



How FEMA Could Lose America's Next Great War

Si Vis Pacem, Para Bellum
(If You Want Peace, Prepare for War)
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Abstract

The United States lacks a comprehensive strategy and supporting programs to support and defend the population of the United States during times of war and to mobilize, sustain and expand its defense industrial base while under attack from a peer or near-peer adversary. These legacy programs were disbanded and broken up over 25 years ago, and without a reinvestment in these activities by the Federal Emergency Management Agency (FEMA) and the Department of Homeland Security (DHS), America risks losing its next great war. FEMA is currently responsible for advising the President on the coordination, mobilization, and sustainment of the U.S. industrial and manpower base in times of war, and to protect and assist in the recovery of its population from enemy attacks. Developing a framework based around Civil Defense, the mobilization and sustainment of the nation's manpower and defense industrial base, protecting and sustaining its morale and political institutions, and support to the Department of Defense (DOD) efforts to deploy forces overseas while contested domestically by its adversaries, may provide a way to shape future preparedness efforts and a taxonomy to organize them. This nation's failure to do so may end its next great war before it even begins.

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Introduction

The United States has not had a comprehensive strategy to protect its civilian population and defense industrial base, or to mobilize and sustain the nation during time of war, in almost 25 years. Without an investment in these activities by the Federal Emergency Management Agency (FEMA) and the Department of Homeland Security (DHS), America risks losing its next war with one or more major nation states.

To understand how the nation reached this point, we need to examine how the Civil Defense and national mobilization programs were created in the wake of World War II. They bounced from agency to agency over a nearly thirty-year period before being consolidated with the creation of FEMA in 1979, though this article will focus its historical perspective mainly on the roots of Civil Defense as an example for both programs. From there, the terminal demise of both programs in 1993 can be traced to the ending of the Cold War and the emergence of natural disaster relief as a national priority. Because of the sudden ending of both programs, the United States lacks continuity should it see the need to restart one or both programs in the face of current threats. This lack of continuity, however, may prove to be an opportunity for a fresh start in reimagining what they might look like in a new Civil Defense and national mobilization program, unburdened by past prejudices and legacy technologies.

War and National Defense, Emergency Preparedness, 50 U.S.C. § 3042 (1947)

It shall be the function of the [Administrator of FEMA] to advise the President concerning the coordination of military, industrial, and civilian mobilization, including—

(1) policies concerning industrial and civilian mobilization in order to assure the most effective mobilization and maximum utilization of the Nation's manpower in the event of war;

(2) programs for the effective use in time of war of the Nation's natural and industrial resources for military and civilian needs, for the maintenance and stabilization of the civilian economy in time of war, and for the adjustment of such economy to war needs and conditions;

(3) policies for unifying, in time of war, the activities of Federal agencies and departments engaged in or concerned with production, procurement, distribution, or transportation of military or civilian supplies, materials, and products;

(4) the relationship between potential supplies of, and potential requirements for, manpower, resources, and productive facilities in time of war;

(5) policies for establishing adequate reserves of strategic and critical material, and for the conservation of these reserves;

(6) the strategic relocation of industries, services, government, and economic activities, the continuous operation of which is essential to the Nation's security.

In performing his functions, the [Administrator of FEMA] shall utilize to the maximum extent the facilities and resources of the departments and agencies of the Government.¹

Part I How Did We Get Here?

Since its creation in 1979, FEMA had been responsible for coordinating, and in some cases, directing the civilian war effort for the United States. Most prominently, it had inherited the nation's Civil Defense program that primarily focused on preparing the country for a nuclear war with the Soviet Union. However, the agency's portfolio was much larger than simply marking shelters, preparing evacuation plans from urban areas, and coordinating the Continuity of Government and Continuity of Operations (COG/COOP) plans for the federal government. It also was responsible for mobilizing and sustaining the nation's industrial and manpower base, managing the prioritization and allocation of resources between the military and civilian sectors, and potentially advising the President on nationwide austerity measures. These capabilities and their associated funding, from the earliest days of the Civil Defense and national mobilization programs in the 1950s, were targeted by states for other purposes. State governors and emergency managers were far more interested in using these resources and funding to respond to natural disasters. Over time, the Civil Defense programs, and to a certain extent the mobilization programs, became more and more "dual

use,” and able to be used for both preparedness and response to either a nuclear war or a natural disaster. In 1992, the first FEMA director to have previously served as the head of a state emergency management agency entered into this longstanding contest for resources.

On November 28, 1993, the Director of FEMA, James Lee Witt, ended the country's Civil Defense and national mobilization programs. When he took office in 1992, the former Director of the Arkansas Office of Emergency Services and confidant of President Bill Clinton, moved swiftly to reorient a FEMA reeling from its poor response to Hurricane Andrew. He inherited an agency heavily focused on its Cold War missions, with nearly half the agency devoted to supporting Civil Defense and other military-related responsibilities, and almost a third of its 2,746 full-time employees in classified positions.² With the experience of a career in state government, and in the wake of the fall of the Soviet Union, Witt would go on to reshape FEMA and its culture completely. He would dismantle its Civil Defense and national mobilization legacy while leaving a few unconnected parts to linger for years to come.

Witt made his intentions clear even before he arrived at FEMA. His reorganization plan entitled “The Renewal of the Federal Emergency Management Agency” failed to mention Civil Defense or mobilization even once in its 18 pages. His proposal subsumed the nation's Civil Defense and mobilization programs into FEMA's all-hazards mission, which had become synonymous with natural disasters. While parts were repurposed from some of their Cold War duties, such as accelerating the use of Mobile Emergency Response Support detachments for use in disaster relief, others, including whole offices, disappeared entirely.³ The National Preparedness Directorate saw the biggest changes. The focus of its 1,019 employees was devoted primarily to Civil Defense and national mobilization. It included offices for mobilization preparedness, mobilization assessment and plans and authorities. Their organization was swept away completely, and was replaced with a Preparedness, Training and Exercises Directorate that emphasized “building capabilities and supporting state and local emergency management programs” through grants, doctrine, and training for natural disasters. It also became home to the Radiological Emergency Preparedness program, which deals with nuclear power plant emergencies and planning, and the Chemical Stockpile Emergency Preparedness program.

*Witt's plan would create the position of National Security Coordinator as a collateral duty to the Chief of the Special Projects Unit aligned in the Response and Recovery Directorate. In the capacity of National Security Coordinator, the individual will be responsible to the Director for ensuring FEMA's national security requirements are fulfilled and representing the Director in national security policy matters.*⁴

Given the FEMA director's well-known views, he had buried the last remnants of Civil Defense and mobilization within the bureaucracy of FEMA, but had made it a direct report to himself. Witt had driven a stake through the heart of these two programs and buried it in the sunlight of an office of one that reported directly to him. He had killed a vampire that had been sucking resources to prepare for a nuclear war that would be too horrible to ever recover from or would never happen. The long running conflict over the allocation of resources between Civil Defense, national mobilization, and the response to natural disasters was over.

Emphasizing the end of Civil Defense and national mobilization, two years later, Director Witt responded to a request from the National Security Advisor, Anthony Lake “to coordinate

a preliminary assessment of the national security emergency resource preparedness requirements set forth in Executive Orders 12656, 12919, 12148, 12742 and other related documents.”⁵ Director Witt summarized the dismantling of these programs in a written memo responding to a proposed executive order relating to the Defense Production Act. As part of his response, he was asked about FEMA's retreat from its role to coordinate the national security resources preparedness efforts. He stated FEMA had now dedicated 4.5 permanent positions to fulfill its national security resources preparedness responsibilities and endorsed the findings of a series of interviews conducted across the government by senior FEMA officials, concluding that

*The need for mobilization functions on a scale sufficient to support mobilization for a major conventional war has virtually vanished. The residual concern (i.e., belligerent and expansionist Russia or a militarily capable and belligerent China) is remote. Consequently, FEMA's mobilization preparedness function should be made relevant in light of the post-Cold War environment.*⁶

Witt's actions also removed FEMA from its role as the President's coordinating agency for the fragments of the Civil Defense and national mobilization programs dispersed throughout the federal government, as required under Executive Order 12656. He also supported efforts that led to the termination of the Federal Civil Defense Act of 1950, the bedrock authority for Civil Defense for over 40 years, and rolled out what was left of it into Title VI of the Stafford Act, where it has laid dormant for the most part ever since. The nation no longer had a government agency with the ability to coordinate and facilitate the dispersed activities of a Civil Defense program. For instance, the remaining legacy Civil Defense and national mobilization activities in FEMA are no longer formally coordinated with the activities of the Department of Defense (DOD) and the Department of Commerce (DOC) to formulate and carry out plans for stockpiling strategic and critical materials for wartime needs.

