A GOVERNOR'S GUIDE to HOMELAND SECURITY

NGA Center for BEST PRACTICES

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Foreword

Hurricane Katrina commanded the nation's attention for months after it slammed into Louisiana and Mississippi in late August 2005. The images of flooded homes, lost lives, and stranded survivors on the rooftops of New Orleans — and of the debris field that had once been Gulfport — haunted America and much of the world throughout that autumn.

But the response to Katrina began long before the television crews and international media arrived and recovery efforts continued long after they packed their gear and went home. In Louisiana, Mississippi, and Alabama, residents and state and local officials labored through the storm and worked in its immediate aftermath even before outside help began to arrive. The process of rebuilding homes, businesses, and lives in hundreds of Gulf Coast communities continues more than a year later and will go on for many months to come. In places like Delacroix, Shell Beach, Belle Chase, Bay Saint Louis, Diamondhead, and Waveland the struggle to recover and the millions of individual stories of success — and failure — illustrate most clearly a point that has been made so often as to be almost clichéd: all disasters are local. In this post-September 11 era, the catastrophe wrought first by Katrina and then by Hurricane Rita highlight another point: terrorism is just one of the threats facing the nation and preparedness means having plans in place to respond to all hazards, including terrorist attacks, natural disasters, technological failures, or pandemic diseases.

As the chief executives of their states, governors are responsible for ensuring their states are adequately prepared for emergencies and disasters of all types and sizes. All emergencies will be handled at the local level and few will require a presidential disaster declaration or attract the attention of the world's media. But governors must be as prepared for those day-to-day events — the tornadoes, power outages, hazardous materials spills, and industrial fires — as for catastrophes on the scale of the September 11 terrorist attacks or a category five hurricane.

A Governor's Guide to Homeland Security was written to provide governors with an overview of their homeland security roles and responsibilities and to offer some guidance on how to approach issues such as mutual aid, information sharing, obtaining assistance from the military, and protecting critical infrastructure. The Guide draws heavily on the experiences of governors who have managed during emergencies and disasters of all sizes and on the lessons learned by states in the years since the September 11 attacks.

The homeland security waterfront is extremely broad, encompassing policy areas as diverse as border security, public health preparedness, and telecommunications. An encyclopedic guide would be voluminous. This document focuses on areas governors must immediately be aware of and the resources they are most likely to rely on during the initial response to an incident. Other National Governors Association Center for Best Practices publications complement this guide by focusing more closely on individual subject areas such as energy assurance, intelligence fusion, pandemic influenza preparedness, and the use of technology to enhance homeland security.

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Executive Summary

Executive Summary

As the chief executives of their states, governors are responsible for overseeing the state's response to any emergency or disaster. A well-planned and well-implemented response is vital to the safety and well-being of the citizens of the state; an ineffective response, on the other hand, threatens those citizens and their property and can exacerbate damages to the state and its economy.

In today's world, emergencies and disasters take many forms, including natural disasters, technological and infrastructure failures, terrorist attacks, and health emergencies such as pandemic disease outbreaks. An effective crisis-management program will encompass five critical components: an assessment of the threats facing the state; development of a plan to mitigate those threats; development of a strategy to prepare for all hazards; a comprehensive and well-tested response plan; and a plan for short- and long-term recovery. This document focuses primarily on the preparedness and response components of a state's crisis-management program.

Preparing to Govern

A new governor must be prepared to respond to an emergency immediately upon assuming office. Governors-elect and their future staff should therefore:

- obtain early briefings on the status of emergency management and homeland security structures in the state, including an updated risk assessment and overview of response plans;
- designate a senior staff person to become familiar with the forms and procedures needed to activate the emergency preparedness response and to declare disasters and request mutual aid or federal assistance;
- ensure continuity of command of critical functions through the early appointment of key officials or by carrying over existing appointees; and
- ensure that key gubernatorial staff such as the chief of staff, legal counsel, and communications director are fully briefed on their roles in a disaster prior to taking office.

The Governor's Role in an Emergency

While the governor will be thrust into a leadership role during an emergency or disaster, it is equally important that the governor take an active role in ensuring that other state officials and agencies are well prepared to act effectively should a disaster occur. Some critical steps include:

- making emergency preparedness and homeland security a gubernatorial priority;
- creating a governance structure that reflects the governor's priorities and leadership and management style; and
- encouraging cooperation among state and local officials who will be expected to play a role in emergency response.

During an emergency, governors will be called on to play a number of roles, including the state's chief communicator and primary source of information on the need for evacuations, the scope of the disaster, and the availability of assistance. Governors also will need to make decisions regarding the declaration of emergencies or disasters, the use of the National Guard, requests for mutual aid, and calls for federal assistance. In addition, the governor may be called on to authorize emergency spending, suspend state regulations, request waivers of federal regulations, and ensure that state agencies are responding appropriately.

This document serves as a guide to governors as they begin to examine their state's homeland security operations and structures. A separate "What a New Governor Should Know" section has been prepared specifically to help newly elected governors put in place the structures and procedures they will need to effectively manage emergencies and disasters. Each chapter of the guide provides a discussion of salient issues and includes "key points" that summarize those discussions. Some of those key points include:

Governors' Powers, Roles, and Responsibilities

Governors should understand their emergency powers and should ensure that key staff such as the chief of staff, counsel, and the communications director are prepared and well-versed in their roles during a disaster. Governors also should ensure that homeland security or emergency management professionals brief any new members of their staff about the staff role during a disaster.

State Homeland Security Governance

The homeland security department, office, council, or committee should reflect the governor's vision, establish the state's security strategy, encompass various stakeholders, and include an all-hazards approach. The homeland security structure should have sufficient budget oversight and authority to allocate funds based on the overarching strategy, and the state homeland security director should understand and be able to manage the diversity of related disciplines, including public safety, the National Guard, and emergency management.

Developing a Public Communications Strategy

Governors should require the chief of staff, press secretary, and public information officers from state agencies to prepare a communications strategy prior to a disaster. Governors also should ensure that lines of communication with the press remain open during disasters so that questions receive prompt answers and false rumors and misinformation can be addressed quickly.

Mutual Aid

Governors should ensure that robust intrastate mutual aid agreements are in place to support jurisdictions across the state. The Model Intrastate Mutual Aid Legislation provides a useful template for the development of mutual aid provisions. Governors also should become familiar with the Emergency Management Assistance Compact, which provides the framework for most state-to-state mutual aid during governor-declared emergencies and disasters.

National Guard and Military Assistance

The National Guard is a crucial state resource during emergencies and disasters, with expertise in communications, logistics, search-and-rescue, and decontamination. Governors generally enjoy the authority to deploy National Guard resources to execute state law, suppress or prevent insurrection or lawless violence, and repel invasion. In addition, significant federal military assistance is available to governors during disasters, in particular, command-and-control elements that can be used to coordinate federal forces that may be requested. The effective integration of federal military forces with those of the state, however, is critical to an efficient response.

Major Disaster and Emergency Declarations

Most emergencies in a state do not result in governor-declared emergencies or disasters, much less presidential declarations. When the federal government does become involved, however, governors should be aware that the amount and extent of assistance varies greatly depending on whether the incident is declared an emergency or a disaster. The Robert T. Stafford Disaster Relief and Emergency Assistance Act provides the legal basis for the President and the federal government to provide assistance to state and local governments, eligible organizations, and individuals. Governors should understand the processes used to request Presidential disaster declarations and federal assistance.

Federal Assistance Available to States and Individuals

Once a disaster declaration is approved, governors should have state officials work with FEMA to conduct a briefing for state, local, and eligible organizations applying for federal assistance. The state in most cases will be required to pay 25 percent of rebuilding and recovery costs. Governors also should be aware that some federal assistance is available even without a presidential disaster declaration.

