



IACP NATIONAL LAW ENFORCEMENT POLICY CENTER

Mutual Aid

Concepts and Issues Paper

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I. INTRODUCTION

A. Purpose of the Document

This paper is designed to accompany the *Model Policy on Mutual Aid* developed by the IACP National Law Enforcement Policy Center. The document was previously published under the title “Memorandum of Understanding: Interagency Agreement.” This paper provides essential background material and supporting documentation to provide greater understanding of the developmental philosophy and implementation requirements for the model policy. This material will be of value to law enforcement executives in their efforts to tailor the model to the requirements and circumstances of their community and their law enforcement department.

B. Background

Historically, law enforcement mutual aid agreements have been employed most often on a limited basis for the sharing of personnel and resources to establish multi-agency investigative teams and task forces.¹ Typically, the enabling agreement between jurisdictions takes the form of memorandums of understanding. Such agreements are limited in scope and purpose to address specific crime problems that cut across jurisdictional boundaries. Most familiar to police agencies are automatic mutual aid

agreements in which units from neighboring jurisdictions are automatically dispatched to incident scenes. These are interlocal agreements that are usually basic contracts or even informal agreements. The mutual aid agreements discussed in this document are more formalized than these types of agreements and are designed to provide a wide range of services and resources to afflicted jurisdictions over longer periods.

Law enforcement has long recognized that such multijurisdictional, multi-agency operations reap major benefits in combating broad-based criminal activities that cut across jurisdictional boundaries. For example, major case squads have been used successfully by contiguous jurisdictions in a variety of contexts for decades. After September 11 the Federal Bureau of Investigation (FBI) set up Joint Terrorism Task Forces in major cities nationwide to serve as the primary links for regional operations between federal, state, and local agencies. In any major crime investigation, there is a special need for intelligence, specialized personnel and equipment, and additional resources that can often be addressed more fully and efficiently through a cooperative interjurisdictional enforcement approach. Some jurisdictions have also established emergency response teams such as special weapons and tactics (SWAT) or related units that can respond to serious criminal incidents with special equipment and training that none of the independent jurisdictions could support independently. The concept is simple, but many law enforcement agencies have learned that developing an efficient and successful operating unit requires attention to numerous details of management, command and control, planning, and joint training.

¹ See, for example, the actions of the Montgomery County, Maryland, Sniper Task Force, awarded the International Association of Chiefs of Police, IACP/ChoicePoint Award for Excellence in Criminal Investigation for 2003. Also, see *Three Weeks in October: The Manhunt for the Serial Sniper*, an examination of the Washington, D.C., sniper investigation by Chief Charles Moose (Ret.) and Charles Fleming, Dutton Books, 2004.

In a similar manner, but on a larger scale, mutual aid agreements were devised to assist townships, cities, counties, and similar intrastate governmental entities to more effectively and efficiently exchange services and resources to meet specific needs that could not be provided adequately on an individual department basis. Mutual aid agreements are often more comprehensive, formalized, and far-reaching than are memorandums of understanding and are normally intended for sharing resources and services during periods of natural or manmade disasters. Sharing resources during such unusual circumstances has been found to be far more cost effective and efficient than the alternative of developing overlapping and duplicative services in each jurisdiction that may be infrequently or sparsely utilized. Resource sharing is most often called into play during major natural disasters such as floods, tornados, and hurricanes, but it has also been employed to contain civil unrest, mass demonstrations, and other events that are beyond the capabilities of individual jurisdictions to manage or control.

In light of these successful interjurisdictional enterprises, it is not surprising that the same collaborative approach has been taken in local, state, and national attempts to address the threats of international and domestic terrorism. The utility of these agreements was emphasized dramatically during and immediately following the events surrounding September 11, 2001, when well-orchestrated mutual aid agreements among regional agencies in New York and interstate agreements among other adjoining states were activated to deal with the cataclysmic events and aftermath of that day. Fire companies, law enforcement officers and other first responders, and a wide variety of assistance were brought from throughout New York State as well as from far-flung regions of the country. In New York State they were activated under regional mutual aid agreements to assist at the scene. They were also used to backfill positions of first responders in jurisdictions surrounding New York City that were vacated by those who were directly engaged at ground zero so that fire and police services could continue unabated in these surrounding jurisdictions.

Similar actions were witnessed in the Washington, D.C., metropolitan area as police, fire, emergency medical services (EMS), and related resources were brought to bear on events at the Pentagon under the Washington Metropolitan Council of Governments mutual aid agreement. None of these actions could have been undertaken as expeditiously and effectively without mutual aid agreements and protocols that were established in advance. In fact, New York State took only six days following September 11 to join the Emergency Management Assistance Compact (EMAC)—an interstate agreement that streamlines, coordinates, and manages the

assistance one governor can lend another after a natural disaster or a terrorist attack. Some two-dozen governors lent everything from administrators who helped manage the flood of donations to command-post operators who relieved New York City personnel so that they could get some sleep. “Every state in the nation came calling, ‘What can we do to help?’” recalled Dennis Michalski, an assistant director of New York’s Emergency Management Office. But orchestrating the flood of resources, personnel, and materials became an immense undertaking in itself, so the state joined EMAC immediately.²

Whether mutual aid agreements are interstate or intrastate, the utility and wisdom of engaging in them has been proven time and again. In spite of the obvious need, a large number of law enforcement and related first response agencies remain in a “go it alone” posture. There are a number of possible explanations for this seeming inertia after decades of demonstrated benefits accrued from mutual aid agreements and memorandums of understanding. In part, many rural and even suburban communities retain the notion that terrorism is primarily an urban problem associated particularly with key cities such as New York and Washington. September 11 notwithstanding, this notion flies in the face of historical precedent. The bombing of the Murrah Federal Building in Oklahoma City is only one example. As noted by President George W. Bush: “Terrorists can strike anytime, anywhere. Crop dusters, power generating plants, dams and reservoirs, crops, livestock, trains, and highways are among the resources that could be targets. Homeland security in the heartland is just as important as homeland security in America’s largest cities.”³

Indeed, the ambitions of international terrorists have included targets in rural America, presumably to demonstrate the omnipresence of the terrorists’ reach, their ability to disrupt everyday life, and their desire to inflict fear on a broad scale. Moreover, many targets of strategic value, critical to the health of the nation’s infrastructure, are located in rural America. Even targets of largely symbolic value that may be attacked in large urban areas can create a ripple effect in surrounding suburban and rural areas as victims seek refuge from the inner city and local rural resources are diverted to assist victims.

For these and other reasons, President Bush launched the initiative to assist first responders outside major metropolitan agencies in establishing mutual aid agreements or renew and refine existing agreements. Regional mutual aid is not intended to supplant or rival

² Sydney J. Freedberg, Jr., “No Disaster This Compact Can’t Handle,” *National Journal*, 6 April 2002, p. 1002.

³ “Mutual Aid Agreements: Support for First Responders outside Major Metropolitan Areas,” press release, The White House, March 27, 2002.

emergency aid provided through the Federal Emergency Management Association (FEMA), EMAC, or state emergency management agencies. These are vital resources that can be drawn upon whenever and however needed. But in a sense these are top-down or vertical service providers, whereas regional mutual aid is provided on a horizontal, contiguous county-to-county basis that is closer to the incident at hand and the resources necessary to address the emergency. Regional mutual aid agreements can also be tailored more easily to the specific needs, the likely threats, and the full range of resources that can be brought to bear quickly in times of emergency. Although the roles of FEMA, EMAC, and the coordinating efforts of state emergency management agencies do overlap to some degree with regional mutual aid agreements, in a major disaster—such as a terrorist attack—there would be plenty of work to go around.

II. ADDRESSING LAW ENFORCEMENT CONCERNS THROUGH MUTUAL AID

A. Mutual Aid As Critical Incident Planning and Response

The Emergency Management Institute (EMI) discusses mitigation as one of the four phases of emergency management. EMI defines mitigation as taking sustained actions to reduce or eliminate long-term risk to people and property from hazards and their effects. A critical incident—whether it is a chemical spill, airplane crash, mass disturbance, flood, terrorist attack, or other natural or manmade disaster—necessarily affects and involves other community agencies and services. To effectively mitigate any effects, law enforcement must work in advance planning and preparation with other local and state law enforcement and related government agencies. This preparedness process must also include cooperation with utility providers, private companies, and citizen groups—not to mention preplanning of potential disaster scenarios and the development of response plans to deal with them. Consider the following factual incident as a case in point for effective critical incident management and preplanning.

The morning of April 16, 1947, began as a bright spring day in Texas City, Texas, a thriving industrial city on the Gulf Coast. At anchor that morning was the Grand Camp, a ship loaded with ammonium nitrate fertilizer (a highly explosive substance that was the instrument of destruction in the Oklahoma City bombing). The ship was preparing to set sail when a fire broke out in the cargo hold. The captain attempted to deal with the fire by closing hatches in order to smother it. Instead, the fire grew more intense and volatile.

The local fire department was called and began to douse the fire with water—an act that also increased its volatility and combustibility. A little after 9:00 a.m., the Grand Camp exploded with such force that it shot a column of fire and smoke over 2,000 feet high. An even more violent second explosion caused the neighboring Monsanto Chemical Plant to explode in flames. From there the fires spread to the neighboring refineries and fuel depot. The immense refining complex burned out of control through the night as a multitude of emergency aid workers and equipment converged on the city from across south Texas. The following day, another ship in the harbor laden with ammonium nitrate that had been burning also exploded in what was the most violent of all the blasts. The shock waves destroyed buildings in a large area and were felt many miles away in Galveston and other distant towns. Estimates of the death toll were placed at approximately six hundred in the town of only sixteen thousand people. It took a week to bring the fires under control and a month to recover those bodies that could be found.

Many lessons were learned from the Texas City disaster, including the proper storage of combustible materials and their proximate location to one another. No one had envisioned that such a disaster was possible, and little to no planning had been done to deal with the unthinkable. But beyond the physical cause and aftereffects of the disaster, issues of logistics and command and control came to the forefront. Mobilization and command and control of emergency aid, including fire and ambulance services, emergency first aid providers, and police (and eventually the National Guard to assist in the effort and protect property and life from potential opportunists), was nearly nonexistent in the Texas City incident. For days crews converged on the scene with little or no understanding of where or how to deploy or whom to take orders from. The result was a tragic delay in bringing the incident under control and the unnecessary loss of additional lives. Although this incident took place more than fifty years ago, police and emergency service providers are still faced with the potential for many types of critical incidents and the need to prepare well in advance to deal with them effectively. The threat of terrorist acts against chemical plants and many related targets presents the possibility of an incident similar to if not far more devastating than that in Texas City.

B. Mutual Aid As Intervention and Prevention

The time for mitigation and preparedness is not after a disaster like the one in Texas has occurred, a riot has

begun, a tornado has struck, or a terrorist has struck. These incidents must be addressed in advance. Similar measures have been taken by local regulatory agencies to prevent building of homes and commercial establishments in flood-prone areas, and these measures have been an effective means of saving lives and property for many years. These and related regulations are means of responsible planning and preparedness and are actions that can eliminate—and have eliminated—the operational response concerns and the recovery issues that might have been required had there been no planning and code enforcement. In the law enforcement arena today, it is an accepted notion that effective community policing and problem-oriented policing can resolve citizen concerns before they become large-scale problems, civic disruptions, or criminal problems that require significant police response. The same can and must be said of efforts to deal with all forms of critical incidents.

In this context, mutual aid agreements may be regarded as another form of police-community partnership. Mutual aid may have been conceived primarily to respond to disasters and emergencies, but it is also well suited for preventing such occurrences. The organizational and collaborative approaches developed through mutual aid agreements bring together key decision makers who can share information on many levels that serve their individual and collective interests.

Intelligence is a good example. Through shared intelligence, local law enforcement officials can obtain a great deal of information about terrorist and other criminal activity in general and assist in identifying threats that are of common local or regional concern. Through mutual aid agreements, channels of communication are enhanced and local agencies are better positioned to familiarize their officers with the state of the terrorist threat to their locality and their region. Where individual agencies do not have the resources to establish their own internal intelligence function, one may be established on a regional basis by agencies participating in the regional agreement. Sharing officers for this purpose, which is similar to establishing multijurisdictional investigative teams or tactical squads, can be both more cost effective and more productive than individual department initiatives. In most cases, emergencies that would likely activate the regional agreement are more easily detectable in advance when multiple agencies share their insights, intelligence, threat assessments, and crime analyses.