FEMA also lacks formal ties with DOC's Bureau of Industry and Security, Office of Technology Evaluation (OTE) which conducts industrial base assessments to administer surveys and assessments of defense-related technologies, and monitors economic and trade issues vital to the U.S. industrial base.⁷ Discussions have taken place between the two entities in recent years, but with no agency actively involved in enforcing the "dual use" of these legacy activities with disaster relief, the federal government has been unable to profit from the mutual interests of these agencies that remain stovepiped. For example, it is likely OTE's work could provide support to FEMA's efforts to assess key national supply chains, but without anyone responsible for coordinating these residual Civil Defense programs, the connection remains untapped.

The removal of any coordinating agency for Civil Defense and national mobilization also violated one of the key findings after Hurricane Andrew regarding the need to leverage Civil Defense resources for disaster relief. In the wake of FEMA's disastrous experience, Congress directed the National Academy of Public Administration to take a comprehensive look at FEMA and decide whether it should remain a federal agency or be disbanded and replaced. One of that report's findings was that the FEMA National Preparedness Directorate assets could have been of more use during Hurricane Andrew, but that they were not tied into the natural disaster response efforts found elsewhere in the agency.

Although the Directorate's assets could have been instrumental in such tasks as planning, assessing damage, and establishing communications links between local, state, and federal officials at the disaster site, they were not fully employed to respond to Hurricane Andrew and other recent disasters. This response occurred, in part, because the Federal Response Plan in place at the time lacked procedures for using the Directorate's assets to respond to natural disasters.⁸

Today, the remnants of FEMA's Civil Defense and mobilization programs are sprinkled throughout FEMA. It includes a division within the Office of Policy and Program Analysis (OPPA) managing FEMA's delegated responsibilities to utilize the Defense Production Act (DPA) of 1950.⁹ FEMA also maintains robust capabilities for coordinating public warning systems and COG/COOP consistent with the historical missions of Civil Defense during times of war. Its National Exercise Division and Response Directorate have planning and exercise functions that could still fall under "dual use," and it also retains the legacy of its ten regions, eight of which originated with the Federal Civil Defense Administration (FCDA), with the final two created in the last years of the Office of Emergency Preparedness. However, none of it is connected as part of a larger holistic effort to support and defend the nation in time of war.

A Short History of Civil Defense

Civil Defense has its roots in World War I. As nervous Britons' looked skyward, their enemies had finally managed to evade their fleet guarding their ancient and previously insurmountable moat, the English Channel. German airships, eventually joined by bombers, killed or wounded thousands. This new threat from above could not be met at sea, or by the British Expeditionary Force manning the trenches of Belgium and France. In response to these air attacks on its cities, Great Britain instituted what would become the first Civil Defense program. It focused primarily on more practical duties for civilians, such as fire suppression and other emergency services.

The British experience during World War I was not lost on other nations. In 1916, The United States temporarily created the Council of National Defense, whose broad duties included "coordinating resources and industries for national defense" and "stimulating civilian morale."¹⁰ Between the wars, Great Britain, Japan, and Germany all created national Civil Defense programs. The United States watched from afar for the most part, but with the German invasion of Poland in the fall of 1939, it began to mobilize for war. One of the actions taken by President Roosevelt prior to entry into World War II was the creation of the Office of Emergency Management.¹¹ The "emergency" it referred to was not a natural disaster but rather the invasion of Poland and the start of World War II. It was not until early 1942, after the attack on Pearl Harbor, that natural disasters were added to the portfolio of "emergency management."

The U.S. Civil Defense experience during World War II was quite different from that of its main ally, Great Britain, and its primary adversaries, Germany and Japan. All three nations suffered terribly from air attacks on their industrial and population centers. In response, they built Civil Defense programs to protect their civilian populations and industries from air attack. The United States, however, never found itself under significant threat. The Japanese could only muster their initial attack upon Pearl Harbor, a short occupation of a few far-flung Aleutian Islands, a minor submarine attack on a California oil refinery and the launch of a

number of incendiary balloons into the forests of the American Northwest. The Germans could do no better, as their only serious attempt at sending saboteurs ended quickly in amateur disaster, although their U-boats claimed scores of sinkings within sight of the American coastline.

In anticipation of America's looming entry into the war, President Roosevelt created the Office of Civilian Defense (OCD) in 1941. For a time, it was led by the energetic and former World War I era military pilot, New York City Mayor, Fiorello LaGuardia. Later, he would be joined by Eleanor Roosevelt. The two clashed repeatedly as Mayor LaGuardia looked to focus on more military-related activities, while Mrs. Roosevelt took a much more expanded view of Civil Defense. She looked to develop OCD programs to mitigate the dramatic social and demographic changes brought on by the migration of families throughout the United States to the locations of new war industries, and the entry into the workforce of women and minorities. Mrs. Roosevelt would eventually resign her position, as would Mayor LaGuardia, but their conflict showed that from its very beginnings, disagreement over the mission and limits of Civil Defense was apparent. Should it concentrate on activities in direct support of military defense activities and the mobilization and protection of the military industrial base, or should it be expanded to include the social and demographic issues of the civilians who were needed to carry on the war effort at home and to preserve their morale?

After the war ended, America quickly shed many of its wartime programs as it demobilized. Civil Defense, however, never quite faded away. While OCD was quickly wound down, Civil Defense and the protection of the American public during war remained on the periphery of the postwar reconstitution of the military establishment. Two major reports were issued on World War II Civil Defense as President Truman wrestled with the issue. The first, led by Major General Harold Bull, studied the wartime Civil Defense experiences of Great Britain, Germany, and Japan. The final report, released in February 1948, still resonates. Among its findings, it stated that Civil Defense was the "organization of the people to minimize the effects of enemy action" and that Civil Defense should be a civilian, not military responsibility.¹² Soon after, Russell Hopley was named as the Director of the newly formed Office of Civilian Defense Planning in the DOD. In November of that year, Hopley would issue his own report on what a comprehensive Civil Defense program should look like. Along with the passage of the Federal Civil Defense Act (FCDA) of 1950,¹³ these two reports would form the basis for the Civil Defense establishment for the next 50 years.

The next 20 years largely inform the American public's hazy recollections of Civil Defense. The Soviet Union became a nuclear power in 1949, and the Cold War began. Civil Defense alternately rose and declined in stature until President Nixon's détente began a moderate thaw in relations. Depending on the political winds, responsibilities for Civil Defense would pass back and forth between the DOD and various civilian agencies that sprung up and then were subsumed by others during these years. The FCDA would give way to the Office of Defense and Civilian Mobilization, which would change its name to the Office of Civil Defense Mobilization. In 1961, it too was disbanded and its functions transferred to the Office of Emergency Planning in the Executive Office of the President, and the Office of Civil Defense in the DOD. Federal appropriations rarely exceeded \$200 million per year, although the tensions of the early 1960s led to a one-time appropriation of almost \$1 billion. Never again, however, would Civil Defense programs see anywhere near this much funding, and by the 1970s, it had settled in at less than \$200 million per year.

