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“CALLING FORTH” THE CAJUN NAVY? LEGAL FRAMEWORKS FOR AD HOC DISASTER RELIEF

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We don't wait for the help, We are the help!
-Louisiana Cajun Navy mantra

INTRODUCTION

In the aftermath of Hurricane Katrina, a remarkable thing happened: An informal band of civilian boaters—an “impromptu flotilla of ordinary men”¹—rescued thousands of people from the floodwaters of New Orleans.² That group and others like it, known collectively by the shorthand Cajun Navy,³ have heroically saved thousands more during disasters like Hurricanes Harvey, Irma, and Michael.⁴ But theirs is a somewhat complicated heroism; one imbued with an intense self-reliance that runs contrary to normal disaster-relief protocol. Aside from the sheer number of rescues performed, the defining feature of the Cajun Navy is that it proudly maintains an identity

* J.D., Duke University School of Law 2019.

¹ *After Baton Rouge flooding, a Few Tales of Cajun Navy's Heroics We Just Can't Forget*, ADVOCATE (Aug. 11, 2017), https://www.theadvocate.com/louisiana_flood_2016/article_127ca268-79f4-11e7-9388-37957d5dc0df.html.

² *How Citizens Turned Into Saviors After Katrina Struck*, CBS NEWS (Aug. 29, 2015), <https://www.cbsnews.com/news/remembering-the-cajun-navy-10-years-after-hurricane-katrina/> (crediting the Cajun Navy with rescuing more than 10,000 people from flooded homes and rooftops). See also DOUGLAS BRINKLEY, *THE GREAT DELUGE: HURRICANE KATRINA, NEW ORLEANS, AND THE MISSISSIPPI GULF COAST* 372–81 (2006).

³ There is no single Cajun Navy. An official list includes Louisiana Cajun Navy, the United Cajun Navy, America's Cajun Navy, Cajun Navy Relief, Texas Cajun Navy, and Cajun Navy Acadiana. See generally Sally Jenkins, *In Crises such as Harvey, You Want Outdoorsmen on Your Side*, WASH. POST (Aug. 29, 2017), https://www.washingtonpost.com/sports/in-crises-such-as-harvey-you-want-outdoorsmen-on-your-side/2017/08/29/e6588e8c-8cd0-11e7-8df5-c2e5cf46c1e2_story.html?utm_term=.6993328f5d03 (noting that “[t]he Cajun Navy is just a branding mechanism for volunteers that come to help their fellow citizens”).

⁴ See generally *Rescued by the Cajun Navy: How Citizens Turned Into Saviors 10 Years Ago*, CBS THIS MORNING (Aug. 29, 2015), <https://www.youtube.com/watch?v=Hbjx1T7WmJE> (hereinafter “*Rescued*”); Julia Jacobo & Joyeeta Biswas, *Armed with Boats and Air Mattresses, Cajun Navy Rescues 160 Trapped by Florence*, ABC NEWS (Sept. 14, 2018) <https://abcnews.go.com/US/cajun-navy-mobilizes-volunteers-boats-carolinas-ahead-hurricane/story?id=57799162>; Patricia Mazzei, *Cajun Navy Wants to Help Florida after Hurricane Irma*, MIAMI HERALD (Sept. 8, 2017) <https://www.miamiherald.com/news/weather/hurricane/article171968782.html>.

completely separate and apart from federal, state, or local government.⁵ In fact, many of the Cajun Navy’s most memorable search and rescue efforts have been performed without—and, sometimes, in direct disobedience of—explicit authority.⁶

Is this good? “People like to hear about the fire fighter from Wisconsin who hopped in his truck and drove to New York City to help with the Trade Towers attack” writes John Brinkerhoff.⁷ But the “overall effect of these unsolicited volunteers” may be “more trouble than they are worth.”⁸ The Cajun Navy is on the verge of becoming a fixture of American disaster relief.⁹ And so, without discounting or disrespecting their brave work, it is worth discussing the risks and difficulties that accompany ad hoc disaster-relief efforts.

The positive case for the Cajun Navy is easy to make. Even when piloting a “ragtag” fleet of unstandardized “hunting boats, airboats, pirogues, and kayaks,”¹⁰ private volunteers are ostensibly nimbler, more efficient, and savvier than their government counterparts.¹¹ Localized geographic knowledge is of the utmost importance in a flood—especially if local first responders are occupied or trapped themselves.¹² Moreover, disasters are inherently all-hands-on-deck situations, where all available resources should be put to use.¹³ In the words of one volunteer, “[y]ou never want to be wishing

⁵ See Sarah McCammon, *The Cajun Navy: Heroes Or Hindrances In Hurricanes?*, NPR (September 22, 2018), <https://www.npr.org/2018/09/22/650636356/the-cajun-navy-heroes-or-hindrances-in-hurricanes>.

⁶ See “Rescued,” *supra* note 4 (“authorities told Cajun Navy members they could not launch for safety reasons”); Melissa Locker, *What is the Cajun Navy?*, SOUTHERN LIVING, <https://www.southernliving.com/culture/what-is-cajun-navy> (“The National Guard and other authorities told them they couldn’t, but “they went in and did it” anyway . . .”).

⁷ John Brinkerhoff, *Who Will Help the Emergency Responders?*, THE HERITAGE FOUNDATION (Jun. 2, 2005), <https://www.heritage.org/homeland-security/report/who-will-help-the-emergency-responders>.

⁸ *Id.*

⁹ See, e.g., Jenkins, *supra* note 3; Markowitz, *infra* note 33; James R. Holmes, *Inspiration in the Wake of Hurricane Florence*, U.S. NAVAL INSTITUTE BLOG (Sept. 18, 2018), <https://blog.usni.org/posts/2018/09/18/inspiration-in-the-wake-of-hurricane-florence>.

¹⁰ Greg Toppo, *Cajun Navy Heads to Texas to Aid Harvey Rescues*, USA TODAY (Aug. 27, 2017), <https://www.usatoday.com/story/news/2017/08/27/cajun-navy-heads-texas-aid-rescues/606883001/>.

¹¹ See Markowitz, *infra* note 33.

¹² See Emanuella Grinberg, Meridith Edwards & Scott McLean, *Hurricane Michael Affected Them, Too, But These Firefighters Still Have a Job to Do*, CNN (Oct. 15, 2018), <https://www.cnn.com/2018/10/14/us/first-responders-panama-city-michael/index.html>.

¹³ FED. EMERGENCY MGMT. AGENCY, U.S. DEP’T OF HOMELAND SEC., *A WHOLE COMMUNITY APPROACH TO EMERGENCY MANAGEMENT: PRINCIPLES, THEMES, AND PATHWAYS FOR ACTION 7* (2011) (hereinafter “Whole Community Approach”) (noting that “[e]mpowering local action is especially important in rural communities where there tends

you had 15 more boats to save 15 more lives.”¹⁴

Benjamin Wallace-Wells, among others, has asked whether the heroism of the Cajun Navy, which is “so vivid and so moving . . . obscures the most important question about them: Why are they so needed in the first place?”¹⁵ The problem of overreliance on volunteer rescuers is discussed below.¹⁶ For the time being, however, the Cajun Navy undoubtedly serves an important gap-filling function.¹⁷ The fact that ad hoc rescuers were able to save, by some estimates, ten thousand Houstonians after Hurricane Harvey¹⁸ makes the present need for such volunteers obvious. And the public response thus far has been overwhelmingly positive: For their efforts, Cajun Navy volunteers have been made grand marshals in parades,¹⁹ honored at professional sporting events,²⁰ and even mentioned in President Trump’s second State of the Union Address.²¹

But there are also signs that support for the Cajun Navy is diminishing.²² Just months after publicly honoring members of “the

to be less infrastructure . . . [and where the] social capital found in local volunteer organizations and individuals is necessary for preparing for and responding to unique rural threats”).

¹⁴ Emily Wax-Thibodeaux, *Cajun Navy Races to the Carolinas; Citizen Rescuers Pull people from Rising Waters*, WASH. POST (Sept. 14, 2018), https://www.washingtonpost.com/national/cajun-navy-races-to-the-carolinas-citizen-rescuers-pull-people-from-rising-waters/2018/09/14/46623928-b763-11e8-a2c5-3187f427e253_story.html?utm_term=.67ae46ce6c14.

¹⁵ Benjamin Wallace-Wells, *Why Does America Need a Cajun Navy?*, THE NEW YORKER (Aug. 31, 2017), <https://www.newyorker.com/news/news-desk/why-does-america-need-the-cajun-navy> (contending that overreliance on groups like the Cajun Navy perpetuates the “willful ignorance of climate change that many local and national political leaders still cling to” and puts of needed fixes to flood insurance and disaster-preparedness programs).

¹⁶ See *supra* Part I.C.

¹⁷ Even FEMA has acknowledged the Cajun Navy’s role as “second responders.” <https://www.fema.gov/news-release/2018/08/24/louisiana-cajun-navy-rescues-thousands-inspires-many-more>. See FEDERAL EMERGENCY MANAGEMENT AGENCY, TRO-NR-030, *Louisiana Cajun Navy Rescues Thousands, Inspires Many More*, (Aug. 24, 2018).

¹⁸ See *id.*

¹⁹ Kim Chatelain, *La. ’s Cajun Navy to be Part of Mandeville’s Mardi Gras*, TIMES-PICAYUNE (Jan. 16, 2018), https://www.nola.com/northshore/index.ssf/2018/01/cajun_navy_to_be_part_of_mande.html (“The Original Krewe of Orpheus has invited members of the Louisiana Cajun Navy to serve as grand marshals of their parade . . .”).

