

U.S. Northern Command Counterterrorism Response Force Requirement

by **Matthew D. Bartels**

To preserve the freedoms guaranteed by the Constitution of the United States, the Nation must have a homeland that is secure from threats and violence, including terrorism. Homeland security (HS) is the Nation's first priority, and it requires a national effort. The Department of Defense (DoD) has a key role in that effort.

**— Joint Chiefs of Staff, Joint Publication 3-26,
"Homeland Security" (2005)**

Nassim Nicholas Taleb introduced the theory of a “Black Swan” event in 2007.¹ It is described “as an event in human history that was unprecedented and unexpected at the point in time it occurred; however, after evaluating the surrounding context, domain experts can usually conclude that it was bound to happen.”² The terrorist attacks on 9/11 are examples of “Black Swan” events in recent American history.³ Implementing proactive measures in today’s complex environment, where clear delineations across the spectrum of conflict no longer exist, is often viewed as a challenging task concerning homeland security. Strategists and military planners are constantly adapting the ways and means to maintain an advantage in this multi-dimensional environment.

In the interests of national security, U.S. Northern Command (USNORTHCOM) may require the capability to deploy an available DoD counterterrorism (CT) response force specifically trained to reinforce interagency partners within the United States. USNORTHCOM can designate every service to proactively train, staff, equip, and certify an on-call Title 10 response force to reduce this vulnerability and improve interagency integration for homeland security. Urban environments are dynamic and demand large numbers of forces to ultimately neutralize and resolve a chaotic situation.⁴ For example, if a minimally trained fifteen- to twenty-person terrorist cell executed a complex attack on an iconic American venue, the current USNORTHCOM response does not expedite the deployment of a CT task force already trained and certified with its interagency counterparts. This

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vulnerability can be reduced by tasking a Title 10 asset that will fall under combatant command authority with direct liaison to a federally-led emergency operations center (EOC).

National and state policymakers may assume military forces will be readily available to defend the homeland when required; however, an alarming vulnerability may exist.

The purpose of this study is to identify if there is a requirement for USNORTHCOM to establish a designated Title 10 CT response team to strengthen Defense Support of Civil Authorities (DSCA) response. USNORTHCOM currently lacks a designated Title 10 CT response force to reinforce federally-led, homeland security efforts during a national crisis. The National Guard annually trains with the Federal Emergency Management Agency (FEMA) and active duty Title 10 units for DSCA response. The exercises typically focus on natural disaster response, riot control, or chemical, biological, radiological, nuclear, and explosives (CBRNE) scenarios. With the heightened threat of a radicalized-homegrown or transnational terrorist attack within the continental U.S., a possible vulnerability may exist beyond the current National Guard and law enforcement solution. A designated service may be able to implement DSCA CT training to existing training exercises and venues should USNORTHCOM designate a Title 10 force with response to a homeland crisis. There appears to be an opportunity for the DoD to expand relations with interagency partners through liaison and certification exercises that will proactively train for a CT response and reduce this concern for USNORTHCOM.

Title 10 of the U.S. Code (U.S.C.) outlines the role of armed forces under federal code signed by Congress.⁵ It provides the legal basis

for the roles, missions, and organization of each of the services as well as the DoD. Each of the five subtitles deals with a separate aspect or component of the armed services.

National and state policymakers may assume military forces will be readily available to defend the homeland when required; however, an alarming vulnerability may exist. The 2013 attacks at the Kenyan Westgate Mall and the 2015 attacks in Paris highlight the amount of manpower required to respond to and neutralize a small-scale terrorist attack. Title 10 forces may be a viable option to reinforce a federal response to help safeguard the American public. Proactive training and coordination measures should be evaluated and prioritized for future interoperability.

The establishment of USNORTHCOM in the spring of 2002 implemented the necessary command structure to bridge the lines of communications between Title 10 forces with state and federal authorities. The National Guard is strongly suited for natural disaster response; however, it may lack the mission-specific type and duration of training required to respond to a complex terrorist attack in an urban environment.

Currently, mutual aid response among law enforcement entities provides sufficient reinforcement for mass casualty incidents, but manpower and training restraints limit response effectiveness. Law enforcement training and coordination have improved over the past decade, as apparent in the Washington Navy Yard shooting. However, shortfalls with interoperability, command authority, and structured response are still apparent, as evident in the after-actions reviews conducted by responding federal, civil, and military entities.

During emergencies the Armed Forces may provide military support to civil authorities in mitigating the consequences of an attack or other catastrophic event when the civilian responders are overwhelmed. Military responses under these conditions

require a streamlined chain-of-command that integrates the unique capabilities of active and reserve military components and civilian responders.

—General Richard B. Myers,
quoted in Joint Chiefs of Staff,
*The National Military Strategy of the
U.S. of America*

USNORTHCOM: History and Policy

USNORTHCOM was established to unify interagency and interstate efforts to defend the nation from attack or overwhelming natural disaster. Established on the heels of 9/11, it was “to provide command and control of the Department of Defense’s (DOD) homeland security efforts and to coordinate military support to civil authorities.”⁶ The 1,200-member staff is the pivotal command to ensure that effective proactive and reactive measures are maintained, in addition to being a catalyst for information sharing and productive interagency cooperation.⁷ Subsequently, the Homeland Security Act of 2002 created the Department of Homeland Security (DHS).⁸ The *National Strategy for Homeland Security* dated October 2007 is an unclassified document that provides guidance and direction to the stakeholders within the DHS to include the DoD.⁹ Additionally, Joint Publication 3-26 (2014) specifically links the DHS mission to DoD CT efforts within the homeland:

Domestic CT operations are considered part of homeland security under the lead of DHS. DHS is considered primary for coordinating Executive Branch efforts to detect, prepare for, prevent, protect against, respond to, and recover from terrorist attacks within the United States. DOJ [Department of Justice] supports DHS for CT, but could also be the primary federal agency for some situations. If tasked to support the primary agency for domestic CT operations, DOD would be in

a supporting role, which would include any support for law enforcement purposes.¹⁰

A specific mission of USNORTHCOM states, “as directed by the President of the United States or Secretary of Defense, provide military assistance to civil authorities, including immediate crisis and subsequent consequence management operations.”¹¹ What is the current state of readiness for this mission, and does USNORTHCOM maintain the readiness to achieve this standard consistent with the rhetoric of DHS’s own strategy?