The priorities of Civil Defense during the early Cold War era would also fluctuate. For instance, extensive planning was done for the evacuation of major American cities during the early 1950s primarily due to the threat the United States faced from Soviet bombers armed with nuclear bombs. When ICBMs were developed, planning shifted in the 1960s to shelters; the remnants of that program can still be found scattered throughout the country. Already, the seeds were being sown to move Civil Defense capabilities slowly into "all-hazards" disaster relief. By the 1970s, the dual use of Civil Defense programs for natural disaster preparedness and response had come to the forefront, which culminated in a change to the FCDA in 1980 that officially authorized the limited use of Civil Defense capabilities for natural disaster preparedness and response as part of an "Improved Civil Defense Program."¹⁴

The creation of FEMA in 1979 brought Civil Defense back together under one agency along its closely aligned national mobilization programs. Inheriting the responsibilities of the Defense Civil Preparedness Agency from the DOD, the GSA Federal Preparedness Agency, and the disaster relief authorities of the HUD Federal Disaster Assistance Agency, FEMA combined Civil Defense, national wartime mobilization and federal disaster relief into a single agency. However, it was the former two programs, not the latter, that retained the primary focus of FEMA until the arrival of Director Witt.

The Reagan Administration arrived at a new time of heightened tensions with the Soviet Union. As the Cold War intensified again, Civil Defense and national mobilization received significant attention within the government. New plans were begun as part of a Crisis Relocation Program to once again prepare for the evacuation of Americans from urban areas targeted by Soviet ICBMs to rural areas. When a series of mobilization exercises showed that plans to deploy American military forces to Europe were ineffective, FEMA created a Federal Master Mobilization Plan in conjunction with the DOD.¹⁵ New intergovernmental processes to coordinate the preparation and response to a Soviet attack were developed and would eventually lead to the creation of the Federal Response Plan and its successor National Response Framework along with the development of emergency support functions. It even briefly crossed paths with then LtCol Oliver North, as the National Security Council participated in its national continuity of government exercises. This emphasis on Civil Defense and surviving nuclear Armageddon was emphasized in the 1986 mission statement of FEMA Director Julius Becton. "The mission of the Federal Emergency Management Agency is one of critical importance to this nation. We have been entrusted with planning for the protection of our people and resources and the continuation of our constitutional form of government."¹⁶

By the end of the Bush Administration, however, the Cold War emphasis of FEMA had finally run its course. With FEMA's failure to respond adequately to Hurricane Andrew fresh in the minds of Congress, and then the fall of the Berlin Wall and the Soviet Union marking the end of the Cold War, a new administration arrived in Washington under President Clinton. The time for Civil Defense and national mobilization had come to an end for the moment, as it was absorbed and forgotten under the mantra of "all-hazards."

The Return of History 2017

With the dismantling of the Civil Defense and national mobilization programs, FEMA's "all-hazards" mission currently lacks an organized framework to address current threats of

a war against one or more nation states capable of sustained attacks against the United States. Unlike traditional natural threats, this scenario requires preparing and planning for the mobilization and sustainment of the nation's manpower and defense industrial base. It will also mean the long-term commitment of FEMA's response and recovery activities that may last for years and encompass catastrophic levels of damage inflicted repeatedly by this country's adversaries.

It is also quite possible that these nation states may avoid using nuclear weapons on the United States. Instead, they may use a combination of more traditional forms of combat, accompanied by asymmetric means, to attack the political will of the American public directly. For FEMA to meet these threats, it will need to expand its current all-hazards mission by building upon its forgotten authority, as previously acknowledged by the Latin inscription that appeared on its traditional emblem *Pace Ac Bello Merita*, "Service in Times of Peace and War." Alternatively, FEMA could have its latent wartime authorities given to another agency, or returned to the DHS, from which many of those authorities are now technically delegated to FEMA.

Buried Responsibilities

Through a series of dormant statutes, regulations, and executive orders, FEMA currently is responsible for (1) Advising the President on the coordination, mobilization, and sustainment of the United States industrial and manpower base in time of war,¹⁷ and (2) Coordinating and conducting the nation's Emergency Preparedness/Civil Defense program.¹⁸ The purpose of the Emergency Preparedness/Civil Defense program is to deliver those activities and measures designed or undertaken to minimize the effects of a hazard upon the civilian population, to deal with the immediate emergency conditions that would be created by the hazard, and to effectuate emergency repairs to, or the emergency restoration of, vital utilities and facilities destroyed or damaged by the hazard.¹⁹ FEMA will also likely be asked to utilize its domestic consequence management authorities to assist the DOD in the contested deployment of forces overseas to conduct military operations in the face of opposition by one or more nation states.²⁰ FEMA's ability to carry out these responsibilities may be the key factor in determining the successful conclusion of such a war.

These legacy statutes, regulations and executive orders of past Civil Defense and national mobilization programs should best be thought of in terms not of the law per se, but as sources of the accumulated knowledge of past American generations that prepared for and fought against other peer nations. While dated and overtaken by the technologies and political trends of the 21st century, they nevertheless provide our best framework for current planners and policymakers to prepare a roadmap or at least describe what the nation may be asked to do if it ever again finds itself in a great war.

Despite the end of FEMA's traditional Civil Defense and mobilization missions over 20 years ago, FEMA has retained the legacy responsibilities to advise the President on the holistic support and defense of the civilian population and industrial base during times of war. These legacies remain in at least two statutes, two supporting executive orders, and a set of forgotten regulations. They represent the accumulated insight of past civil servants, administrations, and Congresses on what actions the nation must be prepared to take should it find itself in a war with one or more major nation states.

These authorities include the aforementioned 50 U.S.C. §3042, Emergency Preparedness, as delegated to FEMA through DHS Delegation 9001.1. They also include Section 2 of Executive Order 12148, Federal Emergency Management which states that FEMA is the primary federal agency to coordinate all Civil Defense policies, planning, and management within the federal government subject to the oversight of the Secretary of Defense and the National Security Council.²¹ These authorities include establishing federal policies for, and the coordination of, all civil defense and civil emergency planning, management, mitigation, and assistance functions of executive agencies.²² A more thorough account of FEMA's buried responsibilities can be found in Appendix A.

Part II CIVIL DEFENSE AND NATIONAL MOBILIZATION IN THE 21ST CENTURY

No English Channel, nor Atlantic or Pacific Ocean to Protect

Historically, the United States generally has entered a war with a peer competitor or major nation state on its own terms or at a time of its choosing. None of its major conflicts have featured nation states that were ultimately capable of significant attacks upon the continental United States.²³ Much like this nation's allies in Great Britain, protected for centuries by the British Navy patrolling the waters of the English Channel, the United States was separated from its great enemies by the vast distances of the Atlantic and Pacific Oceans. Simply put, U.S. historical and current experience in war has not prepared the United States for a truly great war with an emerging peer adversary, or a major nation state that can utilize existing or developing means, both asymmetric and conventional, to strike the United States homeland directly. These attacks would disrupt the capability of the United States to project military force beyond North America, and would disrupt or degrade seriously the ability of the United States to conduct a sustained and maximal war effort to defeat one or more nation states with significant weapons of mass destruction (WMD) capabilities or the ability to conduct highly effective and sustained attacks on key national assets.

The United States does, however, have historical examples of the necessary commitment of the U.S. civilian population and national morale, and its supporting industrial base, to win a war with one or more nation states, although none have the added dimension of doing so while under direct attack. The most notable examples are the United States' experiences during the Civil War, World War II, and the Korean War. These examples show that close coordination must occur between the nation's military efforts and its supporting civilian population and infrastructure. Some of these lessons from wars past exist in the dormant Civil Defense and mobilization responsibilities granted to FEMA. Others can be found elsewhere, such as two Army histories, one on the mobilization of the Army through 1945 and the other on the emergency operation of private industries by the Army in World War II.²⁴ However, since the last great national mobilizations in World War II and Korea, the United States has adopted a wholly offensive strategy to meet its enemies. This approach may no longer be possible given the threats and capabilities of the nation's potential adversaries.

Since the United States retreated from the Yalu River in late 1950, and forced a stalemate along the 38th Parallel, its armed forces have effectively been on the offensive for nearly 70 years. While it has endured strategic quagmires in Iraq and Afghanistan, and before that in Vietnam, the tactical, and certainly operational- level message to the American public has been to attack the enemy where they are, even if it ultimately proves strategically unsuccessful. In the movie Patton, George C. Scott, embracing the histrionics of his character shouts "L'audace, l'audace, toujours l'audace!"²⁵ Nothing more succinctly summarizes the modern American way of war. However, the United States no longer has the strategic luxury of relying solely on the offense.