Training received by one department in the region can also be shared with officers in partnership with other departments in the region through the train-the-trainer approach or by similar means. The costs of training by outside sources that might be unaffordable by one department can often be spread among many personnel

in several departments in a common geographic area and made both economical and available to a greater number of personnel. In efforts to meet the new demands of homeland security, it is critical that as many officers with law enforcement agencies as possible be credentialed in such topics and disciplines as incident command and unified command; response to biological, chemical, and nuclear threats; evacuations; policing mass disturbances; intelligence; and mass quarantine and isolation. Potential target identification and threat assessment is another area in which regional cooperation and partnerships serve the common good. Terrorist attacks in one jurisdiction will usually create a regional emergency and involve multiple jurisdictions. Thus, it is for the collective benefit of all participating jurisdictions in regional mutual aid to work in concert to hone threat-assessment techniques and combine threat information. Protection of one jurisdiction thus helps protect all neighboring jurisdictions. Reducing a locality's vulnerability requires, among other things, a careful analysis of the potential targets. Among these targets are utilities, including electric power stations, substations, and transmission lines; gas storage tanks and pipelines; and water tanks, water treatment plants, and reservoirs.

Mitigation and preparedness are essential terms in the emergency management field. Law enforcement can help prevent critical incidents by meeting with representatives of other disciplines to identify and resolve problems before they turn into critical incidents. Interagency communication and planning can also play an important role in mitigating a critical incident. Mutual aid agreements are not just processes and procedures for responding to disasters or emergencies once they have happened. Such agreements are an essential component of deterrence and prevention. When mutual aid agreements are used as proactive vehicles, their utility is vastly expanded, and, some would argue, is even more valuable than their response capabilities. Local police agencies that work closely together to identify regional threats, share intelligence, and work constructively with private sector entities and other governmental agencies are more likely to prevent an emergency or disaster. Focusing on prevention rather than recovery should be a large element of a mutual aid agreement, particularly when one considers the severity of threats posed by both domestic and international terrorist organizations.

C. Contemporary Support for Mutual Aid

In order to mitigate and prepare for natural or manmade emergencies, law enforcement agencies should enter into mutual aid agreements with nearby public safety agencies and should review any such agreements frequently. The wisdom of and need for mutual aid agreements, joint service agreements, and similar local

and regional compacts gained greater notice following the events of September 11. The Department of Homeland Security (DHS) and its respective offices began laying the foundation of a national system of local sharing to confront terrorist attacks, domestic threats, and disasters and further supported this initiative by providing funds to help local governments to create or improve their collective response capabilities. DHS placed a new focus on state and local mutual aid as a key component of the nation's emergency response capabilities in the face of terrorist acts and other natural or manmade emergencies. Mutual aid is a key component of NIMS, which provides the framework for emergency response. It also identifies important requirements that local governments must fulfill in order to be eligible for federal aid—an important issue for local units of government. Though not a part of funding requirements now, participation in mutual aid agreements may one day be so classified because NIMS cites such agreements as “an indispensable tool for the swift and coordinated response to disasters of all kinds.”⁴

For the first time, the federal government directly supports the establishment of local mutual aid agreements with federal resources and has embarked on a National Mutual Aid and Resource Management Initiative. As Secretary Tom Ridge noted early in his tenure as head of DHS: “The approach we will take will enable communities to build capacity so that cities and regions are similarly equipped to combat the widest possible range of terrorist attacks. . . . And by helping to meet your needs, we hope to change the old relationship—city-state-local model—into one based on mutual cooperation, collaboration, and partnership.”⁵ The emphasis on mutual aid and regional cooperation is also embedded in the funding requirements of DHS. The DHS Office of Domestic Preparedness grants program for first responders gives preference to proposals for regional initiatives. In many locales, the budget deficit is a hot topic. Mutual aid agreements are a means for jurisdictions to offset the costs of developing sufficient emergency response capabilities by coordinating their purchases of equipment and resources on a regional basis, avoiding duplication. This is an excellent means of stretching and leveraging dollars by pooling resources and sharing services, technology, office space, and personnel.

The mutual aid initiative undertaken by FEMA is designed to enhance emergency readiness and response at all levels of government through a comprehensive and integrated system that will allow jurisdictions to

augment needed resources to respond to terrorist incidents and related disasters. The system will allow emergency management personnel to identify, locate, request, order, and track outside resources quickly and effectively as well as obtain information on specific resources and their locations, costs, and support requirements—activities that mirror requirements of mutual aid at the local level.

The key concepts of the National Mutual Aid and Resource Management Initiative, although more ambitious and complex than those of most intrastate regional mutual aid agreements, are similar to components necessary in mutual aid agreements established by local governments. Key concepts are the following:

- The use of established preincident agreements (including mutual aid, EMAC, and others) by donor and requesting jurisdictions
- Protocols for documenting and inventorying disaster response resources in terms of categories, kinds, components, metrics, and typing definitions
- A deployment inventory/catalog of preidentified, credentialed, categorized, and capability-typed resources
- An automated resource management system to access and search the inventory/catalog to locate, request, order, and track resources requested by incident management personnel in need of assistance.⁶

These general points form the basis for establishing regional mutual aid agreements. These and numerous other issues—such as those related to the establishment of a written agreement, details on the agreements' component parts, implementation of the agreement, training, and related concerns—will be discussed in greater detail later in this document.

To further assist state and local governments in developing regional sharing programs, FEMA provided funding to the National Emergency Management Association in 2003 to develop a Model Intrastate Mutual Aid Agreement. The project, undertaken in partnership with national public safety organizations such as the International Association of Chiefs of Police, the National Sheriffs' Association, the International Association of Fire Chiefs, and other service providers, solicited copies of existing mutual aid legislation and agreements, enabling legislation, and other supporting documents. Responses from sixteen states formed the basis for development of a

⁴ Amy Hughes, Senior Policy Analyst, National Emergency Management Association, (untitled), *State Government News Magazine*, March 2004.

⁵ Remarks of Homeland Security Director Tom Ridge to the U.S. Conference of Mayors, Department of Homeland Security Press Release 23 January 2002, Washington, D.C.

⁶ FEMA, “National Mutual Aid and Resource Management Initiative,” *Preparedness*, http://www.fema.gov/preparedness/mutual_aid.shtm Accessed August 22, 2004

model Intrastate Mutual Aid Agreement.⁷ This document provides a good starting point for a comprehensive discussion of mutual aid and includes identification of some of the key interest areas and concerns that agencies should consider in organizing a regional mutual aid network of participants.

This documentation, combined with recently established multijurisdictional intrastate protocols from around the county, requirements of the recently adopted NIMS, and insights from best practices generated by regional and state agencies since September 11, forms the basis for the positions taken and recommendations made in this document. In all they provide a consistent, well-founded body of knowledge that police executives can feel comfortable using to establish intrastate agreements of their own.

The sections that follow address preliminary planning issues such as determining the need for mutual aid, defining the requirements, and assessing vulnerabilities and potential deployment needs, as well as preparing a written agreement, establishing an oversight and management authority, and training, planning, and executing mutual aid plans.

III. ESTABLISHING A MUTUAL AID AGREEMENT

A. Forms of Mutual Aid

Mutual aid agreements codify an understanding between two or more entities to provide support in a given context. Parties to agreements can include two, three, or more response agencies, private organizations, hospitals, public utilities, governments, and virtually any type of organization that can bring resources to bear during an emergency. Such agreements may be as expansive or as limited as the parties desire. But for purposes of this discussion, it is important to identify the levels or tiers of mutual aid, recognizing that not all mutual aid agreements fall neatly into one category. Hybrid mutual aid agreements underline the flexibility and utility of mutual aid in general.

- *Automatic Mutual Aid:* Units from neighboring jurisdictions are automatically dispatched to the scene as part of automatic aid agreements. These interlocal agreements are usually basic contracts; some may be informal accords. These types of agreements are most familiar to police departments.

- *Mutual Aid:* Mutual aid agreements are between neighboring jurisdictions and involve a formal request for

assistance. Mutual aid is activated less often than automatic aid but covers a larger geographic area.

- *Regional Mutual Aid:* Units from a regional mutual aid agreement can assist local units that have been on scene for an extended period. Regional mutual aid agreements exist between multiple jurisdictions and are often sponsored by a council of governments or similar regional body.

- *Statewide Mutual Aid:* Statewide mutual aid increases the number of on-scene units. These agreements, often coordinated by the state emergency management department, incorporate both state assets and local assets in an attempt to increase preparedness statewide. Only about a third of all states have comprehensive statewide mutual aid systems.

- *Interstate Agreements:* Out-of-state assistance through the Emergency Management Assistance Compact supports the response effort toward the end of the first day and onward into the recovery phase.

The focus of this document is on mutual aid of a regional nature between contiguous jurisdictions.

B. State Authorization

Any realistic discussion about developing a regional mutual aid alliance requires a determination of the authority of local governments to engage in such relationships. The law of the state in which the region lies must authorize regional agreements for assistance between law enforcement agencies. If the region includes agencies in more than one state, the law of all states involved must authorize the agreement and the agreement must not violate any applicable federal law.

By its constitution or state statute, virtually every state provides enabling provisions for establishing formal local intergovernmental cooperative agreements. The language of these provisions varies somewhat and must be examined closely for particular requirements, specifications, and restrictions.

For example, enabling legislation for Arizona states the following:

...if authorized by their legislative or other governing bodies, two or more public agencies by direct contract or agreement may contract for services or jointly exercise any powers common to the contracting parties and may enter into agreements with one another for joint or cooperative action or may form a separate legal entity, including a nonprofit corporation, to contract for or perform some or all of the service specified in the contract or agreement or exercise those powers jointly held by the contracting

⁷ National Emergency Management Association, *Model Intrastate Mutual Aid Legislation* (Lexington, Ky.: Author). For a complete copy of the model plan, see <http://www.emacweb.org?76>. Accessed August 22, 2004

parties.⁸

This Arizona law provides substantial flexibility to local units of government for both establishing and managing interagency agreements. As other examples, the state of Iowa adds in its legislation that “any public department of this state may enter into an agreement with one or more public or private departments for joint or cooperative action” (emphasis added) (Iowa Code 28E.4 [2002]), and Oregon makes the all-important stipulation that such agreements must be in writing: “[a] unit of local government may enter into a written agreement with any other unit or units of local government. . . .” (emphasis added) (Or. Rev. Stat. 190.010 [1999]).

C. Establishment of a Mutual Aid Committee

A wide variety of stakeholders should be involved in drafting a mutual aid agreement. The committee members should negotiate the agreement and approve it or recommend its approval on behalf of their respective organizations. Jurisdictions must determine who needs to be at the negotiating table so that the agreement will be as inclusive and responsive as possible. These include the respective heads of the law enforcement agencies involved as well as potentially the heads of other emergency response agencies, emergency management agencies, elected officials, and legal representatives.

The committee members need not compose the language of the agreement, but they should provide input on the agreement’s construction, based on their individual needs and the perspectives of their disciplines, and provide feedback on drafts constructed to meet those requirements. Legal professionals should also research and advise the committee on any existing agreements that might provide a framework for the new agreement. These checks can eliminate unnecessary and even confusing duplication and conflicts between new and old agreements.

A mutual aid committee is a sound means of bringing stakeholders together to negotiate the terms of a mutual aid agreement. Once the committee has completed its work, personnel representatives of key jurisdictions, along with heads of emergency response agencies, can remain in place to form a governing body to oversee the continued assessment and refinement of the agreement, ensure that periodic training is conducted, oversee the needs assessment for the region, and provide oversight for related

functions. The committee can be a freestanding entity or it may function as a subcomponent of other overarching committees such as a regional homeland security task force, a council of governments, or an association of response agencies.⁹

D. Funding

Traditionally, funding for the development of mutual aid agreements has been one of the principal reasons for the failure of local law enforcement agencies and jurisdictions to establish regional compacts. To assist in this area, the Department of Homeland Security secured authorization for the Urban Area Security Initiative (UASI) in 2003—a follow-on to monies first appropriated through the Nunn-Lugar-Domenici Preparedness Program. The UASI program has been described as the next evolution of federal terrorism preparedness programs. It is intended to provide resources to key urban areas with the goal of reducing vulnerabilities and enhancing prevention capabilities.

