

Command Relationships in Defense Support of Civil Authorities

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What is Defense Support of Civil Authorities (DSCA)?

DSCA is support provided by U.S. Federal military forces, Department of Defense (DoD) civilians, DoD contract personnel, DoD Component assets, and, in coordination with the Governors, Federally funded National Guard (NG) forces in response to requests for assistance from civil authorities for domestic emergencies, law enforcement support, and other domestic activities, or from qualifying entities for special events.¹

DSCA operations are vital aspects of the military's service to the nation. DSCA support occurs in response to requests for assistance from civil authorities.²

Major disasters are any man-made or natural catastrophe requiring DSCA (e.g., hurricane, tornado, earthquake, or snowstorm) or, regardless of cause, any fire, flood, or explosion of sufficient severity. Under the Stafford Act, the governor requesting disaster assistance from the Federal Government must demonstrate the state's lack of capacity or resources to mount an effective response.³

When in support of civilian authorities, all military forces remain under the operational control and administrative control of their federal or state military chains of command.⁴

The NG is the first line of military response to most state or local incidents within a state or territory. When the governor of a state mobilizes the NG, the forces are typically in State Active Duty (SAD) status under command and control of the governor. SAD forces conduct all missions in support of state requirements and within state guidelines and statutes.⁵

This News from the Front is an example of a DSCA process and response to natural disasters by the 49th Military Police Brigade, California Army National Guard.

Command relationships both internal to the DoD and outside with civil authorities during disasters is one of the most complicated factors affecting emergency response and disaster mitigation. The diversity of assets, jurisdictions, laws and roles which must converge in a single place to employ a coordinated effort is daunting and highlights the need for commanders at all levels to gain a solid understanding of the operational environment.⁶ This complexity is the reasoning behind the creation of the Incident Command System (ICS), which has withstood the test of time as the system of record for how the nation responds to incidents.⁷ Although the system is scalable and attempts to put all assets under one Incident Commander⁸ or structure in the case of Unified Command⁹, it is still relationship based and the DoD piece of the puzzle is no different. Aligning the DoD command and control hierarchy with the Federal Emergency Management Agency (FEMA) and State Office of Emergency Services (OES) structures would create a seamless relationship for allocation of federal resources to the place and time they are needed most.

“it is not the military that makes the critical decisions in response to the disaster; it’s the civil authorities”

The command relationships in DSCA are not unlike stability operations but the laws, regulations, and relationships in the homeland differ.¹⁰ While supporting civil authorities, it is not the military that makes the critical decisions in response to the disaster; it’s the civil authorities. This places the DoD assets in a support role, which can take them out of their comfort zone and further handicap relationship building. Further difficulty is inserted when several components from the National Guard (state response, Title 32 and state active duty status), and the federal response (Title 10) assets from the active and reserve components enter the DoD command and control structure in different regulatory statuses. In reality, the military response occurs at four levels:

- At the direction of the governor for state National Guard forces
- After a declaration by the President, which the governor of the affected state requests
- At the direction of Secretaries of the Army, Navy, or Air Force for capabilities not assigned to combatant commanders (such as bases and installations)
- Through immediate response authority (DODD3025.18), which specifies certain conditions allowing military support in urgent situations

National Guard assets are typically the first to respond to a disaster under the direction of the Governor of each state.¹¹ Other states may respond to assist under Emergency Management Assistance Compacts (EMAC)¹² and will then be placed in the chain of command in a relationship based on agreements between the states. Not until there is a Presidential declaration of emergency and local and state capabilities are overwhelmed, will active component and Federal Reserve forces enter the response. Disaster Response creates four complex relationships and situations between local, state, and federal authorities:

- cooperating and coordinating with local authorities
- integrating federal forces into the DoD command structure
- mitigating risk across the force
- competing requirements between jurisdictions

Duty Status¹³

In domestic operations, duty status refers to the broad legal authority under which Army forces provide support to civil authorities. Important differences related to duty status exist at the departmental and adjutant general levels, as pay and benefits are affected. In addition, the Posse Comitatus Act¹⁴ authorizes certain tasks but prohibits others depending on duty status.