Intelligence and Information Sharing

State-level intelligence fusion centers are the focal point for information and intelligence sharing among local, state, and federal agencies from a variety of disciplines. Guidelines exist to help states establish fusion centers, and several national information-sharing initiatives have been launched to assist states in accessing federal and state databases. Privacy issues, the need for security clearances, and the existence of a large number of information-sharing networks present challenges to the seamless integration of information from all levels of government and across disciplines.

Interoperability

Governors should form committees to report back to them on regional and state interoperability successes and challenges. Memorandums of understanding can be used to define interoperability procedures with state agencies and local governments. Funding strategies and incentives need to be developed to encourage greater state, local, and federal participation in interoperability initiatives. New communication systems should adhere to accepted interoperability standards.

Critical Infrastructure Protection

Governors should understand the federal government's role in infrastructure protection and should develop plans and strategies in the context of that federal role. Governors should ensure that vulnerability and risk assessments have been conducted and are adequate for the entire infrastructure in their state. Interdependencies among various industry sectors also should be identified and governors should consider investing in infrastructure and working with other states to increase the resiliency of infrastructure on a regional basis.

A GOVERNOR'S GUIDE to HOMELAND SECURITY

Introduction

What a New Governor Should Know

On the chilly morning of January 16, 1979, Richard Thornburgh took the oath of office as the 44th governor of the Commonwealth of Pennsylvania. Less than three months later, in the predawn hours of March 28, the Unit 2 nuclear reactor at the Three Mile Island Nuclear Generating Station, just 10 miles from the state capitol, suffered a partial core meltdown.[1]

Just 71 days into his term, Governor Thornburgh found himself in the national spotlight and was expected to serve expertly as the leader in a litany of complicated duties: commander-in-chief of the state forces responding to the incident, chief executive officer of the government, chief communicator to a worried public, and chief liaison to the governors of neighboring states and to the federal government. The citizens of Pennsylvania viewed his performance through the prism of the film *The China Syndrome,* which had been released just days before, and against the backdrop of the most serious accident in the history of commercial nuclear power in the United States.

A generation after Three Mile Island, the fundamental principle that governors must be prepared to lead during disasters — from the moment they take office — still applies. The following section outlines the major recommendations each chapter in this document makes for governors in cases of disaster or emergency.

Governors' Powers, Roles, and Responsibilities

Governors should understand the emergency powers at their disposal during an emergency and, as one of their first priorities upon taking office, ensure that their staff members recognize the roles they will be asked to serve during a disaster. A new governor should be aware of the following points:

- They have the authority to allocate resources, including National Guard forces, to coordinate the response of state agencies, and to communicate with the public.
- Several current governors recommend that their colleagues be physically present at their state emergency operations centers (EOC) during major incidents.
- Governors have the power to call on other states for assistance through mutual aid agreements such as the Emergency Management Assistance Compact to request help from the federal government.
- Key gubernatorial staff, including the chief of staff, legal counsel, communications director, and press secretary, must be prepared and well-versed on their roles during a disaster. Likewise, governors and their top staff must be aware of the roles and responsibilities of key public safety agencies and managers.
- The technical expertise on which a governor will rely for decisions relating to homeland security and emergency management will reside for the most part in the state agencies responsible for those activities.

State Homeland Security Governance

The way a state's homeland security apparatus is organized has a significant impact on the level of preparedness and the efficiency of response and recovery efforts. For the most part, state homeland security structures did not exist prior to the September 11, 2001, terrorist attacks and in many cases, those organizations remain a work-in-progress five years after those attacks. Three guiding principles, described below, have emerged that governors can follow to determine the appropriate homeland security structure for their states:

- The state homeland security department, office, council, or committee should reflect the governor's vision, establish the state's security strategy, address concerns of necessary stakeholders, and ensure an approach applicable to all types of hazards.

- The entity responsible for homeland security should have appropriate budget oversight and authority to allocate funds based on the overarching strategy.
- The homeland security director should understand and manage the diversity of related disciplines, including public safety, the National Guard, and emergency management. The director also should have an understanding of disciplines not traditionally part of public safety, such as public health and agriculture, that affect the security of a state. In addition, the director should be aware of the range of threats facing the state, from health issues such as pandemic diseases to economic disruptions stemming from terrorist attacks, natural disasters, or technological failures.

Developing a Public Communications and Media Strategy

A communications strategy is an essential component of state emergency response and should be developed well before the state faces a disaster. Without adequate preparation and coordination by the governor's chief of staff, press secretary, and state agency public information officers, rumor may be taken as truth and facts may be misrepresented, resulting in a distorted public perception of an emergency. A new governor should know the following about developing a communications strategy:

- Communication should include helping the state's residents understand what they should do to prior to a disaster, including providing guidance on when to evacuate and where to go during an evacuation; when to stay where they are and what supplies they should have on hand; and the need for comprehensive home and work preparedness plans.
- Communicating directly to victims and victims' families about where to turn for help is not only appropriate but essential to a comprehensive response.
- The temptation to speed to the scene of an emergency or disaster should often be resisted. The governor should consult with his or her homeland security staff and emergency management team before deciding whether it is a good idea to visit the scene.

Mutual Aid

Disasters and emergencies can quickly exhaust or overwhelm the resources of a single jurisdiction, whether at the state or local level. Two primary types of mutual aid, intrastate and interstate, exist. A new governor should know the following about mutual aid:

- The Model Intrastate Mutual Aid Legislation developed by the National Emergency Management Association can serve as a useful tool for developing or refining mutual aid agreements within a state.
- Assistance from other states is most efficiently obtained through the Emergency Management Assistance Compact (EMAC), a nationwide compact approved by Congress and administered by the states. EMAC helps avoid the arrival of uncoordinated, inappropriate, and unlicensed help.

Before a New Governor Is Sworn In

- New governors should avoid vacancies in key homeland security positions such as the state homeland security director or the state emergency manager. A newly elected governor should work with his or her transition team to identify these key personnel early to minimize vacancies and encourage overlap with the outgoing administration. As soon as a new governor selects people for these positions, the department or agency they are about to lead should be informed.
- New governors should ensure that staff able to manage a disaster response operation are in place on their inauguration day.
- New governors should task their incoming gubernatorial staff, particularly the legal counsel, with reviewing the procedures necessary for them to declare a state emergency and use their emergency powers.

Military Assistance

During a disaster, governors have at their disposal a crucial state resource in the National Guard. To deploy their National Guard effectively, governors need to understand the role the Guard plays in their emergency response systems and recognize the other military assets that are available through the U.S. Department of Defense. A new governor should know the following about military assistance:

- Under Title 32 authority, the governor is in command and control of the National Guard, and Posse Comitatus restrictions (such as the use of military police to maintain law and order) do not apply.
- Under Title 10 authority, the President may federalize and deploy all or part of the state's National Guard, and Posse Comitatus restrictions do apply.
- Federalizing the National Guard may reduce costs for a state, but governors also lose control of their Guard forces when they are deployed under Title 10.
- Federal funding for some National Guard costs related to homeland defense activities is available if the secretary of defense determines a National Guard component is necessary and appropriate.
- Several strategies exist to integrate military forces with those of the state, including the "dual state command" in which one commander can lead both National Guard forces deployed under Title 10 and those deployed under Title 32.

Major Disaster and Emergency Declarations

Most disasters do not reach the magnitude of a presidential declaration. However, when state and local resources are insufficient to respond to and recover from a disaster, a governor may ask the President to declare a major disaster or an emergency. A new governor should know the following about presidential declarations:

- The extent and amount of assistance available from the federal government varies dramatically depending on whether the President declares an emergency or a major disaster.
- When requesting a presidential declaration, governors should communicate with the regional Federal Emergency Management Agency (FEMA) director.
- The National Response Plan provides the mechanism for coordinating delivery of federal assistance and resources to augment efforts of state and local governments overwhelmed by a major disaster or emergency.