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It is important to note that there are three primary mechanisms by which DoD would take part in a federal response to a domestic threat. Federal assistance, including DoD, would be provided: (1) at the direction of the President; (2) if the Secretary of Homeland Defense declares an event an Incident of National Significance; or (3) at the request of the Governor of the affected state in accordance with the Stafford Act.¹² The Standing Joint Force Headquarters North based at Peterson Air Force Base, CO, “maintains situational awareness of USNORTHCOM’s area of responsibility to allow rapid transition to a contingency response posture, and when directed, quickly deploys assets to support homeland defense and civil support operations.”¹³ For example, in September 2004, USNORTHCOM tracked the path of Hurricane Ivan. As it approached, it prepositioned water, food, and supplies close to the areas expected to be hit for immediate response in the aftermath.

Homeland Security Presidential Directive-5, Management of Domestic Incidents establishes

a single, comprehensive National Incident Management System (NIMS) and assigns the Secretary of Homeland Security as the principal federal official for domestic incident management. Pursuant to the Homeland Security Act of 2002, the secretary is responsible for coordinating federal operations (and with agencies to include DoD) within the U.S. to prepare for, respond to, and recover from terrorist attacks, major disasters, and other emergencies.¹⁴

The focal point of homeland security is American territory inclusive to coastal waters and territories legally claimed by the U.S. A recent report to Congress hones in on the lack of definition for homeland security by sharply stating, “ten years after the 11 September

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terrorist attacks, the U.S. government does not have a single definition for ‘homeland security.’ Currently, different strategic documents and mission statements offer varying missions that are derived from different homeland security definitions.”¹⁵ Of the varying definitions, homeland security is best described as a “national effort to prevent aggression and terrorist attacks against the United States from within its own borders, reduce vulnerability to those attacks, minimize damage, and assist in recovery should an attack or domestic emergency occur.”¹⁶

As a combatant command, USNORTHCOM has the exclusive dilemma of maintaining responsibility and authority for North America without the operational control of dedicated resources at its disposal. The following excerpt sheds light on the current gaps facing USNORTHCOM:

In short, USNORTHCOM needs the right people, in sufficient numbers, properly trained, with the necessary equipment, ready to rapidly execute operational plans. Unless the policy errors hereafter highlighted in the 2014 Quadrennial Defense Review are promptly rectified, future leaders will be left with a critical gap between USNORTHCOM’s missions and its capabilities to fulfill them.¹⁷

In theory, and in reality, a properly trained and staffed USNORTHCOM according to the organizational charts is effective and vital to U.S. security. However, staffing and resource shortfalls due to administration constraints fail to provide the mission-essential personnel required to fulfill the organization’s mission statement.

In addition to the staffing shortfalls, there is an institutional culture aversion to DSCA throughout the DoD. Many military and civilian leaders are focused overseas and believe that providing support to civilian authorities is of secondary importance.¹⁸ The National Guard emphasizes the need to overcome DoD’s cultural resistance to domestic civil support missions:

Despite producing policy documents claiming that protecting the homeland is its most important function, the Department of Defense historically, has not made civil support a priority. This shortcoming is especially glaring in the post 9/11, post Hurricane Katrina environment. Ensuring that the homeland is secure should be the top priority of the Government of the United States.¹⁹

Like all combatant commands, USNORTHCOM is an active duty command. As a result, many of the cultural biases and tensions between active and reserve component forces permeate the working relationships between USNORTHCOM and the broader National Guard community.²⁰ DSCA needs to be considered a greater Title 10 requirement

by every service vice considering it the sole responsibility of the National Guard.

DSCA Legal Constraints

Enacted by Congress under the provisions of Title 18, U.S.C. §§ 1385, the Posse Comitatus Act was originally passed on 18 June 1878 as an amendment to an Army appropriation bill.²¹ The National Security Act of 1947, Title 10, Section 375, further directed that the Secretary of Defense publish regulations to ensure that any activity (including providing equipment, facility, or personnel) does not include or permit direct participation by a member of the Army and Air Force in a search, seizure, arrest, or other similar activity unless authorized by law.²² It was not until 1956 that Congress amended the Posse Comitatus Act to include the Air Force and moved the act to Title 18, U.S.C., Section 1385, stating, “Whoever, except in cases and under circumstances expressly authorized by the Constitution or an act of Congress, willfully uses any part of the Army or Air Force as a Posse Comitatus or otherwise to execute the laws shall be fined under this title or imprisoned not more than two years, or both.”²³ Although the Posse Comitatus Act does not address the Navy or Marine Corps, by DoD directives and regulations, they are under the same restrictions as the Army and Air Force.²⁴

It is generally accepted that Posse Comitatus does not apply to the Army and Air National Guard while serving under state control because they operate under Title 32 authority and not Title 10 authority.²⁵ Since the Posse Comitatus Act does not apply to National Guard units while under state control, state governors have the flexibility to use National Guardsmen for law enforcement and in support of law enforcement missions. Once federalized, however, National Guard forces are subject to Title 10 and the Posse Comitatus Act.²⁶ As a result, states are reluctant to allow their forces to be called to active federal service during disasters like Hurricane Katrina.²⁷

While the U.S. Constitution does not bar the use of active duty military forces in civilian situations or in matters of law enforcement, the U.S. government has traditionally refrained from employing federal troops to enforce the domestic law, except in cases of civil disturbance.²⁸ The President is authorized by the U.S. Constitution and various federal laws to employ the Armed Forces of the United States to suppress insurrections, rebellions, domestic violence, and disasters under an assortment of conditions and circumstances.²⁹ It is now DoD policy that National Guard forces have primary responsibility for providing military assistance to state and local government agencies, mostly under the command of the state’s governor.