As of mid-2004, the federal government had distributed more than \$8.2 billion in grants to states and communities to bolster their resource and preparedness capabilities. About \$1.4 billion of that has been allocated through UASI awards to pay for specialized equipment and training. Because these grants are aimed for regional cooperation, boundaries between cities and neighboring jurisdictions are erased.

While suburban areas can benefit from UASI funding through mutual aid agreements, outlying areas may not have access to or even require the breadth of resources targeted by this and related federal programs. On the other hand, these areas may be vulnerable to specific types of threats that are not evident in suburban areas. Such locations may still be eligible for funding from DHS or other federal sources. The *9/11 Commission Report* states, though, that homeland security funding should be based strictly on an assessment of risk and vulnerabilities, a position that is consistent with present DHS priorities (e.g., port security and transit security; radiological and biological defense). Therefore, requests for funds by established or developing mutual regional aid governing officials should be preceded by threat assessments, the results of which should clearly identify needs and local shortcomings in resources.¹⁰ Because available funding targets a number of concerns and issue areas from one or more federal sources, interested agencies should contact their state emergency management director, state homeland security director, and/or central sources for identifying

8 Arizona Rev. Stat. 11-952(A) (2001). Arizona has been singled out as one of the leaders in regionally focused security planning. Governor Janet Napolitano released a comprehensive security agenda in April 2003 that included a call for the establishment of formal protocols to address critical incidents through multiagency coordination. As a result, Arizona was the first to develop a statewide mutual aid agreement for fire fighters. See Senator Tom Carper, “Mutual Aid,” *Blueprint Magazine*, March 23, 2004. See: http://www.ndol.org/ndol_ci.cfm?kaid=137&sub-id=900014&contentid=252473 Accessed August 15, 2004

9 See, for example, Virginia Statewide Mutual Aid Committee, <http://www.vaemergency.com/library/mutualaid/committeemembers.htm>

10 At the time of this writing, the IACP was developing a threat assessment modeling guide. Publication is slated for early 2005

available federal funding.¹¹ In addition, as noted at the end of this document, emergency service providers that had not adopted the incident command system for their department and jurisdiction by October 2004 will not be eligible for funds through DHS until this has been accomplished.

E. Participation in the Agreement

While not addressed in legislation or statutory provisions, for practical purposes, whenever possible, all local jurisdictions in a selected region should participate in the agreement. Failure to gain the participation of all agencies in the region may complicate the application of the mutual assistance agreement and compromise the plan's effectiveness.

1. Defining Boundaries. The first step is to define the jurisdictions that should be included in the agreement. In many cases states have already been divided into regions by the state's emergency management authority. Massachusetts, for example, splits the state into five emergency planning and response areas based on urban areas, the adequacy of personnel and equipment in the defined area, and size, so that response times are reasonable. Georgia follows a similar formula, basing its emergency response areas around major cities. The groups heading each region are composed of mayors and county commissions to ensure participation of all levels of government. In Arizona, boundaries are defined by grouping counties together and by establishing fusion centers for sharing intelligence across levels of government and with local Joint Terrorism Task Forces.

Mutual aid agreements may normally be entered into by police agencies in coordination with any state emergency management organizational scheme or may be overlaid on existing agreements. They may even incorporate out-of-state jurisdictions, as is the case in the National Capital Region, which brings together Maryland, Virginia, and Washington, D.C., for homeland security planning purposes. In addition, regional councils of government, regional chambers of commerce, and regional civic organizations have been used to assist first providers to coordinate emergency preparedness activities and support functions.¹² Existing collaborative relationships such as these, forged by longstanding alliances to meet community development demands, can now often be leveraged to establish or assist in mutual aid agreements to meet terrorist threats and related emergencies.

¹¹ See, for example, the Catalog of Federal Domestic Assistance, providing access to a database of all federal programs available to state and local governments (including the District of Columbia); federally recognized Indian tribal governments; territories (and possessions) of the United States; domestic public, quasi-public, and private profit and nonprofit organizations and institutions; specialized groups; and individuals, at <http://12.46.245.173/cfda/cfda.html>.

¹² For examples, see best practices listed at the end of this document.

2. Inertia and Failure to Participate. There are varied reasons why jurisdictions or departments prefer not to engage in mutual aid agreements. These are often the same reasons that such agreements sometimes fail to work properly. Lack of trust among governmental levels often undermines these types of relationships, according to a panel of public and private sector experts convened by the National Academy of Public Administration (NAPA). "Some distrust arises from competition, previous cooperative experiences, or constitutional and legal issues, but much of it comes from inexperience and uncertainty," said NAPA President C. Morgan Kinghorn.¹³ Acknowledging that lack of trust may exist and identifying its causes and possible solutions are essential to promote the inclusiveness of regional agreements as well as to help ensure their effectiveness and continuation. The cooperation of all parties is essential. Therefore, any operational, organizational, or work-culture stumbling blocks need to be addressed early on in the exploratory process of preparing such regional agreements.

This is not to say that the plan should be abandoned because some jurisdictions in the region decline to participate. It is entirely feasible to have a mutual assistance plan without the participation of all local jurisdictions. However, if some jurisdictions choose not to participate, conceptual design as well as actual drafting of the plan should take into account the complications that may arise if a nonparticipating jurisdiction is involved in a subsequent emergency and requires assistance from participating jurisdictions. For example, participating agencies should resolve how and under what circumstances requests for assistance of a nonsignatory should be honored. It is difficult to imagine an instance in which a jurisdiction in critical need of assistance would not be provided with assistance by neighboring agencies even if the requesting department had not elected to participate in the mutual aid agreement. Under such circumstances, though, responding jurisdictions, without benefit of a written mutual aid agreement, would provide services and resources at their own risk. Problems related to liability for wear and tear on, damage to, or loss of equipment; injured personnel; civil liability stemming from the actions, inactions, or omissions of responding officers; and the costs of services and resources expended by responding agencies could have negative consequences for both responding and requesting agencies. Recovery for damages in such cases would likely result in litigation that could have long-term negative effects on all jurisdictions concerned.

¹³ Comments made during a hearing of the House Government Reform Committee by NAPA President C. Morgan Kinghorn, August 2004. Reported by Diane Frank, "Collaboration Makes Good Neighbors: Economics, Homeland Security Compel States, Cities and Counties to Work Together," *Federal Computer Week*, 26 April 2004. www.fcw.com/fcw/articles/2004/0426/feat-collab-04-26-04 Accessed August 25, 2004

Finally, it is not enough that each jurisdiction agrees to participate in a mutual aid agreement. Each law enforcement executive should determine whether the commitment involves potential problem sites in participating jurisdictions that may not be easily addressed by the agreement. For example, in some instances, one or more of the departments participating in the mutual assistance agreement may have areas or facilities in their jurisdiction that may present special problems in the event of emergency. Airports, parks, federal reservations, historic sites, nuclear power plants, or other locations could present special law enforcement concerns. These concerns may include special hazards to the public or to law enforcement personnel and overlapping law enforcement authority and responsibility with other local, state, or federal agencies. The problems presented by such sites may be increased if the department responsible for the location is not a party to the mutual assistance agreement. The complications presented by such special areas of concern in the event of an emergency should be anticipated and resolved to the degree possible before the implementation of the mutual assistance agreement.

3. Initial Agreement on Key Plan Components. All jurisdictions and law enforcement executives should also be in basic agreement about the key points of a mutual aid agreement before they pursue the specifics of a contractual arrangement. These points address such issues as the responsibility to reimburse providing agencies for services, equipment, and resources on a predetermined schedule, the need to indemnify officers from providing agencies operating outside their jurisdiction, the need to reach a general agreement on common operational protocols and policies, particularly those relating to the use of force, and agreement on command and control structures. All parties involved should accept these and other basic terms of a mutual aid agreement before a binding agreement is framed. Much of this work can and should be accomplished through the mutual aid committee structure previously identified.

F. Jurisdictional Approval Process

Before any mutual assistance agreement can become valid and effective, two requirements must be met.

- The governing body of each participating jurisdiction normally must grant approval of the agreement in accordance with established procedures of the jurisdiction concerned for entering into legal agreements.
- The agreement must be signed by the official or officials authorized by the governing bodies of the jurisdictions to sign such agreements.

In some jurisdictions, the governing body may have delegated to a specific official (such as a city manager or a county executive) the authority to enter into such agreements without prior approval by the governing body. In most instances, prior approval of the city council, board of supervisors, or comparable governing body of the jurisdiction is required.

Whatever the governing authority, the proper official or officials must sign the agreement if it is to be valid. Further, if prior approval of the governing body is required, the official authorized by the governing body to enter into the agreement on behalf of the jurisdiction must sign the agreement after, not before, the governing body has given its approval.

Even though it is not necessarily required by law to make the agreement valid, it is highly desirable that the chief executives of each law enforcement department participating in the mutual assistance plan also sign the agreement. This helps to ensure that the chief executives concerned are knowledgeable of and fully aware of the agreement's details and in accord with the plan. It should be remembered as well that even though the chiefs of police, sheriffs, or public safety directors of participating jurisdictions agree to the terms and conditions of the assistance agreement, such individuals are not normally authorized on their own to enter into a binding agreement of this type with another jurisdiction. This holds true for any other agencies outside the law enforcement community that may be included in the agreement.

In addition, in some cases, regional mutual aid agreements for emergency assistance must be approved and/or coordinated by, or at least be consistent with, statewide emergency service plans managed by the state's emergency management authority or a similar authority. Depending on a state EMS authority's organization, this state requirement may include, or be limited to coordination with, other operational emergency service entities under state auspices. This issue is very important because regional emergencies, particularly those dealing with terrorists acts involving weapons of mass destruction (WMD), will invariably require the response of a broad cross-section of emergency service providers and support operations. Mutual aid agreements established by multiple contiguous law enforcement agencies may be called into play in a variety of enforcement-specific circumstances, but should the region be affected by a broader threat, coordination of all emergency responders is essential for the rapid and efficient use of manpower and related resources. In these situations, the state EMS authority, as available, as well as other state and federal enforcement and assistance agencies, will invariably be involved.

G. Need for a Written Agreement

It is essential that a mutual assistance agreement be in writing. Oral agreements are unacceptable for the following reasons:

- They may not satisfy applicable legal requirements.
- They inevitably are not sufficiently detailed to take into account all of the matters that need to be addressed in such complex agreements.
- They are very likely to result in misunderstandings between the participating agencies. This in turn may create ill will between the agencies that may compromise the effectiveness of the plan and lead to other interagency problems.
- They greatly increase the exposure of the participating departments to civil liability arising from execution of the plan.
- In order to qualify for disaster relief from FEMA, local mutual assistance programs must be in writing and appropriately authorized.

By contrast, written agreements provide:

- Form and structure, setting forth common procedures and expectations
- Awareness of potential problems and concerns such as those related to liability and insurance
- Procedures for reimbursement for the costs of all deployed resources where the parties consent to such an arrangement.

The mutual aid agreement may also take the form of a written memorandum of understanding. A sample mutual aid agreement is provided in the model policy.

H. Drafting the Agreement

Careful drafting of the assistance agreement is essential. The agreement constitutes a contract between signatory jurisdictions, and it must therefore be carefully worded and fully understood by all departments and all personnel concerned. If properly structured, the agreement gives the participating departments both the authority to engage in mutual assistance and the necessary legal protection. Improper drafting of the instrument may create significant operational and legal difficulties for the participating departments, render it impossible for the mutual assistance program to function properly, and expose the departments to both public criticism and civil liability.

In order for the plan to be valid, details of the actual agreement must comply with any and all requirements set forth in applicable laws. Therefore, all appropriate sources of legal advice should be consulted on, and participate in, the preparation of the document that sets forth the terms of the interagency agreement. To this end, departments that desire to join such an agreement should seek the advice and assistance of local prosecutors, city and county attorneys, other departmental legal advisors, and, where appropriate,

the office of the state's attorney general to ensure that the agreement complies with applicable local, state, and federal laws. In the final analysis, each participating jurisdiction's designated legal advocate should review and approve the agreement before that jurisdiction becomes a signatory to the contract.

IV. TERMS AND CONDITIONS OF THE AGREEMENT

A mutual assistance plan has two components. One is the mutual aid agreement, the other is a mutual assistance implementation or operational plan. The agreement is the formal contract between participating jurisdictions that establishes the essential terms of resource sharing and related matters. The implementation plan, which will be discussed later, provides the implementation protocols that should be followed if the mutual aid agreement needs to be activated.