²⁰ *Dynamo to Honor Houston’s Heroes in Special Pre-Game Ceremony*, HOUSTON DYNAMO (Sept. 8 2017), <https://www.houstondynamo.com/post/2017/09/08/dynamo-honor-houston-s-heroes-special-pregame-ceremony-saturday>.

²¹ President Donald J. Trump, State of the Union Address (Jan. 30, 2018) (“We saw the volunteers of the “Cajun Navy,” racing to the rescue with their fishing boats to save people in the aftermath of a devastating hurricane.”).

²² For instance, the Louisiana Cajun Navy sent ten boats to New Bern, North Carolina

incredible Cajun Navy,”²³ President Trump surprised a Texas audience by criticizing private volunteer boaters: “These guys with these little boats . . . they want to go into the hurricane to show their wife how great they are. And then they get out there and they say ‘Oh my God! I’m dead!’”²⁴ Trump went on to praise the relative sophistication and professionalism of FEMA, the National Guard, and the United States Coast Guard, who “saved 16,000 lives” during and after Harvey.²⁵ “Next time,” he told the crowd, “when there’s a hurricane, do me a favor: don’t take your boat out. Just head out of town.”²⁶ In other words, leave disaster relief to the professionals.

At this inflection point, this paper lays out the risks associated with ad hoc search and rescue and analyzes two potential frameworks for harnessing volunteer power while minimizing those risks. The immense value Cajun Navy volunteers bring to the table is taken as a given, as it should be. Nevertheless, Part I shines a light on the drawbacks to those groups’ work. Part II then discusses two models for further improving ad hoc disaster relief—incorporating volunteers into State Defense Forces and pursuing public-private partnerships—before analyzing the relative pros and cons of each.

I. PROBLEMS WITH AD HOC SEARCH AND RESCUE

Broadly speaking, four main concerns accompany ad hoc disaster relief groups. First, rescuer safety and liability are recurrent issues, even for the most experienced boaters. Many volunteer boaters lack formal search and rescue training, and hardly any have insurance in case something goes wrong.

to conduct rescues during Hurricane Florence. But officials at the New Bern Emergency Operations Center told the volunteers that their help was not welcome. *See Pam Wright, Louisiana’s Cajun Navy Told Help Not Needed in New Bern After Trying to Lend a Hand in Hurricane-Battered Carolinas*, WEATHER.COM (Sept. 14, 2018), <https://weather.com/storms/hurricane/news/2018-09-14-hurricane-florence-louisiana-cajun-navy-lends-a-hand-carolinas/>.

²³ President Donald J. Trump, Remarks at White House Visit Honoring Houston Astros (Mar. 12, 2018) *available at* <https://www.youtube.com/watch?v=ZhnCGdMOiTQ> (honoring members of the Cajun Navy as heroes of Hurricane Harvey).

²⁴ President Donald J. Trump, Rally to Support Ted Cruz for Senate (Oct 22, 2018) *available at* https://www.youtube.com/watch?v=y1MQV_adhLQ&feature=youtu.be&t=46. President Trump’s statements should be taken as commentary on the risks associated with attempting search and rescue operations during Hurricanes—there have not been any confirmed deaths of Cajun Navy volunteers. However, the risks of ad hoc search and rescue are substantial. *See infra*, note 29, and accompanying text; *Cajun Navy Volunteer Reports Desperate People Have Started Rushing Boats and Even Shooting at Ones that Don’t Stop*, WHNT19 (Aug. 29, 2017), <https://whnt.com/2017/08/28/cajun-navy-volunteer-reports-desperate-people-have-started-rushing-boats-even-shooting-at-ones-that-dont-stop/>.

²⁵ *Id.*

²⁶ *Id.*

Second, uncoordinated volunteer efforts can disrupt unified emergency responses. Effective unified command is “indispensable” in a disaster and requires “a clear understanding of the roles and responsibilities of each participating organization.”²⁷ Third, the Cajun Navy’s growing notoriety might create a false sense of security for residents of flood-prone areas, causing them to disregard evacuation orders or lessen their own preparedness efforts. Finally, there is some evidence that the Cajun Navy encourages behavior akin to vigilantism, which should, as a general matter, be discouraged. Each of these potential problems is discussed below.

A. Danger to Rescuers

Marine search and rescue efforts carry inherent risks. First among those risks is the potential for rescuer injury. Cajun Navy boats have capsized during rescue attempts,²⁸ and at least two volunteers have reported being shot at during rescues.²⁹ More and more often, as locals are issued mandatory evacuation notices, ad hoc volunteers are ignoring warnings and traveling *into* pending disasters. Recently, for instance, a veteran squad of Cajun Navy boatmen found themselves stranded in a Panama City hotel after driving more than four hundred miles to assist during Hurricane Michael.³⁰ The strength of the storm completely immobilized the group—“It put the fear of God in me,” one volunteer said, because “[t]his was a totally different situation.”³¹

John Twigg and Irina Mosel have conducted extensive study of spontaneous volunteerism during urban disasters. They note that emergent and ad hoc volunteers “often arrive without appropriate shelter, food and water supplies, equipment or protective clothing.”³² Furthermore, in contrast

²⁷ FED. EMERGENCY MGMT. AGENCY, U.S. DEP’T OF HOMELAND SEC., INCIDENT MANAGEMENT AND SUPPORT KEYSTONE 7 (2011) (hereinafter “Incident Keystone”).

²⁸ Joe Kelly, *All Rescued after Cajun Navy Boat Capsizes in Houston Floods*, WDBO (Aug. 29, 2017), <https://www.news965.com/news/all-rescued-after-cajun-navy-boat-capsizes-houston-floods/0FLniQ07r2gfIEOTbvErLK/>.

²⁹ WGNO Web Desk, *Cajun Navy Rescuer Says Looters Shot at Them, Tried to Steal Boats*, WGNO (Aug. 28, 2017), <https://wgno.com/2017/08/28/cajun-navy-coming-up-with-new-plan-after-looters-shoot-at-boats-try-to-steal-them/>; see also BRINLEY, *supra* note 2 at 376 (describing the New Orleans Police Department’s “rules of engagement” for Cajun navy volunteers, including “Do not travel alone. Go in pairs. As far as weapons, carry what you need for protection.”)

³⁰ Kris Wartelle, *Cajun Navy President: This Hurricane Put the Fear of God in Me*, LAFAYETTE ADVERTISER (Oct. 12, 2018), <https://www.theadvertiser.com/story/news/2018/10/12/cajun-navy-president-hurricane-put-fear-god-me/1613265002/>.

³¹ *Id.*

³² John Twigg & Irina Mosel, *Emergent Groups and Spontaneous Volunteers in Urban Disaster Response*, 29 *Env’t & Urbanization* 443, 451 (2017).

to formal emergency management personnel, ad hoc volunteer groups often take a “learn by doing” approach that can lead to otherwise-avoidable danger.³³ Without proper training and support, volunteers “can in turn become . . . victims of the disaster, [and] may require the very services that they sought to provide.”³⁴ It is true that Cajun Navy volunteers are often skilled individuals with military and medical backgrounds.³⁵ Still, as the popularity of the Cajun Navy increases, we can anticipate seeing more volunteers that are ill-equipped, underprepared, and likely to endanger themselves.³⁶

In the last few years, some Cajun Navy groups have begun to standardize requirements for their volunteers. An exemplary organization is Cajun Navy Relief, which asks its volunteers to certify that they can swim, ensure that they are “experienced boater[s]” that are properly equipped, and promise to do what they can to avoid the need for “rescues of rescuers.”³⁷ In August 2018, that organization conducted its first “search and rescue games”—part of a training regimen intended to bring volunteers “up to a FEMA standard at least.”³⁸ Likewise, the Louisiana Cajun Navy specifically seeks out volunteers with specialized certifications and training.³⁹

³³ *Id.* at 451–52.

³⁴ Joshua Whittaker, Blythe McLennan & John Handmer, *A Review of Informal Volunteerism in Emergencies and Disasters: Definitions, Opportunities and Challenges*, 13 INT’L J. DISASTER RISK REDUCTION, 358, 363 (quoting S. Liath, *Averting a Disaster Within a Disaster: The Management of Spontaneous Volunteers Following the 11 September 2001 Attacks on the World Trade Center in New York*, 6 VOLUNTEER ACTION 11 (2004)).

³⁵ See Tamir Kalifa, *They Were Stranded by Florence. Then the Cajun Navy Arrived.*, N.Y. Times (Sept. 16, 2018), <https://www.nytimes.com/2018/09/16/us/cajun-navy-florence-rescue.html> (reporting on Cajun Navy volunteer Brett Neely, who is an emergency medical technician); Markowitz, *infra* note 33 (interviewing several volunteers with military experience).

³⁶ See Miriam Markowitz, “*We’ll Deal with the Consequences Later*”: *The Cajun Navy and the Vigilante Future of Disaster Relief*, GQ (Dec. 7, 2017), <https://www.gq.com/story/cajun-navy-and-the-future-of-vigilante-disaster-relief> (“For every person rescued by a volunteer, there may be another who drowns because an untrained dispatcher can’t tell the difference between a real call and a prank. The more visible the Cajun Navy became, the more people called in emergencies, sometimes with misleading information or simple noise.”)

³⁷ <https://www.cajunnavyrelief.com/boat-rescue-volunteer-role/>

³⁸ See FreeThink, *Inside the Cajun Navy: How Volunteers are Training to Rescue Hurricane Victims*, YOUTUBE (Aug. 16, 2018), https://www.youtube.com/watch?v=_0akHhoK5mE. In contrast to most Cajun Navy groups, which pride themselves on independence, Cajun Navy Relief appears to be the first to articulate a goal of “integrating civilian volunteers into the Incident Command Structure” in order to “act as a force multiplier for agencies responding to disaster.” See *Mission*, CAJUN NAVY RELIEF, <https://www.cajunnavyrelief.com/about-us-2/> (last visited Nov. 7, 2018).