Federal Disaster and Emergency Assistance Available to States and Individuals

State and local governments share responsibility for preparing their citizens for disasters and helping them recover when disasters strikes. In cases where state and local governments' ability to respond to disasters is overwhelmed, their ability to fully recover on their own also is likely to be compromised, and federal assistance will be required. A new governor should know the following about federal assistance:

- Once the President declares a disaster, governors should have state officials work with FEMA to conduct a briefing for state, local, and eligible private nonprofit organizations applying for federal assistance programs.
- Federal public assistance to rebuild damaged state infrastructure can account for up to 75 percent of costs.
- State officials should be present at any disaster recovery center set up by FEMA for heavily affected communities.
- Some forms of federal disaster assistance — such as fire management assistance from FEMA, repairs to federal aid system roads and bridges through the U.S. Department of Transportation, and search and rescue assistance from the U.S. Coast Guard — can be obtained without a presidential disaster declaration.

Intelligence and Information Sharing

Public safety agencies have pointed to a lack of information sharing as one of the main obstacles to implementing an effective homeland security strategy. A significant focus of the post September 11 efforts to improve homeland security has been to close the information sharing gaps. A new governor should know the following about information sharing:

- New governors should decide whether they want classified information to help inform their disaster response efforts. If so, the Department of Homeland Security (DHS) will send governors a non-disclosure form to allow them access to classified information.
- New governors should determine whether their states have a structure such as a fusion center that allows public safety agencies to collect, analyze, and disseminate information from multiple sources.
- New governors should review the fusion center guidelines from the Global Justice Information Sharing Initiative to determine whether their fusion center has the types of capabilities necessary to inform disaster response.

Interoperability

Reliable communications are a critical component of any disaster response. In the early stages of a major incident, the ability of first responders to save lives and property can be influenced to a large degree by their ability to communicate with each other. A new governor should know the following about interoperability:

- Statewide plans for interoperable communications do not exist in all states, and new governors should ask for an honest appraisal of the current status of interoperability in their states.
- New governors should determine whether a strategy exists to drive the effort toward fully interoperable communications in their state.

Critical Infrastructure Protection

The federal government defines critical infrastructure as systems and assets so vital to the nation that their incapacity or destruction would have a debilitating impact on security, the national economy, national public health or safety, or any combination of those matters. However, governors' ability to ensure the security and resiliency of privately owned infrastructure and assets often is limited by a lack of statutory or regulatory authority. A new governor should do the following concerning infrastructure protection:

- Recognize that current federal surveys of the nation's infrastructure may not provide an accurate picture of the state's critical infrastructure;
- Ensure that an adequate survey has been conducted and is updated regularly;
- Make targeted investments in systems and facilities that will improve the state's ability to recover quickly from disaster and emergencies;
- Consider joining with other states to develop strategies for managing events that affect infrastructure serving more than one state; and
- Partner with the private sector to develop emergency response and risk communication plans for incidents affecting privately owned systems or infrastructure.

Chapter 1

Governors' Powers, Roles, and Responsibilities

Governors should understand their emergency powers and, as one of their first priorities upon taking office, ensure their staff members recognize the roles they will be required to perform during a disaster. Governors also should develop mechanisms to keep other state and local elected and appointed officials informed about their states' emergency response plans and activities.

Governors' preparations for disasters should begin even before they take the oath of office, as they must be prepared to respond to an emergency immediately upon assuming control. To that end, governors-elect and their future staff should:

- obtain early briefings on the status of emergency management and homeland security structures in the state, including an updated risk assessment and overview of response plans;
- designate a senior staff person to become familiar with the forms and procedures needed to activate the emergency preparedness response and to declare disasters and request mutual aid or federal assistance;
- ensure continuity of command of critical functions through the early appointment of key officials or by carrying over existing appointees; and
- ensure that key gubernatorial staff such as the chief of staff, legal counsel and communications director are fully briefed on their roles in a disaster prior to taking office.

Governors' Emergency Powers and Roles

Reflecting their leading role in disaster response, governors are granted emergency powers to fulfill their responsibilities in extraordinary circumstances. These powers are established legislatively and vary from state to state, and it is important for governors, before they take office, to understand the emergency powers reposed in them. Examples of gubernatorial emergency powers include:

- suspending state regulations and statutes;
- ordering evacuations;
- commandeering the use of private property;
- controlling access to the disaster sites;
- rationing supplies such as food, water, and fuel;
- implementing specific public health response measures; and
- authorizing emergency funds without prior legislative consent.

In addition, all governors have the power to do the following:

- call upon other states for mutual assistance through mutual aid agreements such as the Emergency Management Assistance Compact;
- call upon the federal government for assistance; and
- mobilize the National Guard.

To use any of these powers, governors generally must declare a state of emergency, usually through an executive order or a proclamation.

During an emergency, the governor's most important role is ensuring a structured, coordinated, and orderly response. During major incidents, governors should consider being present at their state emergency operations centers (EOC). This does not mean that the governor should be engaged in the details of disaster response operations, but the governor's presence in the EOC can serve to defuse interagency turf battles and eliminate bureaucratic red tape. It is also essential that the governor strikes the appropriate tone during the early stages of a disaster response to ensure the state's executive leadership is unified and coordinated.

Limitations on Emergency Powers

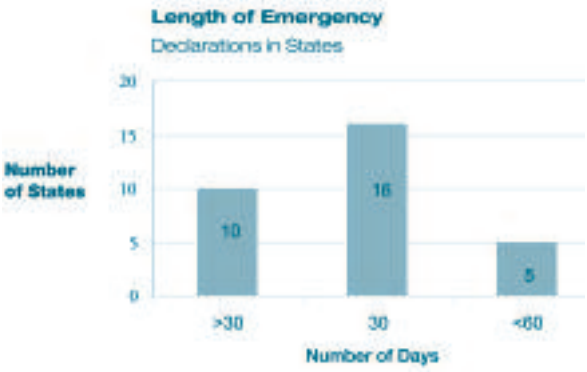
Emergency powers are not absolute, and emergency declarations often come with strings attached. In some states, such as **Alabama** and **Arizona**, statutes require the governor to convene the legislature into special session immediately once he or she issues a

state emergency proclamation. Other states, such as **Maryland**, require public dissemination of the executive order declaring the state of emergency. In many states, the legislature can vote to end a state emergency through a concurrent resolution. Governors therefore must understand not only how to declare a state emergency, but also what is legally required of them once an emergency is declared.[2]

In most states, emergencies cannot be declared indefinitely. In five states, a state of emergency can last for 60 days or more. In 16 states, a state of emergency can last for no more than 30 days. In 10 states, a state of emergency must expire in less than 30 days. In 14 states, these time limits can be extended. In 12 states, the legislature can terminate a state of emergency.

Some states also allow governors to make declarations for different types of emergencies, and the type of emergency often dictates the time limit of the emergency declaration. In **Wisconsin**, for example, the governor can declare a state of emergency for 60 days due to "enemy action" and 30 days due to a natural disaster.[3]

Governors should also be aware that they do not have the authority to waive federal statutes or regulations. Instead, they must request waivers of those statutes or regulations from the relevant federal agencies (for a detailed discussion of the federal government's role in disaster response, please see chapter 6). In the



aftermath of Hurricane Katrina, states worked with federal regulatory agencies to receive waivers in several areas as shown in the following examples:

- **Alabama**, **Arkansas**, **Georgia**, **Florida**, **Kentucky**, **Louisiana**, **Mississippi**, **New Mexico**, **North Carolina**, **South Carolina**, **Tennessee**, **Texas**, and **Virginia** received U.S. Environmental Protection Agency waivers to allow the use of high sulfur diesel fuels on highways;
- **Alabama**, **Arkansas**, **Louisiana**, **Oklahoma**, and **Texas** received U.S. Department of Agriculture Forest Service waivers of national forest campground fees for survivors of Hurricane Katrina;
- **Mississippi** received a U.S. Department of Education waiver allowing the state department of education an extra year to obligate funds that had not been spent under the Elementary and Secondary Education Act;[4] and

Summary Points

- Governors should know the emergency powers available to them as soon as they take office.
- Governors should know how to declare a state emergency and what is legally required once an emergency is declared.
- Governors should be aware of the length of state of emergency declarations within their state and the types of emergency declarations that are at their disposal.
- Governors should be aware that they must work with the federal government to waive federal regulations.

