Defense Support to Civilian Authority (DSCA) 101
DoD Directive 5111.13 – Established the position of ASD(HD&ASA); lists responsibilities, functions, relationships, & authorities

Under the Under Secretary for Policy, is the principal civilian advisor to the Secretary of Defense for homeland defense, Defense Support of Civil Authorities, & Western Hemisphere Affairs

ASD

PDASD /Acting ASD Todd Rosenblum

HD Strategy & Force Protection

HD Integration & DSCA

Defense Continuity & Crisis Mgmt

Western Hemisphere Affairs

Strategy & Outreach

Force Planning

Mission Assurance

HD Domains

DSCA

CBRN

Defense Preparedness Support Initiative

Crisis Management Operations

Policy & Planning

Continuity Support

Resource & Admin

Regional Affairs

Functional Areas

Partner Liaison

Resource Integration
Homeland Security Construct

**Homeland Defense**

**DoD Leads**
DoD Capabilities & Resources Employed for Military Purposes

**Defense Support of Civil Authorities**

**DoD Supports**
DoD Capabilities and Resources Employed in a Supporting Role

**Mission Assurance**

**DoD Internal**
DoD Initiatives to provide protection of its own resources
Strategy for Homeland Defense and DSCA

* Signed by the Secretary of Defense in February 2013

- **Two priority missions:**
  - Defense U.S. territory from direct attack by state and non-state actors
  - Provide assistance to domestic civil authorities

- **Four main objectives:**
  - Counter air and maritime threats at a safe distance
  - Prevent terrorist attacks on the homeland through support of law enforcement
  - Maintain preparedness for domestic CBRN incidents
  - Develop plans and procedures to ensure DSCA during complex catastrophes

- **Other priority lines of effort:**
  - Assure DoD’s ability to conduct critical missions
  - Promote Federal-State unity of effort
  - Conduct integrated planning with Federal and State authorities
  - Expand North American cooperation to strengthen civil support
DoD directives establish DoD policy and assign responsibilities

Current Primary DSCA Policy Issuances:

- DoD Directive 3025.18 (2010), Defense Support of Civil Authorities
- DoD Instruction 3025.20 (2012), Defense Support of Special Events
- DoD Instruction 3025.21 (2013), Defense Support of Civilian Law Enforcement Agencies

Draft DSCA Policy Issuances in Development or Coordination:

- DoD Instruction 3025.ii (TBD), Use of National Guard Forces for DSCA
- DoD Instruction 3025.kk (TBD), Planning and Defense Liaison in Support of Civil Authorities
- DoDD 3025.1-M (1994), Manual for Civil Emergencies (in rewrite)
What is DSCA?

“Support provided by U.S. Federal military forces, DoD civilians, DoD contract personnel, DoD Component assets, and National Guard forces (when the Secretary of Defense, in coordination with the Governors of the affected States, elects and requests to use those forces in title 32, U.S.C., status) in response to requests for assistance from civil authorities for domestic emergencies, law enforcement support, and other domestic activities, or from qualifying entities for special events. Also known as civil support.”
Applies to:

- DoD Components
- ARNG & ANG in Title 32
- Mutual aid (Title 42)
- DoD fire & emergency services programs (DoDI 6055.06)
- Special events (DoDD 2000.15)
- USACE (ESF #3)
- Support of law enforcement entities (DoDD 3025.12 & 5525.5)

DOES NOT apply to:

- Support of foreign disasters (DoDD 5100.46)
- Joint investigations by DoD IG & military criminal investigative units
- DoD detailees (DoDI 1000.17)
- Counternarcotics operations
- USACE when performing its civil mission (title 33 & EO 12656)
- DoD intelligence and counterintelligence components (DoDD 5240.01; DoDD 5240.1-R)
- Military community relations programs
- Civil Air Patrol performing Air Force auxiliary missions
- Innovative Readiness Training (DoDD 1100.20)
- Sensitive support in accordance with DoDD S-5210.36
DSCA Concepts (1 of 3)

• Supports civil authorities

• Provides personnel, equipment, facilities, material, information to civilian authorities at all levels of government – Federal, State, and local

• Performed by all DoD Components and agencies – an all-hazards concept

• Initiated by a request for assistance from a civil authority to the Department of Defense