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The Insurrection Act and the Stafford Act allow the President and/or Congress to abrogate the Posse Comitatus Act. Under the Insurrection Act, amended in 2007, Congress delegated the authority to the President to call forth the military during an insurrection or civil disturbance. Specifically, Title 10, U.S.C. §§ 331, authorizes the President to use military force to suppress an insurrection at the request of a state government.³⁰ This is meant to fulfill the federal government’s responsibility to protect states against domestic violence. The Insurrection Act has been used to send armed forces to quell civil disturbances a number of times during U.S. history. The most recent example of this occurred during the 1992 Los Angeles riots. The Insurrection Act was also used after Hurricane Hugo in 1989, during which widespread looting was reported in St. Croix, Virgin Islands.³¹ If the President decides

to respond to such situations, generally upon the recommendation of the Attorney General or at the request of a governor, he must first issue a proclamation ordering the insurgents to disperse within a limited time.³²

Another relevant federal law is the Robert Stafford Disaster Relief and Emergency Assistance Act. Congress enacted Title 42, U.S.C. §§ 5121-5206 to authorize the President to make a wide range of federal aid available to states that suffer natural or manmade disasters. In order to receive federal assistance, the governor must first execute the state's emergency plan and make a determination that state capabilities are insufficient to deal with the circumstances. However, the Stafford Act does not allow federal, active-duty, military forces to patrol civilian neighborhoods for the purpose of providing security from looting and other activities.

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Additional federal laws enable the command and control of military forces. Title 32, U.S.C. §§ 325 requires the consent of the governor to allow a Title 10 officer to exercise command over Title 32 members, even when that officer is a member of that state's National Guard who has been ordered to active duty. National Guard officers can exercise dual-status command under Title 32, U.S.C. §§ 325, and federal officers may accept state commissions when offered by a governor under Title 32, U.S.C. §§ 315. While there is no specific law or policy for state command or even tactical control of federal forces, it may not matter.

The fact is both the President and the States' governors have sufficient legal authorities that

provide command and control options for active and National Guard military forces. Therefore, the friction between federal and state powers is not necessarily a command and control issue from a legal standpoint. Instead, the problem is more about minimizing the political friction that results from the unity of effort options exercised by DoD rules, regulations, and military doctrine.³³

The following case studies provide historic context to further analyze the possible requirement and role of a Title 10 DSCA response force. The Los Angeles Riots, although not a CT response, provide excellent historic context to evaluate the proficiency of the National Guard and Title 10 response in support of a federalized crisis. The terrorist attacks at the Kenyan Westgate Mall in 2013 and the most recent one in Paris in 2015 depict the types of emerging threats the U.S. may encounter and the tactics, techniques, and procedures associated with violent extreme terrorist cells.

Los Angeles Riots

The 1992 Los Angeles Riots are the most profound civil disturbance in recent U.S. history, resulting in the deaths of 54 people and causing more than \$800 million in property damage throughout Los Angeles County.³⁴ Excessive use of force by the Los Angeles Police Department on Rodney King after a police chase on 3 March 1991 escalated tension between law enforcement and the predominantly, African American neighborhoods across Los Angeles. At the time, rival gangs dominated many of the Los Angeles neighborhoods, and the Los Angeles Police Department had openly admitted they had "lost the streets."³⁵ Sparked by the acquittal of all four officers on trial for assault and the acquittal of three out of the four for excessive force, the riots began the day of the verdict, 29 April 1992.³⁶

Prior to the verdict, the California Army National Guard had "repeatedly been assured they would not be needed for any disturbances"

by the office of the Governor.³⁷ At 3:15 p.m. on 29 April 1992, the verdict was announced, and the governor requested the 40th Infantry Division (Mechanized) of the California National Guard just after 9:00 p.m. Within six hours, there were 2,000 National Guardsmen marshaled in southern California. Roughly five hours later, units from the National Guard's 49th Military Police Brigade were mobilized and attached to the division.³⁸ Tasking authority to the Title 32 National Guard forces initially came from the sheriff's emergency operations center (EOC), where commanders from the Los Angeles Police Department and military were collocated with a representative from the California Governor's Office of Emergency Services. The unexpected nature of the emergency caused the National Guard commanders to activate and deploy the closest units to Los Angeles first.

On the third day of the riots "it appeared to the LA Mayor and the California Governor that the National Guard was deploying too slowly to effectively handle the problem."³⁹ The National Guard was constrained by an abundance of logistical shortfalls, such as misplaced riot gear, ammunition mix ups, and miscalculated helicopter re-supplies. The California governor requested federal Title 10 DoD support from the President and the authorization to federalize the National Guard. Ultimately, the California National Guard deployed 10,465 soldiers that were subsumed by Joint Task Force-Los Angeles. The Army's U.S. Forces Command was the command authority for the joint task force. In addition, roughly 1,500 Marines from the 1st Marine Division out of Camp Pendleton, CA, deployed in support. Due to the Posse Comitatus Act, under the federalization of Joint Task Force-Los Angeles, "the Guard was about 80 percent less responsive supporting law enforcement agencies."⁴⁰ By the fifth day of the riots, Los Angeles County was largely quiet. Joint Task Force-Los Angeles remained in support of DSCA operations until Day 11 and officially

stood down on 9 May.

The riots occurred prior to the establishment of USNORTHCOM. Had USNORTHCOM been established, it could have better prepared and supported three primary areas prior to and during the riots: (1) command and control; (2) DSCA training prior to the riots; and (3) logistical staging and resupply.