An historical allegory to America's dependence on defense by committing its resources to the offense could be the story of the HMS Hood. As a British battlecruiser built just after the conclusion of World War I, the HMS Hood represented a series of compromises.²⁶ It carried the 15" guns of contemporary battleships, but could still exceed 30 knots, which made it one of the fastest capital ships in the world at that time. But those compromises nearly all favored its offensive capabilities at the expense of its ability to armor itself to defend from enemy shells.

Just minutes into its final battle, the HMS Hood was struck by a shell from the German battleship Bismarck that likely penetrated its aft ammunition magazine. Three minutes later, the Hood was gone. Only three of its crew of 1,421 would survive. Its World War I era design and tactics focusing on the offense made it just as vulnerable as its sister ships before it, which suffered terribly only two decades earlier. As stated in a blog post addressing the deaths of over 3,000 British sailors on battlecruisers during the Battle of the Jutland in 1916, "the British battlecruiser force lost over 3,000 sailors in one battle in large part because its offensive mindset blinded it to necessary defensive actions."²⁷

Today, the United States risks recapitulating the fate of the HMS Hood. The American military, its congressional and civilian overseers, and the public historically, culturally, and dogmatically, embrace the offense. Except for a few short months in 1942, the mainland United States has never been at risk of serious conventional attack by another major nation state. The one risk to the U.S. homeland in its modern period, nuclear war with the Soviet Union, was so enormous in its size as to make the commitment of resources necessary to defend against such an attack politically unrealistic. Essentially, the threat was so huge that Americans over time simply grew to ignore it until it fizzled out at the end of the Cold War. Meanwhile, the nation slowly abandoned our ability to defend its citizens from direct attack and the capability to sustain a wartime mobilization, culminating with the ending of the Civil Defense and national mobilization programs in 1993.

Potential Lines of Attack by an Enemy Nation State

The nation must be prepared to face a future war with one or more nation states with the capability to strike the U.S. homeland directly and repeatedly through attacks on its defense industrial and manpower base, the ability to contest the deployment of military capabilities beyond the United States, and the ability to attack U.S. political institutions. It is quite possible that the unsuccessful termination of such a war would be the result of the collapse of this

nation's political will either through direct attacks on its population or the degradation of living standards, economy, and overall standard of living at great loss to the way of life which the United States has fought to protect since 1776.

America's most potent potential adversaries, Russia and China, enjoy certain political advantages along with those of interior lines, space, and time during a potential war with the United States. As a democracy, America is particularly vulnerable at the start of a war with a peer adversary. General George Marshall, Army Chief of Staff during World War II who would later serve as both Secretary of Defense and Secretary of State, and the great "organizer of victory" offered his opinion on this topic by stating:

A democracy has a very hard time in a war, particularly at the start of a war. They can never get ready in advance. The conditions are such that they are susceptible to surprise action, and an arbitrary government like the Hitler government has every advantage in those respects. They are just bound to win at the start unless they are very, very stupid. Of course, in the end, if the democracy is a firm democracy, it builds up a power which outlasts the other and the dictatorship bogs down. ²⁸

Because of these advantages, it is quite possible a future adversary may never need to resort to the use of nuclear weapons in a war with the United States. Throughout the Cold War, and to the present day, a variety of reasons, including deterrence and occasionally good fortune, have prevented the use of nuclear weapons. ²⁹ They remain exclusively for use by nation states. Proliferation to non-state actors could change this calculus, and a lesser adversary facing unsustainable losses, such as North Korea or Iran, might be tempted to use them to forestall defeat.

These scenarios, however, do not constitute a sustained and existentially debilitating military campaign against the U.S. homeland. Those nation states that possess the means to destroy the United States, or to pose an existential threat to its national interests, are similarly vulnerable to strikes from the United States. Embarking on nuclear war has been recognized for decades as a zero-sum calculation. This scenario remains true even with the recent rhetoric surrounding North Korea. Notwithstanding North Korea's attempts to build a nuclear arsenal, its leader has remained a rational actor in the eyes of the U.S. intelligence community. ³⁰

For these reasons, while it is possible the United States may be struck by a nuclear weapon in the future, the likelihood of a full-scale nuclear war likely remains small. Politically, it is highly unlikely Congress will ever shed its aversion to funding a Civil Defense program that includes a massive sheltering, evacuation, and recovery effort. Even during the height of the Cold War in the 1960s, and its late resurgence in the Reagan era, the needle could not be moved on funding these programs. Thus, while any future Civil Defense program would clearly include planning for a nuclear strike against the United States, it may not be an efficient use of limited resources to conduct the comprehensive planning and exercise programs once dedicated to a major exchange of nuclear weapons.

The fact that nuclear weapons may never be used by a nation state against the United States does not remove the potential conflict of national interests between this country and some of its competitors. Instead, these conflicts may drive them to use alternative methods to

seek the successful conclusion of a potential war with the United States on terms favorable to themselves. Two of these alternate means could be to slow or prevent the deployment of U.S. military capabilities from the homeland or to use asymmetric means to attack the political institutions of the nation, thereby creating a domestic political climate amenable to agreeing to terms favorable to U.S. adversaries.

A potential strategy based upon these lines of attack might fit the following scenario employed by both Russia and China, or on lesser terms, by Iran and North Korea. First, they may seek to initiate a war by achieving a political objective through military means, such as seizing the Baltic States in the case of Russia, or for China, the invasion of Taiwan or otherwise enforcing military control over the South China Sea. Second, they would look to interfere with the deployment of U.S. military forces and capabilities from the continental United States. Third, they would seek to upset the mobilization and reconfiguration of the nation's industrial and manpower base to wartime footing. Fourth, they would attack the American public directly through attacks on its electrical and financial sectors, the internet, and other critical infrastructure directly impacting the day-to-day lives of Americans and the nation's economy. Fifth, through the effects of the aforementioned actions, and through the direct influence of the electorate through the "weaponization" of social media already demonstrated by Russia,³¹ and potentially attacks directly targeting voting infrastructure, Russia and China would attempt to sway the executive and legislative branches of the federal government to end the war on terms favorable to them.

While Russia, China, Iran and North Korea are not democracies, a similar strategy might be employed against them. Instead of seeking to influence the U.S. electorate, the United States could focus on creating public unrest, the demoralization of conscript soldiers, or enticing the growth of alternative political power centers within their adversary's governments who might agree to end a war on terms favorable to the United States. A U.S. victory under this scenario might follow the pattern seen at the end of World War I when the German Army eventually broke as the country grew tired of the war and forced the Kaiser into exile.

However, if the United States were to lose a war with another major nation state, it might result in a stalemate like the static armistice of the Korean War that allowed this nation's adversary to retain its initial political and military gains. The United States would not suffer from the complete physical destruction and occupation, such as that seen by Japan and Germany in World War II. Instead of a Red Dawn military assault, it might be the failure of Congress to pass legislation to reinstate the draft, or to appropriate funds that would set in motion the events that lead to the negotiated end of a war on terms favorable to this country's enemy. A myriad number of events could lead Congress, or the President, down this road at the behest of the American public without its enemies having to gain momentum on conventional battlefields.

A potentially successful strategy by an adversarial nation state might include, in echoes of the Vietnam War, minimal success in conventional battles. Instead, an approach that emphasizes disrupting the deployment of American military capabilities, inflicting great cost upon the American public to sustain the war, and disrupting the functioning of its political institutions, might be enough. Attacks upon critical transportation and power infrastructure, shutting down large portions of the national power grid for a sustained period, the use of social media to influence elections indirectly, and the hacking of electronic ballots to affect them directly, might, in combination, defeat the United States in a future conflict.

Contested Deployment and Attacks Upon the Defense Industrial and Manpower Base

In a future conflict with a nation state with the ability to conduct continued attacks upon the U.S. homeland, it is likely that those capabilities may be employed to delay or deny the projection of military forces overseas to carry the fight to U.S. adversaries. This "contested deployment" would mark a major change to the way the United States prepares and employs its military forces overseas. Attacks through direct and indirect means on critical infrastructure facilities, such as ports, interference with reserve and National Guard mobilization efforts, including communications, and targeted attacks on key personnel, such as the severe disruption of family financial accounts or threats to family members, may be expected.