- **Louisiana**, **Mississippi,** and other affected states received waivers to streamline Medicaid and Temporary Assistance for Needy Families (TANF) enrollment and reimbursements.

The Role of the Governor's Staff

The role for most gubernatorial staff members, other than the homeland security advisor, during a disaster will be to support the governor. The level of this support depends upon the person's job description. Governors should encourage key staff such as the chief of staff, counsel, and the communications director and/or press secretary to be prepared and well-versed on their roles during a disaster.

Chief of Staff. The most important member of the gubernatorial staff during a disaster is the chief of staff. At times, the chief of staff will have a formal response role detailed in the state emergency response plan. The chief of staff is essentially an extension of the governor but, unlike the governor, may be involved in the operational aspects of disaster response. Often, complications will arise that were not envisioned in the response plan, and crafting solutions to those complications and unforeseen events typically falls to the chief of staff.

The chief of staff also controls access to the governor during the crisis. This can mean curtailing the governor's normal schedule so that he or she can receive briefings from homeland security or operational staff about the disaster and response efforts. The chief of staff also typically plays a key role in decisions about when the governor should go to the disaster scene. This decision requires a careful read of the situation. The governor needs to inform victims, the general public, and state staff that it is the administration's priority to respond to the disaster, and there is no better way to send that message than for the governor to visit a disaster scene. Nevertheless, the media and security presence that a governor likely will bring to a disaster scene also has the potential to tie up operational personnel and complicate response efforts. The chief of staff often will be responsible for striking the appropriate balance between maximizing the effectiveness of a gubernatorial visit to a disaster scene with the need to allow for an efficient and effective response.[5]

Homeland Security Advisor. The position of homeland security advisor on the governor's staff was created after the September 11 attacks. As such, no single model has emerged for the roles and responsibilities of this individual. In several states, the advisor staffs the governor on homeland security issues and serves as a liaison between the governor's office, the state homeland security structure, the federal Department of Homeland Security, and other outside organizations. The advisor often chairs a committee — made up of representatives of relevant state agencies, including public safety, the National Guard, emergency management, public health, and others — charged with developing preparedness and response strategies.

Legal Counsel. The governor's legal counsel will be a key player during an emergency. The counsel will be expected to provide expert legal advice about the emergency powers that the governor can exercise over the course of a disaster.

To meet this challenge, a draft checklist for government attorneys prepared by the American Bar Association (ABA) recommends that counsels make preparations in advance, creating an emergency and disaster response handbook for quick reference. The ABA checklist also recommends that counsels determine the authorities in the jurisdiction with respect to several issues, including:

- who determines the circumstances under which mass evacuations can be ordered and the conditions required for an evacuation;
- the restrictions a governor can impose on public access to residential areas and disaster sites;
- curfew provisions and the conditions required to impose them;

- the range of public health powers available to control contamination and to permit destruction of private property that may constitute a potential hazard, and the compensation obligations that are required of government;
- gubernatorial authority to impose protections and controls for access to critical infrastructure;
- gubernatorial access to various types of intelligence information from other levels of government;
- the scope of existing joint powers agreements with other governmental bodies;
- the command structure for emergency management and the governor's role in that structure;
- the parameters for sharing intelligence and disaster information with the news media;
- the applicability of freedom of information and open meeting laws during a crisis;
- the authority to exceed appropriations and disregard set budgets during an emergency;
- the applicability of personnel rules during a disaster;
- the circumstances under which emergency appointments are permitted;
- the extent to which liability rules apply to the state during a disaster; and
- laws that are subject to suspension during times of emergency.[6]

Communications Staff. Over the course of an emergency, communications staff members will be expected to provide timely, accurate, and consistent information to victims and their relatives, officials from all levels of government, and the general public. To meet this challenge, communications staff must read and understand the state emergency plan, know the key response personnel and their roles, and have some understanding of state and federal disaster aid programs.

The governor's communication staff should meet with their state's public information officers in the agencies responsible for emergency management or homeland security to develop communications protocols in advance of a disaster. The governor's communications staff should use this opportunity to delineate media-relations responsibilities during a disaster. In addition, the governor's communications office should have a multimedia public notification and information plan that includes use of the state's Web page as a vehicle for disseminating up-to-date information on the disaster, response activities, and relief and recovery resources for victims. That plan should reflect the possibility that some modes of communication, such as the Internet, telephones, and television, are likely to be unavailable for some period of time after a disaster hits.

The Role of Other Elected and Appointed Officials

Governors may take the lead for disaster response, but they will need the cooperation of other elected and appointed officials to ensure a successful response. A common adage in homeland security and emergency management is, "All disasters are local." Many states recognize this maxim by authorizing local governments to declare disasters for short periods. In general, governors declare a state of emergency when it becomes clear that local resources will be overwhelmed.

Governors who use emergency powers or attempt to coordinate disaster response without consulting state and local elected or appointed officials may unnecessarily complicate an already difficult situation. Without this consultation, local and state officials may inadvertently convey inaccurate information to citizens or develop unrealistic expectations on important issues such as state reimbursement for response efforts. A governor's disaster declaration, for example, does not mean that local officials can immediately apply for federal disaster aid assistance.

Governors also should ensure that their cabinet secretaries understand their respective roles and authorities during disasters and that those officials

participate in tabletop and full-scale emergency response exercises. In addition, governors should ensure that their offices and all state agencies and branches of government have up-to-date continuity of operations plans.

Lessons from past experiences that will help governors keep state and local officials apprised during a disaster include:

- set up lines of communication with local government and have technology to communicate with local officials during power and telephone outages;
- coordinate communications with the media;
- understand the local chain of command in a disaster area;
- update the state legislature, county officials, mayors, and others on a regular basis about response efforts;
- participate in training and exercises with cabinet officials, local officials, and first responders;
- ensure up-to-date continuity of operations plans are in place for all agencies and branches of government; and
- follow established emergency plans and protocols for coordinating with local governments.

Summary Points

- Governors should consider being physically present at the state emergency operations centers during major incidents.
- Governors should direct key staff such as the chief of staff, counsel, and the communications director and/or press secretary to be prepared and well-versed on their roles during a disaster.
- The governor should ensure that the chief of staff understands any roles assigned in the state emergency response plan.
- The governor should ensure that the counsel prepares a reference book in advance that provides answers to key legal issues that might arise during a disaster.
- The governor should ensure that communication staff read and understand the state emergency plan, know the key response personnel and their roles, and have some understanding of state and federal disaster aid programs, as well as delineate media-relations responsibilities during disasters with other state public information officers.
- Governors should insist that homeland security or emergency management professionals brief any new members of their staff about the staff role during a disaster.

Chapter 2

State Homeland Security Governance

A well-structured homeland security organization can contribute to a state's ability to prepare for, mitigate, and respond to a range of threats. State homeland security structures, for the most part, did not exist prior to the September 11, 2001, terrorist attacks, and in many cases, they remain a work-in-progress five years after those attacks. However, three guiding principles have emerged that can help governors determine the appropriate homeland structure for their states:

- The state homeland security department, office, council, or committee should reflect the governor's vision, establish the state's security strategy, encompass all necessary stakeholders, and include an all-hazards approach.
- The entity responsible for homeland security should have sufficient budget oversight and authority to allocate funds based on the overarching strategy.
- The governor should appoint a homeland security director who understands and can manage the diversity of related disciplines, including public safety, the National Guard, and emergency management. The director should also have an understanding of disciplines outside of the department that may impact the security of a state, including public health.

Creating the State Homeland Security Office

Homeland security is now a required function within state government to ensure preparedness for, and response to, all types of threats. The challenge for governors is to build the airplane while it is in flight. It has been five years since the September 11 attacks, but in that time, governors have moved swiftly to appoint homeland security directors and to establish homeland security offices that unite their states' preparedness and response capabilities across multiple agencies and jurisdictions. These state offices or departments accomplish their missions by facilitating the interaction and coordination needed among the governor's office, the homeland security director, the state emergency management office, other state agencies, local governments, the private sector, volunteer organizations, and the federal government.