An assistance agreement between law enforcement agencies must cover all essential elements of the plan. It must therefore be detailed and comprehensive. Following are among the most important, but certainly not the only factors that should be included in the agreement.

A. Essential Elements of the Plan

1. Departmental officials who are authorized to request assistance from other participating agencies should be clearly identified. In the written memorandum or similar instrument of agreement this authorization *should be stated by title or position rather than by the individual's name*. In addition, in the mutual aid assistance plan, a list of the individuals authorized to request assistance from other departments, identifying authorized requesters both by title and by name, should be prepared and circulated to all participating departments in order to minimize the possibility that a participating department will receive and respond to an unauthorized request. This list should be kept current at all times. *An employee from each subscribing department should be assigned to ensure that the authorized individual in each jurisdiction has an up-to-date version.*

In the case of officials authorized to request assistance and those authorized to respond to such requests, several alternate officials should be designated to ensure that one or more will be on duty or readily available at all times in participating departments.

2. The agreement must set forth the circumstances under which assistance may be granted. The designation of circumstances in which the plan may be activated may vary depending on the region and the needs of the agencies involved, but the conditions of assistance should be defined in as much detail as is feasible. Mutual aid

assistance should be reserved for emergency situations only as defined in the agreement. This definition may be as broad or as narrow as the participating jurisdictions desire, but, to accommodate the range of potential needs, the term “emergency” should normally cast a broad net of possibilities. One definition describes “emergency situation” as “an actual or potential condition . . . that poses an immediate threat to life or property.” This definition recognizes, as most others do, that some mutual aid requests can be anticipated. Mass demonstrations sponsored subsequent to issuance of a permit, for example, may indicate that the size and potential risks associated with the gathering require more personnel than are adequate in the subject jurisdiction. A pre-event request for mutual aid under these conditions is not uncommon.

The Commonwealth of Virginia defines the same term as “any occurrence, or threat thereof, whether natural, or caused by man, in war or in peace, which results or may result in substantial injury or harm to the population, substantial damage to or loss of property, or substantial harm to the environment.”¹⁴ This generalized approach is somewhat different from that commonly used in the past to address law enforcement problems such as the sharing of personnel and resources to deal with tactical situations and similar traditional law enforcement problems. In the context of homeland security, the use of regional mutual aid agreements may take on a far larger range of potential problems. These include responses to chemical, nuclear, or biological attacks and management of the scope of potential human and infrastructure-related crises involved in such scenarios. Under these circumstances the demands on law enforcement resources may be expanded beyond those that are traditionally accepted. As law enforcement personnel are not equipped or fully trained to deal with the broad scope of problems inherent in such circumstances, the mutual aid agreement should be careful to make the distinction between law enforcement services that can reasonably be expected and those services that should normally be provided by fire, EMS, and other emergency response agencies at the local, state, or federal levels.

3. *The agreement should specify the acceptable methods by which requests for assistance may be transmitted between departments.* Doing so will reduce response time and reduce the possibility of response to an unauthorized or improper request. Normally, such requests may be made by telephone or in writing, subject to confirmation. Departments may wish to spell out, either in the assistance agreement or in the operational plan, the methods of confirmation that should be employed. These

include the persons who may be contacted for assistance from an adjoining department and the persons or ranks that are authorized to request assistance.

Some jurisdictions—such as those in Illinois—provide that any supervisory officer may request assistance through established channels. Other agreements require the designation of specific persons within agencies who have the authority to make such requests as received from members of the department. Whatever method selected, the agreement must define the authorized representatives of participating jurisdictions who may activate the mutual assistance agreement. Should that authority be limited to select command or executive staff members, the participating agencies must ensure that such persons are available on a 24-hour, 365-day basis.

4. *The agreement should specify the forms of assistance that are to be rendered.* The forms of assistance will vary from region to region, depending on the needs, desires, and capabilities of the departments involved. As indicated in item 2 above, agencies must be realistic and specific with respect to the scope of services they can reasonably be expected to provide to requesting agencies. This issue may be addressed in a general manner in the agreement and then detailed in the operational plan. As will be discussed later, the operational plan should include an inventory of resources (personnel, equipment, materials, and facilities) within each participating department that may be available to requesting agencies in cases of emergency.

5. *The agreement should specify the extent and duration of any assistance rendered between jurisdictions.* Regardless of specific details included in this portion of the agreement, it may be desirable to include a provision that assistance will be rendered only to the extent that it will not impair the responding department’s ability to perform its mission in its own jurisdiction. The agreement should also make clear that assistance would be rendered only in accordance with the responding department’s own policies and procedures. It is suggested that where assistance is to be rendered by specialized units such as SWAT teams, bomb squads, or canine teams, the extent and duration of involvement of these special units be defined to the degree possible.

6. *It may be necessary to withdraw assistance under some circumstances.* During an emergency, it may become necessary for the responding department to withdraw part or all of the personnel, equipment, or other support being provided to the requesting department. The agreement should provide that department assistance may be withdrawn when circumstances require redeployment of assets to the providing department’s own jurisdiction. The primary responsibility of a police department is to the citizens of its jurisdiction. Under certain unusual

¹⁴ See the Commonwealth of Virginia Statewide Mutual Aid for Emergency Management’s Model Authorizing Resolution and *Statewide Mutual Aid Guidebook*, <http://www.vdem.state.va.us/library/mutualaid/StateMAid.cfm>, accessed 18 August 2004.

circumstances, emergencies may necessitate that support provided to another jurisdiction be withdrawn in whole or in part as a result of unforeseen emergencies that have developed in the lending department's own jurisdiction. Financial responsibility should include coverage of the financial obligations of the respective departments in the event that withdrawal of personnel, equipment, and related resources from the requesting jurisdiction becomes necessary.

In this context, it is also useful to include backfill provisions in a mutual aid agreement to help ensure that vacancies left in a responding department's home jurisdiction can be covered by adjoining jurisdictions without the need to recall responding personnel and equipment from the incident scene. Having backfill provisions in the agreement can help ease potential concerns over lending mutual aid to another jurisdiction and depleting local emergency response capabilities at home.

7. Command and control issues must be addressed in the mutual aid agreement. The mutual assistance agreement must be clear about who shall be in charge at the scene of any emergency and in other operations related to the emergency. This is both an operational necessity and a legal consideration, in view of the possibility that civil liability may arise from decisions made in this regard.

The Incident Command System requires that the requesting department shall have command authority. Each responding jurisdiction retains control over its own personnel under the overall command of the incident commander. The incident commander may be the individual supervisor who made the initial request—as is most often the case in dire emergencies—or it may be another individual who has subsequently been assigned or assumed command in preemptive mutual aid requests, such as those involving requests for assistance in anticipation of an unruly demonstration. Responding agencies usually use a senior ranking officer from their department as the liaison with the incident commander.

Similar concerns may arise with the use of officers in specialized interagency units such as SWAT teams. Normally, the incident commander should determine if and when a tactical team should be used. Once a decision has been reached on deployment, the tactical unit commander should assume authority for the unit's tactical actions even if the tactical team is from the lending department. The tactical commander should be the most experienced and trained officer available at the time to address the situation at hand. In order to overcome potential problems in operational tactical actions and tactics among tactical units, personnel from such units should train together on a periodic basis.

Agreement should be reached on the roles and limitations that will be placed on the resources of lending agencies under a variety of common assistance scenarios. Further, so that command and control is not encumbered by significant differences in operational policies between departments, there must be some advance review of overall primary policies between potentially involved agencies. Where serious discrepancies exist in such areas as use of force, all parties should address these differences before they sign any agreement for mutual assistance.

8. Financial responsibility for the provision of services must be clearly defined. It is extremely important that the financial obligations of the various agencies in cases of mutual assistance be spelled out in detail. Failure to do so will inevitably lead to disputes, ill will, and perhaps even a collapse of the mutual assistance plan.

Some jurisdictions engaged in mutual aid agreements take the position that individual departments are responsible for services provided under the scope of the agreement to include standard and overtime wages, pensions, workers' compensation benefits, and liability insurance and the costs associated with resource utilization. However, other departments or groups of departments entering into a mutual assistance agreement choose to reimburse assisting departments for these costs as well as for indemnification of one department by another for costs incurred in the course of providing mutual assistance and responsibility of the various agencies for damage, injury, death, or other loss sustained by an assisting department during the emergency.

Agencies that choose to reimburse for providing services and resources in a mutual aid agreement, as is recommended in the sample mutual aid agreement, must spell out financial responsibilities in greater detail. For example, it is usually desirable to provide specifically for indemnification of costs to any responding department resulting from assistance it provided to a requesting department, and the costs to any requesting department resulting from the actions of personnel supplied by the responding department. The operational plan normally defines the costs associated with the use of all forms of resources so that informed decisions can be made on costs incurred with specific resource requests.

Some jurisdictions require that a request for assistance be incorporated in an "event agreement" or similar document that clarifies the scope of resources requested. An event agreement is a contract between two member agencies in which the assisting department agrees to provide specified resources to the requesting department under the terms and conditions specified in the agreement once mutual aid has been requested. Such agreements need not delay the deployment of resources but can follow such deployment in a short period of time where the basic

tenets of the agreement and reimbursement schedules for resources have received advance approval.

9. Claims for reimbursement must be established in the agreement. Claims for reimbursement must be established in the agreement but may be adjusted through the event agreement if both the requesting and assisting agencies agree. Moreover, some interjurisdictional agreements provide for no compensation for personnel and related resource expenditures¹⁵ or for loss, damage, or personal injury. Local jurisdictions should follow state precepts on this issue. But even if reimbursement is not sought, there may be provisions in which reimbursement for personnel overtime may be possible and prudent, such as in extended loan of personnel in a major emergency. In all circumstances, however, regional agreements should allow for gifts or donations. This will allow jurisdictions to bypass automatic reimbursement and provide aid free of charge. It will also provide for the free exchange of equipment and services from any local businesses that may be able to assist in an emergency without requiring requisitions or related formalities.

Normally, day-to-day mutual aid of a short duration should not be charged. In extended mutual aid situations, reimbursement for aid is often desirable. Without other means for reimbursement to responding agencies from state or federal governments,¹⁶ mutual agreements risk creating a disproportionate amount of financial responsibility on individual departments often those that are the best equipped and trained. Under such circumstances, requesting jurisdictions may be reluctant to expend monies for resources that can be borrowed in time of emergency from other local jurisdictions.

Those agencies that opt for reimbursement in their mutual aid plans should consider costs associated with the following:

- **Personnel.** During the period of assistance, the assisting agencies must continue to pay their employees accord-

¹⁵ See, for example, Oakland California Police Department.

¹⁶ Although reimbursement cannot be conditioned on the declaration of federal disaster, it can be conditioned on the declaration of a local or state disaster—an approach that enables reimbursement for large-scale incidents. FEMA will reimburse mutual aid agreement costs provided that all of the following conditions are met: (1) The assistance requested by the applicant is directly related to the disaster. (2) The mutual aid agreement must be in written form and signed by authorized officials of involved parties. (3) The mutual aid agreement applies uniformly in emergency situations. The agreement must not be contingent on declaration of a major disaster or emergency by the federal government or on receiving federal funds. (4) The providing entity may not request or receive grant funds directly. Only the eligible applicant receiving the aid may request grant assistance. (5) The request for services as well as services received and costs incurred must be documented and furnished to FEMA on request. (6) FEMA will recognize only mutual aid agreements between governments or agencies in separate areas. FEMA will not recognize mutual aid agreements between agencies, departments, or entities of the same town, county, or state government.

ing to the prevailing ordinances and regulations governing reimbursement. The requesting department will reimburse the assisting department for all direct and indirect payroll costs and expenses to include travel expenses, benefits, and workers' compensation claims incurred during the period of assistance.

- **Equipment.** The requesting party reimburses the assisting department for the use of its equipment in accordance with a preestablished local or state hourly rate or in accordance with the actual replacement, operation, or maintenance costs incurred during the period of emergency use. However, each of the jurisdictions is responsible for maintaining its own equipment in safe and operational condition in order to qualify for reimbursement. The reimbursement for equipment should be reduced by the costs of any fuel, supplies, or repairs furnished by the requesting department as well as the amount of any insurance reimbursement received by the assisting department.

- **Materials and Supplies.** The assisting party should also be reimbursed for all materials and supplies provided during the period of emergency, with the exception of those not included in the foregoing categories. As an alternative, the parties may agree to the replacement of materials and supplies as well as equipment if indicated in the written event agreement or similar documentation.