• Provided prior, during, and in the aftermath of an incident or potential incident

• Provided on a cost reimbursable basis
  – The President can direct any federal department or agency to provide support on an non-reimbursable basis
  – The Secretary of Defense may direct non-reimbursable support
• Provides support when:
  – Civilian resources have been exceeded
  – A similar civilian capability does not exist
  – Most cost effective or most convenient to meet requirements (per Economy Act)

• DoD response is a Total Force effort (Active Duty, Reserve, and National Guard)

• DSCA includes National Guard forces when Federally funded (Title 32)

• Report support provided through chain-of-command – important to “paint” picture of support provided to Secretary of Defense
* Two authorities provided in DoDD 3025.18 (paragraphs 4.g and 4.i)

**Immediate Response Authority**

- Imminently serious conditions and a request from civil authorities
- Time does not permit approval from higher headquarters
- Immediately notify the chain of command
- Ends when necessity expires, reassessed not later than 72 hours after the request was received
- No denial of support for inability or unwillingness to reimburse

**Emergency Authority**

- To quell large scale, unexpected civil disturbances
- When prior authorization from the President is IMPOSSIBLE
- Duly constituted local authorities are unable to control the situation.
Types of Requests for Assistance

Request for Assistance: A request based on mission requirements and expressed in terms of desired outcome, formally asking the Department of Defense to provide assistance to a local, state, tribal, or other federal agency. Also called RFA.

- Joint Publication 1-02

ESG-3

Victory from the Littoral...
Validation of Requests

There are six criteria used by DoD to evaluate and validate requests for assistance *(DoD Directive 3025.18, paragraph 4.e)*:

- **Legality**: Compliance with laws
- **Lethality**: Potential need for lethal force by or against DoD Forces
- **Risk**: Safety of DoD Forces
- **Cost**: Who pays, impact on DoD budget
- **Appropriateness**: Whether the requested mission is in the interest of the Department to conduct
- **Readiness**: Impact on DoD ability to perform its primary mission

*Once a request is validated, it is forwarded to the Secretary of Defense for final approval if it has not been previously authorized in statute, DoD policy, regulations, or standing orders*
Provision of Support

• **Immediate Response**
  – Following a request from civil authorities – usually verbal

• **National Guard Forces**
  – As directed by the Governor/Adjutant General
  – When sourced against a DoD validated RFA with reimbursement

• **Installations and Facilities**
  – Mutual aid and assistance

• **National-level for Federal Military and Other Capabilities**
  – Federal military forces
  – Other Defense capabilities
  – Specific DoD agencies (USACE, DLA, NGA)
Incident

DSCA Authorities & The Incident Cycle

- **Local Response**
- **State Response Support**
- **Federal Response Support**
- **President**
- **Primary Federal Agency** (DHS/FEMA, DHHS, DOJ)
- **Joint Field Office**
  - Unified Coordination of Resources
- **Defense Coordinating Officer**
- **DoD Installations**
- **SecDef Authorizes DoD Support**
- **Request for DoD Support**
- **Provision Under Separate Authorities**

**Incident**

**Field Operations**
- **Local**
- **State**
- **Federal**

**Emergency Support Functions**

**Victory from the Littoral**
Pre-Scripted Mission Assignments

- Directed by law in the Post-Katrina Emergency Reform Act (PKEMRA)
- FEMA “owns” the Federal Pre-Scripted Mission Assignment (PSMA) database (updated as required)
  - Over 300 PSMAs for Federal departments & agencies that address Emergency Support Function requirements
  - Twenty-eight are for DoD support
- NOT PRE-APPROVED!
- PSMA language is coordinated between FEMA and the supporting department or agency PRIOR to an incident; reduces confusion and possible disagreements with request language
- Information in PSMAs are used to complete Mission Assignment blocks for:
  - Assistance Requested
  - Statement of Work
  - Cost Estimate
- The FEMA ESF Leader’s Group (ESFLG) is the coordinating body for PSMAs for Federal departments and agencies
  - OASD(HD&ASA) is the office of primary responsibility within DoD
Emerging DSCA Initiatives

• **DoD Support to Complex Catastrophes**

• **Unity of Effort**
  - Shared planning
  - Dual-Status Commander (DSC)
  - Joint Reception, Staging, Onward Movement, and Integration (JRSOI)
  - Common Operating Picture (COP)
  - Training and exercises

• **Involuntary Call-Up of Service Reserves**

• **Defense Preparedness Support Initiative** (technology transfer to first responders)
"Any natural or man-made incident, including cyberspace attack, power grid failure, and terrorism, which results in cascading failures of multiple, interdependent, critical, life-sustaining infrastructure sectors and causes extraordinary levels of mass casualties, damage, or disruption severely affecting the population, environment, economy, public health, national morale, response efforts, and/or government functions."