³⁹ See *Fill Out a Volunteer Application Today!*, Louisiana Cajun Navy, <https://louisianacn.com/volunteer-application/> (last visited Nov. 8, 2018).

However, even the best-trained volunteers may be subject to another kind of danger: legal liability.⁴⁰ Without express authorization from or affiliation with government entities, volunteers’ legal responsibility for damage or injury they cause during the course of a rescue is at least uncertain. It is unrealistic to think that volunteers who prefer to “act first and deal with issues after”⁴¹ would be able to “go out and buy an insurance policy to do what [they] do.”⁴²

Horwitz and Mead have found “systemic differences in volunteer rates between states with and without volunteer tort immunity.”⁴³ Although tort suits against volunteers appear infrequent,⁴⁴ the impact of *perceived* liability on the decision whether or not to volunteer is significant: “one cost of tort liability is that it likely deters volunteers.”⁴⁵ Thus, any successful attempts to bring the Cajun Navy into greater cooperation with the emergency management apparatus will likely pair the burden of formal training with the enticement of insurance protection or immunity.

⁴⁰ See Whittaker et. al., *supra* note 30 at 452 (explaining that “There may be uncertainty about legal liability of volunteer responders . . . for deaths, injuries or damages suffered by volunteers, or by disaster-affected people as a result of their actions.”)

⁴¹ See Markowitz, *supra* note 32.

⁴² Mark Ballard, *Cajun Navy, Other Do-Gooders’ Rescue Efforts Would Be Regularized in Bill Going to Louisiana House*, ADVOCATE (Apr. 6, 2018), https://www.theadvocate.com/baton_rouge/news/politics/legislature/article_7041d5f4-39ba-11e8-ad22-d7335739f834.html (“Walker resident Jon Bridgers, the founder of the Cajun Navy, testified he supports the legislation because his number one concern is being sued.”). Jon Bridgers encountered a different form of legal trouble when he was arrested for contractor fraud in May 2018. See John Dupont, *Cajun Navy 2016 Founder Jon Bridgers Arrested for Alleged Contractor Fraud in East Baton Rouge Parish*, LIVINGSTON PARISH NEWS (May 17, 2018), https://www.livingstonparishnews.com/news/cajun-navy-founder-jon-bridgers-arrested-for-alleged-contractor-fraud/article_9b05ed6c-59ee-11e8-9f17-439cc58070d2.html.

⁴³ Jill R. Horwitz and Joseph Mead, *Letting Good Deeds Go Unpunished: Volunteer Immunity Laws and Tort Deterrence*, 6 J. EMPIRICAL LEGAL STUD. 585, 586 (2009).

⁴⁴ See *id.* at 592–94, 629 (“The probability of suit, either before or after the introduction of the immunity laws, appears to be quite small, with only a few reported cases against nondirector volunteers.”).

⁴⁵ See *id.* The authors highlight several state immunity statutes “emphasized the perception rather than the true risk of suit.” For example, an Alabama good Samaritan statute asserts that “[t]he willingness of volunteers to offer their services has been increasingly deterred by a perception that they put personal assets at risk in the event of tort actions seeking damages arising from their activities as volunteers.” *Id.* (quoting Ala. Code § 6-5-336(b)(1)). The federal government considered passing a similar statute to immunize Hurricane Katrina volunteers—including the Cajun Navy—from harms caused by gross negligence, though the bill failed in the Senate. Katrina Volunteer Protection Act of 2005, H.R. 3736, 109th Cong. (as passed by House, Sept. 14, 2005).

B. Disruption to Coordinated Emergency Responses

Responses to natural disasters are safer, more efficient, and more effective when relief efforts are coordinated.⁴⁶ Incident management does not have to be structured in a top-down fashion—as FEMA has acknowledged, most incidents “begin and end locally, and most are wholly managed at the local level.”⁴⁷ But it is critically important that all participants—whether governmental or private volunteer—coordinate their actions. “Success requires unity of effort, which respects the chain of command of each participating organization” while simultaneously “harnessing seamless coordination across jurisdictions in support of common objectives.”⁴⁸

For this reason, as a condition on the receipt of federal disaster-preparedness funding,⁴⁹ the Department of Homeland Security requires all state, local, and tribal governments to implement the National Incident Management System (NIMS), a framework of “shared vocabulary, systems, and processes.”⁵⁰ NIMS helps “prepare the nation for catastrophic disasters by uniting all incident personnel, from on-scene responders to individuals in Emergency Operations Centers (EOC) and senior officials.” Yet ad hoc volunteer groups like the Cajun Navy fall outside of the NIMS command structure—and, in some cases, antagonize it.

Compared to traditionally-structured volunteer groups, ad hoc disaster relief crews are rogue entities.⁵¹ For instance, contrast the Cajun Navy with another well-known disaster relief organization: the American Red Cross. The Red Cross is not a government agency. But its integration with government is significant; in 1905, the organization was granted a congressional charter.⁵² As a “federal instrumentality,” the Red Cross is

⁴⁶ See Whittaker et. al., *supra* note 30 at 451. See also

⁴⁷ See INCIDENT KEYSTONE, *supra* note 24 at 6–7.

⁴⁸ *Id.* at 7.

⁴⁹ FED. EMERGENCY MGMT. AGENCY, U.S. DEP’T OF HOMELAND SEC., NIMS IMPLEMENTATION OBJECTIVES FOR LOCAL, STATE, TRIBAL, AND TERRITORIAL JURISDICTIONS (2018) (hereinafter “NIMS Objectives”).

⁵⁰ *Id.*

⁵¹ The group National Voluntary Organizations Active in Disaster (“NVOAD” or, sometimes, “VOAD”) serves as an umbrella network for competent and established volunteer organizations working during and after disasters. NVOAD is “guided by the core principles of the 4Cs” which mimic the NIMS framework: “cooperation, communication, coordination, and collaboration.” See *Our Story*, NVOAD, <https://www.nvoad.org/about-us/> (last visited Nov. 13, 2018).

⁵² *Our Charter*, AMERICAN RED CROSS, <https://www.redcross.org/about-us/who-we-are/history/federal-charter.html> (last visited Nov. 13, 2018). Better-established Cajun Navy groups, like Cajun Navy Relief, might consider following in the American Red Cross’s footsteps and seek their own state or federal charters. The American Red Cross rose to prominence under the charismatic leadership of Clara Barton, who had won widespread

required to “maintain a system of domestic and international disaster relief” that aligns with the “National Response Framework coordinated by the Federal Emergency Management Agency (FEMA).”⁵³ Cajun Navy volunteers have no such obligations, though they strive to provide similar relief and are often active in the same relief zones.⁵⁴

Refusal to participate in a cohesive incident command structure also exacerbates disaster response “turf wars” that can stymie relief efforts. During Hurricane Florence, at least two North Carolina localities turned away most Cajun Navy volunteers without explanation.⁵⁵ That those boats that were permitted to stay “had to report directly to [the local fire] department,” however, gives some indication that emergency managers there were acting to protect their command frameworks.⁵⁶

C. False Sense of Security

Most states empower their governors to order evacuations in advance of natural disasters.⁵⁷ For a variety of reasons, evacuation orders are not always followed—some people lack viable transportation,⁵⁸ while others are too sick, old, or disabled.⁵⁹ Others, however, make a personal decision to ignore orders, despite having the necessary resources to evacuate.⁶⁰ So, while

popularity due to her dedication to carrying out the purposes of the Geneva Convention. However, many saw a federal charter as the best way to correct growing perceptions of mismanagement and instability during Barton’s tenure—concerns not entirely dissimilar from those facing Cajun Navy groups today. *See generally* AMERICAN RED CROSS, OUR FEDERAL CHARTER: HOW THE AMERICAN RED CROSS ACHIEVED ITS CURRENT ROLE 5–7, .

⁵³ *Id.*

⁵⁴ There have been some reports of friction between Cajun Navy volunteers and the American Red Cross. *See, e.g.*, Mark Darrough, *United Cajun Navy Members Claim Pender County Turned Away Volunteers, Vehicles and Supplies*, PORT CITY DAILY (October 10, 2018), <https://portcitydaily.com/local-news/2018/10/10/united-cajun-navy-members-claim-pender-county-turned-away-volunteers-vehicles-and-supplies/> (reporting that the Red Cross refused to accept medical and supply drop offs from United Cajun Navy boatmen during Hurricane Florence).

⁵⁵ *See Id.* (Pender County); Wright, *supra* note 18 (City of New Bern).

⁵⁶ *See* Darrough, *supra* note 48 (reporting that Pender County, North Carolina emergency management officials refused the help of fifty-seven Cajun Navy vessels, while permitting three boats to remain if they submitted to local command).

⁵⁷ *See* Lisa Grow Sun, *Disaster Mythology and the Law*, 96 CORNELL L. REV. 1131, 1183 (2011) (collecting seventeen examples of state laws providing for evacuation authority).

⁵⁸ *See, e.g.*, Mollyann Brodie et al., *Experiences of Hurricane Katrina Evacuees in Houston Shelters: Implications for Future Planning*, 96 AM. J. PUB. HEALTH 1402, 1404-05 (2006) (finding that, in one 2005 post-Katrina survey, more than 40% of those who did not evacuate had no way to leave).

⁵⁹ *See* Scott Shane & Eric Lipton, *Government Saw Flood Risk but Not Levee Failure*, N.Y. TIMES, Sept. 2, 2005, at A16.

⁶⁰ Some states have criminalized non-evacuation in an attempt to curb this behavior. For

it is insensitive to broadly shame those who ignore evacuation orders, there is nothing wrong with trying to limit the number of people who are entirely capable of leaving, but choose not to.