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The synchronization of proper command authority between federal and state, in regards to military, law enforcement, and political authority caused significant problems throughout the riots. Then California Governor Pete Wilson "called for federalization of the counter-riot effort without consulting with the National Guard Commanders in charge and on-scene," and without a request from the state representative for emergency services.⁴¹ From the top-down, there was an apparent disconnect among the leadership with communication and tactical control. Under enormous political pressure, both the governor of California and mayor of Los Angeles guided priorities and objectives at the tactical level of operations in a political and media vacuum, rather than listening to bottom-up refinement and plausible courses of action from law enforcement and military leadership.⁴²

Under the command of the Los Angeles County Sherriff's Department, the EOC was "slow to get established and did not provide the kind of coherent operational direction that would facilitate unit employment."⁴³ In essence, the EOC took tactical control of the crisis without standing operating procedures (SOPs),

previously exercised according to doctrine and policy. Proper command authority and mutually supporting relationships between the National Guard and local law enforcement were figured out on the fly rather than pre-planned for this type of crisis. The California National Guard was tasked and integrated to support local law enforcement in sizes and tactical formations outside the realm of its military training and unit SOPs. There were several success stories at the tactical level of operations, where young, talented, small-unit leaders made proper and ethical decisions. However as a whole, the DSCA operations directed from the EOC were counterproductive and confusing.

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Prior to the riots, the annual training of National Guard units in support of DSCA operations was inadequate. Interagency relationship-building exercises and staff coordination down to the tactical level of operations were insufficiently tested. The California National Guard had annually conducted a Battle Command Training Program and Exercise Warfighter. This was a yearly exercise designed to validate National Guard response and command and control. However, due to budget restraints and lack of federal oversight, the scope of these exercises did not validate the integration of SOPs in support of DSCA. It is important to note that National Guard staff officers did attend state interagency coordination training prior to the riots, but the focus was on earthquake response and other natural disasters. Staff training exercised the lines of communication between military and civil response to natural disasters but did not validate civil disturbance response or doctrine/

policy EOC functions and procedures.⁴⁴

There was no emphasis placed on civil disturbance training from the state level to the National Guard. At the time, there was a system of mutual aid in place among California law enforcement agencies, fire departments, and other emergency services. “The concept of mutual aid was that if a particular sheriff or police department became overwhelmed by local event, the state Office of Emergency Services would coordinate the dispatch of reinforcements from other jurisdictions.”⁴⁵ Essentially, the National Guard would not be requested and/or activated until all available law enforcement entities had been committed to the response. “Absolutely no one, civilian or military, expected a situation wherein the National Guard would be needed in the streets in a matter of hours.”⁴⁶ This reality would be unacceptable by today’s DSCA standard.

The logistical shortfalls throughout the riots highlighted the importance of maintaining pre-staged supplies and proactive planning measures. The California National Guard responded to the riots without enough riot shields, facemasks, batons, flak jackets, ammunition, and other various items. Although the riot gear physically existed within inventories, they were on loan to various organizations and not properly staged for quick access and distribution. In addition, lock plates were to be installed in every M16 and M16A1 rifle prior to deploying National Guardsmen “to prevent automatic firing during civil disturbances.”⁴⁷ Due to the rapid response of the California National Guard, this complex and timely armory maintenance was not conducted, and the soldiers reinforced DSCA operations with fully automatic rifles.

The ammunition supply for the guardsmen was stored in a separate location from the marshalling areas. The National Guard helicopters used to pick up the ammunition were not fueled and ready for flight operations.⁴⁸ In addition, the ammunition was not properly

staged on pallets and ready for resupply upon arrival of the helicopters. Ammunition had to be hand loaded, which caused significant delays to the deployment of California National Guard from the marshalling areas.⁴⁹ Although the lack of logistical preparedness may or may not have been avoided with the presence of USNORTHCOM, a proficient unit consistently trained in exercises beyond natural disaster and CBRNE response would have maintained a better state of readiness and alert.

Kenyan Westgate Mall Attack

On 21 September 2013, four terrorists launched an armed assault using rifles and hand grenades at the Westgate Shopping Mall in Nairobi, Kenya. At least 70 people died, over 175 were injured, and several others were held hostage.⁵⁰ Reportedly, the Islamist fighters shouted in the local Swahili language that Muslims would be allowed to leave while all others were subjected to their bloodletting.⁵¹ Citizens from 13 different countries, including the U.S., France, Canada, United Kingdom, Australia, and New Zealand, were among those killed. Of note, it took almost four days before authorities declared the scene safe.⁵² The Somali-based and al-Qaeda-linked Islamist terrorist group Al-Shabaab claimed responsibility for the horrific attack.⁵³ The victims of this attack included males and females, ranging in age from 8 to 78 years of age.⁵⁴ The majority of these casualties most likely occurred within the first hour of the attack.⁵⁵ Additionally, the terrorists made a conscious effort to target non-Muslims.⁵⁶

The central lesson learned from the Westgate Mall attack as described in the New York Police Department's analysis was that terrorists seek high profile attacks and that this attack "clearly illustrates that armed assaults by terrorists on 'soft' targets such as a shopping mall are a simple, effective and easy to copy tactic."⁵⁷ This attack "successfully raised Al-Shababb's worldwide profile as a terrorist organization"

and will remain the premier example of how to exploit soft, high-profile venues world-wide.⁵⁸

The concept that four, well-armed attackers with fundamental training can cause an international crisis, killing 70 non-Muslim citizens over a 48-hour period is a high reward and low-risk opportunity for any terrorist organization. The last confirmed sighting of the terrorists takes place twelve hours after the start of the attack.⁵⁹ It is unknown if the terrorists were killed or escaped the mall.⁶⁰ Although this attack did not take place on American soil, under the direction of the President, the Federal Bureau of Investigation (FBI) assisted Kenyan authorities with the investigation. Opposing critics to U.S. involvement claimed that: "Direct U.S. involvement would be the quickest way to provide al-Shabaab with the propaganda bonanza it needs to recruit a new generation of jihadists."⁶¹ Immediately following the crisis, the U.S. government insisted that it did not have firm proof that any American nationals took part in the Westgate attack. However, later reports

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indicated that at least one shooter had spent time in a predominantly Somalian neighborhood just outside of Minneapolis, MN.⁶² The FBI was "thought to be investigating the suspected involvement of al-Shabaab recruits from Somali communities in Minnesota and Maine."⁶³ A number of U.S. citizens have been recruited to fight in Somalia from Minneapolis, which is home to 32,000 of the estimated 100,000 Somalis who have fled the country's civil war and settled in the U.S.⁶⁴

A final important lesson learned from this

attack is the “poor coordination and lack of effective communication between police and military commanders that resulted in the military troops firing on members of the police tactical team, killing one officer and wounding the team commander.”⁶⁵ This situation highlights the importance of consistent military and police exercises to test and validate a common operating picture where tactics, communications, and procedures are synchronized to enhance mutual response.

