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Lieutenant Colonel R. Curtis
McNeil, USAF (Ret.)

AFJAGS Podcast: Episode 20

Defense Support to Civil Authorities & Domestic Operations with Retired Lieutenant Colonel R. Curtis McNeil – Part 2

HOST: MAJOR RICK HANRAHAN, USAF

GUEST: LIEUTENANT COLONEL R. CURTIS MCNEIL, USAF (RET.)

Part two on defense support to civil authorities and domestic operations with retired Lieutenant Colonel R. Curtis McNeil. In this episode we explore the innovative legal solutions forged by Lt Col McNeil and his team through Hurricane Dorian. He offers a vivid personal account of living through Hurricane Michael, —and his leadership lesson takeaways.

MAJOR RICK HANRAHAN:

Welcome to the second part of a two-part interview where we discuss defense support to civil authorities and domestic operations with retired Lieutenant Colonel R. Curtis McNeil. If you didn't hear part one, please do.

In this part two, we continue the interview and explore the innovative legal solutions forged by Lieutenant Colonel McNeil and his team through Hurricane Dorian. And then he offers a vivid personal account of living through Hurricane Michael in the Florida Panhandle as a victim, and some of his leadership lesson takeaways. Here are a few clips from this part two of the interview.

[upbeat intro music]

SHOW EXCERPT, LIEUTENANT COLONEL (RET.) R. CURTIS MCNEIL:

And we had the first extraterritorial use of Civil Air Patrol assets for foreign disaster relief for Hurricane Dorian. One of the neighbors' kids got sick, we still didn't have a way in and out of the neighborhood. So we all got out there with our pruning saws, chainsaws, trucks, pry bars, whatever, and cut our way through a one car width road so that we could get that neighbor's car out to where we knew there was potentially an open road, so they could get to medical care for their kid.

ANNOUNCER:

Welcome to The Air Force Judge Advocate General's Reporter Podcast, where we interview leaders, innovators, and influencers on the law, leadership, and best practices of the day, and now to your host from The Air Force Judge Advocate General's School.

MAJ HANRAHAN:

So, speaking of Civil Air Patrol, you had a very interesting innovative solution, or you had a very interesting experience that you had to deal with, with Hurricane Dorian that happened in the Caribbean. Could you speak to that a little bit?

LT COL MCNEIL:

So yeah, [Hurricane Dorian](#) was interesting in a number of ways. First off, Hurricane Dorian was initially anticipated to be a DSCA response, Defense Support to Civil Authorities. DSCA is something we do in the United States and its territories. So everyone, we were pre-positioning and planning for a DSCA event. Looked like it was gonna be in Florida, maybe South Carolina.

So, everything was built and planned for that. And we did a couple of things in anticipation, one of which was moving some Civil Air Patrol capabilities closer to Florida to be ready to support Florida. And we also got approval, which is something that was fairly unique. We got approval to use small UASs [[unmanned aircraft system](#)]. Civil Air Patrol has some non-commercial UASs and some commercial UASs with special waivers that they're allowed to fly in support of DoD missions, in support of these disaster response efforts. And so we were able to get all of that approved in anticipation of a DSCA mission.

And then Dorian stalled. And it just stayed there. And it sat over The Bahamas for a couple of days. Now, having lived through a category five hurricane that went through in one day, and having seen the devastation from that, you take that and put it over a period of a couple of days. And The Bahamas was getting just

beaten to pieces. And we were looking at how can we help The Bahamas?

Well, that's not DSCA, that's foreign disaster relief. That's a different set of laws, a different set of rules, it requires a request from the host government to the State Department, a request from the State Department Office of Disaster Assistance to DoD through the Joint Staff before we ever get off the ground. But it looked like we were going there, because it was substantial disaster and The Bahamas were getting just beaten and they weren't gonna have the capability or the capacity to do a lot for themselves following this multi-day category five hurricane.