The psychology of ignoring evacuation orders can go beyond mere stubbornness.⁶¹ Fear is often a useful tool to overcome non-evacuation—for instance, writing a social security number on someone’s arm in permanent marker (so search and rescue can later identify their body).⁶² But some commonly used tactics have proven to be ineffective against the non-evacuation mindset. For instance, studies show that changing an evacuation order from “voluntary” to “mandatory” may only generate a 1-to-2 percent increase in actual evacuations.⁶³ There is also a real risk that evacuation orders and publicized rescue plans will give residents a false sense of security. Professor Meghan McPherson has been one voice urging public officials to “refrain from comparing pending storms with previous ones,” as making comparisons can lull survivors of past storms into thinking that the forthcoming storm will be manageable.⁶⁴ “I was fine the last time,” the thinking goes, “so I’ll be fine this time.”

Similarly, the persistent publicity surrounding ad hoc volunteer rescuers arguably contributes to a false sense of security. During and after Hurricane Michael, more than three thousand people posted requests for help on the United Cajun Navy’s Facebook page.⁶⁵ Many of those who posted were residents living within mandatory evacuation orders along the Florida Panhandle.⁶⁶ Not only did those individuals not evacuate, but they turned to

a thorough discussion of the effectiveness such laws, see Brandon Curtis, Comment, *Criminalizing Non-Evacuation Behavior: Unintended Consequences and Undesirable Results*, 15 B.Y.U. L. Rev. 503 (2015).

⁶¹ See Darius Johnson, *Low Country Prepares for Evacuation Ahead of Florence*, WSAV3 (Sept. 11, 2018), <https://www.wsav.com/news/local-news/lowcountry-prepares-for-evacuation-others-florence/1433029182> (quoting one non-evacuator as making the decision based on faith: “I’m just going to look up above and ask him to help me with anything and everything that I have to look forward to here”).

⁶² Brian Resnick, *Why Some People Never Evacuate During a Hurricane, According to a Psychologist*, VOX (Sept. 14, 2018), <https://www.vox.com/science-and-health/2017/8/25/16202296/hurricane-florence-2018-evacuation-psychology>.

⁶³ See Samiul Hasan, Satish Ukkusuri, Hugh Gladwin & Pamela Murray-Tuite, *Behavior Model to Understand Household-Level Hurricane Evacuation Decision Making*, 137(5) J. TRANSP. ENG. 341 (2011).

⁶⁴ Christopher Mele, *How to Get People to Evacuate? Try Fear*, N.Y. TIMES (Sept. 8, 2017), <https://www.nytimes.com/2016/10/07/us/how-to-get-people-to-evacuate-try-fear.html?smid=tw-nytimes&smtyp=cur>.

⁶⁵ Carlos R. Munoz, *Hurricane Michael: Sarasota Utility Crews and Cajun Navy Respond*, SARASOTA HERALD-TRIBUNE (Oct. 11, 2018), <https://www.heraldtribune.com/news/20181011/hurricane-michael-sarasota-utility-crews-and-cajun-navy-respond>.

⁶⁶ See generally Executive Order No. 18-277, State of Florida, Office of the Governor

the Cajun Navy—whose caravan travel to Florida was highly publicized before the storm—for assistance. Of course, we cannot know for certain whether knowledge of the presence of ad hoc volunteer rescuers influenced these residents’ decisions not to evacuate. But it stands to reason that the more residents in disaster-prone areas see anticipatory headlines like “The Cajun Navy Descends on Carolinas to Rescue You (and Your Pets),”⁶⁷ the more likely they are to expect that a volunteer will be there to rescue them, even as the state is ordering evacuation.

D. *Vigilantism*

Finally, ad hoc disaster relief can encourage behavior akin to vigilantism. True to that term’s definition,⁶⁸ many Cajun Navy volunteers undertake valiant rescues because they view the government’s disaster response framework as woefully inadequate. Some commentators argue that we should refrain from using the “vigilante” label, as it demonizes and distorts volunteers’ selfless work.⁶⁹ Still, there is a difference between the occasional act of red-tape-breaking and a culture of express disregard for authority. A few (but by no means all) members of Cajun Navy groups appear worrisomely close to believing they are above the law in the context of a natural disaster.

Take, for example, Todd Terrell, founder of the United Cajun Navy, who believes that “[i]n a time of disaster, you can break the rules and still do the right thing.”⁷⁰ The notion that certain illegal actions are justifiable in an emergency—say, speeding to get to the hospital—is generally unobjectionable. But Terrell has been explicit in his distaste for law enforcement:

The Pender [County] EOC gave us hell . . . I was told to leave

(Oct. 8, 2018).

⁶⁷ Virginia Bridges, *The Cajun Navy Descends on Carolinas to Rescue You (and Your Pets)*, DURHAM HERALD SUN, (Sept. 14, 2018), <https://www.heraldsun.com/news/local/article218345280.html>.

⁶⁸ See *Vigilante*, OXFORD ENGLISH DICTIONARY (ONLINE) (Dec. 2, 2018) (“A member of a self-appointed group of citizens who undertake law enforcement in their community without legal authority, typically because the legal agencies are thought to be inadequate.”); *Vigilante*, BLACK’S LAW DICTIONARY (10th ed. 2014) (“Someone who seeks to avenge a crime by taking the law into his or her own hands.”).

⁶⁹ See, e.g., Charlotte Allen, *Why the Liberal Media Scolded the Cajun Navy Instead of Thanking Them*, NATIONAL REVIEW (Sept. 8, 2017), <https://www.nationalreview.com/2017/09/hurricane-harvey-media-should-thank-cajun-navy/> (“We should all thank these men who risked their lives, rather than maligning them for their politics.”).

⁷⁰ Markowitz, *supra* note 32.

that Sunday or Monday after the storm . . . I said, ‘I ain’t leavin.’ You got 600 people in the shelters and they got no food. Why would you not want us to stay there? Why would you not want us to help?⁷¹

Terrell’s feelings on the insufficiency of law enforcement extend beyond floodwaters. After the recent mass shooting at the Tree of Life Synagogue in Pittsburgh,⁷² the United Cajun Navy made an offer to stand guard outside Louisiana synagogues and “watch for suspicious characters.”⁷³ The generous offer carried two uneasy implications: we are able to protect you, and the police are not.

Another Cajun Navy volunteer, Ben Husser, took matters into his own hands when a nursing home director refused to evacuate elderly residents during a flood without an order from the National Guard. Recounting the story, Husser bluntly stated that he “had to beat the hell out of the nursing home director.”⁷⁴ Husser, an Air National Guardsman himself, admits that he feels empowered to act on his own authority when working as an ad hoc rescuer. “In the military, I’m bound by a set of rules,” he says. “Here I get a lot more accomplished.”⁷⁵

The concern with these kinds of statements isn’t so much that they reflect the beliefs of a true vigilante—by all accounts, the boatmen quoted above live law-abiding lives outside the narrow context of disaster search and rescue. Rather, the worry is that other people will follow their example and ignore authority whenever they feel, in their own personal estimation, that the situation warrants doing so.

In sum, for all its benefits, ad hoc volunteer rescue is not without its costs. Untrained and unauthorized rescuers can put themselves at risk of physical harm and legal liability; rogue rescue efforts can disrupt unified emergency responses; repeated rescues can give residents living in storm-prone areas a false sense of security; and the actions of some volunteers

⁷¹ Darrough, *supra* note 48.

⁷² See generally Campbell Robertson, Christopher Mele & Sabrina Tavernise, *11 Killed in Synagogue Massacre; Suspect Charged with 29 Counts*, N.Y. Times (Oct. 27, 2018), <https://www.nytimes.com/2018/10/27/us/active-shooter-pittsburgh-synagogue-shooting.html>.

⁷³ See *United Cajun Navy Offers Protection to La. Synagogues Following Weekend Shooting*, WBRZ (Oct. 30, 2018), <http://www.wbrz.com/news/united-cajun-navy-offers-protection-to-la-synagogues-following-weekend-shooting/> (“If you could benefit from United Cajun Navy volunteers standing vigil outside of your Synagogue while you conduct services over the next few weeks or months, just know that the offer is there.”).

⁷⁴ See Markowitz, *supra* note 32.

⁷⁵ *Id.*

implicitly or explicitly promote vigilantism.⁷⁶ The question, then, is this: Can we ameliorate these downsides without squashing the interest or effectiveness of ad hoc rescuers?

II. PROPOSED SOLUTIONS

Two avenues for encouraging volunteer search and rescuers, while also mitigating related drawbacks, are explored below. First, groups like the Cajun Navy could be channeled into revived State Defense Forces (SDFs)⁷⁷—military aid units, separate from the National Guard, that operate under the sole authority of a state’s governor.⁷⁸ Twenty-two states currently have SDFs, though all remaining states have the authority to raise such forces.⁷⁹ Because the typical ad hoc rescuer has significant overlap—both in motivation and expertise—with the core SDF member, it is not farfetched to imagine a successful path for recruitment of Cajun Navy boaters into SDFs. Doing so would allow states to harness a much needed force-multiplier; one they could vet, train, and supervise, that has already demonstrated a passion for floodwater search and rescue. Of course, costs are an issue. And it is possible that Cajun Navy volunteers would buck at the idea of having to answer to a formal chain of command. Still, there is a good argument to be made for merging ad hoc volunteer groups with traditional SDFs to create a better state-led disaster-relief force.