Nation states may attempt to carry out these attacks through a variety of means, such as cyber warfare to disrupt critical infrastructure directly supporting the deployment of military forces or small unit kinetic attacks on key industrial sites. An additional factor may also be the increase in the modern efficiency and lethality of the first strike capabilities of U.S. peer adversaries. These first strike capabilities may accentuate the importance of preparedness efforts as the failure to account for the effects of these capabilities may create sustained and long-lasting damage to the nation's defense industrial base. As an historical example, the Japanese Navy failed to attack key infrastructure at Pearl Harbor in 1941, including fuel tanks and repair facilities. This failure meant the U.S. Navy did not need to relocate its Pacific Fleet to the West Coast and significantly add to its logistical burdens. In a future conflict, it is possible U.S. peer adversaries will not repeat that mistake.

Additional asymmetric measures, however, could also be executed. Using stolen privacy information, the enemy could ruin the financial lives of key military and industrial personnel. Fake deployment orders could be issued, and communications disrupted for activating National Guard and reserve troops through electronic and phone communications. Social media could be used to develop conscientious objectors, and diminish the morale of the American public to reduce its ability to rely on an all-volunteer military. All these means, when accompanied by a robust response to American military objectives, could potentially destabilize the ability of the United States to maintain a war against another nation state. The focus of all these courses of action is located within the U.S. homeland and would represent an unprecedented direct attack upon the country.

Attacking the Political Will of the American Public

The United States is a democracy and its decisions to make war and peace are ultimately decided by its elected representatives in Congress and by the President. Nowhere is this fact clearer than the presidential election of 1864. By the summer of 1864, the North was tired. Even Lincoln was pessimistic about his prospects for reelection, as he faced the former general of his armies, George McClellan. Some members of the Republican Party went so far as to make preparations to remove President Lincoln as their nominee.³² While President Lincoln made it clear that peace could only come with the preservation of the Union and the abolition of slavery, McClellan adopted a platform that appeared to leave open the option

of the South to secede and retain its rancid and peculiar institution.³³ However, Lincoln's political skills and a string of Union victories, headlined by Sherman's capture of Atlanta, led to his reelection. This episode did expose how the decision to enter and continue a war by a democratic nation is ultimately found at the ballot box. Change the candidates, or the ballots themselves, and an adversary of the United States can win a war on its terms without the need for asserting control on the battlefield.

This observation is not new or unique. The American public has never been a monolith when it comes to supporting the nation at war. The Vietnam War consumed the presidency of Lyndon Johnson and the decision by President Bush to invade Iraq divided the nation. While the use of propaganda is probably as old as war itself, only recently have other nation states gained the tools to influence U.S. elections significantly, most notably Russia in the 2016 presidential election. The CIA assessed that

Russian efforts to influence the 2016 U.S. presidential election represent the most recent expression of Moscow's longstanding desire to undermine the U.S.-led liberal democratic order, but these activities demonstrated a significant escalation in directness, level of activity, and scope of effort compared to previous operations.

We assess Russian President Vladimir Putin ordered an influence campaign in 2016 aimed at the U.S. presidential election. Russia's goals were to undermine public faith in the U.S. democratic process, denigrate Secretary Clinton, and harm her electability and potential presidency. We further assess Putin and the Russian Government developed a clear preference for President-elect Trump. We have high confidence in these judgments.³⁴

More recently, current Secretary of State and former CIA Director Mike Pompeo, confirmed Russia's continued efforts to interfere with U.S. elections and was prepared to take countermeasures to fend off its interference with the 2018 elections.³⁵ The secretary's comments seemed to be confirmed as at least one Russian national was charged with trying to interfere with the November, 2018 elections.³⁶ And sometime in the weeks before, it appears President Trump signed an executive order that would make it possible to sanction foreign citizens suspected of interfering with U.S. elections and ordered the Director of National Intelligence to begin a 45-day review of the elections to determine whether there had been interference with disinformation campaigns or penetration of voting systems.³⁷

Foreign intervention and attacks upon U.S. political institutions for their own national interests is a bipartisan threat, although the results have partisan consequences. It is important to remember that a nation-state adversary is not wedded to any U.S. political party, but only to its own interests. The American people must be able to express their political will as free from outside influence as possible in times of war. The decision to pursue, continue, or abandon war should be made based on this nation's own interests, not those of its enemies.

A New Approach to Civil Defense

A 21st century Civil Defense program must be prepared to meet old threats while recognizing the need to meet new ones. This new program must be prepared to support the Nation's efforts to fight a war on simultaneous fronts. These fronts include the location of one or more overseas contests between armies, the physical defense of the homeland, sustaining and expanding the domestic critical infrastructure supporting both military needs and the civilian economy, the defense of our political institutions from foreign interference, and the preservation of national morale. The government must be prepared to see these fronts under attack from combined efforts both conventional and asymmetric, and not assume future enemies will require the use of nuclear weapons to carry out these attacks.

A new Civil Defense program would combine mobilization, Civil Defense, and COG/COOP activities as a consolidated, whole-of-government Civil Defense program envisioned with the creation of FEMA in 1979. The threat of nuclear attacks upon the United States still exists, along with a renewed ability of potential adversaries to attack the United States directly through military strikes and sabotage. In addition, new forms of asymmetric warfare have developed since the termination of the Civil Defense program in 1993, including the use of the internet and social media to attack critical infrastructure and the American economy directly and to influence or even directly attack elections. This program would also seek to continue to maximize its dual-use nature, developing capabilities that could also be used for natural and man-made disasters not related to war. But the primary purpose of a revitalized Civil Defense program would be to support the Nation's war time efforts and not as another division supporting catastrophic planning, though it should find numerous points of connection with the latter function. War is a hazard, and as far as the phrase "emergency management" exists in a federal context, it was the original hazard. Without a program in place for Civil Defense and national mobilization, the Nation will continue to lack a true all-hazards capability.

The development of a sustained commitment to prepare FEMA or the DHS, in coordination with the National Security Council, the DOD, and other federal agencies, to carry out the responsibilities articulated in 50 U.S.C. §3042 and elsewhere, could be a key, and potentially the crucial factor, to winning a future war. Without it, the support of the American public and the domestic political framework necessary to execute the Nation's wartime goals could fail, even as the United States moves to reassert its dominance on the conventional battlefield. The primary target of our adversaries would become the American public and its supporting political institutions in order to cut out the historical need to defeat the United States on conventional battlefields, draining America of blood and treasure through persistent wartime losses and secondary home-front sacrifices to support a continuing war effort.

This sustained commitment should not, however, seek to replicate the same Civil Defense and mobilization structures that grew out of World War II and Korea, and the response to the Soviet nuclear threat throughout the Cold War. Instead, it should take into account the new and evolving threats against the United States. It is suggested that the federal government focus on three major goals (elaborated upon below) while developing a framework to address its responsibilities in a war with one or more peer adversaries or major nation states. These responsibilities could remain with FEMA, or if a consensus determined otherwise, be moved to another federal agency. However, historically the DOD has divested or downgraded its

assumed Civil Defense responsibilities and moving significant Civil Defense authorities to it again is probably not likely.³⁸

Protection of the Civilian Population, Defense Industrial Base and Key Critical Infrastructure and Preservation of Government Functions

The first goal would be to revive and incorporate some of FEMA's traditional Civil Defense missions, which still exist in some of its all-hazards preparedness and consequence management efforts. This focus would be on the protection of the American populace and critical infrastructure and responding to attacks upon them utilizing the current paradigm of protect, prevent, mitigate, respond, and recover. Lines of effort could include: (1) mitigation of the effects of attack on the civilian population and supporting a sustained response and recovery campaign in the face of repeated attacks, (2) the identification, preservation, recovery, and sustainment of critical infrastructure supporting the civilian population, the defense industrial and manpower base, and key economic output, (3) sustainment of a resilient national economy while under attack, (4) protection of political institutions by indirect and direct influence and attack, and (5) continued planning and execution of COG/COOP activities.