- **Record Keeping.** It is essential that a record be maintained of all services and resources provided. A person or persons should be assigned by the assisting department or agencies to maintain these records. The event agreement may serve as an appropriate means of documentation as it may be updated and revised over the period of the emergency. Similar record keeping may be used by the receiving department as a cross check. The need for accurate record keeping not only is essential for reimbursement to assisting jurisdictions but is a key component of requirements for reimbursement for the requesting department from the federal government and many state governments.¹⁷ To that end, responsible individual record keepers should file a daily status report for each participating jurisdiction that reflects the specific assistance being provided (in as much detail as possible), potential requests, active requests not yet filled, and completed actions.

- **Claims for reimbursement.** Claims for reimbursement from providing agencies should be included in an itemized statement as soon as practicable following the event but normally not more than sixty days after the emergency has been lifted.

In the event of civil liability or other losses incurred during implementation of a mutual assistance

¹⁷ Participating jurisdictions should be familiar with the requirements for reimbursement from FEMA specified in 44 CFR 206.228. See also *Mutual Aid Agreements for Public Assistance: Response Recovery Policy* Number 9523.6 at http://www.fema.gov/rrr/pa/9523_6.shtm.

agreement, the departments involved may wish to conduct investigations into the causes of, and responsibility for, such losses. If deemed appropriate, investigations should be provided for in the mutual aid agreement. Normally the requesting department will be responsible for conducting this type of investigation, as the loss will have occurred in the requesting department's jurisdiction. However, any responding department implicated in or affected by the loss should have the right to investigate as well, should it desire to do so. Therefore, mutually acceptable provisions for all such investigations should be spelled out in the mutual assistance agreement to prevent disputes should an investigation become necessary.

10. The agreement should include conditions and procedures for the withdrawal of a participating department. At some point a participating department may need to withdraw from the mutual aid agreement. Therefore, the agreement should include conditions and procedures for such a withdrawal. The sample agreement set forth in the model policy provides that any party to the agreement may withdraw from the agreement on thirty days' written notice to all other participating jurisdictions.

In addition, provision should be made for the total termination of the agreement in the event that all of the participating agencies, or a significant number of them, do not wish to continue the agreement. The agreement should define the conditions for an department's withdrawal or for termination of the entire agreement, the procedures to be followed in this regard, the allocation of any costs incurred, and the discharge of any outstanding indebtedness attributable to participation in the agreement.

11. Should the agreement be binding on subsequent department chief executives? One difficulty frequently encountered with multijurisdictional agreements of any kind occurs when the agreement is entered into by one department chief or jurisdictional official who is then succeeded by another chief or official who does not feel bound by the actions of his or her predecessor. The mutual assistance agreement should state that it is binding on the jurisdictions and all future department chiefs within those jurisdictions unless and until the department withdrawal provisions of the agreement have been complied with.

A procedure for termination of or withdrawal from the agreement should be provided for in the agreement. The termination and withdrawal provisions may be tailored to local needs, but normally should include, at a minimum, the following:

- The circumstances under which the agreement may be terminated, or under which a jurisdiction may withdraw from the agreement, should be stated. This may protect the agreement from arbitrary withdrawal by a jurisdiction at some later date.

- Participants in the agreement should normally be required to give reasonable notice of the intent to withdraw. This gives the participating departments an opportunity to adjust to the changed conditions and reduces the disruption that such a termination or withdrawal may cause.
- A procedure should be specified for withdrawal or termination. For example, how is notice to be given? By whom? To whom? In what manner? How is the withdrawal to be accomplished? Who will assume the responsibilities no longer fulfilled by the withdrawing jurisdiction or department? Providing an orderly procedure in such circumstances will minimize disruption of the unit's functions.
- The agreement should provide for the settlement of all financial obligations attributable to the unit at the time of withdrawal or termination. Provision must also be made for the disposition of any property or other assets possessed or used by the unit at the time of the withdrawal or termination. This is particularly important where such property or assets were purchased or otherwise acquired by the unit directly, rather than contributed by member jurisdictions or departments.

12. An department's inability to respond to a request should not form the basis for breach of contract. The mutual assistance agreement should include a provision that participation in the assistance plan shall not create any liability or responsibility for failure to respond to a request for assistance. The sample agreement in this document includes such a clause.

That document also states that no third party shall have any right of action under the agreement. To the extent that this refers to third-party beneficiary contract claims, this clause may be effective. Participating departments should be aware, however, that this provision may or may not be valid in a particular jurisdiction, and it is doubtful whether any third party's tort claim can be precluded in this manner.

13. The agreement should not contain provisions for summoning state or federal aid. The involvement of state or federal authorities is a highly complex matter, both operationally and legally, and requires a thorough understanding of both the law and the procedures involved. Departments may wish to deal with this issue in a separate document, drafted with the assistance of their legal advisers.

14. The agreement should define the responsibilities of chief executive officers. Regular meetings of the chiefs, sheriffs, or other chief executive officers of the participating agencies should be held. It is strongly recommended that chief executive officers themselves attend these meetings personally whenever possible, rather than delegate this duty. An exception might

include situations in which a department has a designated emergency management officer or unit.

Each chief executive officer should personally ensure that (1) other participating agencies are fully apprised of the assistance capabilities of his department, (2) other departments provide the chief executive officer with similar information, and (3) this information is adequately disseminated to those who will be receiving and evaluating the assistance requests. Inadequate information, or a failure to make information available to departmental decision makers, handicaps the mutual assistance effort and increases civil liability exposure.

Appropriate chief executives must constantly review mutual assistance agreements that affect operations and policies. Changed conditions in the jurisdictions, increases or decreases in the capabilities of the participating agencies, and developments in applicable law may necessitate changes in internal policies related to mutual assistance agreements. In addition to the adverse effect on the mutual assistance effort that might result, a failure to modify the agreement to conform to changed laws or conditions may deprive participating departments and/or officials of their legal defense in the event of a civil suit.

15. The agreement should make provision for the inclusion of other public as well as private entities in prevention, preparation, and response to regional emergencies. Coordination of resources is the essence of mutual aid. While this document deals primarily with regional law enforcement agreements, the resources available through federal and state public entities as well as private organizations and businesses should not be overlooked. In efforts to prevent, prepare for, and respond to the terrorist threats and related emergencies, law enforcement agencies must identify the local, state, and federal resources concerned and establish cooperation with those agencies before an incident occurs.

For example, at a minimum, regional preparation and response will involve cooperation with the following local governmental and private agencies:

- Fire department
- Rescue and ambulance services, including both fire or police units and private ambulance companies
- Medical facilities and personnel, including laboratories
- Public health department
- Hazardous material (HAZMAT) units
- Public utilities departments
- Social services
- Transit authorities, port authorities, and similar agencies
- Medical examiners and/or coroners
- Mortuaries and funeral homes
- Local Red Cross offices and other aid organizations

- Schools and other facilities capable of housing large numbers of persons in an emergency or suitable for establishing a command post
- Clergy

States vary widely in the availability of agencies and services that can render assistance to a municipality in the event of a terrorist incident. Depending on the state, some or all of the following agencies, under various titles, may be available to assist local law enforcement:

- Civil defense or other emergency management agencies, including state HAZMAT units
- National or state guard units and/or local military bases
- State police
- Health services
- Environmental protection agencies and services

In addition, a number of federal agencies and subagencies can provide assistance to local authorities in connection with WMD incidents:

- Federal Bureau of Investigation
- Bureau of Alcohol, Tobacco, and Firearms
- Department of Health and Human Services
- Public Health Service
- Federal Emergency Management Department
- Department of Energy
- Nuclear Regulatory Commission
- Department of Justice
- Environmental Protection Department
- Department of Defense
- Army Corps of Engineers

Private organizations, such as the American Red Cross and the Salvation Army, and private security companies also have training and response capabilities. But one cannot overlook local businesses, the resources of which may be essential in both preparing for and responding to major emergencies. For example, many major corporations that could be targets of terrorist attacks typically employ their own security functions—many of which are not simply guard operations but rely on up-to-date security planning, monitoring, and prevention strategies. These corporations include pharmaceutical companies, producers of food products and additives, chemical manufacturers, and a wide variety of other private sector corporations that could pose inviting targets for terrorists. These private sector firms should be identified, and law enforcement agencies can invite them to work with regional mutual aid enterprises to complete the circle of infrastructure protection and preparedness.

Finally, as part of their resource inventories, police agencies involved in regional mutual aid agreements should catalog the availability of private companies in their area that may be called on in an emergency to assist

with specialized equipment or personnel. The use of heavy equipment owned and operated by private companies and otherwise unavailable to law enforcement and fire companies was, for example, instrumental in the search and recovery efforts at ground zero on September 11 in both New York City and Washington, D.C.

Establishing partnerships in advance of a terrorist attack or other major incident will add a dimension to mutual aid agreements and regional aid enterprises that is far more beneficial than law enforcement mutual aid alone.

V. PREDEPLOYMENT CONSIDERATIONS

A. Adherence to the Policies of One's Own Police Department

At all times officers should adhere to the policies and procedures of their own department. In addition, loaned personnel should use only weapons and tactics that they have been trained to use and that they are qualified to use.

Some problems related to differences in or conflicts between policies and procedures employed by individual jurisdictions may be addressed in advance to the satisfaction of all parties concerned. However, the basic policies and procedures and the training on which they are based cannot and should not be abandoned because officers are operating in another jurisdiction. To do so would be to compromise officially established protocols and guidelines according to which an department expects its officers to function and could have serious negative consequences. Officers should take commands from supervisors in their own jurisdiction while responding to overall directives from the requesting department's incident commander. Individual officers should not use tactics or procedures that violate their own department policy, procedures, rules, or training.

To ensure that serious differences of operating procedures are not encountered, each participating jurisdiction should familiarize itself with the policies and procedures of the other participating jurisdictions, particularly as they relate to issues of critical importance to mutual aid. Among such policies and procedures are the following:

- Use of force
- Arrests generally and processing mass arrestees in particular
- Policing mass demonstrations
- Riot control
- Bomb threats and searches
- Evacuations
- Hostage and barricade subject incidents
- Crime scene processing
- Deployment of less-than-lethal weapons (e.g., bean

bag and rubber bullet projectile, Taser, OC spray)

- Canine teams

B. Powers of Officers Rendering Mutual Assistance in a Requesting Jurisdiction

Personnel of a responding department will normally be expected to engage in law enforcement functions in the requesting jurisdiction. Therefore, officers of responding agencies should have the same law enforcement powers as do officers in the requesting jurisdiction. These powers may vary considerably from state to state and locality to locality. This issue must be resolved to avoid possible claims that officers from responding agencies acted without authority during the emergency.

The agreement itself may set forth powers and limitations of responding officers as agreed on by the participating jurisdictions, but no powers can be granted by agreement that are inconsistent with state or local laws. Personnel responding to a call for assistance outside of their appointed jurisdiction must have those law enforcement powers provided for by state law.

Where the extrajurisdictional powers of responding officers are in doubt, are inadequate, or do not exist, any available steps should be taken to provide that power. Deputizing officers of the various participating agencies may be one method of providing the necessary authority, if allowed by state law.

C. Civil Liability

It must be recognized that participation in mutual assistance pacts expands the potential for civil liability. The department providing the assistance remains liable under the law for any injuries suffered while its personnel are engaged in operations within the requesting jurisdiction. Similarly, the requesting department is in many instances liable for the actions of the responding department personnel under the so-called borrowed servant rule. However, the added potential for liability should not dissuade agencies from participating in mutual assistance agreements, as steps can be taken to protect all entities concerned.

Liability insurance covering the participating agencies is essential. All requesting and responding jurisdictions and entities should provide insurance against losses of all types. These insurance policies and/or their endorsements should specifically extend the policy's coverage to include protection against liability for both the actions of the insured department's personnel while assisting other jurisdictions and the actions of the personnel of other agencies assisting the insured department during emergencies. Thus, any insurance policy (and any indemnification or hold-harmless agreement) should cover (1) failure or inability to provide assistance when

requested to do so, (2) errors or omissions occurring while such assistance is being rendered, and (3) withdrawal of assistance after it has initially been provided. All of the other agencies participating in the mutual assistance agreement should be named as additional insureds. The insurance policy's coverage against loss should be all-inclusive, as claims may arise for losses unrelated to the actual incident. Examples of such claims involve such situations as the known retention of unfit or incompetent personnel or negligence in training.