So one of the capabilities we have with the [Civil Air Patrol](#) is that imagery, light air lifts. Some of those things that were gonna be useful in The Bahamas. But the Civil Air Patrol is restricted to the U.S. and its territories unless you get special approval. And that approval authority used to be at the Secretary of the Air Force level. And in the summer of 2018, the Secretary of the Air Force and the folks at Air Force, A3, actually decided to rewrite the Civil Air Patrol regulation and delegate that authority down to approve those missions to the 1st Air Force, and 13th Air Force commanders who are also the commanders who have responsibility for approving Air Force assigned missions for the Civil Air Patrol to fly as an Air Force auxiliary.

So we were able to leverage that new delegation in the foreign disaster relief environment. We did have to write an exchange of notes with the governance of The Bahamas to give the Civil Air Patrol folks recognition and status. We don't have a SOFA, Status of Forces Agreement, with The Bahamas. So we had to do an agreement so that DoD forces could enter into The Bahamas and be helpful.

Civil Air Patrol acting as an auxiliary, the Air Force was covered under that exchange of notes. And that's one of the requirements before we can execute that delegation

is to have some agreement with the host nation as to the status of the Civil Air Patrol volunteers. Again, these are volunteers, these are guys off the street, women off the street, people who have out of the goodness of their heart desire to do this. So we wanna give them some level of protection so that if something goes wrong, they don't end up with personal liability for some damage that's done in the process.

So we were able to work with U.S. Northern Command and the State Department to include language that could cover the Civil Air Patrol so they could be part of that exchange of notes. And then we were able to exercise that new delegation and our commander could approve extraterritorial use of Civil Air Patrol capabilities. And so we got commander approval of extraterritorial use.

We had a review of the legal parameters. It's not the same as a PUM [Proper Use Memorandum] and DILR [Domestic Imagery Legal Review] because it's being done in a different environment. The PUMs and DILRs were all written for domestic events, so we had to write a new legal review for this foreign application. Exercise that authority, and then under the foreign disaster relief authorities, get a MTM, which is a Mission Tasking Memo from the Office of Foreign Disaster Assistance at the State Department through the Joint Staff to us that said, "Could you please do this?"

So we got all of that lined up, and we had the first extraterritorial use of Civil Air Patrol assets for foreign disaster relief for Hurricane Dorian. So it was a pretty exciting legal environment because we were doing it for the first time, and whenever you're doing something for the first time, you get a lot of opportunities to excel, as I like to say.

It was interesting too, because there were folks up and down the chain of command who were not aware of the new delegation. We had fortunately been working with it for about six months, and had already received some clarification—some of the language wasn't exactly clear.

And so we had worked in our office with Air Force, A3 and SAF-GC to make sure we had a good understanding of what the delegation meant, what the left and right boundaries were.

So when we started to execute, we did get some phone calls, "What are you doing? You can't use them extra territorially. What are you thinking?"

And the response was, we've read the new memo. Here's what, we've talked to Air Force, A3, we've talked to the Secretary of the Air Force General Counsel. This is all good, this has all been approved.

And it was interesting because it was, there were folks who were surprised 'cause they hadn't seen the delegation yet. It wasn't something that had been broadly announced or widely disseminated. And so, and a lot of that is this is not, it's not something we do every day. It was a unique event, a unique opportunity, and the ability to use these delegations that were in the memos and in the new Air Force instruction, and be able to rapidly respond to the needs of the people of The Bahamas, following the government of The Bahamas asking, the U.S. State Department asking. There was this whole process that had to happen.

And we were all in DSCA mode. Also, we had to put the clutch in, shift gears and you're now foreign disaster relief mode. And there's not a foreign disaster relief EXORD like there is a DSCA EXORD. So it was back to the statutes, back to the DoD directives, back to some other legal authorities. And so now we're using a totally different set of legal authorities to do a mission that looks very similar to one we're used to doing a different way.

And having the lawyers providing that framework, and providing the leadership with that—here's your left and right boundaries, here's what we're doing that looks a lot like something you're used to doing and here's why we're doing it a little differently. And here's how to get, again, from point A to point B. You're still trying to get to the same end result, but we're gonna walk you down a

slightly different path in order to comply with both U.S. law and international law.

Because there's a fundamental rule of international law. If you take armed forces into a foreign country without their permission, that's called an invasion. It's an act of war. So it's really important to get that request from the foreign government **before** you enter into their territory.