Many of these efforts would be carried out using traditional partnerships between the federal government and state, local, and tribal governments, and the private sector. An example could be found in using the existing model of FEMA's use of crowdsourcing efforts and expanding them further into cyber-defense efforts. The FEMA-led Community Emergency Support Teams (CERT) could also serve as a basis to provide a national volunteer network for the defense and recovery from physical attacks upon the United States.

These lines of action could be incorporated into the current all-hazards structure through additions to the five national planning frameworks, including the National Response Framework, and adding annexes specifically to address the complexities and unique issues of wartime. Eventually, each of the five frameworks supporting federal interagency operational plans for prevention, protection, response, recovery, and mitigation could also incorporate wartime annexes. An additional line of action could be to understand the wartime needs of the United States better to help shape the DHS Secretary's response to Executive Order 13806, Assessing and Strengthening the Manufacturing and Defense Industrial Base and Supply Chain Resiliency of the United States. FEMA should also harmonize these efforts with its existing national warning and COG/COOP activities as they would exist in time of war.

Support for Contested Deployment

The second goal would be to support the DOD efforts to deploy military capabilities while under attack. The DOD remains in the earliest stages of recognizing and preparing for these potential threats.³⁹ Lines of effort could include the preservation, recovery, and sustainment of critical infrastructure supporting the deployment of DOD personnel and resources, the preservation, recovery, and sustainment of critical infrastructure supporting key DOD facilities domestically, and the preservation, recovery, and sustainment of critical

infrastructure supporting DOD capabilities engaged from the Continental United States in direct and asymmetric attacks upon the enemy and necessary for the defense of the homeland.

While this second goal would have much in common with the previous goal, it would have a more specific focus and rely on the DOD to identify its requirements. Major military installations can employ thousands of civilians, and most service members do not live on military bases. Attacks by an enemy on surrounding communities could deprive DOD facilities of the ability to function through the attrition of the DOD's workforce, the strain on military family members, and the reduction of critical infrastructure providing key services, such as water and power. In addition, some domestic military facilities are used to engage in military operations directly. For instance, Air Force bases support strategic bombers and air defense activities, the remote piloting of drones operating overseas, or even military cyber facilities engaged in virtual combat. The loss or degradation of any of these facilities would have direct effects on the battlefield.

Mobilization and Sustainment of the Defense Industrial and Manpower Base

The third goal would be to be prepared to advise the President and the National Security Council on the mobilization and sustainment of the nation's manpower and defense industrial base during times of war and to implement those actions as required. Lines of effort could include managing the expansion, continual reorientation and sustainment of the defense industrial base, expanding the eligible manpower base, preservation, expansion and sustainment of critical infrastructure supporting the defense industrial base, and maximizing and prioritizing the use of the civilian population to support war efforts through military service, defense industrial base labor, key civilian economic output, and the temporary operation of critical industries for the defense industrial base. Nascent efforts to revive planning for these issues within the federal government and the DOD also need to be coordinated as they develop. For instance, when the Commandant of the Eisenhower School at the National Defense University led a conference working group on industrial mobilization in June of 2018, no representatives from FEMA were notified despite the fact FEMA has substantial equities in the topics discussed.⁴⁰ This is another example of how connections between agencies have been severed over the years.

As existing statutory and executive directives were reconstituted to carry out these goals, they could be captured in FEMA's legacy Civil Defense regulations still found in 44 CFR Part 334. These remaining regulations focusing on mobilization and post-attack considerations could be updated to reflect the new 21st century Civil Defense program run by FEMA or as otherwise transferred within the federal government.

Conclusion

As previously stated, the United States has not had a comprehensive strategy to protect its civilian population and defense industrial base, or to mobilize and sustain the nation during time of war for almost 25 years. Without an investment in these activities by FEMA and the

DHS, America risks losing its next war with one or more major nation states. The government must find a way to marry burgeoning efforts focused narrowly on what the DOD needs to fight a full scale war, with the broader strategic wartime requirements of its supporting political system and citizenry. ⁴¹ Unfortunately, efforts so far may not have reflected the fact that it is the morale and purpose of the American people that will be the crucial factor to prosecuting any future great war. ⁴² It is the American public, and their supporting political system and critical infrastructure that could quite possibly be the focus of our enemy's attacks if it decides to bypass the American military juggernaut and go directly after the citizens it serves to protect. The Federal Government and the Congress must recognize that fighting a great war will extend to the homeland and take more than just meeting the increased manpower, industrial, technological and logistical needs of the military.

Under its dormant authorities and responsibilities, FEMA currently is responsible for advising the President on the coordination, mobilization, and sustainment of the U.S. industrial and manpower base in times of war as delegated to it under 50 U.S.C. §3042 and Executive Orders 12656 and 13606. The agency is also responsible for coordinating and conducting the nation's Emergency Preparedness/Civil Defense program as directed under Title VI of the Stafford Act and as delegated under Executive Orders 12148 and 12656. ⁴³ FEMA will also likely be asked to utilize its domestic consequence management authorities to assist the DOD in the contested deployment of forces overseas to conduct military operations in the face of opposition by one or more peer adversaries. These responsibilities are not currently reflected in FEMA's planning and preparedness efforts under its current all-hazards mission. Today, the federal government spends more effort on preparing for the impact of a future asteroid than on preparing for the domestic civilian responsibilities in a future war with one or more peer adversaries. ⁴⁴ FEMA's official fledgling planning efforts remain narrowly focused on consequence management efforts in the aftermath of a limited nuclear exchange. ⁴⁵

The level of national preparedness for these responsibilities that currently belong to FEMA may be the key factor in determining the successful conclusion of a war against one or more peer adversaries or major nation-states that can conduct sustained attacks against the U.S. homeland. Developing a framework based around Civil Defense, the mobilization and sustainment of the Nation's manpower and defense industrial base, and support to the DOD in its efforts to deploy forces overseas while contested domestically by its adversaries may provide a way to shape future preparedness efforts and a taxonomy to organize them. This nation's failure to do so may end its next great war before it even begins.

Appendix A

Executive Order 12656, Assignment of Emergency Preparedness Responsibilities, ⁴⁶ marked the culmination of whole of government planning for preparing for and responding to nuclear attacks and other catastrophes. Among its pertinent responsibilities, it states in Section 104(c) "The Secretary of Homeland Security [FEMA Administrator] shall serve as an advisor to the National Security Council on issues of national security emergency preparedness, including mobilization preparedness, civil defense, continuity of government, technological disasters, and other issues, as appropriate." ⁴⁷ Section 1701(7) also states that the DHS Secretary [FEMA Administrator] shall "develop and coordinate with all appropriate agencies civil defense programs to enhance Federal, State, local, and private-sector capabilities for

national security emergency crisis management, population protection, and recovery in the event of an attack on the United States.”⁴⁸

Several years later, FEMA issued regulations to carry out its responsibilities under Executive Order 12656. They can still be found in a long unused subchapter on preparedness. Spanning from Part 300 on Disaster Preparedness Assistance to Part 334, Graduated Mobilization Response, they are a window into the very last days of the Civil Defense program. Of particular interest are the parts on the priority use of resources in an immediate post-attack period and the mobilization responsibilities found in Part 334 guiding the nation as it would prepare for a future war. Part 312 also includes the last regulatory definition for the term “Civil Defense.”

Executive Order 13603, National Defense Resources Preparedness, requires FEMA to carry out most of the DHS Secretary's responsibilities for the utilization of the Defense Production Act (DPA).⁴⁹ This authority includes the responsibility for the FEMA administrator to “advise the President on issues of national defense resource preparedness” and act on the secretary's behalf on numerous other issues related to the DPA and the defense industrial base.