- Deputy Secretary of Defense Carter
February 19, 2013

- This completes action 1a. “Finalize definition of complex catastrophe.”

- This definition will be codified in Joint Publication 1-02, “DoD Dictionary of Military and Associated Terms.”
On July 20, the Secretary of Defense approved 28 actions in nine categories to improve Defense support in a complex catastrophe:

- Definition of a complex catastrophe
- Expedite access to the Title 10 Reserves
- Better leverage immediate response authority
- Enable effective use of all Defense capabilities
- Planning (update, integrate, and synchronize with civil authorities)
- Enable fastest identification of DoD capabilities
- Strengthen shared situational awareness
- Strengthen DoD preparedness through doctrine, exercises, training and education

Also directed the establishment of a Senior Steering Group to monitor and report on implementation
In order to think outside “The Box,” you’ve got to understand “The Box”

• Ask two things when in receipt of a RFA:
  – 1) What is the authority authorizing DoD to provide the support?,
  – 2) What is the reimbursement mechanism?

• Be intellectually curious
  – Learn about severe weather, earthquakes, and public health
  – Understand the science behind wildland fires and pandemics
  – Research past catastrophes – what went wrong and what when right
  – Learn about Federal, State, & local government

• “It Depends” – Each request for assistance is unique
Legal Authorities for DSCA
Primary Federal Authorities

 ➢ Presidential Authority.

 ➢ Secretary of Defense (SECDEF) Authority.

 ✓ Supported Combatant Commanders (to conduct DSCA) Authority.

 ✓ Immediate Response Authority (IRA).

 ✓ Emergency (Civil Disturbance) Authority.

 ✓ Mutual Aid Agreements (MAA) Authority.

 ✓ Defense Support to Civilian Law Enforcement Agencies (CLEA) Authority.
Constitutional Authority.

Inherent Authority.

Statutory Authority – The Stafford Act.

- **Major Disaster Declaration**: (Title 42 U.S.C. § 5170) in response to a request from a Governor for a natural catastrophe or any catastrophe as a result of a fire, flood, or explosion, *which the President determines* warrants Federal assistance to alleviate damage, loss, hardship, or suffering.

- **Emergency Declaration**: (Title 42 U.S.C. § 5191(a)) in response to a request from a Governor for any occasion, *which the President determines* Federal assistance is needed to save lives, protect property, public health/safety, or lessen threat of a catastrophe (1974).
  - Emergency Declaration involving Federal Primary Responsibility: (§ 5191(b)) in coordination with the Governor, if practicable (1988).

- **Accelerated Federal Assistance and Support Authority**: (§ 5170a(5) and 5192(a)(8)) where necessary to save lives, prevent human suffering, or mitigate severe damage, accelerated Federal assistance may be provided *without a request* for assistance from the State (2006).

- **DOD “Emergency Work” Authority**: (§ 5170b(c)) before a declaration and in response to a request from a Governor, the President may direct the SECDEF to use DOD assets to perform emergency work for up to 10 days to preserve life and property (1988).
What are the six major differences between a Major Disaster Declaration and an Emergency Declaration under the Stafford Act?

✓ Declaration of a MAJOR DISASTER:
  o For a natural catastrophe or as a result of a fire, flood, or explosion.
  o Always issued in response to a request from a Governor.
  o May not be issued unilaterally by the President.
  o Issued after a large incident with severe damage.
  o Includes long-term Federal relief programs to address the severe damage.
  o Federal assistance has no monetary limit.

