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# Do We Really Need A Czar?

## *Maybe It's Time to Revisit the Stafford Act*

The recent appointment by Pres. Obama of a “Ebola Czar” raises a number of questions. Some of them are, of course, political, such as whether or not this is an example of elite panic related to the upcoming elections. Others question whether or not this is an overreaction to what is in reality three related and controlled cases. Cynics also ask the question of why, with our experience with SARS and H1 N1, we still lack a national strategy for infectious diseases.

For those of us in emergency management, this recent appointment continues a disturbing trend: the tendency of our government to step outside established mechanisms of crisis response to appoint an often unqualified senior official to coordinate Federal agencies responding to the crisis. To me, this indicates a mistrust in both our response mechanisms and the agencies that implement them.

### **What is a Czar?**

Is important to note that there is no official job position in the US government labeled “Czar”. This is largely a media construct. Nor is it a new one; the first Czar was appointed

by Pres. Franklin Roosevelt in 1941 to oversee prices during World War II.

At the last count, there are something like 38 positions in the Obama administration referred to as czars including an Asian carp Czar. In most cases, these appointments amount to little more than designating a specific agency or department as the lead for a particular problem and the role of the Czar is the coordination of policy. It is when the role of the Czar moves from policy to action that things get complicated.

### **What happened to the Federal Coordinating Officer?**

My first reaction on hearing that we now had an Ebola Czar was surprise. I thought we already had one: the Surgeon General of the United States. The reason we are given for needing a Czar is that this crisis goes beyond a health emergency and there is a need to coordinate the activities of multiple federal agencies. Which begs the question, “So why not appoint a Federal Coordinating Officer?” The answer, of course, is that there is little trust in the FCO system as a result of the evolution of the position over time.

Ironically, the FCO position originated with a Czar, although that term was not in use at the time. During the Great Flood of 1927, Pres. Calvin Coolidge appointed then-Secretary of Commerce Herbert Hoover to coordinate the activities of the various agencies responding to the flood. Hoover's success during the disaster catapulted him into the White House the following year.

This idea of the President sending a direct representative to the scene of a disaster was codified into law in the Disaster Relief Act in 1969 and, later, in the Stafford Act. Following the formation of FEMA in 1978, the FEMA director was responsible for recommending an FCO to the President. In actual practice, the FCO was always a senior FEMA official. Eventually, the Director of FEMA was delegated authority to appoint the FCO under Title 44 CFR §2.4.

This is significant. Formerly the FCO arrived at the disaster with a letter of appointment signed directly by the President. Now, however, he or she was viewed as a representative of the FEMA Director and not the president.

This became problematical in at least two major events in 1992. During the first, the Rodney King riots in Los Angeles in April, Pres. George HW Bush felt he needed his own representative on the ground and appointed his Secretary of Transportation, Andrew Card, to oversee the crisis. Card was tapped again in August during hurricane Andrew when FEMA operations were perceived to be too slow and bureaucratic.

The problem became even murkier when the Department of Homeland Security was created in 2003. *Homeland Security Presidential Directive 5* designated the Secretary as the principal Federal official for terrorism, disasters and emergencies. The Secretary converted this

designation as lead agency into a position under the *National Response Framework*, the Principal Federal Official, who would be his personal appointee. By not delegating this responsibility to FEMA, the Secretary further diminished the role of the FCO.

## So what's the problem?

One need look no further than the failure of the Principal Federal Official concept during Hurricane Katrina to understand why moving outside our established response mechanisms does not work. The simple fact is that while the role of the FCO is clearly defined under the Stafford act, the role of the PFO is not well defined either in law or even in the *National Response Framework*.

What this means is that the PFO and, by extension, an appointed Czar lack both the statutory and fiscal authorities needed to respond to crisis. They have no predefined organizational structure to support them and need to create ad hoc teams during a crisis.

If we consider the original FCO concept, we see that it addresses many of the concerns used as justification for the appointment of an outsider. Under the Stafford Act, the President has the authority to appoint *anyone* he or she chooses to serve as FCO; there is no requirement that it be a FEMA official. That individual is then invested with both the President's personal authority and the statutory and fiscal authorities granted under the Act. Further, that individual now has access to a system that has been developed and tested over time. The Act even provides for a single FCO for a multi-state disaster, making a PFO superfluous.

Czars didn't work too well for Imperial Russia. Maybe we should learn from their mistakes. 