Insurance policies and indemnification agreements should cover both the costs of legal representation and the payment of any judgments rendered. In the case of self-insured jurisdictions, it is important to include in the agreement specific provisions for indemnification of the other participating departments by the self-insured jurisdiction in the event that civil liability is incurred. A hold-harmless clause may be sufficient to meet this need.¹⁸

D. Equipment Management and Needs Assessment

Participating police agencies should be fully informed about the assistance capabilities of participating departments. This will enable requesting agencies to determine what assistance is available from a particular member department. Resources include personnel, teams, facilities, equipment, and supplies. The underlying concepts of resource management in this context are as follows:

- It provides a uniform method of identifying, acquiring, allocating, and tracking resources.
- It uses effective mutual aid and donor assistance and is enabled by the standardized classification of kinds and types of resources required to support the mutual aid agreement.
- It uses a credentialing system tied to uniform training and certification standards to ensure that requested personnel resources are successfully integrated into ongoing incident operations.
- Its coordination is the responsibility of individual agencies that share and coordinate resource inventories with partner agencies and/or coordinating emergency operations centers in the mutual assistance pact.¹⁹

Jurisdictions involved in the mutual agreement must perform a needs assessment by reviewing response requirements, inventorying capabilities, and identifying shortfalls. In fact, a needs assessment is one of the requirements for qualifying for federal funding under State Homeland Security Grants. But, this exercise is important

in preparing for any emergency.

By these means, resources are categorized by size, capacity, capability, manpower skill and certification levels, and other characteristics in accordance with a mutually agreed on system of resource definitions. Categorization makes the resource request and dispatch process within departments, between departments, and between governmental and nongovernmental agencies more efficient and ensures that incident commanders receive resources appropriate to their needs. The system should be kept up-to-date to reflect changes in resource availabilities and their readiness status. DHS is in the process of establishing systems for categorizing resource capabilities to include performance standards, compatibility, and interoperability of such resources. For most jurisdictions, this process need not be overly complex, although it should, wherever possible, employ standard resource typing.²⁰ The process consists of (1) identifying, categorizing, and recording those resources that are most likely to be requested by other jurisdictions in the event of reasonably identifiable emergencies and that agencies are prepared to share in case of emergency, (2) identifying needs for requisition, (3) entering those resources into some form of resource tracking system maintained by designated personnel in each department, and (4) ensuring that the resource inventory is routinely updated and available to all participating jurisdictions on either a manual or an electronic basis, or both. Such information may be coordinated through regional emergency response centers in cases where police departments have established such a coordinating body or have joined an already established Emergency Operations Center (EOC).

E. Personnel Management and PPE

Effective use of the mutual assistance agreement requires that personnel be thoroughly trained in carrying out mutual assistance functions and be properly equipped with personal protective equipment (PPE) suitable for the emergency at hand.

In preactivation preparatory undertakings, participating agencies must collectively identify those primary event situations in which mutual aid may be requested and match the personnel needs involved with those available within their department.

For example, a critical issue related to homeland security is response to events involving chemical, biological, and nuclear weapons. Following the September 11 attacks, incidents of anthrax contamination were reported throughout the nation. First responders, whether

¹⁸ See, for example, Oregon's mutual aid agreement, <http://www.sfm.state.or>. Accessed August 15, 2004.

¹⁹ National Incident Management System, U.S. Department of Homeland Security, Washington, D.C., 1 March 2004

²⁰ See, for example, FEMA's National Mutual Aid and Resource Management Initiative, at <http://www.fema.gov/doc/preparedness/glossaryterms.doc>. For more information on overall resource management, see FEMA's Introduction to State and Local EOP Planning Guidance, at www.fema.gov/preparedness/introstate.shtm#inventory.

police, fire, or EMS personnel, need to be prepared to deal with such substances. For example, first responding officers should attempt to aid persons who are in need of medical attention to the extent that it does not unnecessarily risk their own safety and their subsequent ability to administer further assistance. In a situation involving biological contamination or a chemical attack, it is necessary for first responders to delay entry into the threat area until proper equipment (that is, biological- and chemical-rated gas masks, waterproof clothing, raincoats, boots, protective goggles, and rubber gloves) or properly qualified personnel have arrived on the scene.²¹ Although it may be difficult psychologically for officers to delay assistance to victims, a first responder who is incapacitated by the biological threat cannot be of assistance to others. This is also critical should the department have to deal with a larger threat that may follow during the course of the emergency. In most instances, the responding officers should render emergency first aid to persons who have been injured in the incident where it may be necessary to move injured victims to safety. Movement of injured persons should be performed only in accordance with proper emergency procedures to avoid further injury in the process. If persons in the threat area are contaminated with a biological agent, EMS personnel should be notified that these individuals need urgent medical attention.

On the basis of the above scenario and response requirements, agencies need to ensure that their personnel are properly outfitted with PPE and have received response training essential for lending needed assistance if requested. Without such training and equipment, agencies should not lend officers to other jurisdictions as qualified responders to such incidents.

A study from the Rand Corporation and the National Institute for Occupational Safety and Health proposes making the health and safety of emergency responders—including police, fire fighters, and ambulance crews—a key priority in coordinating the overall response to terrorist attacks and major disasters. The study found a need for better planning, training, coordination, and management procedures to protect these responders. The recommendations include:

- Incorporating safety and health issues more realistically into joint disaster exercises and training
- Preparing, in advance, the types of expertise and other assets needed to protect responder safety

- Developing common standards and guidelines for responder training, hazard assessment, responder credentialing, and protective equipment

The report emphasizes the need for integrated leadership from the state, local, and federal levels in order to make the necessary changes and implement standards.²² Chief William Berger, president of the International Association of Chiefs of Police, emphasized, “As for equipment needs, it has become clear that law enforcement agencies will need to obtain protective clothing and isolation equipment for first responders.” Likewise, a report issued by the United States Conference of Mayors in December 2001 lamented “the lack of availability of equipment such as protective suits, gas masks and detection devices, of protective drugs for first responders, and of training resources” to state and local first responders.²³

F. Training

The same principle outlined above holds true with respect to training needs of personnel to address critical incidents, whether they involve biological or chemical threats, or more traditional law enforcement needs such as the deployment of special tactical units, riot control officers, hostage negotiators, crime scene processors, or other personnel. This process, generally referred to as credentialing, helps to ensure that personnel representing various jurisdictions and functional disciplines possess a minimum common level of training, currency, experience, physical and medical fitness, and capability for incident management or emergency responder positions they are tasked to fill.

From a more general standpoint, training is vital for the success of mutual aid programs and is one of their major problems. NIMS states:

Incident management organizations and personnel at all levels of government, and within the private sector and non-governmental organizations, must be appropriately trained to improve all hazards incident management capability nationwide. Incident management organizations and personnel must also participate in realistic exercises—including multidisciplinary and multijurisdictional events and private sector and nongovernmental organization interaction—to improve integration

²¹ During responses to major emergencies, equipment is often conjoined, misplaced, lost, or otherwise moved and not returned to its original owner or location. All equipment should be clearly marked by jurisdiction, organization, and/or unit identity to avoid unnecessary confusion over ownership and rapid return of equipment. See the After Action Report of the September 11 attack on the Pentagon, at <http://www.co.arlington.va.us/fire/edu/about/docs/aar.htm>.

²² See Jennifer Peyrot, National Governors Association Center for Best Practices, Homeland Security and Technology Division, “Study Recommends More Protection for Responders,” 24 June 2004. http://www.nga.org/center/frontAndCenter/1,1188,C_FRONT_CENTER^D_6985,00.html

²³ Testimony of Chief William B. Berger, president of the International Association of Chiefs of Police, U.S. Senate Committee on Government Affairs hearing on the Local Role in Homeland Security, 11 December 2001

*and interoperability. Training involving standard courses on incident command and management, incident management structure, operational coordination processes and systems—together with courses focused on discipline-specific and department-specific subject matter expertise—helps ensure that personnel at all jurisdictional levels and across disciplines can function effectively together during an incident.*²⁴

Such training is essential to ensure the readiness of the department and all personnel to request mutual assistance and to respond to such requests from other departments. It is also important because a failure to train personnel properly is a major source of civil liability. Therefore, an inadequate training program will substantially increase the department's exposure to civil liability for activities under the mutual assistance agreement.

The fact that departmental personnel are acting in accordance with the mutual assistance agreement under the direction of another department will not protect the department from liability for failure to train its personnel properly. It is preferable that such training include actual exercises held jointly by two or more other participating departments, employing practical problems and simulations of an actual emergency.

Inadequately trained personnel cannot respond properly, or safely, to a terrorist attack or other type of major emergency. Training a few supervisors or even special squads or tactical teams is not sufficient, because the personnel most likely to be the first members of the department to encounter such emergencies are the department's patrol officers.

Fortunately, training courses designed to prepare local law enforcement personnel to deal with WMD, other types of attacks, and emergencies are now available through FEMA and numerous other federal and private agencies. However, it is usually not possible to send every member of a department to such courses. Consequently, local departments should develop their own training goals and capabilities in the mutual aid agreement so that each member of the department will be able to respond properly if confronted with a terrorist or other emergency incident. Those individuals who receive training from outside agencies can return with the requisite knowledge to develop the department's own internal training program. In addition, numerous online courses are available through FEMA that can substantially assist local agencies in gaining necessary training.

A mutual aid agreement should be accompanied by a detailed exercise plan that improves response through the

use of afteraction reports and lessons learned. Mutual aid steering committees should ensure that their mutual aid handbooks include provisions for regular joint exercises between disciplines and jurisdictions. Included in these scenarios should be public information officers, elected officials, dispatchers, and the array of personnel who play key roles in emergencies. The importance of establishing personal relationships during these exercises cannot be overlooked because they can foster communication outside of basic working relationships.²⁵

VI. ACTIVATION OF A MUTUAL AID PLAN

Each participating police department in the mutual aid plan should prepare an emergency mutual aid implementation plan and accompanying department policy containing information and procedures on the following.

A. Notification and Request for Assistance

Normally, a request for assistance begins at the line level when a supervisor becomes aware of a situation that may require assistance from a participating law enforcement department. All such communications must receive approval of the chief law enforcement officer of the department or a designated officer who has been delegated authority to make such decisions in the absence or on behalf of the chief executive officer. All such initial requests should be sent through the department's communications center and routed to the authorized officer in a timely manner.

The supervisor who makes the initial request must provide sufficient information to support a timely decision to include the location and type of the emergency, the current and potential threat to life and property, the urgency of the request and when the assistance is needed, an initial assessment of personnel and related resources deemed necessary to bring the situation under control, and a proposed staging area at which such resources could be assembled and assigned. Before activating a mutual aid agreement, local agencies are required to utilize all resources available to them without unreasonably jeopardizing ongoing operations and/or drawing down from personnel and related resources to a point where it would create an unreasonable risk to life and/or property within their jurisdiction. If the request is subsequently authorized, the requesting department's communications center should contact the designated emergency response authority in the proposed assisting department by telephone, radio, fax, or

²⁴ National Incident Management System, U.S. Department of Homeland Security, 1 March 2004, p. 37.

²⁵ See, for example, articles on mutual aid training, at www.9-11-magazine.com/magazine/1997/0397/features/smith.html.

other means deemed the most effective and efficient.²⁶

Once the need for assistance has been verified and the specific resource requirements identified, these should be communicated to the proposed assisting department's authorized representative. A decision on which department to contact for assistance depends on a number of factors, including the proximity of the department to the emergency site, the ability of the proposed responding department to respond in an appropriate period of time, and whether the resources available in a specific department meet those required in the requesting department to adequately confront the emergency in question. An initial determination of available resources can be made by comparing the nature and severity of the threat and resources required with the inventory of known resources of participating jurisdictions.

Once a request is filed, a decision to provide assistance must be made by the department contacted for assistance. Agencies that participate in the plan are not legally obligated to provide assistance if doing so would unreasonably diminish the safety and welfare of their community. For example, agencies that are engaged in similar crisis or an emergency that has spilled over from the requesting department's jurisdiction may not be in a position to commit resources to the requesting department without undue risk in their jurisdiction. Or the assisting department may find that it can honor only a portion of the requests that are made in the emergency request for assistance. In either event, there is no liability or other penalty involved to departments that cannot fully or even partially honor a department's request under mutual aid. By the same token, should events in the responding department's jurisdiction necessitate the withdrawal of resources once they have been deployed to another department, it may be done without liability or recourse for action from the requesting department.