MAJ HANRAHAN:

And during this process which was completely new, you're innovating here, you had an issue that popped up about some software that Civil Air Patrol was using, that you spotted, I believe.

LT COL MCNEIL:

So, Civil Air Patrol, when we were using their small UASs, small unmanned aerial systems, they have both non-commercial off-the-shelf assets and then they have some that are commercial off-the-shelf. And during this same period, it had come to light that the user agreement for the software on these commercial off-the-shelf assets allows the manufacturer to utilize whatever you happen to upload onto your system.

So for example, if you take your small UAV that you bought at the local hobby stop shop and you take it out and you're taking pictures of your children in the backyard, the manufacturer reserves the right to utilize those pictures and distribute those pictures however they see fit. And that's all in the agreement, the license agreement that everybody of course reads word-for-word.

So the small UASs that we have with Civil Air Patrol, that when they're used for disaster response, we're taking pictures of bridges, dams, infrastructure projects. Some of those are actually sensitive assets. Some of them, power plants, not only are they things we care about making sure are functional in order to preserve our people. But if you're an adversary, those are also things you might want to destroy in order to make life difficult for us in a combat environment.

So at the same time you're taking a picture of something to help, you're also sending that picture to the manufacturer, who has reserved the right to use it however they see fit. Which may or may not include sending it to our global adversaries or others who we might not really want to have that picture. We also use those Civil Air Patrol capabilities for our counter small UAS training. They actually have those assets partially so that they can fly them onto installations and the installations can practice countering those capabilities.

Sending the images of our installations and perhaps their vulnerabilities to a company, who may or may not share them with our adversaries, is also a bit problematic. So we have special waivers for those aircraft and a special software for those aircraft so that they can perform that mission and not provide adversaries with intelligence that we'd prefer not to give them.

MAJ HANRAHAN:

Well, at the end of the day, I think it's fair to say, good catch sir. [both laughing].

So moving into the last component of the interview, I wanted to talk about your personal experience with Hurricane Michael. I know that you live in the Panhandle near Tyndall Air Force Base and moving and talking here for a while now about the law and all the different things you're doing with your team and all these kinds of things and experiences you had.

And then you had the unique opportunity, for lack of a better term, to actually live through this as a victim yourself. Fascinating story, sir. Maybe you could just speak a little bit about that to our listeners and speak to about how that experience has shaped your perspective on this area of the law.

LT COL MCNEIL:

So after 13 years, roughly, of being on various teams that supported disaster response for others, be it floods, fires, hurricanes. And naturally if you're working 18 hour days, trained in a CAT, in a closed environment with, it's

uncomfortable. And you have a tendency to gripe and complain a little bit. I might've complained some.

Living through Michael and being on the other end of that response. And we call Michael the forced renovation of our house. We got to get new roof, new ceilings, new walls, new floors, new furniture, new fences, a new shed, repairs to the boat, repairs to the truck. We got to do it all. And that experience and the being without power, without water, without the ability to leave my neighborhood because the trees had all fallen down and blocked every way in and out of the neighborhood for a number of days.

I don't complain anymore about long hours in the CAT. I am happy to be there as long as I can be to help somebody who is in that situation. 'Cause frequently they're in much worse situations than we were. I had a generator, it wasn't working, so I had to clean the spark plug with one of my wife's emery boards. I had to buy her a new emery board later [laughing], in order to get it running. But once I got the generator running, we had power, some, but you couldn't do it too much 'cause you were preserving what little gasoline you had. We did go and get some gas cans full of gas before the hurricane.

But again, it was a category two or three, when it was off the coast and the night before. And we were in a non mandatory evacuation area. So they were telling us, stay off the roads and leave them available for people who need to evacuate. The following morning when it made landfall as a category five, the night before we're talking about hors d'oeuvres and snacks and cocktails for the hurricane party. That morning, we're wondering just how stupid we were to not leave the night before or two days before.

But that experience, when you get through the end of it, we got hit by the top of the hurricane and then the side of the hurricane. So we started with winds coming out of the East and going to the West, which basically blew the shed, the fences and everything from the backyard,

through the boat, out into the front yard. And then it stopped for a minute.