Second, the state of Louisiana is experimenting with a somewhat gentler option: public-private volunteer partnerships.⁸⁰ Broadly speaking, the framework encourages volunteers to register with the state, undergo

⁷⁶ The Cajun Navy’s self-help sentiment has even made its way into country music. *See* JOHN SCHNEIDER, *THE CAJUN NAVY* (Maven Music 2017) (“Listen close you lawmakers, and you too, Uncle Sam: we come out here to help our own and lend some folks a hand. If you’re gonna draw some line and try to block our way, you can bet, this ain’t no threat, there’ll be hell to pay.”)

⁷⁷ SDFs are alternatively known by a number of other names, including, but not limited to State Guards, State Militias, National Guard Reserves, Home Guards, and Home Reserves. The official name is up to the individual state. *See generally* See Barry M. Stentiford, *THE AMERICAN HOME GUARD: THE STATE MILITIA IN THE TWENTIETH CENTURY* xi (College Station: Texas A&M Univ. Press, 2002); Michael J. Golden, *The Dormant Second Amendment: Exploring the Rise, Fall, and Potential Resurrection of Independent State Militias*, 21 *Wm. & Mary Bill Rts. J.* 1021, 1046–1047 (2013).

⁷⁸ 32 U.S.C. § 109(c) (2014) (“[SDFs] may not be called, ordered, or drafted into the armed forces.”).

⁷⁹ Adam Freedman, *The Militia You’ve Never Heard Of*, *CITY JOURNAL*, Spring 2016. *See also* 32 U.S.C. § 109(c) (2014) (“In addition to its National Guard, if any, a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, or the Virgin Islands may, as provided by its laws, organize and maintain defense forces.”).

⁸⁰ *See* L.A. HB 338, Act No. 448 (2018), available at <http://www.legis.la.gov/legis/ViewDocument.aspx?d=1102756>.

background checks, and promise to work closely with local officials during disasters.⁸¹ In exchange, state and parish agencies are advised to share equipment and supplies with registered volunteers.⁸² And—in what is perhaps the greatest benefit to ad hoc groups—credentialed volunteers are considered agents of the state for tort liability and immunity purposes.⁸³ This public-private framework is new, but promising.

A. Incorporation into State Defense Forces

Many states have their own defense forces, completely separate and apart from the U.S. military and answerable only to their state’s executive.⁸⁴ Traditionally, SDFs were understood to be the National Guard “Reserve,” tasked with defending armories, conducting military burials, and generally picking up slack when National Guard troops were called into active service.⁸⁵ Though relatively small in size—ranging from fifteen (Michigan) to 1500 (Puerto Rico) personnel,⁸⁶ as compared to the National Guard, which ranges from around 750 (U.S. Virgin Islands) to more than 20,000 (Texas)⁸⁷—SDFs have taken on an increasing disaster response role since September 11, 2001.⁸⁸

How do SDFs come into play during natural disasters? As discussed above, an effective response to a natural disaster can require coordination between many actors at the local, state, and, sometimes, federal level. But the mechanisms for activating relief resources at each level are somewhat complex, and for good reason: not every incident warrants federal, or even state involvement, and often the requesting government must bear (at least

⁸¹ *See id.*

⁸² *See id.*

⁸³ *See id.*

⁸⁴ Technically, a state’s Adjutant General (TAG) serves as the de facto commander of the state’s military forces, including National Guardsmen when they have not been federalized. However, TAG is ultimately subordinate to the governor. *See About Us, ADJUTANTS GENERAL ASSOCIATION OF THE UNITED STATES*, (2017), <https://www.agaus.org/about-us>.

⁸⁵ Martin Hershkowitz & Herbert O. Wardell, Jr., *A Guide for Establishing a State Defense Force with a Homeland Security Mission*, HOMELAND SECURITY, Winter 2005, at 1.

⁸⁶ *See* ROGER BROWN, WILLIAM FEDOROCHKO & J. SCHANK, RAND RESEARCH REPORT MR-557-OSD, ASSESSING THE STATE AND FEDERAL MISSIONS OF THE NATIONAL GUARD (1995) (study sponsored by the Office of the Assistant Secretary of Defense for Reserve Affairs).

⁸⁷ *See* Defense Manpower Data Center, U.S. Department of Defense, *Military and Civilian Personnel by Service/Agency by State/Country (Updated Quarterly)*

⁸⁸ Arthur N. Tulak, Robert W. Kraft & Don Silbaugh, *State Defense Forces and Homeland Security*, 33 U.S. ARMY WAR C. Q. 132, 136–40 (Winter 2003–2004).

part of) the cost of assistance. For this reason—along, of course, with proximity—FEMA’s National Response Framework positions local governments as the primary emergency response managers.⁸⁹ Mayors, city counselors, and county executives work alongside emergency managers to deploy first responders, assess damage, and coordinate the efforts of cooperative community groups, private-sector entities, and NGOs.⁹⁰

When it becomes apparent that local resources are inadequate, state governments may supplement local efforts.⁹¹ It is at this point that governors can choose to deploy state military forces, including National Guard personnel not in federal service,⁹² as well as SDFs.⁹³ In dire emergencies, governors can also request assistance from other states via the Emergency Management Assistance Compact (EMAC)⁹⁴ or, if conditions are right,⁹⁵ from the federal government⁹⁶ under the Stafford Act.⁹⁷

⁸⁹ FED. EMERGENCY MGMT. AGENCY, U.S. DEP’T OF HOMELAND SEC., NATIONAL RESPONSE FRAMEWORK 11-19 (2013) (“The responsibility for responding to natural and manmade incidents that have recognizable

geographic boundaries generally begins at the local level . . . in the county, parish, city, or town affected by an incident.”).

⁹⁰ *Id.* at 11. FEMA has also instituted a Citizen Responders program to educate and train local volunteers in disaster preparedness and basic response skills, including light search and rescue. See *Community Emergency Response Team*, READY.GOV, <https://www.ready.gov/community-emergency-response-team>. However, I have been unable to find evidence of Cajun Navy volunteers participating in CERT.

⁹¹ *Id.* at 12.

⁹² *Id.* at 13.

⁹³ *Id.* A governor’s emergency powers vary by state. Furthermore, many states participate in emergency management assistance compacts, which allow them to share resources. See However, as the focus of this section is limited to SDFs as a potential home for ad hoc volunteers, I have chosen to save discussion of these resources for another day.

⁹⁴ See Pub. L. 104-321, 110 Stat. 3877 (1996). All fifty states have adopted EMAC as part of state law and interstate agreements. Once an affected state’s governor has declared a state of emergency, she can request interstate assistance through the EMAC network. Assisting states can then mobilize and deploy their own assets, including SDFs, to aid. Once the disaster has subsided, the affected state is obliged to reimburse assisting states for their services. For more information, see <https://www.emacweb.org/index.php/learn-about-emac/how-emac-works>.

⁹⁵ See Commander Mark P. Nevitt, *Unintended Consequences: The Posse Comitatus Act in the Modern Era*, 36 CARDOZO L. REV. 119, 185 (2014). (“[O]nce the security situation degrades—as seen in Hurricane Katrina—the Posse Comitatus Act and accompanying DoD regulations would limit the U.S. military operating in a “Title 10 status” from providing direct assistance . . . delaying needed disaster relief . . .”).

⁹⁶ For a thorough discussion of the origins of the Executive Branch’s broad powers to deal with domestic emergency, see Stephen I. Vladek, Note, *Emergency Power and the Militia Acts*, 114 YALE L.J. 149 (2004).

⁹⁷ Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974, Pub. L. No. 93-288, 88 Stat. 143 (codified as amended in scattered sections of 42 U.S.C.). Like EMAC, the Stafford Act permits governors to request federal assistance, after declaring a

Physical and financial resources aside, a military presence is helpful in a post-disaster environment for the fundamental reason that, unlike volunteers and local law enforcement, military personnel cannot readily abandon duty. After Hurricane Katrina, hellish conditions led at least two hundred New Orleans police officers to leave their posts. As Edwin P. Compass III, the city’s superintendent of police, explained, desertions were understandable: “If I put you out on the street and made you get into gun battles all day with no place to urinate and no place to defecate, I don’t think you would be too happy either” Like local forces, many SDFs allow for “at will” enlistment; members can quit at any time without facing charges of desertion. In contrast, the repercussions for military desertion can be severe—any “punishment . . . as a court-martial may direct”⁹⁸—and do not evaporate in an emergency. Though prosecutions for desertion are rare, federal military personnel have a greater incentive than SDFs, local police, and volunteers to stay on the job.

In sum, within this multi-tiered structure, there is substantial overlap between the roles played by SDFs and ad hoc volunteer rescuers like the Cajun Navy. Both groups share the advantage of residing locally—they can enter into action quickly in times of need. Both ostensibly share some degree of useful expertise—many SDF members are FEMA-certified emergency responders,⁹⁹ while many Cajun Navy volunteers are lifelong boaters familiar with floods.¹⁰⁰ And, critically, both serve as auxiliary “force multipliers” when dual-service forces become diminished or occupied elsewhere.¹⁰¹

This last similarity—quite literally being around and ready to mobilize—is even more important in an age when National Guardsmen are

formal state of emergency, if state and local resources are insufficient. In her request to the President for assistance, the governor must commit to certain cost-sharing provisions—a facet of the Stafford Act which, along with severe penalties for the misuse of federal funds, can limit such requests. Discussion of the President’s sweeping powers under the Act, along with criticisms of the Act’s structure, are beyond the scope of this paper. *But see* Joshua M. Samek, Note, *The Federal Response to Hurricane Katrina: A Case for Repeal of the Posse Comitatus Act or a Case for Learning the Law?*, 61 U. MIAMI L. REV. 441 (2007); Charles Martel, *Bring It on Home: A Gulf Coast Marshall Plan Based on International Humanitarian Standards*, 32 VT. L. REV. 57 (2007).