The FEMA administrator also retains the legacy authority of the Federal Civil Defense Act of 1950, which was repealed and replaced by Title VI, Emergency Preparedness, of the Stafford Act.⁵⁰ Unlike the rest of the Stafford Act, Congress has given the authority to carry out Title VI to the FEMA administrator and not the President or DHS secretary.⁵¹ This authority results because the original Federal Civil Defense Act contained two major sections, one for general preparedness and another for post-attack actions. The latter contained extraordinary authorities, only available upon a proclamation of a Civil Defense emergency by the President or resolution by Congress. As Senator Carl Vinson stated during hearings in December 1950 when debating the proposed language of the Act, “I doubt whether you have ever seen language as broad as this. It makes a man a complete dictator. He can take over all the realty of the United States.... If it was administered according to the authority here, you could just run the whole country. Absolutely. Even the President hasn't this authority.”⁵²

The extraordinary post-attack authorities once granted to the head of the FCDA, and eventually, the FEMA administrator, were not retained in Title VI of the Stafford Act. However, Title VI remains important to Civil Defense for at least two major reasons. First, its definition of “emergency preparedness” is the lineal descendent of the former definition of Civil Defense.⁵³ Second, Title VI, along with 50 U.S.C §3042, are the two statutory pillars of the Nation's Civil Defense program, although a national definition of Civil Defense currently no longer exists, the previous definition was replaced by “emergency preparedness.”⁵⁴ The responsibility to carry out these two laws belongs to FEMA, either through the direct actions of Congress or through the delegation of its traditional authorities back from the DHS.

There may also be a number of “hidden” authorities which FEMA is currently unaware it still holds. For instance, Executive Order 11051 established the responsibilities for the Office of Emergency Planning in 1961.⁵⁵ Responsibility for carrying out this executive order was passed to the General Services Administration in 1973 and included “[a]ll authority vested in the Director of the Office of Emergency Preparedness as of June 30, 1973, by Executive order, proclamation, or other directive issued by or on behalf of the President or otherwise...”⁵⁶ Executive Order 12148, issued in 1979, stated in paragraph 1-103 “[a]ll functions vested in the President that have been delegated or assigned to the Federal Preparedness Agency, General Services Administration, are transferred or reassigned to the Director of the

Federal Emergency Management Agency.”⁵⁷ These authorities included the policy, planning and overall federal coordination of Civil Defense. This includes the responsibility of the FEMA Administrator to be prepared to “plan for the organization and functioning of the Federal Government in an emergency, including provisions for the central direction of all emergency mobilization activities and the creation of such emergency agencies as may be required for the conduct of emergency activities including those within the normal jurisdiction of existing agencies.”⁵⁸ In addition, the FEMA Office of Chief Counsel must be ready to support the Administrator to “provide for the prompt exercise of Federal emergency authority through the advance preparation of such proposed legislation, executive orders, rules, regulations, and directives as would be necessary to put into effect operating programs appropriate to the emergency situation.”⁵⁹ The last time FEMA was probably prepared to carry out this responsibility was in 1983 when it provided a copy of draft legislation to Congress entitled the “Defense Resources Act.”⁶⁰

In addition to these authorities that are conferred upon FEMA, a number of other statutory responsibilities are related to Civil Defense and national mobilization for which FEMA would likely find itself responsible. For instance, under 50 U.S.C. §3816, Utilization of Industry, which is hidden within the Military Selective Service Act, Congress has granted the President the right “to take immediate possession of any plant, mine, or other facility... and to operate it” if under the terms of the law, the President has properly placed an order for articles or materials in the interest of national security and for the exclusive use of the armed forces or the Nuclear Regulatory Commission, and given proper notice to Congress.⁶¹ FEMA would almost certainly be asked to advise the President on any actions taken under this authority. FEMA also has its standing missions, as articulated by Congress in the Post-Katrina Emergency Management Reform Act, which encompass most, if not all, of the Civil Defense duties for which it is responsible.⁶²

Appendix B

FEMA'S Civil Defense Responsibilities Under Executive Order 12148

2-101. The Secretary of Homeland Security [as further delegated to the FEMA Administrator] shall establish Federal policies for, and coordinate, all civil defense and civil emergency planning, management, mitigation, and assistance functions of Executive agencies.

2-102. The [FEMA Administrator] shall periodically review and evaluate the civil defense and civil emergency functions of the Executive agencies. In order to improve the efficiency and effectiveness of those functions, the [FEMA Administrator] shall recommend to the President alternative methods of providing Federal planning, management, mitigation, and assistance.

2-103. The [FEMA Administrator] shall be responsible for the coordination of efforts to promote dam safety, for the coordination of natural and nuclear disaster warning systems, and for the coordination of preparedness and planning to reduce the consequences of major terrorist incidents.

2-105. The [FEMA Administrator] shall provide an annual report to the President for subsequent transmittal to the Congress on the functions of the Federal Emergency Management Agency. The report shall assess the current overall state of effectiveness of Federal civil defense and civil emergency functions, organizations, resources, and systems and recommend measures to be taken to improve planning, management, assistance, and relief by all levels of government, the private sector, and volunteer organizations.

2-201. In executing the functions under this Order, the [FEMA Administrator] shall develop policies which provide that all civil defense and civil emergency functions, resources, and systems of Executive agencies are: (a) founded on the use of existing organizations, resources, and systems to the maximum extent practicable; (b) integrated effectively with organizations, resources, and programs of State and local governments, the private sector and volunteer organizations; and (c) developed, tested and utilized to prepare for, mitigate, respond to and recover from the effects on the population of all forms of emergencies.

2-202. Assignments of civil emergency functions shall, whenever possible, be based on extensions (under emergency conditions) of the regular missions of the Executive agencies.

2-203. For purposes of this Order, "civil emergency" means any accidental, natural, man-caused, or wartime emergency or threat thereof, which causes or may cause substantial injury or harm to the population or substantial damage to or loss of property.

2-204. In order that civil defense planning continues to be fully compatible with the Nation's overall strategic policy, and in order to maintain an effective link between strategic nuclear planning and nuclear attack preparedness planning, the development of civil defense policies and programs by the Secretary of Homeland Security shall be subject to oversight by the Secretary of Defense and the National Security Council.

About the Author

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Disclaimer

The opinions of the author are his own, and do not necessarily reflect those of the Federal Emergency Management Agency, the Department of Homeland Security or the Federal Government.

Notes

- 1** This portion of the National Security Act of 1947 is now delegated to the DHS through Executive Order 12148 and further delegated to FEMA in DHS Delegation 9001.1. This authority originally rested with the Office of Defense Mobilization which was disbanded in 1961; its authorities were returned to the President and later delegated to the Office of Emergency Planning, itself later renamed the Office of Emergency Preparedness. FEMA was delegated these authorities directly from the President from 1979 until the creation of DHS.
- 2** Philip A. Odeen et al., *Coping with Catastrophe, Building an Emergency Management System to Meet People's Needs in Natural and Manmade Disasters* (Washington, DC: National Academy of Public Administration, 1993), Appendix.
- 3** Garrett M. Graff, "The Secret History of FEMA," *Wired Magazine*, September 3, 2017, <https://www.wired.com/story/the-secret-history-of-fema/>.
- 4** FEMA Director, "Reorganization Announcement, Attachment Summary of the New FEMA Organization," (official memorandum, Washington, DC: FEMA, 1993), 2.
- 5** Memorandum from the Assistant to the President for National Security Affairs, June 30, 1995.
- 6** Report to the National Security Council, National Security Council, *Implementing the National Security Resources Preparedness Responsibilities of the Federal Emergency Management Agency* (Washington, DC: National Security Council, 1994).
- 7** Bureau of Industry and Security, "Industrial Base Assessments," 2016, <https://www.bis.doc.gov/index.php/other-areas/office-of-technology-evaluation-ote/industrial-base-assessments>.
- 8** Odeen et al., *Coping with Catastrophe*, 53.
- 9** War and National Defense, Emergency Preparedness, 50 U.S.C. §4501 et seq (1950).
- 10** Nehemiah Jordan, *U.S. Civil Defense before 1950, The Roots of Public Law 920* (Alexandria, VA: Institute for Defense Analyses, Economic and Political Studies Division, 1966), 32.
- 11** The Office for Emergency Management was never actually abolished and still remains as an unfunded, unstaffed organization within the Executive Office of the President. Harold C. Relyea, *The Executive Office of the President: An Historical Overview*, CRS Report 98-606, U.S. Library of Congress, Congressional Research Service, Washington, D.C., March 17, 2008, 8-9.
- 12** Jordan, *U.S. Civil Defense before 1950*, 65–66.
- 13** Federal Civil Defense Act of 1950, Pub. L. No. 81-920 (1950).
- 14** Department of Defense Authorization Act, Pub. L. No. 96-342 (1981).
- 15** James W. Caan, "Up from Nifty Nugget," *Air Force Magazine*, September 1983, <http://www.airforcemag.com/MagazineArchive/Pages/1983/September%201983/0983nifty.aspx>.
- 16** Julius W. Becton, Jr., *Memorandum for All Headquarters and Regional Personnel, Mission Statement* (Washington, DC: Federal Emergency Management Agency, 1986).
- 17** War and National Defense, Emergency Preparedness, 50 U.S.C. § 3042 (1947). The Office of Defense Mobilization was disbanded in 1961 and replaced by the Office of Emergency Planning, itself later renamed the Office of Emergency Preparedness. Through a series of presidential reorganization plans and executive orders, and a delegation from the DHS, FEMA is now responsible for all the actions listed under this statute as part of the National Security Act of 1947.