Paris Attacks

On 13 November 2015, a terrorist cell conducted a series of coordinated attacks throughout Paris.⁶⁶ Three suicide bombers struck near the Stade de France in Saint-Denis, followed by suicide bombings and mass shootings at cafes, restaurants, and the Bataclan Concert Hall in Paris. In all, 129 people were killed and 368 wounded, in addition to the 7 attackers who died.⁶⁷

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The attacks were the deadliest in France since World War II and the deadliest in the European Union since the Madrid train bombings in 2004.⁶⁸ France had already been on high alert due to the terrorist attack on 7 January 2015, which killed twelve civilians at the satirical weekly newspaper *Charlie Hebdo* in Paris,⁶⁹ and the thwarted Thalys train attack on 21 August 2015, where three Americans subdued a lone gunman aboard a train traveling from Belgium to France.⁷⁰

The Islamic State in Iraq and the Levant (ISIL) immediately claimed responsibility for the attacks.⁷¹ ISIL stated that they were conducted

in retaliation for the French airstrikes on ISIL targets in Syria and Iraq.⁷² French President François Hollande said the attacks were “an act of war by ISIL.”⁷³ President Hollande vowed to “be unforgiving with the barbarians from Daesh [ISIL],” and added that France would act within the law “in coordination with our allies, who are, themselves, targeted by this terrorist threat.”⁷⁴

Former Director of the U.S. National Counterterrorism Center Michael Leiter stated, “this will be a game-changer for how the West looks at this threat.”⁷⁵ The level of sophistication and coordination of the attacks pointed more toward al-Qaeda and will bring the reach and threat of ISIL to a new level.⁷⁶ Some of the attackers were known to law enforcement officials prior to the attacks, and at least some of the attackers had residences in the Molenbeek area of Brussels, which is noted for its links to extremist activities.⁷⁷

A CT expert said the fact that authorities knew the perpetrators suggests that intelligence was “pretty good,” but the ability to act on it was lacking.⁷⁸ The number of Europeans who have links to Syria makes it difficult for security services to keep track of them all.⁷⁹ Evidence points to the attackers having regularly used unencrypted communications during the planning of the attack.⁸⁰

The commonality between every terrorist attack in France in 2015 is the deeply entrenched, religious-driven motivation of the attackers. These attacks exhibit the ability for large-scale Muslim terrorist organizations such as ISIL to recruit, train, equip, and direct small cells or lone wolves to conduct high-profile attacks on vulnerable soft targets. New York City Police Commissioner William J. Bratton said the Paris attacks have changed the way law enforcement deals with security.⁸¹

Conclusions and Recommendations

Recent history has taught that violent extreme organizations seek high-profile attacks

on vulnerable populated areas to reinforce their rhetoric and desired outcomes. If terrorist attacks, similar to the Kenyan Westgate Mall attack and the Paris attack increase within the U.S., USNORTHCOM is required by the National Military Strategy to have a viable Title 10 force capable of responding and reinforcing civil authorities. Proactive measures should be taken to implement new requirements to the traditional DSCA responsibilities of Title 10 forces to address this threat.

The homeland security doctrine indicates that the DoD should provide seamless integration into a federally-led EOC upon a catastrophic crisis resulting from a terrorist attack. The DoD mirrors this requirement in both the DSCA joint publications and individual service requirements, with strict adherence to the Posse Comitatus Act. A Title 10 CT force responding within the homeland under the guise of the Insurrection Act will never assume the primary role in response to these types of attacks. They will only respond within the U.S. when civil and federal law enforcement authorities become overwhelmed and are unable to dedicate the manpower required to effectively control the crisis and safeguard the American people.

The conundrum for USNORTHCOM is to identify a suitable and feasible DoD entity that can assume the role of a Title 10 CT force in addition to its primary roles and responsibilities. The National Guard, U.S. Army Special Operations Forces (SOF), and the Marine Corps are all viable candidates with components already suited for urban warfare and interagency synchronization. Of these options, USNORTHCOM should identify a Title 10 entity that requires minimal additional training and funding, a force that can remain on-call for six to twelve months, and a service capable of rapidly deploying within the U.S. with organic command and control, air, and sustainment for a catastrophic event. Serving as the combatant command lead, USNORTHCOM can initiate

the process to certify and fund this requirement through Congress and the Secretary of Defense.

Recommendation 1: Required Attributes for a DSCA CT Response Force

USNORTHCOM should serve as the certification authority for the training and readiness of a DSCA CT force. A certification exercise should be conducted with the Title 10 force and the lead federal law enforcement CT response unit—the FBI Hostage Rescue Team (HRT). This certification exercise should also provide any specialized instruction from USNORTHCOM and federal law enforcement over the course of a 72- to 96-hour period. Training and validation directly from USNORTHCOM will ensure adherence to Title 10 legal constraints and provide seamless integration to a federally-led EOC.

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A dedicated asset for USNORTHCOM must have the ability to serve as an on-call DSCA response force for a significant duration of time to ensure consistency, mission preparedness, and continuity for turnover with follow-on forces. Upon certification from USNORTHCOM, the Title 10 response force should remain on-call for no less than six months. This will provide USNORTHCOM with a dedicated asset and reduce certification and coordination time.