✓ Declaration of an EMERGENCY:
  o For any occasion where Federal assistance is needed to save lives; protect property, public health and safety; lessen or avert the threat of a catastrophe.
  o Usually issued in response to a request from a Governor.
  o May be issued unilaterally by the President if primary responsibility for response rests with the United States (i.e. Federal mission/property).
  o Issued before or after a smaller incident with less severe damage.
  o Immediate and short-term assistance to save lives, protect property.
  o Federal assistance has initial limit of $5,000,000.00 that can be exceeded when the President determines continued Federal assistance is required.
Assistance Under A Major Disaster Declaration

- Distribution of medicine, food, consumable supplies, services.
- Removal of debris, road clearance.
- Emergency medical care, search and rescue.
- Transportation of supplies and persons.
- Restoration (performance) of essential public services.
- Construction of temporary bridges, shelters, and essential public services.
- Demolition of unsafe structures and issue hazard warnings.
- Dissemination of public information on health and safety measures.
- Technical and advisory assistance to State/local officials.
- Provision of rescue, care, shelter, and essential needs of pets and their owners.
- Precautionary evacuations and recovery.

*NOTE: Underlined items apply to an Emergency Declaration.*
Assistant Secretary of Defense for Homeland Defense and Americas’ Security Affairs (ASD (HD/ASA)) is the DOD Domestic Crisis Manager.

IAW CJCS DSCA EXORD, 071415Z June 13, the SECDEF and, to a limited extent, a Supported Combatant Commander, are approval authorities for DSCA.

DODD 5111.13 and DODD 3025.18 give DSCA approval authority to ASD(HD/ASA), except for:

- (1) Defense assistance to civil disturbances (except as authorized by Emergency Authority),
- (2) Defense response to CBRN events,
- (3) Defense assistance to civilian law enforcement agencies (except as delegated by Enclosures 3, 4, 5, 6, and 8 to DODI 3025.21, 27 February 2013), and
- (4) Defense assistance with assets with potential for lethality.
The SECDEF has delegated limited deployment/employment/approval authority for DSCA incidents to the Supported Combatant Commanders (CCDR) in the CJCS DSCA EXORD.

In the SECDEF-approved DSCA EXORD, dated 7 June 13, the SECDEF established a framework for the deployment and employment of DOD resources using four categories.

- Category 1: SECDEF authorizes Supported CCDR to deploy and employ “assigned and allocated forces” with notification to CJCS and SECDEF first.
- Category 2: SECDEF authorizes Supported CCDR to deploy and employ any of 20 “pre-identified resources” with notification to CJCS and SECDEF first.
- Category 3: SECDEF authorizes Supported CCDR to deploy and employ “resources for internal use” with notification to CJCS and SECDEF first.
- Category 4: SECDEF retains authority to approve deployment and employment of “large-scale response resources.”
In response to a request from a civil authority, military commanders and responsible DOD civilian officials may:

- Under “imminently serious conditions,” and
- When time does not permit approval from higher authority,
- Respond to save lives, prevent human suffering, or mitigate great property damage within the United States.
- Cannot perform law enforcement functions.
- Cost-reimbursement?
- Immediately notify the National Joint Operations and Intelligence Center (NJOIC) thru the chain of command; the NJOIC will notify the geographical Combatant Commander (CCDR).
- 72-hour rule (from the time the request for assistance is received) requires reassessment of necessity to continue IRA operations. If the response continues beyond 72 hours, notify NJOIC and COCOM.
- DODD 3025.18 intentionally removed the word “local” from previous definition of IRA, thus giving commanders and responsible DOD civilian officials flexibility to respond to requests from civil authorities for incidents that are beyond the “local” vicinity.
Examples of IRA Assistance

IRA assistance may include the following:

✓ Search, rescue, evacuation, emergency medical treatment.
✓ Maintenance or restoration of emergency medical capabilities.
✓ Safeguarding of the public health.
✓ Emergency restoration of essential public services and utilities, including fire fighting, water, communications, transportation, power, and fuel.
✓ Emergency clearance of debris, rubble, and explosive ordnance.
✓ Other actions to save lives, prevent suffering, and mitigate great property damage.

