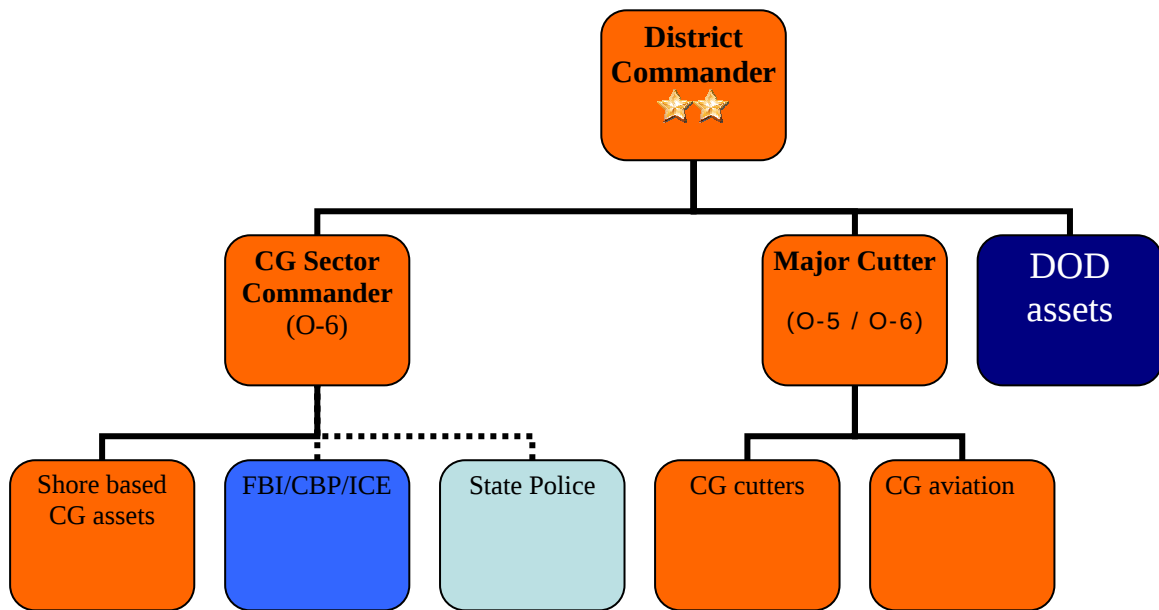


(Coast Guard serving as JFMCC)



Figure 3

Tactical Level Command Structure (ICS model)



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