Three categories of duty status apply to domestic operations. These are federal military forces (also referred to as forces in Title 10 status), NG forces serving in Title 32 status (conducting DSCA), and NG forces serving in state active duty status (conducting NG civil support (NGCS)). Tactically, there is no distinction between NG forces serving in Title 32 status or state active duty status.

Forces in either status may be intermixed within a NG task force.

State NG units in either state active duty or Title 32 status remain under command of their governor. However, command authority can change for NG units if they become federalized. All forces under the command of the President, including federalized NG, are federal military (Title 10) forces.

Command Relationship in California

At the state level, the California NG aligns command structures prior to disasters with the five Office of Emergency Services (OES) regions. A battalion headquarters is assigned to each region to coordinate with the county agencies within their anticipated area of responsibility (AOR). The idea behind this alignment is to establish relationships with supported counties and OES personnel before the disaster occurs; the last place you want to meet someone is at the disaster. There are two Brigade level headquarters oriented in the north (Joint Task Force (JTF49)) and south (JTF79) of the state to assume command and control when several battalion headquarters are required due to the size and scope of the emergency.¹⁵



California (CA) FRAGO 36 TO OPORD 3000-18-01 (CIVIL SUPPORT)

The current configuration down to the county level was established after the successful response to the Northern California Wildfires in 2017. The regional command and control structure assigned a battalion commander in direct support of each of the three main county sheriffs of Napa, Sonoma, and Solano counties with a fourth battalion commander assigned to the counties with smaller National Guard involvement, Mendocino and Lake. These battalion commanders reported to the ground forces commander at JTF 49 (North) who coordinated resources and allocated capabilities between the counties. Aligning a local area commander allowed them to attend county emergency operations center (EOC) meetings to advise the Sheriff on available capabilities and accept missions (within the scope provided by the ground forces commander). This allowed capabilities to be provided to the local EOC at the time of need.



California TAG Brief on Northern California Wildfires

This pre-disaster regional alignment does not however preclude a ground commander from aligning forces functionally. During subsequent response to the Camp Fire in Butte County, forces were aligned by function as there was only one county involved in the response. Since the scope of the disaster was much more concentrated, the forces were divided into two functions: first was a security/humanitarian function, second was a search and extraction/decontamination function. This allowed subordinate commanders to focus their effort on a more limited function to mitigate risk.

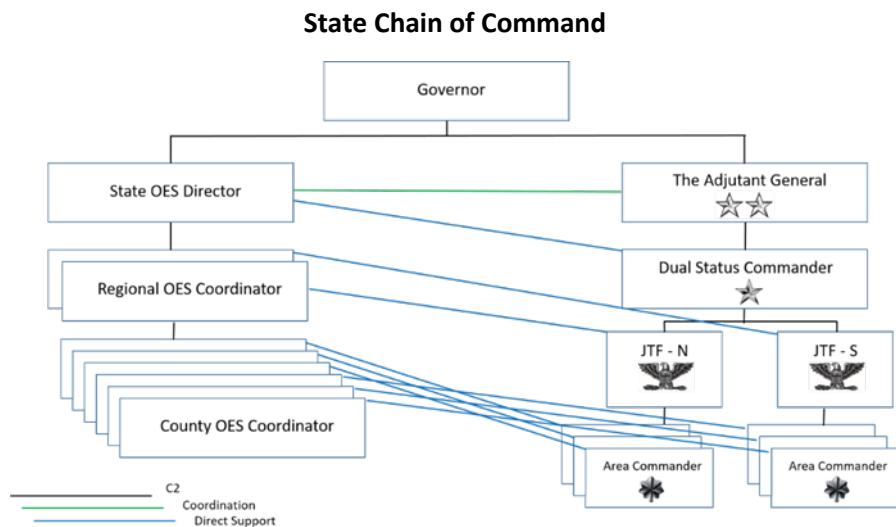
Lessons Learned

We learned through the Northern California Fires that local Sheriffs and EOC staff did not understand the breadth of resources available to them through the National Guard and Title 10 (Federal) forces. A