The Title 10 force selected to serve as the DSCA CT response force should have a high level of proficiency in urban warfare and decentralized operations prior to additional USNORTHCOM-mandated training with federal law enforcement. Standardized training in military operations in the urban terrain, which involves high

proficiency in room clearing and close quarter marksmanship, should be prerequisites for selection. These are vital qualities of any military or law enforcement entity conducting operations in an urban environment and cannot be instructed to a high level of proficiency during a certification exercise. In addition, the DSCA CT force can participate in USNORTHCOM, DHS, and FEMA quarterly and annual national-level exercises across the country to maintain readiness.

The ability to rapidly respond to a large-scale terrorist attack within hours as opposed to days is critical to the effectiveness and utility of a DSCA response force.

The catalyst for the implementation of a Title 10 CT response force is derived from the manpower constraints of local and federal law enforcement when a catastrophe occurs. Therefore, the Title 10 response force should be able to reinforce the federally-led situation with no less than 100 operators to assist with cordons, room clearing, and securing large populated areas. Martial law in Paris after the November 2015 attacks required hundreds of active-duty military personnel to cordon off sections of the city, while search operations for the remaining terrorists were conducted. The FBI HRT is already reinforced with law enforcement special weapons and tactics teams from the communities surrounding a crisis. A small Title 10 response force will not provide the federal authorities with an increased capability. However, a large 100- to 200-person force with a single command and control construct in direct support of the federal authority will greatly increase its ability to search for and defeat a terrorist cell.

The ability to rapidly respond to a large-scale terrorist attack within hours as opposed to days is critical to the effectiveness and utility of a

DSCA response force. The selected Title 10 force must have access to pre-staged gear, weapons, ammunition, and specialized equipment upon activation from USNORTHCOM. In addition, pre-designated air and sustainment, to include berthing and communication infrastructure, should be integrated in the staged assets. This process will require the Title 10 force to remain in the continental U.S. throughout its on-call status and be primarily dedicated to this mission.

Dedicated airlift and sustainment of food, ammunition, and equipment upon integration with an EOC is critical to rapid response and seamless integration. A dedicated Title 10 DSCA response force should not be limited solely to the operators on the ground. Federal and local law enforcement will not have the food and berthing capacity for a 100- to 200-person Title 10 force. The holistic approach of an expeditionary force capable with organic air and logistical self-sustainment will greatly increase response and operational effectiveness for USNORTHCOM.

A dedicated Title 10 force should have a command and control authority capable of directing operations throughout the entirety of the response. Placed with or adjacent to the EOC, the Title 10 leadership will be capable of synchronizing the actions of the military forces with the law enforcement personnel already in place.

Recommendation 2: Suitable Candidates for DSCA CT Response

With an increased reliance on reserve components compared to other combatant commands, USNORTHCOM has placed a high priority on maintaining the proficiency and response capabilities of National Guard units. The National Guard is the feasible solution for natural disasters, riot control, and specialized CBRNE response. However, serving in the capacity of Title 32 forces, the National Guard lacks the dedicated training time to acquire the capabilities of a response force proficient in

military operations in the urban terrain consistent with interagency counterparts. This specialized training is paramount to effectively integrate and reinforce leading federal CT response entities such as the FBI's HRT.

In addition to training restraints, the ability to mobilize reserve personnel makes the National Guard a non-suitable candidate. As noted from the Los Angeles riots, the process of re-calling soldiers and drawing the necessary weapons, ammunition, and equipment will delay a response in terms of days vice hours. It is also important to note that air and sustainment is not organic to most National Guard units and is often not collocated with the designated responding forces. These delays coupled with the inadequate CT training make the National Guard unable to achieve the timely response required of a CT response force.

The use of regular active U.S. Army forces was the next option considered to serve as a DSCA CT response force. On 1 October 2008, the 3rd Infantry Division's 1st Brigade Combat Team was assigned to USNORTHCOM, marking the first time an active unit had been given a dedicated assignment to Northern Command.⁸² The force will be known as the "first dedicated chemical, biological, radiological and high-yield explosive (CBRNE) consequence management response force (CCMRF)."⁸³ During the first year as a CCMRF, 3rd Infantry Division's 1st Brigade Combat Team served as an on-call federal response force for catastrophic events within the homeland that included terrorist attacks and other natural or manmade emergencies and disasters. Assigned as a subcomponent of the Joint Task Force-Civil Support, it conducted exercises to coordinate with local governments and interagency organizations and FEMA, under U.S. Army North at Fort Sam Houston, TX, in 2008.⁸⁴ Joint Task Force-Civil Support, a subordinate element of USNORTHCOM, has the primary mission to assist civilian authorities in the event of a CBRNE incident.⁸⁵

A detailed report conducted by RAND noted there is a lack of training authority within the CCMRF to ensure forces are consistently and properly trained.⁸⁶ Additionally, the DSCA-specific training for the 3rd Infantry Division's 1st Brigade Combat Team has been solely focused on CBRNE and not CT response. The terrorist attacks conducted by ISIL and lone wolf actors require a more specialized response force that is capable of responding in a limited time window with organic assets that do not exist within the CCMRF. As of today, the CCMRF is not an adequate CT response force for USNORTHCOM, and it does not possess the organic assets to modify its organizational structure to meet these demands. It will, however, continue to serve as the premier Title 10 DSCA asset for CBRNE as reflected in its training, staffing, and equipment disposition and composition.

In addition to training restraints, the ability to mobilize reserve personnel makes the National Guard a non-suitable candidate.

The training response capabilities and current mission focus make the U.S. SOF ideally suited to serve as a CT response force for USNORTHCOM. Traditional, core SOF missions and capabilities offer a unique and versatile joint force that can respond globally within hours. Their limitations to providing USNORTHCOM an on-call DSCA CT force lies in their operational demand to the other combatant commands and their numerically small team compositions. Every combatant command has operational control of some type of special operations response except for USNORTHCOM. Joint Publication 3-05, *Special Operations*, describes the relationship between the combatant command authorities and Special Operations Command:

United States Special Operations Command (USSOCOM) is a unified combatant command. It is unique among the combatant commands in that it performs Service-like functions and has Military Department-like responsibilities and authorities. A theater special operations command (TSOC) is a subordinate unified command of USSOCOM. TSOCs perform broad, continuous missions uniquely suited to special operations forces capabilities. Secretary of Defense has assigned operational control (OPCON) of the TSOCs and attached SOF tactical units to their respective geographic combatant commander (GCC) via the Global Force Management Implementation Guidance.⁸⁷

The Marine Corps is another ideal option to provide USNORTHCOM with a specialized CT response force.