So I went out and was taking pieces of the shed off of my truck so that my truck wouldn't get beat to death. Didn't work. But anyway, I'm out there trying to clear stuff and all of a sudden the winds start coming from North to South.

And so everything that had blown from the back of my house and all my neighbor's houses into the front yard was now going down to the end of the culs-de-sac to my other neighbor's house. So he got everything from about seven houses. All of our sheds, all of our contents of our sheds, a cast iron clawfoot tub appeared in his front yard. We're still not sure where that came from. My Sear's Craftsman lawnmower with a Briggs & Stratton five horsepower engine went somewhere, we don't know where, nobody's found it yet. But all of those things are suddenly flying. And then the shingles storm started. And the shingles just started ripping off of everybody's houses and flying in every direction.

At that point, I determined discretion being the better part of valor. I did not wanna be outside anymore. Went inside, closed the door, locked it behind me, looked at my wife and said, "Yeah, whatever's out there, not worth dying for, we're done." And we went back to the laundry room. That's the one interior room with lots of pipes and no windows of our house, and sat in there for a little while until it started raining inside the house.

The laundry room is also where the main intake is for our air conditioner. And when the shingles are gone and it starts raining, the water just comes through the roof and in your ceilings. And then it starts looking for penetrations in the ceilings to come through, places like air conditioning intakes, light fixtures, ceiling fans.

So we're in the laundry room and now it's raining in the laundry room, this is no longer a comfortable place to be. So we started getting buckets and tubs and everything else and trying to put them under the places where

water's coming through, in the hopes of preserving the wood floors.

I gave up on the carpets. I gave up on the mattresses and that kind of thing. But I figured if I could keep most of the water off the wood floor, I might save the wood floors, which I did. We actually saved the wood floors and the tile floors. The carpets were a goner.

So it's raining inside the house and then that stops. And you come out, look around and the entire neighborhood, none of the trees are standing. We were literally in a culs-de-sac in the woods. Not a tree is standing. One house has a partial roof, everybody else's roof is gone. My poor neighbor at the end of the cul-de-sac has debris through the whole front of his house. His cars are just totaled. And one of my neighbors, his air conditioning unit has rolled off into the sunset.

So the place is, it looks like a bomb's gone off. And we're all looking around, and we start looking at each other and we're like, okay, this is gonna be a long day. It turned out to be a long month. But at that point you go, oh, well, good news is we're alive. And the silver lining on all of that was my neighbors and I developed a new bond.

We'd all known each other or at least enough to say "hi" and "how are you doing", and maybe know where they work, that kind of thing. Every night for the next couple of weeks, we all got together at the end of the cul-de-sac, brought out whatever food we had and had a potluck. And just commiserated, shared food, shared time and developed a closer relationship than I think we would have had for any other reason.

And part of that was on day five, one of the neighbor's kids got sick. We still didn't have a way in and out of the neighborhood. So we all got out there with our pruning saws, chainsaws, trucks, pry bars, whatever, and cut our way through a one car width road so that we could get that neighbor's car out to where we knew there was potentially an open road, so they could get to medical care for their kid. And just as we finished and

we were all feeling good about ourselves, we looked and the neighborhood to our East was trying to cut to where we had cut a road. So we turned around and cut to them, 'cause they had somebody who needed to get to medical care.

So it became a strange environment where you're all working together, but it looked like an insurmountable task. And one of our mottoes as we got through and started trying to clean up, you looked at it and you're like, there's too much to do, I can't do this. It was overwhelming. And so, it became a one leaf, one branch, one tree at a time. Okay, I've got an hour, I can pick up that leaf, put it in the wheelbarrow. While I'm at it, I might as well pick up a branch. And while I'm there, I might as well get the saw, cut up a tree.

So you would slowly, it's like the old, how do eat an elephant, one bite at a time? Well, the lesson we learned was I can't do everything necessary to solve this problem now. So you can either throw your hands up and say, this is an insurmountable problem, or you can look at it and say, well, what can I do in this moment, in this minute, in this hour, in this day, to get one step closer to getting it fixed. And that lesson will be with me forever. That change in perspective too, from being in an operation center helping people to being at my home that has just been trashed, looking for people to help me, that's forever ingrained.