Once a decision has been made on deployment, personnel or units should be dispatched through the emergency communications center. Dispatchers should prohibit on- or off-duty units listening in from self-dispatching to the incident scene. This can be a common practice in emergency situations, but it is unacceptable. Self-dispatch can create chaos at an incident scene.²⁷

B. Developing an Event Agreement

Once approval to provide assistance to a department has been gained and required resources have been identified, the respective police departments may establish an event agreement. An event agreement simply identifies

the precise resources that are requested and those that will be provided to the requesting department as well as the terms of compensation for those resources if compensation is provided for in the mutual aid agreement. Some agencies use an assistance request form and an assistance confirmation form to accomplish the same objectives.²⁸ An event agreement is valuable for several reasons.

- It provides participating departments with a firm understanding of what is needed and a record of what will be provided by assisting agencies.
- It establishes the costs (if any) associated with the delivery of resources and services so that there are no misunderstandings about potential costs, thus avoiding some disagreements at later dates surrounding costs incurred.
- It assists in development of a paper trail of costs incurred by assisting and requesting agencies that is required for reimbursement requests to state or federal emergency management agencies.
- It assists in documenting actions taken during the emergency.

The event form not only consummates an agreement on needs and associated costs but also identifies staging areas and estimated times of arrival and departure. An event agreement is a living document that is modified as resource requests are made and as requests are modified and resources drawn down to meet evolving escalations or de-escalations in the emergency. Administrators need not delay requests for assistance or acceptance of aid because an event agreement can be easily produced using established forms and protocols and required approvals can be granted. However, the ability to accomplish this efficiently and effectively is greatly enhanced by the establishment of resources inventories by each department, as previously discussed, and designation of costs associated with resource utilization.²⁹

C. Mobilizing Personnel and Resources

The incident commander is responsible for making initial and ongoing assessments of the personnel and resource requirements necessary to adequately address and control the emergency. Incident personnel begin mobilizing when notified through established channels in their parent jurisdiction and pull out if needed through established recall procedures. At the time of notification,

²⁸ See the Michigan Emergency Management Compact. http://www.michigan.gov/msp/0,1607,7-123-1593_3507-9460--,00.html Accessed August 23, 2004

²⁹ For an example of an event agreement, see the Commonwealth of Virginia Statewide Mutual Aid for Emergency Management Guidebook, Statewide Mutual Aid Event Agreement: Part I Request for Assistance and Part II Assistance to Be Provided, at <http://www.vdem.state.va.us/library/mutualaid/guidebook.pdf>.

²⁶ The important role played by communications personnel must be recognized, and appropriate training of such persons must be ensured

²⁷ See, for example, the after-action report on the September attack on the Pentagon, at www.nvfc.org/pdf/rolevolffiresvc911.pdf.

they are given the date, time, and place of departure; mode of transportation to the incident; estimated date and time of arrival; reporting location (address, contact name, and phone number); anticipated incident assignment; anticipated duration of deployment; and resource order number, incident number, and applicable cost and funding codes where applicable. Personnel are provided with the types of PPE appropriate for their assignment and training and given a preliminary briefing.

D. Staging of Personnel and Resources

The staging area identified in the event agreement or other instrument is essential to the effective mobilization, briefing of personnel, and assignment of resources. More than one staging area may be required for specific types of resources on the basis of the type and breadth of an emergency. Normally, however, all such resources should be organized at a central location generally in proximity to or easy communication with the command post. All assisting department personnel must formally check in when they arrive on scene. This starts the on-scene in-processing and validates the order requirements. These personnel will thereafter receive instructions and assignments from the incident commander of the requesting department.

There are two deployment options for taking control of the resources converging into the area of an incident: deploy them directly to assignments or route them through staging areas before assignments.

Direct deployment is done either by personal instruction at a location away from a staging area or via the dispatcher. In most cases, direct deployment immediately applies resources to an incident's perimeter—securing the scene, routing traffic, and the like. The advantage of this method is that the assignments can be given out faster. This method appears to help to quickly take control of the perimeter, but it has some serious disadvantages at the scene:

- Information concerning the threat to personnel may be nonexistent, limited, or even flawed.
- The person assigning personnel may lose track of who or what teams are assigned to various locations.
- Personnel taking positions may not have proper equipment, and valuable airtime is consumed if deployment is performed via a central communications system.

In *deployment via staging*, incident personnel and equipment are assigned/collected on an immediately available status. Personnel and equipment are held at the staging area until called for or until their portion of a mission requires departure. Deployment via staging occurs when all personnel, unless otherwise directed,

are instructed to report to the staging area, where they are briefed and their equipment needs addressed. They are then sent to their assignments. The advantages of deployment via staging should be better-informed, more effective personnel who face a reduced threat because they understand the nature, location, and description of the threat. Less time is needed because the process of briefing the personnel occurs face-to-face. This method has one major disadvantage: It takes more time.³⁰

E. Incident Command

The Incident Command System³¹ is the combination of facilities, equipment, personnel, procedures, and communications operating within a common organizational structure that is designed to be adjustable to meet most domestic incident management activities. It is usually organized around five major functional areas: command, operations, planning, logistics, and finance and administration. Intelligence is an additional functional area that can be employed according to requirements of the emergency. Normally the incident commander is the senior officer or tactical specialist of the requesting department, but as the incident evolves, the incident commander may change hands several times.

The initial officer on the scene who reports circumstances, events, and activities that comprise the initial phases of the emergency may serve for some time as the incident commander until relieved by a higher ranking or more experienced officer. The first supervisory officer who arrived at the scene of the Pentagon attack on September 11 was a sergeant who assumed the position of incident commander, developing initial plans and directing responses. Officers in similar situations normally turn this responsibility over to other more experienced and sometimes higher-ranking personnel. However, an officer should not automatically relinquish this authority to a senior officer solely on the basis of rank unless commanded to do so. In some cases, an officer who is tactically trained or who has extensive experience in a specific field of enforcement may continue to serve in this capacity.

In some instances, these incident command responsibilities may be transferred to another authority as an incident progresses. For example, a mass demonstration may result in a significant manmade fire, the control of which might take precedence over the need for crowd control, protection of property, or similar enforcement actions. At this juncture a command officer in the fire

³⁰ *Project Response: The Oklahoma City Tragedy* (Alexandria, Va.: International Association of Chiefs of Police), 1995 p. 6.

³¹ NIMS and the Report of the 9-11 Commission recommend that all emergency response agencies nationwide adopt the Incident Command/Unified Command System.

department may assume responsibility as incident commander.

The following is a list of command staff and general staff responsibilities that the incident commander of any emergency response should perform or assign to appropriate members of the command and general staffs:

- Provide response direction.
- Coordinate effective communication.
- Coordinate resources.
- Establish incident priorities.
- Develop mutually agreed on incident objectives and approve response strategies.
- Assign objectives to the response structure.
- Review and approve incident action plans.
- Ensure integration of response organizations into the incident command system.
- Establish protocols.
- Ensure worker and public health and safety.
- Inform the media

A complete treatment of the incident command system is not within the scope or intent of this document, but the system is a significant element in the response to any emergency, whether it is related to terrorist acts, natural disasters, or manmade situations. Departments that are preparing to implement a mutual aid agreement in response to emergency situations should utilize that document and the response protocols outlined in NIMS.³² Effective October 2004, jurisdictions that have not adopted the incident command system are not eligible for federal monies through DHS.

Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no “model” policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities among other factors.

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³² The Incident Command System and Unified Command System are available in online training modules together with copies of NIMS through <http://training.fema.gov>.

ADDENDUM
Civilian-Military Law Enforcement Memorandum of Understanding
Model Policy
Originally Published: March 2007
Revised: May 2007

I. PURPOSE

The purpose of this policy is to provide law enforcement officers of cooperating civilian and military agencies with guidelines and a generic sample for the establishment and use of a memorandum of understanding (MOU).

II. POLICY

It is the policy of this agency to enter into memorandums of understanding with adjoining military and civilian law enforcement agencies and jurisdictions to improve information sharing; normalize incident and investigative procedures and protocols; and standardize practices in any area of joint concern to the participating agencies and jurisdictions.

III. DEFINITIONS

Memorandum of Understanding (MOU): A document formalizing procedures between two or more agencies or organizations in any areas of joint concern, where mutual cooperation is desired by the signing agencies or organizations.

IV. PROCEDURES

A. Use of MOUs

1. Establishment of MOU: MOUs will be established by cooperating civilian and military law enforcement agencies to establish practices, procedures, protocols, and points of contact for mutual operations, investigations, information sharing, public relations, community assistance or any other function that the participating agencies will work together on.
2. Updating MOUs: MOUs will be updated regularly, by the signatory agencies to ensure that all mutually agreed to practices, procedures, protocols, and points of contact remain current.
3. Termination of MOU: MOUs shall be terminated when and if the need for their delineation of practices, procedures, and protocols ceases to be of benefit to the participating agencies.

B. MOU Approval Authorities

1. Agency heads shall be the final approving authority for MOUs, unless otherwise dictated by local law, regulation, or ordinance.
2. Delegation of MOU approval authority may be carried out where allowed under local law, regulation, or ordinance.

C. Guidelines and Sample MOU

1. The following guidelines are intended to help civilian and military law enforcement agencies develop MOUs to enhance their agency cooperation.
2. Agencies can modify the sample MOU to cover the function to which they are cooperating.

A Guide to Developing a Memorandum of Understanding between Local Civilian Law Enforcement Agencies and Military Installation Law Enforcement Offices

When criminal incidents occur on a military installation, military entities, such as the law enforcement office, the family advocacy program (FAP), sexual assault response coordinator (SARC), the medical treatment facility (MTF), and the staff judge advocate general's office (SJA) have established procedures mandating notifications, sharing of information, and specific steps to take in responding to these incidents. However, active duty service members and their families often live in civilian communities surrounding their installations. When an incident occurs in the civilian community, local law enforcement generally responds, conducts the investigation, and prepares the incident report.

Today's global war on terrorism requires the Department of Defense, the Department of Homeland Security, and local governments to create opportunities to mutually support the protection of our homeland and the nation's strategic warfighting assets. This effort requires close partnerships between local law enforcement and military installation law enforcement agencies. Sharing of police intelligence, synchronizing security and patrol activities, and coordinating emergency management procedures are examples of areas where interagency policy and procedure will maximize scarce resources and promote agency interoperability.

Although some military installation law enforcement offices have developed working relationships with their civilian law enforcement counterparts, these informal relationships can be difficult to maintain due to staff turnover, especially within the installation law enforcement office. Installations are often surrounded by multiple jurisdictions, meaning the military police must maintain open and regular communications with numerous local law enforcement agencies. Furthermore, the civilian local law enforcement agency may not have a formal internal policy dictating steps to take when either the victim or the alleged offender is an active duty member of the military.

Given these obstacles to successful informal working relationships and procedures, a memorandum of understanding (MOU) between the military installation and local civilian law enforcement agencies can improve the sharing of information and strengthen and formalize procedures for dealing with criminal incidents that occur off the installation. MOUs can be used to clarify jurisdictional issues for the investigation of criminal incidents, to define the mechanism whereby local law enforcement reports involving active duty members will be forwarded to the appropriate installation law enforcement office, to encourage the local law enforcement agency to refer victims of domestic violence to the installation FAP office or victim advocate, or victims of sexual assault to the installation SARC, and, generally, to foster cooperation and collaboration between the installation and local civilian agencies.

Although MOUs can be crafted to address issues specific to a military installation and the communities surrounding it, there are several issues that MOUs should address:

- Which civilian and military agencies are going to be parties to the MOU. There may be multiple cities and counties near the military installation and multiple military agencies involved, such as the base authorities or the applicable military criminal investigative service, which may be a tenant on the base with a separate chain of command. Additionally, the parties may want to include more than one base, such as Pope Air Force Base and Fort Bragg, or Fort Lewis and McChord Air Force Base. This decision also requires determining who is authorized to sign on behalf of the participating agencies.
- A general statement of the purpose of the MOU and the authority for the MOU.
- An explanation of jurisdictional issues that affect respective responsibilities for responding to and investigating incidents occurring on and off the installation. (This section should also address jurisdictional issues that arise when a civilian order of protection is violated on military property; see section 1561a of title 10, in the United States Code.)
- Procedures for responding to a criminal incident that occurs on the military installation involving a civilian alleged offender.
- Procedures for transmitting incident and investigation reports involving active duty service members from local civilian law enforcement agencies to the military installation law enforcement office.
- Procedures for transmitting civilian protection orders (CPOs) involving active duty service members from local law enforcement agencies to the military installation law enforcement office. If the installation has an MOU with the local court responsible for issuing protection orders, the installation can, alternatively, include procedures for transmitting copies of those orders to the military installation law enforcement office in that MOU.
- Designation of the title of the military installation law enforcement recipient of such information from the local law enforcement agency.