A possible solution is to provide USNORTHCOM with assigned SOF to utilize as a designated DSCA CT response force within the U.S. However, the demanding SOF deployment cycle and specialized role in homeland defense may inhibit their role in homeland security. SOF personnel are highly-trained assets that are better suited for overseas consistent response than homeland on-call duties. Plain and simple, there are not enough SOF to support the DSCA mission set, and even if there were, the amount of funding invested in SOF training and specialized skills are better suited for overseas operations.

SOF are clearly qualified to serve as a dedicated USNORTHCOM CT force, and their ability to provide organic air and sustainment satisfies every attribute required to fulfill this role. A dedicated DSCA CT team will need sufficient home-station training time to conduct interagency certification and serve as a dedicated

on-call asset within the U.S. for six to twelve months. For these reasons, time demands and mission relevance to their core skills may result in a mission misalignment of critical SOF capabilities.

The Marine Corps is another ideal option to provide USNORTHCOM with a specialized CT response force. The deployment cycle of Marine Corps combat infantry units permit company-size elements to serve as on-call CT response forces to USNORTHCOM for dedicated periods of six to twelve months. Its core capabilities and small unit leader focus is optimal for interagency integration that would require minimal additional training. Most importantly, the Marine Corps deploys as a self-supported, expeditionary asset overseas that utilizes organic command and control, air, medical, and supply entities to maintain force projection and sustainment. This unique capability within the DoD is already in place conducting home-station training prior to a deployment as part of a Marine Expeditionary Unit (MEU). The pre-deployment training window for a MEU is twelve to eighteen months within its home-station assignment, thus requiring minimal time and external support to rapidly deploy to a catastrophic terrorist attack within the homeland.

The disposition of Marine Corps forces allows USNORTHCOM to train and certify two CT response teams (one on each coast) with little interference to the operational demands for the infantry units. First Marine Expeditionary Force is located on the west coast in Camp Pendleton, CA. Second Marine Expeditionary Force is located on the east coast in Camp Lejeune, NC. As an infantry battalion assigned to the MEU conducting a pre-deployment training cycle, it can assign one infantry company on each coast to assume the additional role of the USNORTHCOM CT response force with little additional training and equipment. An infantry company, commanded by a captain, could be augmented with select members from the

battalion leadership for additional command and control, flexibility, and strength. Ultimately led by a battalion executive officer with the rank of major, each CT force can serve as a six- to twelve-month on-call asset for USNORTHCOM and be organically supported by the MEU's air and supply assets.

The Marine Corps has one primary DSCA publication in concert with the other armed services. Marine Corps Warfighting Publication (MCWP) 3-36.2, *DSCA: Multi-service Tactics, Techniques, and Procedures for Defense Support of Civil Authorities (DSCA)*, is a multi-service publication that prescribes the general tactics, techniques, and procedures for DSCA.⁸⁸ From background information to introductory-level guidance on legal guidelines, the publication provides every armed service with a common foundation. Of note, Chapter 5 outlines "domestic activities and special events" and is limited to eight pages that feature basic information on natural disasters and CBRNE incidents.⁸⁹ The publication does not refer to Title 10 forces responding to and supporting terrorist activity or attacks.

In addition to MCWP 3-36.2, the Marine Corps has released two official Marine Administration (MARADMIN) messages from Headquarters, U.S. Marine Corps that provide further guidance on DSCA. MARADMIN 589/05, Subj: "USMC Roles and Missions in Homeland Defense and Defense Support of Civil Authorities," describes the roles and missions of the Marine Corps in homeland defense and DSCA. It is limited to three pages; however, it provides background, standing command structure, and detailed information on the implementation of the National Response Plan (NRP) and the NIMS.⁹⁰ Specific verbiage outlines the reporting structure for Marine Corps units in response:

The Marine Corps provides support to a Lead Federal Agency (LFA) at the direction

of the president or Secretary of Defense, by using our expeditionary warfighting capability to rapidly respond to a domestic incident in Support of Civilian Authorities.⁹¹

Additionally, the following excerpt sets conditions for the Marine Corps to respond to terrorist attacks:

Imminently serious conditions resulting from any civil emergency or attack may require immediate action by military commanders, or by responsible officials of other DOD Agencies, to save lives, prevent human suffering, or mitigate great property damage. When such conditions exist and time does not permit prior approval from higher headquarters, local military commanders and responsible officials of other DOD components are authorized to take necessary action to respond to requests from civil authorities. Such actions are referred to as immediate response. (Per ref e), The military commander, or responsible official of a DOD component or agency rendering such assistance shall report the request, the nature of the response, and any other pertinent information through the chain of command to the National Military Command Center (NMCC).⁹²

Notably, the above direction and authorization enabled Marine Corps security forces at Marine Barracks, Washington, DC, to respond to the active shooting crisis at the Washington Navy Yard on 16 September 2013.⁹³ However, the response occurred at a neighboring federal installation, which expedited the Title 10 response and mutual aid given the shared jurisdiction.

The second MARADMIN message provides guidance on DSCA. MARADMIN 423/06, Subj: "Training to Support Implementation of National Incident Mngt System and Natl Response Plan at USMC Domestic Installations," provides amplifying guidance on training to support

implementation of NIMS and NRP at USMC domestic installations.⁹⁴ Of note, this official message directs the Marine Corps to not only support but to also receive support from civil authorities when necessary.⁹⁵ The mission of this message is “to establish and announce minimum training requirements for designated USMC people in support of the implementation of NIMS and NRP on domestic USMC installations for domestic incident management.”⁹⁶ Common knowledge and proper utilization of NIMS and the NRP will set conditions for seamless integration of DSCA whether supporting or receiving. Additionally, this allows Marine Corps commanders to integrate with interagency and civil authority partners to conduct DSCA training from tabletop exercises to large-scale response scenarios to include FEMA and NORTHCOM support and oversight.