⁹⁸ 10 U.S.C. § 885 (2012).

⁹⁹ See Tulak, Kraft & Silbaugh, *supra* note 74 at 137.

¹⁰⁰ See Ed Cullen, *The Cajun Navy: Ordinary Citizens to the Rescue*, FARMER’S ALMANAC (Oct. 11, 2018), <https://www.farmersalmanac.com/cajun-navy-33099> (describing the Cajun Navy as a having “skills honed from Louisiana’s 5,000 miles of navigable streams” and “boat-handling expertise”).

¹⁰¹ See James Carafano, Colonel Martin Hershkowitz, Jessica Zuckerman & Brigadier General Frederic Smalkin, *Why More States Should Establish State Defense Forces*, THE HERITAGE FOUNDATION (Feb. 28, 2012), <https://www.heritage.org/defense/report/why-more-states-should-establish-state-defense-forces>.

frequently called into federal service overseas.¹⁰² In the last two decades, the National Guard has supported more than 850,000 overseas deployments.¹⁰³ So long as that trend continues, the need for state-only disaster-relief forces is heightened. On this point, it is also worth noting that another kind of underutilized force, state Naval Militias, are not certain to be present when disaster strikes, either. By law, states are incentivized to keep “at least 95 percent of the members” of their Naval Militias comprised of “members of the Navy Reserve or the Marine Corps Reserve,” lest they sacrifice access to federal armaments, vessels, and supplies.¹⁰⁴ Singularly among defense forces at a governor’s disposal, SDFs are immune from interfering federal obligations and have a constant presence at home.

1. Pros and Cons of SDF Incorporation

Incorporating Cajun Navy volunteers into SDFs would alleviate several of the concerns outlined in Part I. First, the benefits to the volunteers would be substantial. As one example, to encourage enlistment in its State Guard, Texas provides job protections for those called into duty, college tuition assistance, and workers compensation for on-duty injuries—all with no minimum required term of service.¹⁰⁵ But the benefits of serving with an SDF, as opposed to in an ad hoc fashion, extend beyond the purely monetary: SDF volunteers have the opportunity to pursue formalized disaster-relief training, learning from experts on the state’s dime. And the better-trained volunteer rescuers are, the less likely they are to endanger themselves and others. Moreover, recall that a major concern shared by ad hoc volunteers everywhere is the risk of legal liability.¹⁰⁶ This is less of a worry for SDF volunteers, who are generally covered by state liability protection. Finally, lest an ad hoc volunteer be dissuaded by a hefty time commitment, it is worth

¹⁰² See Rachel Mueller, Note, *A State’s Right to Military Power: The International Legal Implications of Potential SDF Action*, 25 DUKE J. COMP. & INT’L L. 237 (2014) (explaining that SDFs are “specifically intended to step in when the National Guards of their respective states are called to federal service or are otherwise unable to maintain public peace in the face of a disaster or emergency”).

¹⁰³ NATIONAL GUARD BUREAU, U.S. DEPARTMENT OF DEFENSE, 2019 POSTURE STATEMENT (2019) *available at* <https://www.nationalguard.mil/portals/31/Documents/PostureStatements/2019-National-Guard-Bureau-Posture-Statement.pdf>. See also Hershkowitz & Wardell, *supra* note 72 at 1 (noting that today “the National Guard has many more missions than was anticipated when it was first organized”).

¹⁰⁴ See 10 U.S.C. § 7854 (2006) (setting out restrictions on the availability of federal material for Naval Militias).

¹⁰⁵ See *Texas State Guard FAQ*, TEXAS MILITARY DEPARTMENT, <https://tmd.texas.gov/texas-state-guard-faq>, (last visited Nov. 16, 2018).

¹⁰⁶ See *supra* Part I.A.

noting that the SDF participation requirement is fairly low; states typically hold SDF training one week per year, or one day per month.¹⁰⁷

Second, unlike ad hoc volunteers, SDFs operate as part of coordinated incident command structures. By working within the chain of command, volunteers would reduce the friction-inducing and attention-draining side effects of ad hoc search and rescue. As an added bonus, an expanded SDF that includes former Cajun Navy volunteers would work to reverse the air of vigilantism—rather than posturing contra to authority, volunteers would now work within it—by having a more visible and effective state rescue operation. Instead of highlighting deficiencies in a state response, we would instead see more rescues directly attributable to the state.

But the idea of incorporating ad hoc volunteers into SDFs also has its drawbacks. If ad hoc volunteerism is, as many in the Cajun Navy believe, a necessary response to burdensome government regulation, it is fair to wonder whether increasing the size of SDFs would actually improve disaster-relief efforts. Based on examples of past SDF operations,¹⁰⁸ the answer appears to be “yes”—enlarged forces can do more good in a disaster than smaller ones. Still, whether a souped-up SDF could accomplish as much as ad hoc volunteer rescuers is a question yet untested.

Nor does incorporating ad hoc volunteers into SDFs necessarily cure the “false sense of security” problem.¹⁰⁹ Once residents come to believe that they will be rescued, even in the face of a mandatory evacuation order, it likely doesn’t matter whether they rely on SDFs or the Cajun Navy.

Finally, the challenges of recruiting Cajun Navy boatmen into joining SDFs cannot be overlooked. Both Louisiana and Texas—the epicenters for ad hoc search and rescue activity—already have longstanding State Guards.¹¹⁰ Yet there is little evidence of Cajun Navy volunteers, even those with military backgrounds, joining those forces. One explanation is that a persistent stigma surrounds SDFs. As small, self-selecting forces, often comprised of retirees, SDFs are, in some circles, considered akin to a bunch of toy soldiers.¹¹¹ A more likely impediment, though, is the culture of distrust

¹⁰⁷ See Freedman, *supra* note 79.

¹⁰⁸ For an extensive list of examples of SDF’s “long history of service to their states,” see Tulak, Kraft & Silbaugh, *supra* note 74 at 141.

¹⁰⁹ See *supra* Part I.C.

¹¹⁰ See generally LA. MILITARY DEPARTMENT, <https://geauxguard.la.gov/organization/louisiana-state-military-department/>; TEXAS MILITARY DEPARTMENT, <https://tmd.texas.gov/>.

¹¹¹ See Amy Argetsinger, *Defense Force Fights for Life*, WASH. POST (Feb. 20, 1997), https://www.washingtonpost.com/archive/local/1997/02/20/defense-force-fights-for-life/888b8c56-2da9-40ed-9e4b-853e9e8322ee/?noredirect=on&utm_term=.6f5170ad2d03 (reporting that state defense force members “rankle National Guard leaders, who say the [force] creates potential liabilities—or at least embarrassment”).

of government embedded in the Cajun Navy; its “libertarian skeleton.”¹¹² Enlisting with an SDF necessarily means sacrificing a degree of autonomy that some ad hoc volunteers will never agree to relinquish. Perhaps these forces can be counteracted if volunteers are reached early enough—for example, by encouraging high school seniors to fulfill their community service requirements by serving with the SDFs, or by establishing a state equivalent of the Junior Reserve Officers’ Training Corps, as California has done.¹¹³

In short, SDFs would be a suitable home for Cajun Navy volunteers, if they can be convinced to join. The benefits to volunteers that enlist with an SDF, as opposed to proceeding ad hoc, are significant—training, indirect monetary gain, and liability coverage. The benefits to the state are perhaps even greater—a well-trained volunteer force, ever-ready and fully integrated into the state’s relief command structure. However, efforts to incorporate Cajun Navy volunteers into SDFs are likely to meet resistance. And because a heavy-handed recruitment effort could jeopardize the volunteer spirit that sustains the Cajun Navy, any attempts at incorporation must proceed delicately.

B. Public–Private Partnerships: Louisiana’s Experiment

In Louisiana, birthplace of the Cajun Navy, state officials are trying a gentler approach. In the summer of 2016, Louisiana state Senator Jonathan Perry announced that he was working on legislation to formalize the relationship between Cajun Navy volunteers and emergency management authorities.¹¹⁴ Perry was familiar with the Cajun Navy’s reputation for violating law enforcement perimeters,¹¹⁵ and he was sympathetic to both sides—volunteers just wanted to help stranded people, but officers worried that volunteers might get stranded themselves.¹¹⁶ The gist of Perry’s idea was simple: offer Cajun Navy volunteers the chance to become “credentialed” by

¹¹² See Wallace-Wells, *supra* note 12 (“There is a cyclic pattern . . . in which politics saps the state’s capacity to protect people, and so people put their trust in other institutions . . . and are more inclined to support anti-government politics.”)

¹¹³ See generally CALIFORNIA CADET CORPS, <https://cacadets.org/> (last visited Nov. 16, 2018).

¹¹⁴ See Meg Farris, *Lawmaker Wants Cajun Navy to Train, Pay Fee Before Saving Others*, USA Today (Aug. 24, 2016) <https://www.usatoday.com/story/news/nation-now/2016/08/23/cajun-navy-training-pay-fee/89232670/>.

¹¹⁵ As with most states, Louisiana has laws against crossing barricades without authorization. See *e.g.*, 32 La. Rev. Stat. § 237(A)(1) (“nor shall any person drive around or through any barricade . . . unless at the time otherwise directed by a police officer”).

¹¹⁶ *Id.*

undergoing background checks and training.¹¹⁷ Once credentialed, the volunteers would be awarded badges that would permit entry into otherwise barricaded flood zones.¹¹⁸

Though modest, the proposal met sharp resistance from the Cajun Navy. The opposition was more philosophical than practical. “How can you regulate people helping people?” wondered Dustin Cloutre, an incredulous boatman.¹¹⁹ “Just once it would be nice to see a state legislator refrain from legislating things that don’t require legislation. But it’s like a disease with these people, and Perry has an advanced case.”¹²⁰ Perry and others felt the proposal had been misconstrued: the goal was to *help* volunteers, not hinder them.¹²¹ Ed Bush, a colonel in the Louisiana National Guard, explained that “[w]hat [Perry is] trying to do is prevent overzealous people from getting stuck themselves.”¹²² But the feeling among vocal volunteers was that no good could come from government oversight—“whatever government touches in this regard, government will screw up.”¹²³ Perry’s efforts stalled.

