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Observations on the Role of the Military in Disaster Relief

James F. Miskel

THE ARMED FORCES HAVE PLAYED important roles in disaster relief for more than a century. In fact the military has been so heavily involved in responding to domestic disasters, and for so long, that two questions naturally arise. The first is why there continues to be any controversy about military involvement in disaster relief. The second question is whether, in this dawning era of government reinvention, the federal disaster relief program should be administered by the military rather than by a civilian agency, as it is today.

With respect to the first question, there can hardly still be any controversy over the propriety of using military assets to assist in disaster relief. The precedents are so numerous and, by now, so decidedly commonplace that if they were presented in court the jury would undoubtedly conclude that the nation harbors no serious policy objection to it. Indeed, whatever controversy exists attaches not to the propriety of military involvement but to the cumulative effect of too much involvement. The wear and tear of too many humanitarian operations could erode the military's ability to execute its primary functions.

But how many humanitarian operations are too many? There is no single answer to this question. The answer will and should change over time depending upon such variable factors as the imminence of military threats to national interests, the severity of a given disaster, the recency of the last one, and funds available in various accounts in the defense budget. These factors not only change over time but are assigned different values by military and civilian agencies when

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disaster assistance is being authorized. For example, a civilian agency, unconcerned about military maintenance and operations budgets, may be predisposed to early and frequent requests for military assistance. Conversely, the Defense Department, if its maintenance and operations accounts are not flush, may prefer to be less accommodating of state and local government requests for minor disaster assistance than would a civilian agency for which relief was the principal mission.

One might suppose that these considerations would incline the military towards proposals to transfer the administration of the federal disaster relief program to the Defense Department. If Defense were in charge of the program, it could ensure that the military costs of humanitarian operations were fully understood. In any case, the military actually contributes more people and equipment to major disaster operations than any other federal agency. Approximately thirty thousand members of the armed forces participated in the response to Hurricane Andrew in 1991; that is more than eleven times as many people as are employed nation-wide by the civilian disaster relief administrator, the Federal Emergency Management Agency (FEMA).

Despite these factors, the Defense Department has been unenthusiastic about assuming leadership of the federal disaster relief program. Why?

One reason may be bureaucratic wariness of taking responsibility for a mission that is often politically controversial. From the Defense bureaucratic perspective, the status quo may represent the best of both worlds. Through its present involvement in disaster relief the Defense Department draws obvious public relations dividends as well as less obvious budgetary benefits: e.g., stronger justifications for existing force structure, occasional supplemental appropriations, and reimbursements from FEMA's disaster relief fund. Another reason may be a misunderstanding about the traditional role of the military in disaster relief. The misunderstanding is one that is shared by the General Accounting Office, the Congressional Research Service and the National Academy of Public Administration—as recent studies by each of these agencies suggest. These studies were commissioned by Congress in the aftermath of the much-criticized federal response to Hurricane Andrew; all expressed opposition to “fixing” the disaster relief program by transferring it to the Defense Department.

In a 1993 report, the General Accounting Office (GAO) opposed military leadership of disaster relief on the philosophical grounds that it could “create the impression that the military is attempting to make or direct domestic policy, which runs contrary to the principles that have guided the military's role in the United States.”¹ The flaw in this line of argument is that there is no constitutional prohibition against the Defense Department attempting to “make or direct”

domestic policy. In fact, the Defense Department routinely exerts substantial influence over a wide range of such matters.

For example, Defense acquisition regulations establish national policy towards an important sector of the domestic economy, the defense industrial base. Also, the Department's approach to equal opportunity shapes an important social policy, even sets an example for the nation; in early March 1995, President Clinton acknowledged as much by stating that the military's affirmative action program was the model to which all federal agencies should aspire. Further, as a major employer of civilians, the Defense Department has, properly, as strong a voice as many civilian agencies in the formulation of national civil service policies. As an important deliverer of health care and medical insurance to service people in uniform, their dependents, and retirees, Defense plays a substantial role in domestic health policy. The Army Corps of Engineers effectively makes domestic policy by deciding where flood control projects will be undertaken or commercial waterways dredged. As a final example, through its research and development program the Defense Department establishes domestic policies for much of the scientific research undertaken by universities and non-military research centers.