The service guidance from the Marine Corps requires the leadership to train and support DSCA operations.

The service guidance from the Marine Corps requires the leadership to train and support DSCA operations. The composition and home-station training windows of the MEUs create the ideal continuity of a medium-size, CT response force for USNORTHCOM. With minimal additional training and equipment requirements, these augmented elements with seasoned leadership, adaptable communication capabilities, and organic sustainment and air make them ideal for USNORTHCOM. Stationed on each coast, their ability to collectively organize, equip, and respond to a federally-led operations center upon a catastrophic terrorist attack within the U.S. is the best solution for this requirement.

Recommendation 3: DSCA CT Training

The training required for a Title 10 CT

force requires a USNORTHCOM certification beyond the annual national-level exercises. The DoD’s “participation in national level exercises includes exercises that evaluate DoD linkages to homeland security through DSCA and homeland defense.”⁹⁷ USNORTHCOM has the primary responsibility for DSCA and “conducts exercises to train and evaluate its DSCA capabilities at the direction of the Chairman of the Joint Chiefs of Staff.”⁹⁸ The USNORTHCOM commander has directed that the command will exercise with all ten FEMA regions in consequence management exercises. Additionally, “NORTHCOM’s Joint Task Force also conducts at least one regional and several Tactical Training Exercise/Seminar events each year with DHS components and National Guard entities.”⁹⁹ From improvised nuclear device detonation to hurricane preparation and response, USNORTHCOM is the overarching driving force that sets and maintains standards for DSCA requirements.

USNORTHCOM’s initiatives with national-level exercises and staff officer training opportunities enhance the National Guard’s ability to conduct standardized DSCA training according to doctrine. These exercises also foster mutually-supported relationships through interagency cooperation that strengthen the lines of communication between DoD and federal law enforcement. Key National Guard stakeholders utilize USNORTHCOM’s formal exercises and training opportunities to refine and assess their unit’s SOPs, but there is simply not enough time to proficiently train to every DSCA mission required by the *National Military Strategy* and the *Quadrennial Defense Review*.

A CT response team requires tactical-level training exercises with federal law enforcement counterparts. The USMC CT forces on each coast can conduct a certification exercise at Quantico, VA, prior to assuming the duties for USNORTHCOM. The infantry company selected to serve as the CT force can conduct a 72- to 96-hour certification exercise at one

of the many urban warfare venues offered at Quantico. This base not only offers the ideal training sites for DSCA CT response, but it is home to the leading federal response entity, the FBI HRT. An interagency certification where the Marine Corps CT response team conducts a series of exercises with FBI HRT will set conditions for seamless response during a crisis. From the synchronization of communication assets to learning federal SOPs, the Marine Corps forces could be tested and certified under the supervision of a designated USNORTHCOM authority. From the guidelines of the Posse Comitatus Act, to the coordination and authority integration with a federally-led EOC, USNORTHCOM can validate and certify the readiness status of these forces.

Recommendation 4: Counterterrorism DSCA Interoperable Equipment Sets

DoD forces often use encrypted communication equipment that is not interoperable with federal and civil authorities. The standard communication suite owned by an infantry company that would serve as a CT response force would require augmented assets from USNORTHCOM to effectively coordinate with a federal EOC. As part of the validation and certification exercise, each CT response force should be issued the federal law enforcement equivalent of the communication assets required to effectively conduct this mission set. Funded through USNORTHCOM, the representative assigned to certify each team would transfer the communication suites to the leadership of each force prior to the exercise. These communication suites would travel back to the home station of each force and stand by in readiness for real-world response.

Additionally, the CT response teams should be issued special badging from USNORTHCOM to validate each member's authorization when operating in a DSCA situation. The identification badges or cards would be kept on the individual

service member when conducting DSCA operations to validate his/her presence within the federal jurisdiction. Strict adherence to personnel rosters would be reported to the EOC by the Title 10 commander on scene, and the badging process would expedite daily accountability and medical-related situations if and when a service member is wounded or killed while conducting DSCA operations.

Now is the time for USNORTHCOM to designate a specific service to proactively train, staff, equip, and certify an on-call Title 10 response force...

Conclusion

National and state policymakers may assume that military forces will be readily available to defend the homeland when required; however, a growing threat abroad may expand vulnerability currently present in USNORTHCOM. The 2013 attacks at the Kenyan Westgate Mall and the 2015 attacks in Paris highlight the amount of staffing required to respond to and neutralize a small-scale terrorist attack. *The National Security Strategy* signed by the President and the capstone documents for the DHS mandate USNORTHCOM have a Title 10 asset to respond and support federal and civil authorities during a terrorist crisis within the homeland.

Now is the time for USNORTHCOM to designate a specific service to proactively train, staff, equip, and certify an on-call Title 10 response force to reduce this vulnerability and improve interagency integration for homeland security. Urban environments are dynamic and demand large numbers of forces to ultimately neutralize and resolve a chaotic situation.¹⁰⁰ For example, if a minimally trained 15- to 20-man terrorist cell executed a complex attack on an

iconic, American venue, the current USNORTHCOM force structure does not have a certified Title 10 asset to rapidly respond.

The Marine Corps is the best-suited service to provide a Title 10 CT force that can remain on-call under combatant command authority with direct liaison to a federally-led EOC. Upon certification by USNORTHCOM authorities at Quantico, the Marine Corps can sustain one CT response force on each coast to fulfill this growing requirement for USNORTHCOM. As the threat of violent extreme organizations increases within the homeland, proactively planning and training between the DoD and federal law enforcement must follow in suit. The DoD has grown more joint; now it must also expand the interagency relationships and interoperability with its federal partners. DSCA operations are a critical mission set required by every military service. The Marine Corps can strengthen USNORTHCOM's capabilities and response by establishing a DSCA CT force for homeland response. **IAJ**

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