And it was the little things. We were probably two weeks into it, they'd finally cleared enough of the road that traffic could come back and forth. And one of my friends called me, who lives about 80 miles away. And so they weren't too badly damaged. And they called and said, "What do you need?"

I'm like, "Well, five gallons of gas would be nice".

And Randy says, "Well, no, no, what do you need?"

I said, "Well, I'm trying to cut all the trees out of my backyard."

And he goes, "Okay, I know what you need."

So Randy and DeeDee, his wife, show up at the house. They brought food for the entire neighborhood. They brought friends and chainsaws, and they came and they helped us cut the trees away from our houses. You couldn't do it all but they came and did a couple of days' worth.

And you realize how big those little things are, and how one little amount—I can't do all the trees, he couldn't do all the trees, we couldn't do all the trees, but he came in, he helped me do the most important trees. And he came in and helped me do what little we could do that day. And so it was again, back to the, well, what can we do? I've only got three hours left of sunlight. What can we do in three hours? In three hours we can do this. Well, that's one more step closer to done.

So it was a humbling experience to say the least, but it was also a great learning experience and a great opportunity to recognize what it looks like from the other end of the mission. And it makes doing the mission all that much more rewarding. When you realize a lot of times, my neighborhood was in bad shape, but then we looked around later and we still had some walls, and we could put tarps over what was left of our roofs and we could be dry.

And then you went driving, once the roads were open, and you realized some people had a slab of concrete. That was it, that was all that was left. Or you had people who had lost. One of my friends, he's a cabinet maker. And when he makes cabinets, he gets paid. Well, all of the cabinets that he had that were almost ready to be installed, were destroyed in the hurricane, as well as his production facility. So he had about two months of work to do before he would ever see another dollar in his pocket. That's very humbling.

It's amazing that he got through it, and some of us, friends, family, etc., came out and helped where we could. Putting some tarps on the roof of the building

that was still standing, that kind of thing. Running some electrical. But at the end of the day, he had to stop and restart his business essentially from scratch. And it was gonna be two months before he saw a dime out of all of that effort, and all the money he was about to spend.

So it was very humbling and it was a good learning experience. I wouldn't wish it on my worst enemy. But there's an awful lot that you get out of it, as far as the community, as far as support of your friends, as far as your ability to support your friends. And that reminder that the problem seems overwhelming. You can't solve the whole thing all at once, but figure out what you can do in this moment to solve some part of it, and that's one part that you've got solved until the next moment when you can solve another part. And it really does become that one leaf, one twig, one branch, one tree at a time.

MAJ HANRAHAN:

Sir, extremely moving account. Thank you for sharing that. That's something I think that we can all learn from and probably take some time to even process all the stuff, all the lessons from that experience that you've shared with us. So as we've move to our conclusion, sir, there are folks out there, I think, that have an interest in this area of the law that wanna get involved with that. Is there any tips you could provide to those folks that might want to either learn more about these areas of the law or get involved?

LT COL MCNEIL:

So probably, there's a couple of really good resources to learn about this area of the law, beyond reading the statutes and reading the EXORDs.

There was an after [action report](#) done on Harvey, Irma and Marie in 2017, where they gathered a lot of the unique legal issues that were presented during those three hurricanes, and they did a lessons learned out of it. And it was published, I believe it was by the Army JAG School, I don't recall who published it. But it gathers those lessons and some of those legal challenges that were faced.

Simple things like who can use the commissary. Well, the commissary is a benefit that is part of your pay, and it's appropriated funds. So it's different than who can use the BX. And so, we had to go through, okay, we're using military facilities to house FEMA, to house the inner agency and they need food. Well, we can't let them use the commissary. We can, allow them to use the DFAC if it's open, the dining facility. There are ways that you can allow non-DoD personnel to use the dining facility and pay freight, pay the cost. But it became, even little things, like who can go to the commissary, become an issue, when you start looking at hosting an inner agency group during a disaster response. So that lesson learned was really good.