Indeed, the processes of government literally invite the Defense Department to do what the GAO study says it should not—exert influence on domestic policy. Like other cabinet agencies, the Defense Department is routinely asked to review and comment on hundreds if not thousands of policy documents during the course of any given year. Examples are: legislative proposals on the reduction of the federal civilian work force; regulations affecting the commercial telecommunications industry; and regulations on the transportation, storage, and disposal of hazardous and toxic materials.

More to the point, the Defense Department already has an important role in establishing policy for the disaster relief program itself. Defense was one of several agencies that had virtual veto power over the Federal Response Plan, the interagency agreement that establishes many basic disaster relief policies and defines interagency responsibilities.

In the second of the three studies of Hurricane Andrew, the Congressional Research Service (CRS) observed that there "may" be an issue with respect to loss of civilian control over disaster relief. Although this sounds ominous, the only specific problem identified is a detail of implementation, not a policy or constitutional issue. The CRS study expressed concern about the potential for "arbitrary decisions" by military officers during a disaster operation.² Arbitrary decisions are, of course, as likely to be made by civilian officials, particularly when they are faced with stressful situations for which they have not been adequately prepared. The way to reduce this risk is to train effectively and otherwise prepare disaster relief operatives for the realities they will face. Since

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the military is generally regarded as the government's preeminent trainer and contingency planner, it is hard to accept the CRS implication that arbitrariness would increase over the long run if the disaster relief program were transferred to the Defense Department.

In the third of the congressionally mandated studies, by the National Academy of Public Administration (NAPA), two of the many points made concern civil-military relations.³ One is that disaster relief should not be shifted to the Defense Department because the armed forces "must receive their missions and directions from civilian authorities." As wrenching as disasters may be, they are less traumatic for the nation and for civil-military relations than war. The institution of the presidency is the embodiment of civilian control of the military, and the presidency has retained its commander-in-chief powers during two world wars and numerous regional conflicts. Thus it is frankly inconceivable that these powers could be lost during peacetime disasters.

Funding—adding to and subtracting money from an agency budget—is the single most effective way to establish mission and direction. During wartime the president and Congress continue to hold the ultimate reins on the defense budget; there is no evidence to suggest that they would relinquish those reins during a civil disaster. Neither the Congress nor the presidency abdicated its budget authorities during Hurricane Andrew, the midwest floods of 1993, or the earthquakes and mud slides that recently struck California. Further, as will be discussed, the historical record seems to invalidate NAPA's first concern: the military continued to receive missions and direction from the president and Congress when disaster relief was in fact a War Department responsibility.

NAPA's second concern was that if the Defense Department were assigned responsibility for the disaster relief program the military would come "very close to directing civilian agencies, something neither the military nor civilians would appreciate." This argument ignores several important considerations. One is that Federal agencies fail to "appreciate" direction from *any* other agency, military or civilian. That is exactly why leadership of the disaster relief program has for many years been based on coordination among cooperating, equal federal agencies rather than on direction and control by a superior agency. Many in the Defense Department might well prefer a more directive *modus operandi*, but it is impossible to envision any interagency program so politically charged as disaster relief being run unilaterally out of the Pentagon. The basic ground rules of interagency relationships would continue to be set by the White House and Congress. Furthermore, the Defense Department's performance in the northern Iraq, Bangladesh, and Somalia humanitarian relief operations, while perhaps not flawless, amply demonstrates that the military is fully capable of coordinating and cooperating with civilian organizations.

In any case, as is seldom remembered, for most of the nation's history disaster relief has in fact been a military program. During the nineteenth century, federal disaster relief consisted of ad hoc responses—by the military—to individual disasters like the Chicago fire of 1871. At that time, of course, there was virtually no alternative to the military, because the civilian side of the federal government was much less developed than it is today. In the nineteenth century the civilian side of government consisted of basically one agency, the post office.