A year and half later, the idea took on new life. The Governor’s Office of Homeland Security and Emergency Preparedness (GOHSEP) revived the bill, tactfully reframing it as a “partnership” between like-minded volunteers and state agencies.¹²⁴ “As government, we can never be as fast as you, as neighbors, as citizens,” GOHSEP director James Waskom said.¹²⁵ The proposal wasn’t red tape; it was an opt-in credentialing framework that would provide volunteers with access to equipment and insurance in exchange for their cooperation. In its new incarnation, the framework quickly won the

¹¹⁷ See Valerie Richardson, *Talk of Regulating Louisiana’s Freewheeling Cajun Navy Makes Waves*, WASH. TIMES (Aug. 25, 2016), <https://www.washingtontimes.com/news/2016/aug/25/talk-of-regulating-louisianas-freewheeling-cajun-n/>.

¹¹⁸ *Id.*

¹¹⁹ Farris, *supra* note 99 (quoting Cloutre as saying “that doesn’t make sense to me”).

¹²⁰ Mark J. Perry, *Louisiana Lawmaker Wants to Subject ‘The Cajun Navy’ Volunteer Group to Government Red Tape, Regulations, Fees*, AEI IDEAS (Aug. 23, 2016), <http://www.aei.org/publication/louisiana-lawmaker-wants-to-subject-cajun-navy-volunteer-group-to-government-red-tape-regulations-fees/>.

¹²¹ See *Private Flood Rescuers Irked by Proposal to Require Training, Certificates for ‘Cajun Navy’*, GREATER BATON ROUGE BUSINESS REPORT (Aug. 24, 2016), <https://www.businessreport.com/article/private-flood-rescuers-irked-proposal-require-training-certificates-cajun-navy>.

¹²² Richardson, *supra* note 117.

¹²³ MacAoidh, *Jonathan Perry Goes to Video Explaining His Cajun Navy Certification Idea, and, Well . . .*, HAYRIDE (Aug. 23, 2016), <https://thehayride.com/2016/08/johnathan-perry-goes-to-video-explaining-his-cajun-navy-certification-idea-and-well/>.

¹²⁴ Sam Karlin, *Louisiana Officials Want to Certify, Partner with Cajun Navy*, GREATER BATON ROUGE BUSINESS REPORT (Dec. 28, 2017), <https://www.businessreport.com/article/louisiana-officials-want-certify-partner-cajun-navy>.

¹²⁵ *Id.*

endorsement of John Bridgers, a Cajun Navy founder, who testified on its behalf: “It would be a good thing to fall under [the state’s] umbrella as far the liability part,” Bridgers said.¹²⁶

In April 2018, the scheme took legislative form as House Bill 388. Its sponsor, Representative Valarie Hodges, described the bill as giving much-needed assistance to heroic volunteers.¹²⁷ The bill passed overwhelmingly in both the state House (81-11) and Senate (26-5) and was signed by Governor John Bel Edwards as Act No. 548 on May 28, 2018.¹²⁸

1. Act No. 548’s Components

Act No. 548 has three main elements. First, the Act permits GOHSEP to register and credential volunteers.¹²⁹ Though credentialing requirements “may differ” depending on the type of volunteer work involved, the process “shall include, at a minimum” a check on the state sex offender and child predator registry and “may” include a federal or state background check.¹³⁰ Volunteers must pay for background checks out of their own pockets, but the relative benefits outweigh the costs—once credentialed, volunteers gain access to a bevy of state protections and resources. Registered volunteers will receive a GOHSEP identification card or badge, which they can use to identify themselves (and their special permissions) to law enforcement during a disaster.¹³¹

Second, the Act provides volunteers with two important benefits—a limitation on liability, and access to state equipment and supplies. During a disaster, registered volunteers “shall be treated as unpaid agents of the state or parish.”¹³² In this capacity, volunteers cannot be held liable for “any injury, death, loss, civil penalty, or damage” resulting from their relief efforts, unless caused by “gross negligence or willful and wanton misconduct.”¹³³ Furthermore, at the GOHSEP director’s discretion, volunteers may “share and receive state and parish commodities,” a potential boon for formerly ad

¹²⁶ See Ballard, *supra* note 39.

¹²⁷ Elizabeth Crisp, *Legislation Inspired by ‘Cajun Navy’ to Allow State Coordination with Disaster Volunteers Heads to Senate*, ADVOCATE (Apr. 18, 2018), https://www.theadvocate.com/baton_rouge/news/politics/legislature/article_e93d2ae4-4356-11e8-8f96-1731eb1aa35f.html.

¹²⁸ The bill’s path is detailed at <http://www.legis.la.gov/legis/BillInfo.aspx?s=18rs&b=HB388&sbi=y>.

¹²⁹ See La. 2018 HB 388, Act. No. 548.

¹³⁰ *Id.* FBI records, along with any records in the state repository, including arrests, convictions, and expungements, may also be used to screen applicants.

¹³¹ *Id.*

¹³² *Id.*

¹³³ *Id.* Note: this protection does not extend when volunteers are assisting outside of Louisiana.

hoc volunteers used to relying on good will and personal sacrifice.

Finally, the Act encourages coordination between registered volunteers and the state. However, the extent to which registered volunteers have a *duty* to cooperate remains somewhat unclear.¹³⁴ The Act says that credentialed volunteers “may be deployed” by GOHSEP or a related parish office. And “when deployed,” volunteers “[s]hall make every effort . . . to coordinate with local officials.”¹³⁵ But the Act does not detail any consequences for refusing to cooperate, other than, presumably, a loss of credentialed status and the accompanying benefits. Registered volunteers are not public employees, nor are they part of the Louisiana Guard; yet their status as “agents” of the state implies a heightened level of accountability.

As of the time of this writing, GOHSEP has not had occasion to “deploy” any volunteers registered pursuant to the act. But it is not hard to imagine the following scenario: A Cajun Navy volunteer goes through the steps to register and becomes credentialed. A hurricane hits the gulf, and she is “deployed.” Once on site, however, she has an in-the-moment disagreement with the way state authorities are conducting their disaster response. Against orders from law enforcement, she proceeds to rescue several people from an off-limits area. Whether that volunteer would face any special repercussions as someone “registered/deployed” as opposed to ad hoc is a question yet to be resolved.

2. Pros and Cons of the Louisiana Approach

Although Act No. 548 is still in its infancy, we can make some predictions about its potential to curb the issues associated with ad hoc search and rescue. One of the Act’s primary purposes is to provide volunteers with a shield against liability. To the extent the Act succeeds in enticing Cajun Navy groups to register with GOHSEP, it could go a long way towards alleviating a major concern: lawsuits. Moreover, the Act aims to make volunteers less of a liability *to themselves*. Although the Act does not explicitly provide for safety training, the access to state “commodities”—equipment, supplies, even vessels—and emphasis on cooperation could make the Cajun Navy’s work safer. The Act also invites ad hoc volunteers to be a part of—or, at least, respectful of—the state’s unified incident command

¹³⁴ We might conceive of the Louisiana approach as a sort of disaster-relief privateering. See Nicholas Parrillo, *The De-Privatization of American Warfare: How the U.S. Government Used, Regulated, and Ultimately Abandoned Privateering in the Nineteenth Century*, 19 *YALE J.L. & HUMAN.* 1, 4 (2007). Parrillo describes “the governmental monopoly on military combat” as “the most accepted and intuitive aspect of the public/private distinction in the United States today.” *Id.* Before the rise of private, ad hoc volunteerism, a similar claim could have been made about emergency response.

¹³⁵ *Id.*

structure.

As to residents’ expectations about the severity of storms and the likelihood of rescue, Act No. 548 is unlikely to alter any impressions. However, the Act aspires to combat the Cajun Navy’s culture of vigilantism by having volunteers work in tandem with state authorities. Whether a Cajun Navy volunteer who has registered under the Act will be perceived as working “with” as opposed to “as” the state may be within the eye of the beholder. But the Act itself was pitched—and widely understood—as a partnership of mutual motive and mutual respect.¹³⁶

Compared to the SDF-incorporation model, there are both pros and cons to Louisiana’s approach. For starters, Cajun Navy participation is likely to be higher under the Louisiana framework than in traditional SDFs, because the credentialing process under the Act is much less time- and effort-intensive than formal enlistment. Recall that SDF participation commitments are quite small—say one day a month, or one week a year—compared to National Guard or federal military service.¹³⁷ Still, all that’s currently required to register as a volunteer in Louisiana is willingness to submit to a background check and pay the associated fees—a comparatively low threshold to entry.¹³⁸ The Cajun Navy’s bootstrapping culture is also a factor. While Representative Perry’s initial proposal—perceived as heavy-handed government oversight—was ardently rejected, Act No. 548—nearly identical in content, but presented as a “partnership”—gained the endorsement of a Cajun Navy founder and passed easily. If this government-skeptical mindset persists, Cajun Navy volunteers are perhaps more likely to work in conjunction with the state than become formal members of its defense force.