The National Guard Bureau published just last year a [guide for domestic operations](#) that they use. And it's a new publication and it was based on experiences of Harvey, Irma, Marie, Dorian and a few others, so it's also a good resource.

Also be looking for those opportunities during any disaster response. My office has the SJA, me and a paralegal—and we're required to operate in support of the three-star commander and a back shop and a 24/7 CAT. That requires augmentation. As a general rule, if we're having a major disaster, we're going to go through a number of iterations of at least four augmentees. So for Harvey, Irma and Marie, that was 97 days. Most augmentees are available to you for two weeks, maybe a month. So at that point, we went through, I should know this number off the top of my head and I don't, six or eight iterations of four augmentees, hopefully staggered so they can train each other as they come in.

People who've been to the domestic operations law course, both the Air Force version and the Army version, as well as the Homeland Defense/Homeland Security course. There's also an ACC course that they do, that's Homeland Defense/Homeland Security, where they go to Hurlburt and then come and visit us and it's a road show, that course. There's a number of courses you can take to give you that background information, that basic

understanding of the mission. Reading those lessons learned publications, reading the [Army DOMOPS handbook](#). That's a pretty good resource. The Air Force instruction on DSCA is another resource.

As you either take courses or do that reading, you get yourself to a level of preparation. There's some good papers out there on DSCA as well. Colonel Diana Johnson wrote one in about 2008, I believe it was, that was a good intro to DSCA at that time. But as you read the papers and read the resources and get that knowledge, then look for those opportunities and let your staff judge advocate and your MAJCOM know that you're interested in those opportunities so that when they come, and we're seeking out folks to come and augment us, we know where you are, and we know who you are. Call our office and tell us, after you've coordinated with your staff judge advocate, that you're interested in being an augmentee for a major disaster, or for an event, or for an exercise, because we also have a couple of exercises every year where we bring in augmentees and train them.

So we have a number of people who've been through an exercise with us, or been in a disaster with us, who have at least figured out how our computer systems work, how the CAT works. Also, a basic knowledge of Air Force structure is important, and DoD structure, because we're operating in a joint and inner agency environment. And if you speak DHS and you speak FEMA, it's nice to be a translator.

We had, during Harvey, a miscommunication that was occurring between leadership. And it was nice because the deputy general counsel out at FEMA was a friend of mine. And it was actually just between Harvey and Irma, and Irma looked like it was coming up to the Panhandle. So, I had taken half a day off on a Sunday to go move my boat out of the water, so I wasn't one of those boats that was in the port blocking the access for anybody.

So I'm trying to move my boat and my phone rang, and I recognize the phone number, so I shut down the boat and took the call. And he called me because his boss

was concerned about something my boss had said, and there was this whole misunderstanding going on. And because he picked up the phone and made the phone call, and I could explain that my boss wasn't questioning his boss's authority, but trying to figure out how to replicate it. And it turned what was a miscommunication that was causing some consternation into a clear communication that was causing support to one another. Those relationships, those phone calls became very important in the process. So as you're doing this in your learning, having that experience and being open to those opportunities as they come is huge.

We also have, for the chemical, biological, radiological and nuclear response enterprise for DoD, the Air Force is responsible for providing JAGs and paralegals to that team. As part of that, those JAGs and paralegals are usually captain or major, and a staff or tech sergeant. And we have a couple of those teams that we prepare in the event, we hope we never need them, we hope we never have to use them, but we do put them through a Vibrant Response exercise, which is their certification exercise. They also get a list of training. There are some online courses that they take, both from FEMA and from the DoD. Those courses, and then you give them some reading material and some homework. But you build up that knowledge, then you send them to a validation exercise.

They now have that background and experience that they can translate into other domestic response activities, even just a basic knowledge of the difference between a commander of Air Force forces or COMAFFOR, and a joint forces air component commander, or JFACC.

Frequently, the COMAFFOR and JFACC are the same person. That's not uncommon, because your JFACC is the person with the predominance of air resources, and the ability to command and control them. And frequently your COMAFFOR is also the senior Air Force officer, responsible for the administrative support to all of those forces. One's worried about flying the airplanes, the other one's worried about beds, beans, bullets, fuel,

all of those things. Understanding those roles, 'cause sometimes they're not the same person. Sometimes the Navy is the COMAFFOR, from an aircraft carrier out on the water, and yet, not COMAFFOR, sorry, the JFACC, and you've still got an Air Force commander who's the COMAFFOR, who's supposed to be supporting all that area. So there's times where they don't coincide.