In 1917 the disaster relief program became more institutionalized. The War Department issued regulations that established policy guidelines for disaster relief operations, although case-by-case funding authorization from Congress was still required. Interestingly, in light of today's debate over the tradeoff between the military's combat and "operations other than war" responsibilities, this regulation was promulgated after the United States had entered World War I and remained in force until after the Second World War.

The size, capabilities, and philosophies of the federal and state governments have, of course, changed markedly in the last half-century. Nevertheless, many of the basic principles that shape the current federal disaster relief program are actually outgrowths or continuations of policies and guidelines that were established by the War Department regulation. This suggests that these same principles would not be undermined if the disaster relief program were transferred to the Defense Department.

Despite its title, the War Department's 1917 Special Regulation No. 67—"Regulations Governing Flood Relief Work of the War Department"—was not restricted to floods. The language of the directive explicitly covered responses to fires, earthquakes, and "other great catastrophe[s]."⁴ Among the principles that have been carried forward from this regulation into current practice are state precedence, federal certification of the need for assistance, cooperation with local authorities, appointment of federal on-scene coordinators, accountability, an emphasis on avoiding fraud or abuse, competition in contracting, and equal treatment for minority Americans who are victims of disaster.

State precedence. Under the terms of the Federal Disaster Relief Act (also known as the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988) and consistent with long-standing principles of federalism, federal disaster relief is authorized only when effective response is "beyond the capabilities of the State and affected local governments."⁵ In practice this means that with respect to public resources, disaster victims are to look first to local and state coffers for assistance; federal resources are gap-fillers to be called upon only when the state and local governments are overwhelmed or face an unusual constraint upon their

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ability to respond. An example might be an economic recession in a particular region or a succession of disasters that have drained a state's financial resources.

This philosophy is identical to the one incorporated in the 1917 War Department regulation. While the War Department ran the program, federal assistance was to be authorized only when local and state resources were insufficient to the requirements of the disaster.

Federal certification. Today when a disaster strikes and the governor of the state requests assistance, a federal official or team is dispatched to evaluate the situation. Usually from the nearest FEMA regional office, these officials are responsible for assessing the impact of the disaster, quantifying the need for federal assistance, and confirming that the state and local governments involved have indeed been overwhelmed. This evaluation is used by the FEMA headquarters and the White House to determine whether federal assistance should be authorized.

Notwithstanding certain major differences, basically the same process was followed under the War Department regulations. From 1917 through 1947, federal disaster relief was to be authorized only after the senior military officer in the area had determined that response was actually beyond the powers and resources of the state. His findings were then transmitted to the Secretary of War, who, ordinarily, would decide whether federal assistance was warranted.

The principal difference between the War Department and FEMA processes is that in 1917–1947 there was no standing authorization for federal disaster relief. As long as the 1917 regulation was in force, congressional approval was ordinarily requested whenever the War Department believed that federal assistance was warranted.⁶ Congress, in effect, reviewed the appropriateness of the War Department's decisions and determined on a case-by-case basis whether budget priorities allowed additional relief expenditures. Standing authorization for disaster relief was passed in the 1950s, when a revolving fund was established to finance relief expenditures without case-by-case legislation. Congress, of course, continues to review the appropriateness of disaster relief decisions; the hearings on and studies of Hurricane Andrew discussed above are recent examples. Congress determines the budgetary priority of disaster relief through its annual appropriations to the revolving fund and also, in recent years, through the supplemental appropriations that have been necessary due to hurricanes, flooding, and earthquakes near the close of a fiscal year.

Cooperation with local authorities. The current federal disaster relief program sensibly emphasizes cooperation during the planning stages with the state and local emergency management agencies and, during disasters, with both state and local agencies and representatives of the governor. As noted above, this is in accord with the principle of state precedence. In the 1917–1947 period there

were no organized emergency management or disaster relief bureaucracies at the state or local levels. Nevertheless, War Department regulations acknowledged the role of local relief committees set up to orchestrate community self-help relief activities. The local committees were also expected to advise federal officials, i.e., the military, about the extent of need.

All levels of government today are more bureaucratic than they were nearly fifty and eighty years ago. Accordingly, cooperation with state and local government authorities has become much more structured and complex. Setting aside differences of organizational development in various states, it is clear that the philosophical principles have not changed. The military disaster relief program of 1917–1947 and the modern civilian program both place high value on cooperation with state and local authorities in the communities affected.