Still, there is a notable variety among the states both in the background of the people responsible for homeland security and in their roles in their states. Governors have designated people from law enforcement, the military, emergency management, and public safety to serve as their homeland security directors. In many states, the homeland security director also serves as an advisor to the governor. And in some states, officials other than the homeland security director are tasked with specific oversight of emergency operations.

In the years since September 11, 2001, several areas have been identified that governors should focus on to improve their homeland security organizations and make them more viable structures for addressing and implementing their states' homeland security strategy. One common shortcoming in state homeland security structures is a lack of connections among management, operational, and budgetary functions, which often are split among several agencies. This is detrimental to the efficient allocation of resources at the state and local levels and has resulted in turf battles among state agencies. Although these issues remain unresolved in some states, other governors are consolidating public safety functions into cabinet-level departments of homeland security. The departments set strategy, manage operations, and have grantmaking authority with oversight from an executive or advisory council to help guide decisions. This is especially important because of the number of stakeholders that need to be consulted for all aspects of state homeland security planning.

Many states have followed these principles when establishing their homeland security organizations:

- The homeland security department, office, council, or committee should reflect the governor's vision, establish the state's security strategy, encompass all necessary stakeholders, and include an all-hazards approach.
- The homeland security structure should have budget oversight and use the governance structure to allocate funds based on the overarching strategy.
- The governor should appoint a homeland security director who can manage the diversity of disciplines, including public safety, National Guard, and emergency management. The director also should have an understanding of disciplines outside of the department that may impact security, such as public health threats.

Set a Vision

The governor's vision of homeland security determines how the state manages this function. Governors should examine their homeland security capabilities to determine how they will structure the organization and provide for its governance. This also will afford an opportunity to determine the physical organization and the reporting relationships among the cabinet agencies. All states now have homeland security structures, but it is important to think through how the entity is operating to identify its strengths and weaknesses.

Most states developed homeland security strategies in response to funding mandates from the U.S. Department of Homeland Security (DHS). However, state public safety structures may not match the federal model. It is important to develop a state structure that coordinates all functions.

Other important considerations that should go into establishing a vision include the following:

- Develop an all-hazards approach.
- Establish and coordinate interstate regions.
- Share interstate resources.
- Create a statewide focus.
- Make sure it is sustainable over the long term.

Budget Oversight

The battle over the "power of the purse" is traditionally the toughest one fought by agencies at all levels of government. DHS provides grant funding directly to the states, which in turn allocate resources to local agencies. This relationship has become strained simply because of the number of dollars at stake and the need for local governments to be self-reliant during the early stages of a disaster. The recommended approach is to grant the state homeland security office oversight of all homeland security funding so that allocations can be coordinated with the overall state strategy. This authority, however, must come with a requirement to engage appropriate state agencies in a cooperative planning process that ensures all preparedness disciplines are equally represented. In addition, state exercise and training programs must address the requirements established in all federal preparedness grant programs, not just those from the Department of Homeland Security.

Federal agencies other than DHS also provide funding to the states, and those funding streams also must be coordinated. The U.S. Department of Justice (DOJ) provides direct grants to states and local governments for public safety projects. These projects frequently have a homeland security function, yet the DHS and DOJ funding streams often flow to different agencies in the states.*

The U.S. Department of Health and Human Services (HHS) provides grants for bioterrorism and public health preparedness; these funds go directly to each state's health agency and to private-sector hospitals. States should use the homeland security governance structure to coordinate the use and prioritization of all federal funds.

* Although this is true in the majority of states, in Wisconsin, for instance, the Office of Justice Assistance oversees both DOJ and DHS funds.

Ability to Manage Diverse Disciplines

The governor should look to the homeland security director as the person who will carry out the state's policy agenda through the implementation of specific objectives. This person needs to have the ability to manage large organizations, develop collaborative partnerships, and understand the various disciplines involved. The director should have the authority to influence and coordinate the implementation of homeland security directives.

The following state agencies should coordinate their efforts:

- The governor's office
- State administering agency
- Public safety department
- Military department
- Public health offices
- State department of transportation
- Various state police agencies
- Emergency management offices
- Emergency Medical Services
- Public works
- Fire services

Types of Homeland Security Organizations

A review of several state homeland security functions reveals three basic organizational structures with varying degrees of planning and operational authority. These organizations continue to evolve as states learn about the benefits and pitfalls of each approach. Regardless of their physical structure, however, the people leading the organizations ultimately drive the success or failure of state strategies and ensure collaboration among stakeholders.

Homeland Security Advisor with Committee/Coordinating Council

Some governors have appointed homeland security advisors or directors to provide direct counsel to and speak on behalf of the governor on matters related to homeland security. As mentioned, the advisor often chairs a committee — made up of representatives of relevant state agencies, including public safety, the National Guard, emergency management, public health, and others — charged with developing preparedness and response strategies.

In 2003, **Maryland** Governor Robert Ehrlich created an office of homeland security and appointed an advisor to head that office. The advisor is the liaison to the U.S. Department of Homeland Security and coordinates the state's departments, municipalities, and counties in matters of homeland security and emergency preparedness. The Maryland Emergency Management Agency (MEMA), which is part of the Maryland Military Department, provides logistical and infrastructure support to the office of homeland security. MEMA manages many of the federal grants funding a broad range of initiatives related to protection from and responses to the full range of natural and man-made disasters that could threaten the state.[7]

In **Nebraska**, the governor appointed the lieutenant governor as the director of the Nebraska Homeland Security Office. The office's mission is to help the lieutenant governor and the policy group for homeland security implement the state disaster assistance and recovery program, operate the radiological emergency preparedness program, oversee the state emergency response commission, and conduct comprehensive training and exercises. The office comprises representatives from the military department, emergency management, state patrol, state fire, health and human services, the governor's policy group, the University of Nebraska system, the department of agriculture, the department of environmental quality, the FBI, the department of administrative services, and the state energy office.[8]

The state of **Washington**, for example, created a statewide collaborative partnership known as TEAM WASHINGTON. The governor appointed the state's adjutant general, who heads the state's military department, as homeland security advisor. TEAM WASHINGTON includes the domestic security executive group, the emergency management council, the committee on homeland security, the state interoperability executive committee, the enhanced 9-1-1 advisory committee, and the regional homeland security coordination districts. While the adjutant general, as homeland security advisor, is the state administrative agent (SAA) and administers all Department of Homeland Security funds, he does not have direct control or budget authority over all of these groups. They work collectively toward a mutually beneficial all-hazards approach to homeland security.[9]

Department of Homeland Security

As the homeland security discipline has evolved, governors are beginning to create state departments of homeland security that have the statutory authority to oversee operations as well as to develop all-hazards approaches to mitigation, preparedness, and response. Under this model, the governor may bring several public safety agencies, including emergency management, under one department to coordinate capabilities and resources more effectively.

