

TOWARD A UNIFIED MILITARY RESPONSE: HURRICANE SANDY AND THE DUAL STATUS COMMANDER

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Hurricane Sandy was the largest and most damaging Atlantic hurricane on record and was the second most costly in U.S. history, eclipsed only by Hurricane Katrina. At the peak of the military response to Hurricane Sandy in New York, a joint force of over 4,000 Soldiers, Sailors, Airmen, Marines, and National Guard personnel were engaged in supporting civil authorities as part of Joint Task Force Sandy. While National Guard forces regularly support civil authorities, extreme incidents like Sandy, Katrina, and the September 11, 2001 (9/11), terror attacks often require extensive federal military support in order to save lives, prevent suffering, and mitigate property damage.

Effectively integrating federal military and National Guard forces to achieve a coordinated, collaborative, and unified response has been a repeated and complex problem during military civil support operations. In the years following Hurricane Katrina, with coordination issues at the center of the debate, state governors continued negotiations with the Department of Defense (DoD) to link the National Guard (Title 32 forces when federally funded and under state governor control) more effectively with Active and Reserve components (Title 10 forces). Establishing a mutually beneficial command and coordination mechanism linking Title 32 and Title 10 forces would, in theory, improve military civil support missions by reducing the redundancies and closing operational gaps noted in past operations like

Hurricane Katrina. The accepted solution to this challenge, known as a dual status commander, cites law from 2000 and 2004 that legally authorize a single commander to serve in two duty statuses, state and federal, simultaneously, while executing the duties of these statuses in distinctly separate capacities.

The dual status commander can, in effect, serve as the necessary link between Title 10 and Title 32 military forces. This commander serves both as an information conduit and a resource employer; a single representative of both state and federal chains of command through which all tactical decisions must travel. This unique command mechanism has been used successfully during pre-planned special security events throughout the United States. With this knowledge and with the consent of state governors, Section 515 of the 2012 National Defense Authorization Act (NDAA) specified that, during the simultaneous employment of the Armed Forces, i.e., the National Guard, the dual status commander arrangement would be the “usual and customary command and control arrangement, including for missions involving a major disaster or emergency.”¹

Less than a year after adopting the 2012 NDAA, Hurricane Sandy made landfall along the coast of New Jersey. The military response to Hurricane Sandy in New York was the first time a dual status commander commanded both federal military and National Guard forces dur-

ing a no-notice/limited-notice response operation. As such, the events of this storm provide a timely and relevant opportunity to examine the use of the dual status commander construct and learn from the successes and shortfalls of this particular operation.

This monograph uses a case study approach to examine the use of the dual status commander arrangement in response to Hurricane Sandy in New York. We begin the monograph by providing background context of the evolution of the dual status commander concept both in law and policy. In doing so, we discuss the legal foundations and framework governing the use of both the Armed Forces and the National Guard in domestic capacities. We also present and discuss the philosophical conflict between state sovereignty and federalism and the influence each brings to domestic military operations. We conclude this section by offering a brief chronological overview of the development of the dual status commander concept in relevant laws and policies from 2000-12. After discussing the history and development of the dual status commander concept, we begin our discussion of the events of Hurricane Sandy.

Since our monograph focuses on the military response to Hurricane Sandy in New York City, our Hurricane Sandy case study originates with an overview of the unique geo-political landscape present in the New York metropolitan area. In order to fully understand the complexities involved with not only the tactical decisionmaking but the political influences as well, it is necessary to understand the distinctly different geo-political makeup of the city. From here, we separate our Sandy chronology into five time phases for individual discussions. We begin our discussion of Hurricane Sandy by evaluating the storm preparations undertaken by the Federal Government the week prior to the storm's landfall. The discussion continues as we present selected noteworthy events from the remaining 2 weeks of the military response. The chronology provides a basis for the subsequent section of analysis of the post-event lessons learned.

The third substantive section of the monograph, Post-Event Lessons Learned, offers a categorical summation of several objective observations gleaned from the research and analysis of this event. Here, we discuss successes related to

coordination; the use and distribution of liaison officers; and the aggressive, forward-leaning approach used by DoD to prepare for and respond in the aftermath of the storm. We also address some of the notable shortfalls from the event. Based on the interviews and data we collected, shortfalls discussed include issues related to process integrity and command structure, lack of Title 10 awareness with regard to the dual status commander construct, misunderstandings of the mission assignment process, lack of relevant education for officers, and an overall lack of dual status commander guidance or formal instruction. These lessons learned serve as the foundation for the proceeding section outlining our suggested recommendations for improvement.

The final section of the monograph presents recommendations for future consideration based on our overall objective external analysis of the military response to Hurricane Sandy in New York under the dual status commander construct. The recommendations are presented in two sections: 1) operational and strategic recommendations and 2) policy and legislative recommendations. We focus our first series of recommendations on the operational and strategic considerations of executing an efficient and effective dual status commander-led response. In this context, we suggest improvements to future joint command structures, enhanced methods to transition tactical command authority of federal forces, as well as the integration of a Title 10 task force for selected mission capabilities. Our policy and legislative recommendations include several suggestions to improve the current ambiguities of the Immediate Response Authority policy. We also include specific recommendations intended to enhance the understanding and implementation of certain provisions of 10 U.S.C. § 12304a and 32 U.S.C. § 502f.

Our monograph concludes with a summation of our findings, followed by a clear position based on our research: embrace dual status commanders by empowering them to do their jobs, or simply abandon the concept entirely. As you will see through this analysis, the dual status commander concept has tremendous value and utility for future civil support operations integrating both the National Guard and federal military. This command arrangement is the precise coordination

mechanism needed to address the noted challenges that have long plagued combined military operations in the past. While it has been used successfully in pre-planned events, the dual status commander concept has major limitations when employed during a no-notice/limited-notice response scenario. In its current form, there are too many obstacles to achieving a unified, collaborative, and fully integrated effort across both state and federal entities. There are many who support the concept and advocate for its continued use. Likewise, there are many who criticize the concept as an unworkable, over-reaching solution to a legally and operationally complex mission set.

Regardless of perspective, it is evident that we need to continue to improve our domestic military response capability. Whether the dual status commander is the right solution to this challenge is yet to be determined. We need more opportunities to analyze and assess the efficacy of this command construct before casting final judgment from a single case study. In the end, this monograph should serve as a solid foundation for further analysis of the dual status commander arrangement in future operations. Hopefully, such continued analysis will lead to improved military capabilities and ultimately more lives and property saved in response to a future disaster or emergency.

ENDNOTE

1. National Defense Authorization Act for Fiscal Year 2012, Public Law 112-81, H.R. 1540, p. 98.

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