On-scene federal coordinators. When the president authorizes disaster relief under the current program, a federal coordinating official (FCO) is automatically appointed, normally an executive from FEMA. According to current federal disaster relief legislation, the FCO determines what types of relief are most urgently needed, decides where federal field offices to facilitate the delivery of assistance to victims should be located, and coordinates the administration of federal, state, and private relief programs.

The process that the War Department established in 1917 was in important respects analogous to the modern civilian procedure. The senior military official in the district affected decided which needs were the most urgent and developed a field structure by subdividing the disaster zone into districts, each with field offices or encampments to facilitate the distribution of relief. Virtually all the federal assets were military; thus coordination at the federal level was largely internal to the armed forces. This is, of course, different from the situation today, when more than twenty federal departments and agencies may be involved in disaster relief.⁷ But that the federal structure was different and fewer agencies were involved means only that interagency coordination was less complex in 1917–1947 than it is today.

Accountability. In the 1990s, detailed accounting of federal expenditures is a prominent feature of all government programs, including disaster relief. FEMA reports on its expenditures to both the Office of Management and Budget, in the Executive Office of the President, and to the Congress. Its reports are subject to audit by its internal Inspector General and the GAO, a congressional agency. Earlier in the century, program administrators were not subjected to the same withering scrutiny that they are today, but the War Department's 1917 regulation did establish detailed accounting procedures that are similar in spirit to those that now apply. Military disaster relief officials were required to report on

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personnel and administrative expenses as well as disaster relief expenditures. Sample copies of the record-keeping forms were actually included in the regulation.

An emphasis on avoiding fraud and abuse. The Federal Disaster Relief Act stresses that relief should be administered in ways that minimize duplicate payments to victims. The statute prescribes civil penalties for individuals who obtain relief benefits to which they are not entitled and requires that duplicate payments be recovered. The War Department regulation placed equally great emphasis on preventing fraud and abuse by disaster victims. The 1917 regulation required officers to record the names and addresses of disaster relief beneficiaries and the amount of assistance each received. The records were checked manually to identify or prevent "double dipping."

Competition in contracting. The Federal Disaster Relief Act provides for preference to local contractors in clearing debris and reconstructing damaged facilities, as a way of promoting local economic recovery. At the same time, the general requirement for all federal contracting is for open competition, to reduce costs and guarantee equitable treatment of private-sector enterprises. Both of these aspects of contracting were reflected in the War Department regulation. Military relief authorities were directed to purchase relief supplies and equipment from nearby sources, as a means both of assisting economic recovery and providing temporary employment to disaster victims. Furthermore, open competition was to be the order of the day. Written contract proposals were to be invited from prospective suppliers, and the contracts were to be awarded to the lowest bidder.

Equal treatment of minorities. Section 308 of the Federal Disaster Relief Act requires that federal assistance be provided without discrimination on the basis of race, color, creed, nationality, sex, or economic status. Perhaps because it was promulgated in a less litigious or enlightened era, the War Department did not specifically address non-discrimination in the 1917 regulation. However, it did indicate that federal disaster relief was to be distributed, "wherever and whenever possible," directly to disaster victims. According to one study of the military's role in disaster relief, direct distribution was a way to avoid discrimination against minorities. Particularly in the South, when local governments or employers were relied upon to distribute federal relief, white disaster victims occasionally received preferential treatment over black victims.⁸

On the basis of these similarities between the principles of civilian and military programs, it seems clear that philosophical opposition to transferring disaster relief to the Defense Department is not well founded. The

critiques of military leadership of disaster relief that have been expressed in congressionally mandated studies do not provide a firm basis for policy making. Indeed, it is apparent that military leadership of the program would cause little disruption to enduring principles of civil-military relations, equitable treatment of disaster victims, cooperation with and respect for the prerogatives of state and local disaster relief agencies, and so forth.