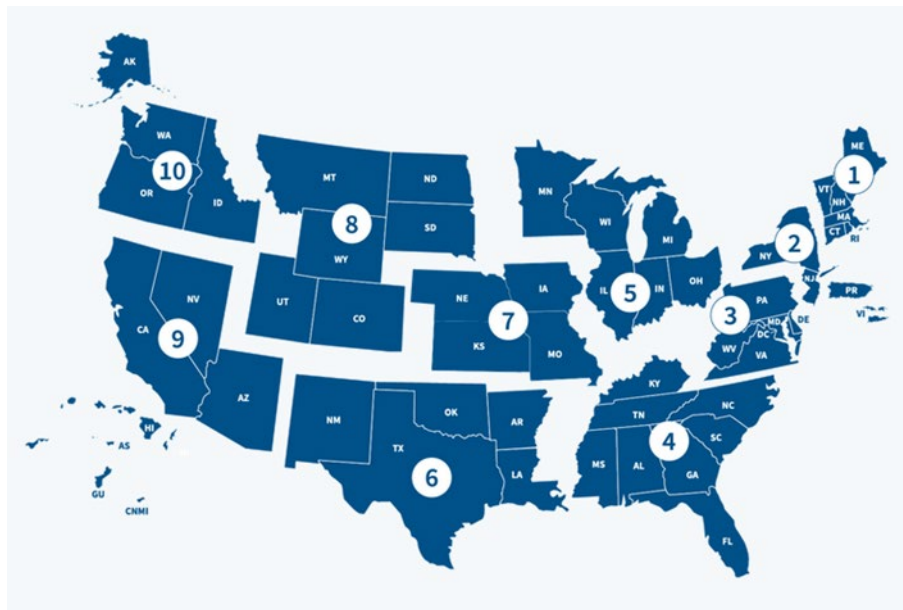
concerted effort has been made since the fires to brief the Sheriffs on available capabilities, and how to request them. This supports Phase 0 operations outlined in Army Doctrine Publication (ADRP) 3-28, DSCA.¹⁶ The regional alignment allows for Active Guard Reserve (AGR) staff at the battalion headquarters to immediately respond to the affected county EOC and offer guidance on military capabilities and coordinate initial resource response while the traditional part-time chain of command responds.

The California example provides a format of OES alignment which accelerates the request, deployment and employment of capabilities and allow for resource allocations within the DoD response structure in a timely and efficient manner. Aligning headquarters with the state OES and national Federal Emergency Management Agency (FEMA) structures from the local to the national level would allow for relationship building, better coordination and a decision authority to balance capabilities across a large disaster that encompasses multiple states competing for resources. At the local level, battalion headquarters can be assigned to the smallest state OES operational areas. States with smaller OES operational areas may choose to use company instead of battalion headquarters at this level. The level of commander assigned is based on authority and experience required to provide the requisite level of knowledge to the applicable EOC, with the capability to establish the chain of command quickly and thereby mitigate associated risk.

As the emergency grows in size and complexity, a brigade level headquarters is assigned and assumes responsibility for several battalion headquarters during disaster response. This effort allows state National Guard assets to move from one OES region to another based on the need and; at the direction of the regional JTF commander. When more than one regional commander is necessary, or Title 10 assets are required, a Brigadier General may be assigned as the Dual Status Commander. The dual-status commander is typically a National Guard general officer who has authority over both Title 10 and Title 32 (state active-duty) troops to provide mission command, align the efforts of all military assets¹⁷ in conjunction with OES requests and balance capabilities across the state.