Knowing those roles and knowing the joint roles and knowing what an Army brigade is, what an Army high-water vehicle is, learning that joint force operational element, learning the capabilities that bring to bear, there's an entire team of people called EPLOs, emergency preparedness liaison officers, who essentially go to disaster response events.

And when the civil authority says, "Do you have anything that could do X?"

These guys say, "Oh, the Navy has this capability that will help you with that. Would you like to request that, maybe capability?"—shaking their head up and down and smiling.

And the civil authority says, "Yes, yes, I would like to request that Navy capability."

And we usually have what we call pre-scripted mission assignments that describe that capability and what it is and how much it costs and say, "So what you'd like to do is fill out this form." So a lot of times it's knowing what you have available that might meet a need, and helping your civilian counterparts to understand that capability.

Or knowing when you don't have a capability or when they have a capability. It's amazing the number of people who don't recognize what capabilities customs and border protection have to support disasters, because they have a bunch of airplanes and imagery platforms and trucks and everything else. So, a lot of times it's a matter of getting yourself prepared, understanding the concepts, both DoD wide and also disaster specific, and then raising your hand when the opportunity arises.

MAJ HANRAHAN:

Sir, any final thoughts for our listeners today on leadership and or innovation from a DSCA or DOMOPS perspective?

LT COL MCNEIL:

In an environment where you're not in charge, which is what DSCA is, it is critically important to understand the people you're working with and the agencies you're working with, and get to know those people. Those relationships are what bear fruit and what—they're the grease that makes the gears run. When things get out of control or when the mission isn't going as anticipated, or when people are not quite getting where they wanna go, the ability to pick up the phone and talk to somebody and say, "Hey, Greg, how's it going? Here's what's going on." As opposed to, "I'm sorry, I'm looking for the office of..." Those relationships sometimes are critical to smoothing what would otherwise be a negative event?

The other thing is, no matter how big the problem is, no matter how overwhelming it seems, you don't have to solve the whole problem all at once. Figure out what part you can solve, what you can do in this moment, and do what you can do in this moment.

I had a commander who used to say, "I won't walk past a piece of trash. I will stop and pick up a piece of trash." And you think about that and you're like, wow, that's a waste of a three-star's time. And the reality was that was something he could do in that moment to solve a problem. It also sets an example.

But sometimes the problem that just seems overwhelming, and when it does, stop and look at what can I do right now, right here, to solve some portion of it and to make some progress towards a solution, and live in that moment?

MAJ HANRAHAN:

Well sir, thank you so much for your time and insights today. I know that I've learned a tremendous amount on these areas of the law, and I'm sure our listeners will

too. So sir, thank you for spending some time here in studio with us today. Again, we are very appreciative, and thank you again, sir.

LT COL MCNEIL:

Thank you for having me. I hope this is at least helpful or useful to somebody.

TAKEAWAYS

MAJ HANRAHAN:

That concludes the interview with retired Lieutenant Colonel R. Curtis McNeil.

My top three takeaways include, **number one, Defense Support to Civil Authorities or DSCA, and DOMOPS are different legal landscapes than a deployed environment.** As Lieutenant Colonel McNeil stated, we have a generation of leaders accustomed to operating in deployed environments where we, as the DoD, more or less have much greater liberty to control and even exploit the environment to achieve the mission.

However, that is not the case with DSCA and DOMOPS within our own borders. Lieutenant Colonel McNeil mentioned three big differences, including one, we are not at war, rather, we are in a supporting role. We're here to help the American people, and we often have to remind our leaders about that who are used to being in charge. The states and FEMA are generally in charge, and our mission is one of support.