- Procedures for transmitting military protection orders (MPOs), from the military installation law enforcement office to the local civilian law enforcement agency with jurisdiction over the area in which the service member resides. Although the local civilian law enforcement agency will not be able to enforce the MPO, it can contact the installation law enforcement office when it learns of a violation.
- Designation of the title of the local law enforcement agency recipient of criminal incident or CPO information from the installation law enforcement office.
- Respective responsibilities for providing information to sexual assault or domestic violence victims regarding military installation resources when either the victim or the alleged offender is an active duty member.
- Sharing of information and facilities during the course of an investigation. Sharing information requires considering the information's classification or law enforcement sensitivity, if any, and applicable state and federal freedom of information act concerns.
- Agencies should discuss these issues, determine the other agencies' procedures to protect and safeguard the shared information, and memorialize their agreements in the MOU.
- Regular meetings between the local civilian law enforcement agency and the military installation law enforcement office to review cases and MOU procedures.
- Promote agency interoperability in fighting the global war on terrorism through the sharing of police intelligence and synchronizing security and patrol activities. Interoperability issues also include such items as use of common frequencies, radios, and networks.
- To the extent authorized by law, a clause that each agency is responsible for its own employees' actions and neither agency's employees shall become agents or employees of the other agency.

The following sample memorandum of understanding contains provisions that could be used or modified by military installations to meet specific needs. Since both jurisdictional issues and military installation standing procedures on dealing with civilians alleged to have committed offenses on the installation vary widely, this sample does not include specific provisions on those two areas, but these are issues to consider when negotiating the MOU.

SAMPLE

Memorandum of Understanding between (INSTALLATION) Installation Law Enforcement Office and (CITY, COUNTY, or STATE) Law Enforcement Agency

I. PURPOSE AND AUTHORITY

To establish written procedures concerning jurisdiction, coordination of police and security activities, and the exchange of police information, between the (INSTALLATION) Installation Law Enforcement Office and (CITY, COUNTY, or STATE) Law Enforcement Agency in criminal cases involving active duty military personnel and their family members and to support the global war on terrorism. This memorandum of understanding (MOU) is authorized under [INSERT AUTHORIZING LAW HERE!; in Washington State it is Revised Code of Washington Chapter 39.34 or 10.93 if mutual aid is covered by the MOU.]

II. GENERAL

This Memorandum of Understanding (MOU) does not create additional jurisdiction or limit or modify existing jurisdiction vested in the parties. This MOU is intended exclusively to provide guidance and documents an agreement for general support between the (INSTALLATION) Law Enforcement Office and (CITY, COUNTY, or STATE) Law Enforcement Agency. Nothing contained herein creates or extends any right, privilege, or benefit to any person or entity. Each party is solely responsible and liable for their own employees' actions or inactions and the parties do not intend for any employee of either party to become an employee or agent for the other party for any purpose.

[Insert paragraph here defining response and investigation jurisdiction for the (INSTALLATION) Installation Law Enforcement Office and (CITY, COUNTY, or STATE) Law Enforcement Agency.]

III. RESPONSIBILITIES:

A. The (CITY, COUNTY, or STATE) Law Enforcement Agency agrees to perform the following actions:

1. When responding to or investigating criminal cases, the (CITY, COUNTY, or STATE) Law Enforcement Agency will ascertain whether the alleged offender is an active duty service member. If the alleged offender is an active duty service member, the responding officers will note on the top of the incident or investigation report "Copy to the (INSTALLATION) Installation Law Enforcement" and the designated

records personnel will ensure the copy is forwarded without redaction to the extent authorized by law.

2. When responding to or investigating criminal cases, the (CITY, COUNTY, or STATE) Law Enforcement Agency will ascertain whether the victim is an active duty service member. If the victim is an active duty service member, the responding officers will seek the victim's consent to forward a copy of the incident or investigation report to the (INSTALLATION) Installation Law Enforcement Office so that it can be provided to the victim's commander. If the victim so consents, the responding officers will note on the top of the incident or investigation report "Copy to the (INSTALLATION) Installation Law Enforcement Office" and the designated records personnel will ensure the copy is forwarded. If the victim does not consent, the responding officers shall note in the body of the incident or investigation report that the victim did not consent to forwarding the report to the (INSTALLATION) Installation Law Enforcement Office and shall not direct records personnel to forward the report.
3. When the (CITY, COUNTY, or STATE) Law Enforcement Agency receives a copy of a temporary or permanent civil protection order (CPO) issued by a court of competent jurisdiction, the responding officers will ascertain whether the alleged offender is an active duty Service member. If the alleged offender is an active Service member, the responding officers will note on the top of the CPO "Copy to the (INSTALLATION) Installation Law Enforcement Office" and the designated records personnel will ensure the copy is forwarded. [This paragraph may not be necessary if the installation has an MOU with the local court specifying that the court will forward copies of such CPOs to the installation.]
4. When the (CITY, COUNTY, or STATE) Law Enforcement Agency receives a copy of a temporary or permanent civil protection order (CPO), the responding officers will ascertain whether the victim is an active duty service member. If the victim is an active duty service member, the responding officer will ascertain

whether the victim is an active duty service member. If the victim is an active duty service member, the responding officers will seek the victim's consent to forward a copy of the CPO to the (INSTALLATION) Installation Law Enforcement Office. If the victim so consents, the responding officers will note on the top of the CPO "Copy to the (INSTALLATION) Installation Law Enforcement Office" and the designated records personnel will ensure the copy is forwarded. If the victim does not consent, the responding officers shall not request that a copy the CPO be forward to the (INSTALLATION) Installation Law Enforcement Office.

5. The (CITY, COUNTY, or STATE) Law Enforcement Agency shall designate an employee from records who will be directly responsible for forwarding copies of incident and investigation reports and CPOs to the (INSTALLATION) Installation Law Enforcement Office when directed to do so by notations at the top of the reports or CPOs. The employee shall also be responsible for receiving and processing military protection orders (MPOs) forwarded from the (INSTALLATION) Installation Law Enforcement Office. The (CITY, COUNTY, or STATE) Law Enforcement Agency shall notify the (INSTALLATION) Installation Law Enforcement Office of who its point of contact is.
 6. When the (CITY, COUNTY, or STATE) Law Enforcement Agency becomes aware of a violation of a term or provision of an MPO, the responding officers shall notify the designated representative from the (INSTALLATION) Installation Law Enforcement Office of the violation.
 7. The (CITY, COUNTY, or STATE) Law Enforcement Agency shall provide the (INSTALLATION) Installation Law Enforcement Office with an area for installation law enforcement investigators to conduct interviews of active duty service members and their family members who are involved in domestic violence incidents.
 8. The (CITY, COUNTY, or STATE) Law Enforcement Agency may, when appropriate, conduct joint investigations with the (INSTALLATION) Installation Law Enforcement Office if criminal incidents involve active duty service members and their family members.
 9. When the victim in a domestic violence or sexual assault incident has been identified as an active duty service member or a family member of one, the (CITY, COUNTY, or STATE) Law Enforcement Agency responding officers shall provide the victim with basic information, acquired from the (INSTALLATION) Installation Law Enforcement Office (below), about installation resources available to domestic violence victims.
 10. As new law enforcement officers begin duty with the (CITY, COUNTY, or STATE) Law Enforcement Agency, their immediate supervisor will provide them with copies of this MOU and basic instruction for fulfilling the provisions of this MOU.
 11. When a member of the (CITY, COUNTY, or STATE) Law Enforcement Agency responds to an incident occurring on a military installation or has official law enforcement business on the installation, a (CITY, COUNTY, or STATE) Law Enforcement Agency representative will contact the (INSTALLATION) Installation Law Enforcement Office.
 12. {insert paragraph here to discuss policy and procedure for sharing police intelligence and synchronizing security and patrol activities} To promote interoperability and support fighting the global war on terrorism, the (CITY, COUNTY, or STATE) Law Enforcement Agency will share police intelligence and coordinate security and patrol activities where appropriate. The sharing of police intelligence may best be accomplished through participation in regional and state terrorism task forces.
- B. The (INSTALLATION) Installation Law Enforcement Office agrees to perform the following actions:
1. The (INSTALLATION) Installation Law Enforcement Office shall designate an individual to act as liaison to the (CITY, COUNTY, or STATE) Law Enforcement Agency to receive copies of incident and investigation reports stemming from an incident occurring off the installation, subpoenas, and CPOs involving active duty service members and their family members. The (INSTALLATION) Installation Law Enforcement Office shall notify the (CITY, COUNTY, or STATE) Law Enforcement Agency of who its point of contact is.
 2. Upon receipt of a copy of an incident and investigation report stemming from incidents occurring off the installation or a CPO involving an active duty service member and his or her family member, the (INSTALLATION) Installation Law Enforcement Office shall immediately notify the service member's command.

3. When the (INSTALLATION) Installation Law Enforcement Office receives a copy of an MPO from a service member's command, and if that service member is living off of the installation, the (INSTALLATION) Installation Law Enforcement Office shall forward a copy of the MPO to the (CITY, COUNTY, or STATE) Law Enforcement Agency with jurisdiction over the area in which the service member resides.
4. The (INSTALLATION) Installation Law Enforcement Office shall provide the (CITY, STATE, or COUNTY) Law Enforcement Agency with a place for (CITY, STATE, or COUNTY) Law Enforcement Agency officers or investigators to conduct interviews of active duty service members and their family members who are involved in criminal incidents.
5. The (INSTALLATION) Installation Law Enforcement office will, when appropriate, conduct joint investigations with the (CITY, COUNTY, or STATE) Law Enforcement Agency if criminal incidents involve active duty service members and their family members.
6. To the extent authorized by law, the (INSTALLATION) Installation Law Enforcement Office will assist the (CITY, COUNTY, or STATE) Law Enforcement Agency when investigating cases that occurred off base by providing information such as medical records, service records, and incident and investigation reports from incidents occurring under the jurisdiction of the (INSTALLATION) Installation Law Enforcement Office.
7. The (INSTALLATION) Installation Law Enforcement Office shall provide the (CITY, COUNTY, or STATE) Law Enforcement Agency with basic information, in the form of quick-reference cards or brochures, about installation resources available to eligible domestic violence or sexual assault victims.
8. [Insert a paragraph here stating proper installation procedure for responding to criminal incidents occurring on the installation involving alleged civilian offenders.]
9. As new personnel begin duty with the (INSTALLATION) Installation Law Enforcement office, their immediate supervisors will provide them with copies of this MOU and basic instructions on fulfilling the provisions of this MOU.
10. The (INSTALLATION) Installation Law Enforcement Agency will coordinate security and patrol activities with the (CITY, COUNTY, or STATE) Law Enforcement Agency when such

activities occur or affect (CITY, COUNTY, or STATE). {This would include special security requirements implemented during periods of elevated threat.}

11. The (INSTALLATION) Installation Law Enforcement Agency will share police intelligence with the (CITY, COUNTY, or STATE) Law Enforcement Agency in accordance with security regulations governing the protection of classified material. {This may best be accomplished through membership in local and state terrorism task forces.}

IV. EFFECTIVE ADMINISTRATION AND EXECUTION OF THIS MOU:

- A. This MOU shall be reviewed annually and shall remain in full force and effect until specifically terminated by one of the parties to this agreement with sixty (60) days' written notice to the other party.
- B. Effective execution of this agreement can only be achieved through continuing communication and dialogue between the parties. It is the intent of this MOU that channels of communication will be used to resolve questions, misunderstandings, or complaints that may arise that are not specifically addressed in this MOU.
- C. Personnel from the (INSTALLATION) Installation Law Enforcement Office and from the (CITY, COUNTY, or STATE) Law Enforcement Agency shall meet, as necessary and appropriate, to discuss open cases involving active duty service members and to share information regarding reciprocal investigations.
- D. This MOU memorializes the parties' agreements relating to the terms covered herein. It is not intended to supercede any other written agreement between the parties unless specifically stated herein.