*NOTE: Underlined items are also listed in the Stafford Act.
Military Commanders’ Emergency (Civil Disturbance) Authority

(DODI 3025.21, DODD 3025.18, 32 C.F.R. 215.4)

- Military commanders will not use military forces to restore public order in the civil community, unless authorized by the President. However, under extraordinary emergency circumstances – a LARGE-SCALE and unexpected civil disturbance – where prior authorization by the President is IMPOSSIBLE and local authorities are unable to control the situation, a military commander may temporarily employ forces to:
  - prevent significant loss of life or wanton destruction of property,
  - restore governmental functions and public order, or
  - provide adequate protection for Federal property or Federal governmental functions when Federal, State, and local law enforcement authorities are unable or unwilling to do so.
  - Notify the NJOIC through the chain of command.
DOD Components are encouraged to enter into **reciprocal agreements** with local fire protection agencies.

For **fire and emergency services** (medical, HAZMAT, and rescue) (F&ES).

Assistance may be provided on a **reimbursement basis**.

In the absence of an agreement, installation commanders are authorized to render emergency assistance to preserve life and property in the vicinity of the installation when such assistance is in the best interest of the United States and under **Immediate Response Authorities** (see DODD 3025.18 and Slide 16).
“Whoever, except in cases and under circumstances expressly authorized by the Constitution or 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.” 18 U.S.C. § 1385.

✓ (Homeland Security Act of 2002 reaffirmed the importance of the Armed Forces to comply with the Posse Comitatus Act)

- What is a posse comitatus?
- Who does the PCA apply to?
- What does “execute the laws” mean?
- What are the Constitution and Act of Congress exceptions?
- What are the consequences for violating the PCA?
Who does the PCA apply to?

(Are you part of the Army, Air Force, Navy, or Marine Corps for PCA purposes?)

**YES**
- ✓ Active duty personnel in the Army and Air Force (Title 10).
- ✓ Active duty personnel in the Navy and Marine Corps (Title 10).
- ✓ USAR, USAFR, USNR, USMCR on active duty, active duty for training, and inactive duty for training (Title 10).
- ✓ National Guard Soldiers in a Federal status (Title 10).
- ✓ DOD civilians and contractors under the control of a Title 10 officer.
- ✓ DA civilian police/security guards IAW AR 190-56, paragraph 5-2b
- ✓ Civil Air Patrol members performing Air Force-directed missions.

**NO**
- ✓ Active duty personnel in the Army, Air Force, Navy/Marine Corps when in a private capacity.
- ✓ Reserves when not on AD, ADT, and IDT.
- ✓ National Guard Soldiers in a non-Federal status (Title 32 and State Active Duty).
- ✓ Members of the Coast Guard (Title 10 status, but Title 14 exception).
- ✓ Members of the Commissioned Corps of the Public Health Service and the National Oceanic and Atmospheric Administration.
- ✓ Title 10 military personnel *detailed* to another Federal agency.
- ✓ Civil Air Patrol members performing non-Air Force-directed missions.
- ✓ Civilian employees in a non-DOD agency.
What Does “execute the laws” Mean?

- No **active, direct**, regulatory, proscriptive, or compulsory type **support to law enforcement authorities**, such as:
  - arrest;
  - apprehension;
  - acting as undercover agent, informant, investigator, or interrogator;
  - interdiction of a vehicle, vessel, or aircraft;
  - search and/or seizure;
  - security functions or patrols;
  - surveillance;
  - stop and frisk;
  - traffic, crowd, or riot control;
  - pursuit;
  - evidence collection;
  - enforcing evacuation orders, or any similar activity to the foregoing.

- [DODI 3025.21, Defense Support of Civil Law Enforcement Agencies, Enclosure 4; Department of Homeland Security, Office of General Counsel, Legal Authorities Handbook; CJSC CBRN EXORD, 211111Z June 11, SECDEF-approved DSCA EXORD, 071415Z June13, and DODD 3025.18).]
What are the Constitutional Exceptions to the PCA?

- Presidential authority under Articles II and IV of the Constitution includes:
  - National Emergency Declaration.
    - Military Commander’s Emergency Authority.
  - Declaration of Martial Law.
What are the Act of Congress Exceptions to the PCA?

**I - DSCA:**

**II - CIVIL DISTURBANCE OPERATIONS:**

**III - CBRN:**
- Emergency Situations Involving Chemical or Biological Weapons of Mass Destruction, 10 U.S.C. § 382.

**IV - OTHER STATUTORY EXCEPTIONS:**

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**NOTE:** Stafford Act and IRA are NOT exceptions to the PCA.