The **Alabama** Department of Homeland Security (ALDHS) was established by the Alabama State Legislature in 2003, and the director is appointed by the governor. ALDHS is divided into four major functional areas: borders, ports and transportation; science and technology; information management and budget; and emergency preparedness and response. ALDHS coordinates with federal, state, and local partners and the private sector. The department works closely with many disciplines, including law enforcement, emergency management, emergency medical, fire services, public works, agriculture, public health, public safety communications, environmental management, military, and transportation. ALDHS administers the state's federal grant funding and since 2003 has administered more than $100 million in federally appropriated homeland security grants.[10]

After first establishing an office of homeland security, **Arizona** Governor Janet Napolitano in 2006 created the Arizona Department of Homeland Security. The department is charged with developing comprehensive emergency plans to prevent and respond to natural, technological, and terrorist events. In addition the department has management, operational, and budgetary oversight over all homeland security functions. This has created an opportunity to coordinate the disparate pieces of the state's preparedness structure into a more cohesive all-hazards approach.[11]

In **Delaware**, the governor established the department of safety and homeland security and appointed the secretary of that department as the state homeland security director and liaison to the governor's office. The department is composed of the division of alcohol and tobacco enforcement, capitol police, communications, Delaware Emergency Management Agency, Delaware State Police, and the office of highway safety. The secretary also serves as the central point for coordination of the department's homeland security funding.[12]

In 2005 **Indiana** consolidated all of its emergency management and homeland security efforts into one department by creating the Indiana Department of Homeland Security (IDHS). The four divisions within the department include the division of planning and assessment, responsible for federal grants; the division of preparedness and training, which includes the state's former public safety training institute; the division of emergency response and recovery, which incorporates the former state emergency management agency; and the division of fire and building safety, which includes the newly combined role of the state fire marshal and state building commissioner. The department is responsible for implementing the state intelligence fusion center, overseeing the application and disbursement of federal homeland security

funds, acting as the single emergency operations coordinator during state emergencies, and serving as the director of the counter terrorism and security council, which is chaired by Indiana's lieutenant governor.[13]

Homeland Security Functions Under Existing Agencies

In many states, the homeland security functions have been assigned to an existing agency, such as public safety or the military department. The homeland security advisor wears several hats and reports directly to the governor on matters of homeland security policy and may or may not have responsibility for homeland security operations. Generally, these homeland security advisors, at a minimum, coordinate response resources and activities across the various state agencies, and in many cases, they have planning and budgetary authority.

The **Florida** Department of Law Enforcement (FDLE) oversees homeland security, and the commissioner of the department is appointed by the governor. The commissioner has management and budgetary oversight; however, a separate emergency management division is tasked with providing communications, responding to disasters, and serving as the point of contact for local government, state government agencies, and the federal government during an emergency. FDLE, in cooperation with municipal, county, and state agencies, developed a homeland security strategy that identified Florida's terror-related vulnerabilities and devised a comprehensive, integrated plan for addressing those vulnerabilities. Homeland security functions in the state are carried out through seven regional domestic security task forces.[14]

In **Idaho**, the bureau of homeland security and its governor-appointed director reside in the military division, which is part of the office of the governor. The bureau's employees are civilian emergency management specialists specifically trained to coordinate local, state, and federal response and recovery disaster operations as a result of major emergencies and disasters. The bureau assists Idaho's state agencies, counties, cities, and citizens in preparing for and protecting themselves from the effects of terrorist incidents involving weapons of mass destruction.[15]

Governors have carried out the homeland security mission in a variety of ways and in many cases are still creating or refining current structures to better bring the various functions together in a collaborative environment. At the core of any state homeland security structure, however, is a direct relationship between the governor and the official charged with the oversight of the statewide homeland security strategy.

In **Massachusetts**, for example, the homeland security advisor is the executive director of public safety. The executive director maintains the operational resources to carry out the state homeland security strategy and serves as the state homeland security director. The public safety agency includes homeland security, oversees the state intelligence fusion center, develops the state security strategy, coordinates preparedness activities, and is responsible for emergency management functions.[16]

The commissioner of public safety is also **Minnesota**'s state homeland security advisor. This agency includes a division of homeland security and emergency management that has overall coordination for homeland security and emergency management functions. As a division under the commissioner of public safety, homeland security and emergency management coordinates budgets and plans to ensure that the state's vision and goals are of an all-hazards approach. The division also is the state administering agency and distributes federal grant funding to local governments.[17]

Summary Points

- The homeland security department, office, council, or committee should reflect the governor's vision, establish the state's security strategy, encompass various stakeholders, and include an all-hazards approach.
- The homeland security structure should have sufficient budget oversight and authority to allocate funds based on the overarching strategy.
- The governor should appoint a homeland security director who understands and can manage the diversity of related disciplines, including public safety, the National Guard, and emergency management. The director also should have an understanding of disciplines outside of the department that may impact the security of a state, including public health.

Chapter 3

Developing a Public Communications and Media Strategy

A communications strategy is an important component of state emergency response and should be developed well before the state is facing a disaster. Without adequate preparation and coordination by the governor's chief of staff, press secretary, and agency public information officers before and during an emergency, rumor may be taken as truth and facts may be misrepresented, resulting in a distorted public perception of an emergency.

It is essential for the state government to speak with one voice and communicate the governor's concerns. Prior to a disaster, if enough advance notice is available, a governor should advise citizens about what actions they can take to protect themselves and their families. That information, when appropriate, should include guidance on evacuation routes and the locations of emergency shelters. Immediately after a disaster, the governor should provide the state's residents with the following public assurances:

- the state recognizes the seriousness of the situation;
- someone is in charge; and
- all reasonable steps are being taken to respond.

Governors can use their unique access to the media to provide information to the public through scheduled press briefings, televised appearances, and radio announcements. The governor should ensure lines of communication with the press remain open so that questions receive prompt responses and false rumors can be quelled before they spread. It is equally important for governors or their representatives to communicate directly with the victims and victims' families and provide specific information on how to get help.

Media coverage of disasters has led to increased public expectations of government response. The press is eager to report what the government is doing — and not doing — to deal with the emergency. Disasters and emergencies provide dramatic live coverage for the media and evoke strong emotions from the public; therefore, governors must have a strategy for managing those emotions and expectations. The strategy should include the following:

- making a quick, initial statement;
- clearly establishing who speaks about what and when;
- establishing a regular schedule of statements;
- monitoring the media closely;
- correcting erroneous reports; and
- preparing for "Who's to blame" questions.

Summary Points

- Governors should require the chief of staff, press secretary, and agency public information officers to prepare a public communications strategy before the state is faced with a disaster.
- Governors should ensure that communication lines with the press are open so that questions receive prompt responses and false rumors can be quelled before they spread.
- Governors should ensure that someone is communicating directly with victims and victims' families about where to receive help.

Role of the Governor

Governors should resist the temptation to speed to the scene of an emergency or disaster. Rather, they should make the decision of whether to visit a disaster site based on deliberate consultation with their homeland security staff and emergency management team. The governor's presence can go a long way toward calming and reassuring the community during and after a disaster. Survivors, victims' families, and other citizens will look to the governor for leadership. However, depending on the circumstances, governors may decide to avoid the emergency area when their presence could interfere with rescue efforts or attract unwanted attention, possibly slowing assistance to victims. For example, because of the atypical nature of the Oklahoma City bombing disaster, **Oklahoma** Governor Frank Keating decided not to go immediately to the site. Instead, the governor stayed away as much as possible to avoid impeding the rescuers and politicizing the disaster. He directed much of his communication and aid to surviving family members and the caregivers helping victims.

A governor's presence can be reassuring, but it also can set unrealistic expectations that government programs or assistance may be forthcoming when, in fact, they will not. The most important role of the governor is to set realistic expectations among disaster victims and to provide comfort by words and actions. If an uninformed governor raises victim expectations it can be a recipe for a public relations disaster on top of the actual event.

A governor's actions during the early stages of a disaster often will set the tone for the state government's response. The following paragraphs describe actions governors should consider during the first 72 hours of an event such as a hurricane's landfall.

Day 1. The governor should make an announcement, either in person or through a press release, that the state is collecting information and is working with the affected local governments. The announcement should indicate that the governor is in charge of the situation, that there is a unified plan in action, and that information on further developments will be forthcoming. Compiling and disseminating consistent, accurate information can be an enormous challenge. The governor should *not* provide a detailed assessment until adequate data has been collected to avoid communicating misleading or incomplete information.

Day 2. A governor's representative should be ready to make an announcement describing the extent of damage as well as the response and recovery operations. If possible, the second-day announcement should be made from the disaster site. The governor's representative should not make specific promises for recovery assistance. Statements should be carefully framed to indicate that state and federal aid, if appropriate, are available to those who qualify. The governor's press secretary may wish to coordinate messages regarding federal aid with the Federal Emergency Management Agency's (FEMA) regional office to ensure accurate release of information.