The SDF-incorporation model maintains a clear line between state forces and ad hoc volunteers—volunteers are either under state command, or they aren’t. Under the Louisiana framework, the designations are not quite as clear. Act No. 548 creates three separate classes of rescuer—the state, registered volunteers, and unregistered volunteers. And the line between the latter two classes may blur if registered volunteers disagree with state strategy, or if a mixed crew of registered and unregistered volunteers sets out to perform search and rescue together. As such, one possible consequence of the Louisiana approach is the bifurcation of the Cajun Navy community. The SDF model does not carry the same risk of confusion.

Finally, the two frameworks differ in the degree to which they incorporate ad hoc volunteers into a chain of command. Under the Louisiana

¹³⁶ See Crisp, *supra* note 111 (quoting Act. No. 548’s sponsor as saying “Right now, they have no training and they are doing this . . . This is beneficial to give them the training they need.”).

¹³⁷ See *supra* Part II.A.

¹³⁸ See La. 2018 HB 388, Act. No. 548.

model, participation as a credentialed volunteer likely entails nothing more than a good-faith promise to work with state and local authorities.¹³⁹ In contrast, SDF members are part of a military unit, fully integrated within the state’s incident response framework. Thus, if “[s]uccess” in disaster-relief “requires unity of effort, which respects the chain of command of each participating organization,” it may be worthwhile to push for full SDF enlistment, rather than settling for a tepid partnership.¹⁴⁰

CONCLUSION

Whatever skepticism towards ad hoc volunteerism is warranted, Cajun Navy groups have rescued thousands of people and inspired many more. They have been described as “the best of America,”¹⁴¹ and rightly so. In his book *The Great Deluge*, historian Douglas Brinkley describes the origins of the Cajun Navy in near-mythic terms:

Somehow, as Cajun folk watched New Orleans flood on TV—while FEMA abandoned the stranded and then treated them as if they were human driftwood—the old ghosts of the past stirred in the hearts of southwestern Louisianans. Many of these Cajuns worked in the oil and gas exploration business, but their hearts never left their pirogues cutting through the bayous at dusk. Many had never been to the city of New Orleans. [But soon,] [e]ach Cajun Navy boat was packed to the gills with refugees¹⁴²

After a natural disaster, this kind of everyman, neighbor-helping-neighbor mindset is invaluable.¹⁴³ It will remain especially so, given that hurricanes and flooding are expected to be exacerbated by climate change in the coming decades.¹⁴⁴ The worst thing we could do would be to repress the

¹³⁹ Again, there is some ambiguity about the degree of authority GOHSEP may exercise over registered volunteers once they are “deployed” and, likewise, the reciprocal duty, if any, deployed volunteers owe to the state. See *supra* Part II.B.

¹⁴⁰ See generally INCIDENT KEYSTONE, *supra* note 41 at 7; NIMS OBJECTIVES, *supra* note 43.

¹⁴¹ See Rep. Steve Scalise (@SteveScalise), TWITTER (Sept. 14, 2018, 8:54 AM), <https://twitter.com/stevescalise/status/1040629838418194433?lang=en>.

¹⁴² Brinkley, *supra* note 2 at 373–74.

¹⁴³ FED. EMERGENCY MGMT. AGENCY, U.S. DEP’T OF HOMELAND SEC., NAT’L DISASTER RECOVERY FRAMEWORK 14 (2011).

¹⁴⁴ See Thomas R. Knuston, et al., *Dynamical Downscaling Projections of Twenty-First Century Atlantic Hurricane Activity: CMIP3 and CMIP5 Model-Based Scenarios*, 9-2013 JOURNAL OF CLIMATE 6591 (2013) (predicting an increase in the frequency of Category 4 and 5 hurricanes this century).

Samaritan’s spark.¹⁴⁵

Having weighed the pros and cons, both the invigorated SDF model and Louisiana’s partnership framework would be better than the status quo. Realistically, neither program would lead to the swift disbanding of the Cajun Navy; what is more likely is a gradual incorporation as some volunteers test the waters of greater cooperation with government. With that in mind, the best options are those capable of bringing the most volunteers under the state’s umbrella sooner, rather than later.

The challenge of effective recruitment should not be discounted. From that standpoint, Louisiana’s framework has the SDF beat. It is not arduous to become a credentialed volunteer under the scheme.¹⁴⁶ Moreover, the framework’s arm-in-arm approach—a “partnership” between like-minded volunteers and state agencies—is likely a better cultural fit, given the known libertarian proclivities of the average Cajun Navy volunteer. Rather than petitioning ad hoc volunteer rescuers to work beneath state authorities, as they would be obligated to do as members of an SDF, Louisiana simply asks credentialed volunteers for their cooperation; at most, that they promise not to *defy* authorities, even if they don’t *report* to them.¹⁴⁷

Though there is likely some overlap, the potential recruitment pools under the two models differ as well. Under Louisiana’s framework, all interested volunteers, regardless of background, are encouraged to register. In contrast, if traditional participation is any indicator, the recruitment pool for an SDF may be narrower—as Hershkowitz and Wardell explain, “[t]he traditional SDF recruitment pools are recently retired active military, reserve and [National Guard] officers and enlisted personnel.”¹⁴⁸ Former military personnel are more inclined to join an SDF “because of the sense of a comradery among volunteers, because of the comfort level obtained from being among uniformed persons once again, or because of having served the military well and received much in return.” Of course, many Cajun Navy volunteers share these motivations—“they wish to ‘repay’ [an] emotional ‘debt’ through” service during times of need.¹⁴⁹ But, as detailed above, many

¹⁴⁵ In 2015, the national volunteer rate, as calculated by the Bureau of Labor Statistics, fell to a ten year low. See Economic News Release USDL-16-0363, *Volunteering in the United States, 2015*, BUREAU OF LAB. STAT., U.S. DEP’T OF LAB. (Feb. 26, 2016), <https://www.bls.gov/news.release/volun.nr0.htm>.

¹⁴⁶ See Part II.B.

¹⁴⁷ See L.A. HB 338, *supra* note 80 (credentialed volunteers “[s]hall make every effort when deployed to coordinate with local officials”).

¹⁴⁸ See Hershkowitz & Wardell, *supra* note 72 at 9.

¹⁴⁹ See *id* at 9–10. See also *supra* note 35 and accompanying text, explaining that, as with SDF members, many Cajun Navy volunteers come from military or medical backgrounds; Deano L. McNeil, *State Defense Forces: Challenges and Opportunities of Recruiting and Retention*, MILITARY1 (July 8, 2015), <https://www.military1.com/military->

volunteers are also distrusting of governmental authority.¹⁵⁰ Thus, for the same reasons one volunteer would be likely to join an SDF, another may be dissuaded. By taking a “big tent” approach, Louisiana’s framework avoids this complication. Moreover, if Louisiana’s Act. No. 548 is successful in establishing a registry of credentialed volunteers, that list could be a starting point for targeted recruitment of Cajun Navy volunteers that are comfortable working within the state’s apparatus into a renewed SDF—a bridge.¹⁵¹

Louisiana’s framework offers another important advantage over SDFs: cost. With their relatively small size, funding for SDFs is already quite limited.¹⁵² In 2013, for instance, New York spent almost \$30 million on its National Guard forces, but less than \$40,000 on its state guard.¹⁵³ However, even these modest funds are subject to fluctuations. For example, while the Texas State Guard employs nearly fifty individuals who are “fully general-revenue funded,” it also relies on “more than 450 state employees whose salaries the state is reimbursed some portion by the federal government through a cooperative agreement.”¹⁵⁴ Accordingly, “in the face of federal budget reductions and potential structural changes to the National Guard,” funding for SDFs may be hard to come by in the future.¹⁵⁵

Until state legislatures adopt consistent support for SDFs—and pass complementary budgets—Louisiana’s public-private partnership model offers an appealing alternative. All administrative programs have some implementation costs, and, given the program’s newness, we won’t know the true cost of Louisiana’s experiment for some time. But it is apparent that credentialing volunteers will cost less than furnishing an expanded SDF: under Louisiana’s scheme, registered volunteers would, in most cases, continue to use their own watercraft and supplies, and even cover the cost of their own background checks.¹⁵⁶ Again, if the goal is to facilitate

education/article/321531014-state-defense-forces-challenges-and-opportunities-of-recruiting-and-retention/.

¹⁵⁰ See Wallace-Wells, *supra* note 12; Part II.A.1.

¹⁵¹ Hershkowitz & Wardell also find it “apparent that an ‘inner-cadre’ of senior officers and enlisted personnel is required as the kernel for creating the structure that will eventually form the SDF cadre upon which a SDF can be called into service.” This includes at least one “deputy” responsible for planning the natural disaster mitigation support function and recruiting a small number of enthusiastic personnel. See Hershkowitz & Wardell, *supra* note 72 at 5–6.

¹⁵² See Freedman, *supra* note 79 (noting that, although “SDFs are cheap to maintain, and they contribute free manpower,” a 2005 study “documented only \$973,000 of state spending on such forces nationwide”).

¹⁵³ *Id.*

¹⁵⁴ AGENCY STRATEGIC PLAN, FISCAL YEARS 2015-2019, TEXAS MILITARY DEPARTMENT 9 (2016).

¹⁵⁵ *See id.*

¹⁵⁶ *See supra* Part II.B.

incorporation of ad hoc volunteers into the state’s architecture, Louisiana’s approach avoids the funding problems looming over SDFs.

In the wake of a disaster, ad hoc volunteerism is an imperfect solution. At some point, ad hoc volunteers become dangers to themselves and others. The consensus on disaster relief is that we need greater coordination within a response framework, not less. And the more publicity the Cajun Navy receives, the more likely residents of flood-prone areas are to be lulled into a false sense of security, or embrace a self-help culture tinged with vigilantism. The two solutions proposed here are also imperfect. But like the Cajun Navy, they, too, represent “the best of America,” albeit in a different way—the use of strategy and forethought to make a good thing even better.