Today's federal disaster programs cover more than assistance to disaster victims in the immediate aftermath of an earthquake or hurricane. One conspicuous example is the promotion through federal grants, between disasters, of state and local preparedness and mitigation investments. A second is federal financial support for the economic recovery of disaster zones, through subsidized loans to businesses and the provision of intermediate-term housing for local workers. These programs are obviously not as amenable to military leadership as disaster relief; they may be another reason why the Defense Department and many in Congress have been unenthusiastic about transferring disaster programs to the military. The immediate and longer-term programs are, however, separable. Moreover, it is conceivable that the unrelenting pressures of the budget deficit and the drive to downsize and reorganize the federal government will together cause the preparedness and recovery programs to be phased out or transformed into block grants to the states. If this were to happen, there would be no philosophical or organizational reasons for maintaining disaster relief as a separate civilian program.

As ideas for the "reinvention" of government circulate about the nation's capital, the Defense Department and the Congress have an opportunity to take a fresh look at the disaster relief program—unencumbered, this time, by unsubstantiated objections about potential disruption of civil-military relations or enduring principles of disaster relief in the United States.

Notes

1. U.S. General Accounting Office, *Disaster Management* GAO/RCED 93-186 (Washington: 23 July 1993), p. 8. GAO based its conclusions on interviews with officials at various agencies, including the Defense Department.
2. U.S. Congressional Research Service, *Disaster Management*, Order Code IB 93094 (Washington: Library of Congress, 6 August 1993), p. CRS-6.
3. The National Academy of Public Administration, *Coping with Catastrophe* (Washington: February 1993), pp. 23-5.
4. U.S. Government, War Department, *Special Regulation No. 67: Regulations Governing Flood Relief Work of the War Department* (Washington: U.S. Govt. Print. Off., 1917), U.S. National Archives, Record Group no. 407.
5. Section 401, "Robert T. Stafford Disaster Relief and Emergency Assistance Act," Public Law 100-707.
6. There were exceptions. Section 1 of the 1917 regulation authorized immediate federal assistance by the military when "overruling demands of humanity compel immediate action to prevent starvation and extreme suffering." Military commanders are currently authorized to provide immediate assistance under such circumstances, without waiting for a formal analysis by FEMA and a decision by the president. In both periods, military commanders faced the possibility that the costs of immediate assistance might not be reimbursed—in

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1917 Congress might not have appropriated funds, and in 1995 the president might decide not to authorize federal assistance.

7. U.S. Federal Emergency Management Agency, *The Federal Response Plan* (Washington: April 1992), p. xi-xiii, lists twenty-seven agencies as signatory-participants.

8. Gaines Foster, *The Demands of Humanity: Army Medical Disaster Relief* (Washington: Center for Military History, 1983), p. 78.

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Surface Navy Association/Naval Institute Literary Award

The Surface Navy Association (SNA) and the U.S. Naval Institute jointly sponsor an annual award of \$1,000 for the author of the best article addressing surface warfare matters published in a wide-circulation periodical during the previous year. The award is presented during the annual SNA symposium in October. Nominations may be made through presidents of SNA chapters, members of its Board of Directors, and the editor of the *USNI Proceedings*. For information about the Surface Navy Association or its literary award, contact SNA headquarters at 7205 Burtonwood Drive, Alexandria, Va., 22307, by telephone at (703) 765-SHIP, or by e-mail at NAVYSNA@AOL.COM.

The Mine Warfare Association

The Mine Warfare Association, or MINWARA, has been recently formed to enhance education and communication concerning mine warfare at sea and on land, and also humanitarian demining. MINWARA is a not-for-profit organization providing for the exchange of operational, technical, and historical information on the many aspects of mining, countermeasures, and international initiatives for controlling indiscriminate proliferation of mine technology. MINWARA will assume responsibility for the newsletter *Mine Lines* and will be convening workshops and symposia in conjunction with other official and unofficial organizations.

Serving and retired military personnel of all services, government and civilian scientists and operations analysts, and individuals from academic disciplines ranging from physics to political science are invited to join. For information contact Albert M. Bottoms at P.O. Box 7135, Charlottesville, Va., 22906-7135; by telephone at (804) 296-3080; or by e-mail at amb2m@virginia.edu.