Although questions can be expected from reporters about how this emergency compares with others of its type, experience shows that accurate comparisons are difficult, if not impossible. Comparisons should be avoided, especially at the beginning of a disaster. If appropriate and safe, the governor should consider visiting the site affected. The governor's presence at the scene can graphically demonstrate his or her concern and the seriousness with which he or she is treating the event. It also may bolster the spirits of citizens affected by the disaster. Local officials as well as technical experts such as the homeland security advisor or personnel

from the state's emergency management office and relevant state agencies should join the governor. These experts can handle technical questions concerning long-term damages and state aid.

Day 3 and thereafter. The governor's involvement and presence should not end suddenly with his or her return to the state capital. Those affected by the disaster need to know the emergency is still a top priority and that the governor is doing everything possible to provide assistance. A daily press release should indicate that on-site personnel are keeping the governor apprised of the situation. These releases should be coordinated with the homeland security and/or state emergency management agency's press officer so that all offices speak with one voice.

The governor and his or her staff should remember, however, that every disaster and emergency situation is unique. It is important for the governor to be flexible and determine what action to take on a case-by-case basis rather than strictly adhere to a prescribed response approach.

The homeland security advisor or state emergency management director should brief the governor continually on the status of state response and recovery efforts. Long after the emergency occurs, disaster assistance will be a key concern of the media from the affected area. The governor will also be questioned about the status of federal recovery efforts. However, the governor should avoid answering questions about specific cases, such as why a particular business has not received a loan from the Small Business Administration. Governors should reinforce the federal, state, and local response partnership when communicating with victims.

Role of the Chief of Staff

Typically, the chief of staff serves as a secondary media contact for the governor's office. Most often, this role is fulfilled during situations requiring the press to contact a member of the governor's staff other than the press secretary. As an extension of the governor, the chief of staff is well situated to meet this occasional need.

A more important media role for the chief of staff is to serve as the "enforcer" of state government efforts to convey a single message to the media during a disaster. Although this role is typically performed by the communications staff during small or moderately sized disasters, larger disasters may require additional assistance. In this event, the chief of staff can help to ensure that cabinet officials and other members of the governor's staff know the correct media protocols during an emergency.

Role of the Press Secretary

Communications staff in governors' offices spend most of their time accentuating the positive and ensuring that reporters see the best of state government. When disaster strikes, communications and press office staff are sometimes stunned and caught unprepared for the ensuing challenges. Press secretaries should take time to read the state's emergency plan, learn the established procedures, and be familiar with the roles assigned to state officials in responding to disasters.

During an emergency, the governor's press secretary maintains critical lines of communication among the governor's office and emergency personnel, victims, the press, state and local officials, and the federal government, all of whom want to be first in line for the latest information. Press secretaries have the enormous challenge of compiling and disseminating consistent, accurate information. There are several things a press secretary should do before a disaster strikes:

- Set up a model for the types of communication to be sent during a disaster, who will serve as spokespeople for state government, and a process for clearing any communication with the media.

- Read the state emergency management plan.
- Sit down with homeland security and emergency management officials, learn their roles, and establish a contact person in each organization.
- Meet with the state emergency management and/or homeland security office's public information officer and other key state personnel involved in communications to establish a relationship and information-release protocol.
- Develop a system for disseminating information to agency public information officers and the press and clarify that the governor's office must approve all communications from the field.
- Understand federal disaster aid programs, including their purposes and limitations, and manage the dissemination of information so that public expectations are realistic when the governor asks the President to declare a disaster.
- See that members of the governor's staff have text pagers: When telephone lines are down and cell phones become jammed, communication links are critical.
- Understand the roles of the Red Cross, Salvation Army, and other emergency assistance groups and identify an appropriate governor's staff liaison to those organizations.
- Understand the best practices and lessons learned by the state, so that communications staff can reinforce the steps the governor and state have taken to minimize the impact of disasters and mitigate the risks to citizens, communities, and the economy.

Establishing a State-Federal Joint Information Center

After the President has declared a disaster, a joint information center (JIC) should be established to coordinate the dissemination of information about disaster response and recovery programs and the state's long-term prevention and mitigation strategy. Public information officers representing all federal, state, and local agencies providing response or recovery services should be part of the JIC to ensure messages are coordinated. The state homeland security and/or emergency management office's public information officer plays an integral role in the JIC and is an invaluable resource to the governor's press secretary. Volunteer organizations also should be included in the JIC.

JIC objectives are to develop and implement public relations and media strategies that do the following:

- instill confidence within the affected community that the state is using all possible resources and is working in partnership with federal, state, and local organizations to restore essential services and help victims begin to put their lives back together;
- promote a positive understanding of response, recovery, and mitigation programs;
- provide everyone with equal access to timely and accurate information about disaster response, recovery, and mitigation programs; and
- manage expectations so that disaster victims have a clear understanding of the disaster response, recovery, and mitigation services available to them and the limitations of those services.

Working with the Media to Publicize the State's Response and Long-Term Recovery Strategy

A consistent flow of accurate information is crucial during a disaster situation. It is not enough to respond swiftly and effectively to a crisis; the public must be fully informed of the governor's actions. Establishing a media center for the press to obtain information, hold news conferences, and post reports is helpful. Press secretaries also should remember the special needs of local media representatives and ensure they get the access they need and are not boxed out by the national press. To enhance media coordination, press secretaries should do the following:

- See that the governor is positioned at the top of the information flow.
- Establish a consistent flow of information and determine who will give the governor's office the latest and most accurate information.
- Identify who is responsible for speaking to the press.
- Make sure the disseminated information is accurate and represents the local, state, and federal partnership efforts.
- Set up a central media center to coordinate media tours of the disaster site and help provide reporters with phones, fax machines, and copiers to help them file stories.
- Use the state Web page to disseminate information.
- Have someone from either the governor's office or the state's emergency management agency at the disaster site at all times.
- Make sure the governor's staff answering the phones are fully informed and able to refer citizens to appropriate help.
- Settle conflicts between local and national media carefully, protecting relationships with local media, and recognizing the different needs of local and national reporters.
- Monitor media reports and quickly correct misinformation to prevent the spread of rumors.
- Develop a message for the governor and ensure the governor stays "on message" when making public comments.

Summary Points

- Governors should resist the temptation to speed to the scene of an emergency or disaster. The decision to go should be made deliberately in consultation with the governor's homeland security staff and emergency management team.
- During the first day of an emergency, the governor should make an announcement, either in person or through a press release, that information is being collected and that the state is working with the affected local governments.
- After the first day, a governor's representative should be ready to describe the extent of damage as well as response and recovery operations. If possible, the second-day announcement should be made from the disaster site.
- Governors should reinforce the federal, state, and local response partnership when communicating with victims.

Chapter 4
Mutual Aid

Disasters and emergencies can quickly exhaust or overwhelm the resources of a single jurisdiction, whether at the local or state level. As a result, municipalities and states have developed mutual aid agreements and memoranda of understanding to supplement each others' response capabilities with additional personnel, equipment, and expertise. Mutual aid agreements also are a necessary component of an effective response to incidents that transcend political and jurisdictional boundaries.

At the local level, where fire and police departments support their colleagues in neighboring municipalities on a routine basis as well as during emergencies, mutual aid agreements are well-established and well-tested. They specify the type of assistance to be provided under particular circumstances, describe the triggers and mechanisms for obtaining that assistance, and provide a mechanism for ensuring that member jurisdictions are compensated for the assistance they give. Interstate mutual aid agreements address the same issues as those used by local governments. However, cross-state mutual aid is a more complicated endeavor because workers' compensation and liability laws differ from state to state, as do licensing procedures and standards for some professionals, notably doctors, nurses, and other health practitioners.