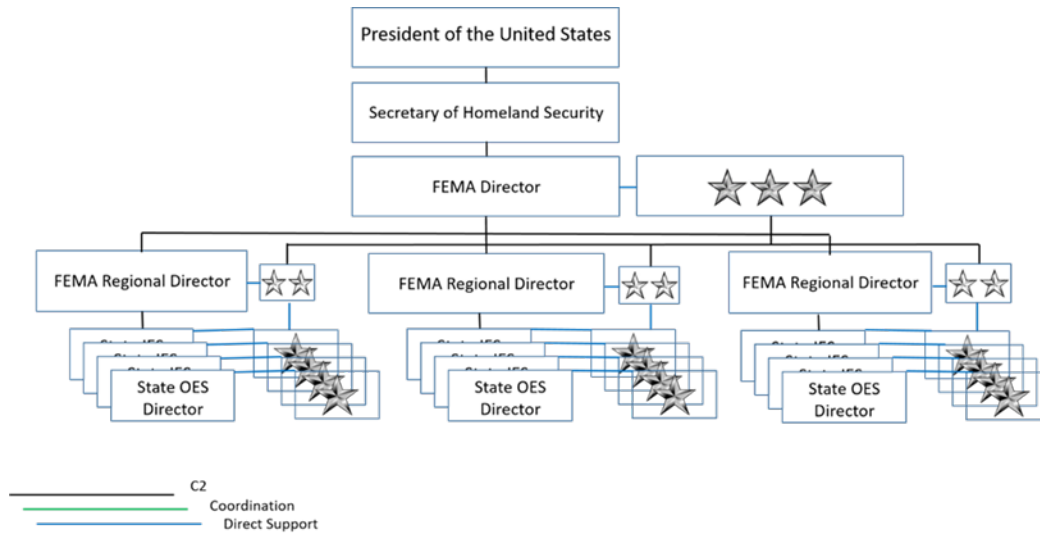
During events where the disaster encompasses several states within one of the ten FEMA regions, a commander at the rank of Major General could be assigned at the FEMA regional level. This does not replace the Defense Coordinating Officer (DCO) or the responsibilities of this billet, but rather complements this staff with a commander of appropriate rank, experience and decision making authority. This commander coordinates with the State's Dual Status Commanders and Adjutant Generals to balance Title 10 resources across the disaster. Many assets are limited nationally, which makes balancing capabilities across competing needs and state boundaries this commander's most difficult role as significant risk is associated with these resource allocations. The FEMA regions are broken into ten regions depicted in the figure below. California is within FEMA Region 9.



The Federal Emergency Management Agency consists of ten regions in the continental United States and territories. <https://www.fema.gov/about/organization/regions>

In the event a disaster becomes a nation-wide incident, and the need for coordinated response reaches the FEMA national EOC, a three-star Commander would be assigned. These events will be highly complex as local, tribal and state jurisdictions exercise political pressure to leverage resourcing priorities to address the state of emergency in their area of influence. This three-star general would necessitate substantial discretion and diplomacy as the concern and pressure grows with the size, scope and duration of the event. Working directly with the senior leadership of FEMA will allow for a unity of effort to manage risk, access and allocate valuable resources and send a unified message from the national level to calm fears.

Proposed National Level Chain of Command



Conclusion

The key to disaster response is prior coordination and iterative practice during exercises to identify shortfalls or areas where risk must be either accepted or mitigated.¹⁸ The challenge is more difficult when responders from the local, state, tribal and national levels meet at the event. This prior alignment of military leaders within different levels of the predesignated National Incident Management System (NIMS) system allows relationships to develop ahead of time, enabling a faster, tiered deployment of assets and leaders outlined in the National Response Framework.¹⁹

Endnotes:

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7. ICS 100, U.S. Department of Agriculture, Pg. 2
<https://www.usda.gov/sites/default/files/documents/ICS100.pdf>
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11. U.S. Joint Chiefs of Staff, Defense Support of Civil Authorities, Joint Publication 3-28 (Washington, DC: U.S. Joint Chiefs of Staff, July 31, 2013), Pg. I-6.
12. Ibid, Pg. I-4.
13. ADP 3-28 Defense Support of Civil Authorities (Washington D.C., Department of the Army, 26 July 2012, Pg. 9)
14. The Posse Comitatus Act is a United States federal law signed on June 18, 1878, by President Rutherford B. Hayes which limits the powers of the federal government in the use of federal military personnel to enforce domestic policies within the United States
15. Ibid
16. U.S. Department of the Army, Defense Support of Civil Authorities, Army Doctrine Reference Publication (ADRP) 3-28 (Washington, DC: U.S. Department of the Army, June 14, 2013), Pg. 1-29.
17. Ryan Burke, Maturing DSCA and the Dual Status Commander Arrangement, (Strategic Studies Institute, U.S. Army War College April, 2015), Pg. v.
18. U.S. Joint Chiefs of Staff, Defense Support of Civil Authorities, Joint Publication 3-28 (Washington, DC: U.S. Joint Chiefs of Staff, July 31, 2013). Pg. 3-28.
19. U.S. Department of Homeland Security, National Response Framework, 3d ed. (Washington, DC: DHS, June 2016), Pg. 50.