Two, we're in the United States territory, working with numerous other agencies. For example, airspace is used primarily for commercial enterprise and regulated by the FAA. We're there in support of the States and other agencies, such as the Department of Homeland Security, FEMA, Health and Human Services, the U.S. Marshall, Coast Guard, and others. We also often employ the use of the Civil Air Patrol, our Air Force auxiliary rapid response capability, which is an all volunteer force.

And the third main difference he mentioned was that the people we're dealing with are generally U.S. citizens with

constitutional rights. And those rights include different governing rules, such as the Stafford Act, Economy Act, Posse Comitatus Act, execution orders, and the like.

So, when dealing with DSCA and DOMOPS, the first question usually begins with "who's in charge," and number two, "what do they need from us?" And the lawyer's job is how to achieve the objective without violating the law, or as Lieutenant Colonel McNeil states, mapping the minefield.

My second main takeaway is that necessity is the mother of invention. This ancient adage is often attributed to Plato. When a need becomes imperative without an apparent solution, innovation is often required.

In our interview, Lieutenant Colonel McNeil showcased a number of times, this occurred through his career. For example, when Hurricane Dorian hit The Bahamas, they expected it to be a DSCA event, i.e, a stateside issue with landfall in Florida. They worked to get approval to use small UASs or unmanned aerial systems in anticipation of the DSCA mission.

Then Dorian, a category five hurricane stalled and pummeled The Bahamas. They immediately had to switch gears and ask, "How do we help The Bahamas?" The issue then became a foreign disaster relief situation that required a wholly different legal analysis. As the U.S. doesn't have a SOFA, or a status of force agreement with The Bahamas, they worked through an exchange of notes with The Bahamas, called upon the Civil Air Patrol and ensured that those Civil Air Patrol volunteers were legally protected. They also worked with the State Department through the Joint Staff and created the first extraterritorial use of civil authorities with the Civil Air Patrol in Hurricane Dorian. They were able to utilize a newer delegation memo to make this happen and comply with U.S. and international law.

And my third and final takeaway is that you can get involved with DSCA and DOMOPS. It all starts by getting educated, then getting involved.

From an education standpoint, you can read the governing statutes and execution orders. Then consider reading the after action report on hurricanes Harvey, Irma, and Marie in 2017, where they gathered the unique lessons learned and legal challenges. There are also plenty of other papers and resources available online. And obviously now, resources related to COVID-19.

Last, if you wanna get more hands-on experience, consider letting your SJA or supervisor know, that you're interested in becoming an augmentee for a disaster exercise. Then ensure to brush up on basic knowledge of Air Force and DoD structure. Begin to learn to speak some of the other agencies, quote unquote "lingo," such as with FEMA, and learn about the capabilities of different assets from some of the different agencies and military branches.

As a final thought, when you face an overwhelming challenge or obstacle, consider what Lieutenant Colonel McNeil said about his experience in being a victim of Hurricane Michael. The hurricane literally destroyed his house and personal belongings, they had no power, limited supplies, and were landlocked for days on end in his neighborhood. Despair had clearly set in. But through the despair, he came to realize a very powerful lesson. That he could do only one thing at a time, and he couldn't do it all by himself.

He worked as a team with his neighbors or everyone chipped in, and they overcame the challenge of rebuilding their lives, one leaf, one branch, one tree at a time. And through the adversity, he built a deep and lasting bond with his neighbors that would have otherwise likely not occurred.

So when you face an overwhelming challenge, take a deep breath, assess the situation, prioritize, be a team player, and then focus on that one thing. And eventually your team will get there, and hopefully everyone will be better for it.

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GLOSSARY

- **BX:** base exchange
- **CAT:** Contingency Action Team
- **COMAFFOR:** commander, Air Force forces
- **DFAC:** dining facility
- **DOMOPS:** Domestic Operations
- **DSCA:** Defense Support to Civil Authorities
- **DILR:** Domestic Imagery Legal Review
- **EPLO:** emergency preparedness liaison officer
- **EXORD:** execute order
- **FEMA:** Federal Emergency Management Agency
- **JAG:** judge advocate general
- **JFACC:** joint forces air component commander
- **PUM:** Proper Use Memorandum
- **SJA:** staff judge advocate
- **SOFA:** Status of Forces Agreement
- **UAS:** unmanned aircraft system