18 No current statutory definition of “Civil Defense” exists. It last appeared in the Civil Defense Act of 1950 as amended and the definition was last updated in 1993 in Title XXXIV of the National Defense Authorization Act for FY 1994, 103 Pub. L. No. 160 Sec. 3402 (1993). “The term ‘civil defense’ means all those activities and measures designed or undertaken to minimize the effects of a hazard upon the civilian population, to deal with the immediate emergency conditions which would be created by the hazard, and to effectuate emergency repairs to, or the emergency restoration of, vital utilities and facilities destroyed or damaged by the hazard.” This statement is a combination of FEMA’s statutory responsibilities under Title VI of the Stafford Act, which uses the term “emergency preparedness” and Executive Order 12148 as discussed later. An older definition of “Civil Defense,” which uses the term “attacks” can be found in 44 CFR 312.2(c).

19 The Public Health and Welfare, Administration of subchapter, 42 U.S.C. § 5195b (2011).

20 Homeland Security Policy Directive-5, Management of Domestic Incidents, purports to end the division between crisis and consequence management. “The United States Government treats crisis management and consequence management as a single, integrated function, rather than as two separate functions.” However, in practice, this division of responsibility has continued.

21 Delegated by the President to the Secretary of Homeland Security and redelegated to FEMA by DHS Delegation 9001.1. Like 50 U.S.C. §3042 and the other statutes and executive orders mentioned in this article, FEMA brought these authorities with them when they were folded into the DHS and has never relinquished them.

22 See Appendix B for a list of current FEMA Civil Defense responsibilities under Executive Order 12148.

23 The War of 1812 serves as an exception to mobilizing and deploying U.S. forces free of the influence of enemy attack. Since then, the United States has mobilized, trained, and deployed military units overseas with minimal interference from enemy forces.

24 Marvin A. Kreidberg and Merton G. Henry, History of Military Mobilization in the United States Army 1775–1945, CMH Pub 104-10 (Washington, DC: Department of the Army, 1955), https://history.army.mil/html/books/104/104-10/CMH_Pub_104-10.pdf; John H. Ohly, Industrialists in Olive Drab, The Emergency Operation of Private Industries during World War II, CMH Pub 70-32-1, ed. Clayton D. Laurie (Washington, DC: United States Army, Center of Military History, 1999), https://history.army.mil/html/books/070/70-32-1/CMH_Pub_70-32-1.pdf.

25 “Audacity, audacity, always audacity!”

26 Michael Peck, “Battlecruisers: The Glass-Jawed Warship that Failed,” National Interest, September 13, 2015, <http://nationalinterest.org/feature/battlecruisers-the-glass-jawed-warship-failed-13828>.

27 “The Enduring Myth of the Fragile Battlecruiser,” Information Dissemination, December 16, 2014, http://www.informationdissemination.net/2014/12/the-enduring-myth-of-fragile_16.html.

28 Leonard Mosely, Marshall: Hero for Our Times (New York: Hearst Books, 1982), 340–341.

29 Sewell Chan, “Stanislav Petrov, Soviet Officer Who Helped Avert Nuclear War, is Dead at 77,” New York Times, September 18, 2017, <https://www.nytimes.com/2017/09/18/world/europe/stanislav-petrov-nuclear-war-dead.html>.

30 Nancy A. Youssef, “Why the U.S. Considers North Korea’s Kim a ‘Rational Actor,’” Wall Street Journal, December 5, 2017, <https://www.wsj.com/articles/why-the-u-s-considers-north-koreas-kim-a-rational-actor-1512497497>.

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46 Also delegated by the President to the Secretary of Homeland Security and redelegated to FEMA by DHS Delegation 9001.1.

47 Exec. Order No. 12656, November 18, 1988, Assignment of Emergency Preparedness Responsibilities, 53 C.F.R.47491 (1988).

48 Exec. Order No. 12656.

49 Delegated to FEMA from the DHS Secretary through DHS Delegation 09052, Delegation of Defense Production Act Authority to the administrator of FEMA.

50 Formerly the Federal Civil Defense Act of 1950, 81 Pub. L. No. 920 (1951) as amended. It was repealed in its entirety and replaced by Title VI of the Stafford Act in 1994 by the National Defense Authorization Act for Fiscal Year 1995, 103 Pub. L. No. 337 (1994).

51 The Public Health and Welfare, Administration of subchapter, 42 U.S.C. § 5195b (2011), Administration of subchapter. This title shall be carried out by the administrator of FEMA.

52 House of Representatives, Committee on Armed Services, Special Subcommittee on Civil Defense, Subcommittee Hearings on H.R. 9798, to Authorize a Federal Civil Defense Program (Washington, DC: U.S. Government Printing Office, 1950), 7753.

53 The term "emergency preparedness" means all those activities and measures designed or undertaken to prepare for or minimize the effects of a hazard upon the civilian population, to deal with the immediate emergency conditions that would be created by the hazard, and to effectuate emergency repairs to, or the emergency restoration of, vital utilities and facilities destroyed or damaged by the hazard. Such term includes the following: (A) measures to be undertaken in preparation for anticipated hazards (including the establishment of appropriate organizations, operational plans, and supporting agreements, the recruitment and training of personnel, the conduct of research, the procurement and stockpiling of necessary materials and supplies, the provision of suitable warning systems, the construction or preparation of shelters, shelter areas, and control centers, and, when appropriate, the non-military evacuation of the civilian population); (B) measures to be undertaken during a hazard (including the enforcement of passive defense regulations prescribed by duly established military or civil authorities, the evacuation of personnel to shelter areas, the control of traffic and panic, and the control and use of lighting and civil communications); (C) measures to be undertaken following a hazard (including activities for firefighting, rescue, emergency medical, health and sanitation services, monitoring for specific dangers of special weapons, unexploded bomb reconnaissance, essential debris clearance, emergency welfare measures, and immediately essential emergency repair or restoration of damaged vital facilities). See The Public Health and Welfare, Definitions, 42 U.S.C. §5195a (2011).

54 See endnote 16.

55 Exec. Order No. 11051, September 27, 1962, Prescribing Responsibilities of the Office of Emergency Planning in the Executive Office of the President, 27 F.R. 9683 (1962).

56 Exec. Order No. 11725, June 27, 1973, Transfer of Certain Functions of the Office of Emergency Preparedness, 38 F.R. 17175 (1973).

57 At the end of the executive order, it states that EO 11051 is revoked. However, at least two memoranda made public by a former FEMA attorney, William Cumming, agree that the authorities of EO 11051 were handed to FEMA and EO 12148 continues to cite Reorganization Plan No. 1 of 1958 as an authority, and which was also the basis for EO 11051. It also appears that FEMA continued to carry out the executive order after its creation as evidenced by its draft legislation prepared in 1983 and appearing in footnote 37. In the author's opinion, EO 11051 is very likely a current authority for FEMA, now delegated from DHS through DHS Delegation 9001.1.

58 E.O. 11051, Section 302.

59 Ibid., Section 303.

60 Briefing On The Defense Production Act of 1950, Briefing Before The Subcommittee On Economic Stabilization Of The Committee On Banking, Finance and Urban Affairs, House Of Representatives, 98th Congress, March 2, 1983, Serial No. 9810.

61 50 U.S.C. §3801 et seq.

62 Domestic Security, National Emergency Management, 6 U.S.C. §§313–314 (2006).

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