Intrastate Mutual Aid

When confronted with a large-scale emergency or potential disaster, governors should first look within their borders to determine whether resources and assets are available to support the jurisdictions involved in the immediate response. Most jurisdictions, as mentioned, have standing agreements with their neighbors to share assets on a routine and emergency basis. Moving equipment and personnel from one part of the state to another, however, can be more complicated because agreements about cost reimbursement may not be in place. In the wake of the September 11, 2001, terrorist attacks, the Department of Homeland Security contracted with the National Emergency Management Association (NEMA) to develop a Model Intrastate Mutual Aid Legislation that serves as a tool for states to consider as they develop or refine statewide mutual aid agreements[18]. The model law, published in 2004, addresses issues such as:

- member party responsibilities;
- implementation;
- limitations;
- license, certificate, and permit portability;
- reimbursement;
- development of guidelines and procedures;
- workers compensation; and
- immunity.

Several states already had, or have since developed, state-wide mutual aid programs. In April 2002, for example, **Iowa** introduced a voluntary statewide mutual aid program known as the Iowa Mutual Aid Compact (IMAC). Modeled on the national Emergency Management Assistance Compact, IMAC establishes a system through which political subdivisions can help each other during disasters that have been declared either by local officials or by the governor.[19] **Kansas** has a similar statewide mutual aid system, created in the 2006 Kansas Intrastate Mutual Aid Act. The act provides for a system of intrastate mutual aid between participating political subdivisions in cases of declared disasters as well as during drills and exercises in preparation for such disasters.

In **Illinois**, meanwhile, the fire service developed and implemented a mutual aid system that began in the northern part of the state but has since expanded to all of Illinois, southern Wisconsin,

and parts of Indiana. The Mutual Aid Box Alarm System (MABAS) comprises hundreds of fire departments and provides an orderly system for dispatching fire and emergency medical service equipment and personnel to fires, accidents, or other incidents. Equipment is moved among participating jurisdictions according to predetermined lists, known as box cards. Each card covers specific equipment for specific types of incidents in specific areas. The system is managed through geographic divisions by which local fire departments can access assistance. From its inception, MABAS included procedures for ensuring the integration of assisting personnel and equipment into the local command structure. Recently, the system adopted the National Incident Management System to allow agencies that may be unfamiliar with each other to work together under a unified command and with common procedures.

Interstate Mutual Aid

When incidents overwhelm the response capabilities of a state, governors may need to look beyond their own borders for assistance. Although mutual aid agreements exist on a state-to-state basis in the areas of wildfire suppression, law enforcement, and drug interdiction, interstate mutual aid in the area of disaster response and recovery now generally comes through the Emergency Management Assistance Compact, a nationwide compact approved by Congress and administered by the states.

The Emergency Management Assistance Compact

In August and September 2005, equipment, supplies, and personnel flowed from across the nation into **Alabama, Louisiana**, **Mississippi**, and **Texas** in the wake of hurricanes Katrina and Rita. This influx of assistance was largely the result of the Emergency Management Assistance Compact (EMAC), which provides the structure and mechanisms for the rapid movement of equipment and people across state lines.

EMAC addresses a majority of the challenges to interstate mutual aid, including:

- The acceptance of out-of-state medical licenses: EMAC specifies that when a person holds a license, certificate, or other permit issued by any state that is party to the compact, that person shall be deemed licensed, certified, or permitted by the state requesting assistance, subject to limitations and conditions prescribed by the governor of the state requesting that assistance.[20]
- The recovery of costs incurred by states providing assistance: EMAC provides that any state offering assistance to another state under the compact will be reimbursed by the state receiving the assistance for costs related to the provision of that assistance.[21]
- Legal liability claims that arise from the activities of out-of-state workers: The compact regulates that officers or employees of a party state rendering aid in another state pursuant to the compact are considered agents of the requesting state for tort liability and immunity purposes.[22]
- Workers' compensation payments should those out-of-state workers be injured or killed while responding to the disasters: The compact specifies that each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of those emergency forces in the same manner and on the same terms as if the injury or death were sustained within their own state.[23]

In short, EMAC provides for "mutual assistance between states… in managing any emergency or disaster that is duly declared by the governor of the affected state(s), whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resource shortages, community disorders, insurgency, or enemy attack."[24]

The history of EMAC dates to Hurricane Andrew in 1992. In the wake of that storm — which until Hurricane Katrina in 2005 was the most devastating natural disaster in U.S. history — then **Florida**

Governor Lawton Chiles initiated a mutual aid compact among states in the southeast United States. Participating governors amended the agreement to open participation to all states, creating the Emergency Management Assistance Compact. The 104th Congress ratified the interstate agreement in 1996 with the passage of House Resolution 193 (PL 104-321). The National Governors Association has endorsed EMAC and, in 2006, **Hawaii** became the 50th state to join the compact, which also counts **District of Columbia**, **Puerto Rico**, and the **U.S. Virgin Islands** among its members.

To join EMAC, states were required to pass legislation approving the compact as written. This ensures that states receiving assistance under the terms of EMAC are legally responsible for reimbursing assisting states and are liable for out-of-state personnel. This significantly reduces the confusion and anxiety sometimes associated with interstate mutual aid.

Benefits of Membership

Participation in EMAC does not reduce federal disaster assistance to states in any way and participating states receive several benefits as a result of their membership in the compact, because EMAC does the following:

- supplements federal assistance;
- replaces federal assistance when it is not available or when a state is ineligible for funds;
- enhances cost-effectiveness;
- establishes standard operating procedures;
- rapidly mobilizes resources;
- provides expertise of member states;
- guarantees reimbursement to states that provide eligible assistance; and
- authorizes the use of National Guard forces for humanitarian purposes.

An additional, and no less important, benefit of EMAC is that the system is structured to provide governors the authority to pull resources into a disaster zone, rather than to allow other states or organizations to flood an affected area with resources, personnel, and donations. This allows governors to maintain control over the types and sources of assistance provided and to maximize the integration of out-of-state resources into in-state incident command systems. Because EMAC requires states receiving assistance to accept responsibility for cost reimbursement and for liability claims, the ability of receiving state governors to manage that outside assistance is critical.

How EMAC Works

EMAC is administered by NEMA, which provides the day-to-day support and technical backbone for the compact. During emergencies, NEMA staff work directly with EMAC members to ensure that requests for assistance are fielded quickly and effectively to maximize relief efforts.

The trigger for assistance under EMAC is a declaration of emergency by the governor of the affected state. Once that declaration is made, the EMAC assistance process can be set into motion. The process works as follows:

- An authorized representative of the affected state contacts the EMAC national coordinating group.
- The affected state requests the deployment of an A-Team† to facilitate assistance requests.
- The A-Team works with the state to determine needs and sends an EMAC broadcast requesting assistance from member states.
- The A-Team helps the requesting state determine costs and the availability of resources.
- States complete requisitions and negotiation of costs.
- Resources are sent to the requesting state.

† An A-Team normally consists of two or more people from any EMAC member state who are knowledgeable about and capable of implementing EMAC procedures. The A-Team is the primary point-of-contact for requesting and acquiring assistance provided under EMAC.

Major Issues

The scope and scale of destruction wrought by the 2005 hurricane season was unprecedented in the United States. The season, which extended well beyond the traditional November 30 end date and into early 2006, saw damages in excess of $100 billion, primarily from five storms: Dennis, Emily, Katrina, Rita and Wilma. More than 2,200 people lost their lives. Katrina alone killed about 1,800 people, caused $81 billion in damages and affected about 93,000 square miles of territory.

The scale of response to Katrina was equally unprecedented. EMAC assistance in **Louisiana** and **Mississippi** included 61,439 personnel — 18,160 civilian and 43,279 National Guard, and cost an estimated $771.7 million.[25] The complexity of the response and the number of EMAC missions fielded — estimated at more than 1,900 — highlighted several issues governors should be aware of as they contemplate receiving or providing EMAC assistance during an emergency or disaster.

Reimbursement Is Limited to Approved EMAC Missions. EMAC sets out the terms and conditions under which states will be reimbursed for costs they incur in providing assistance to another member state. In general, states providing assistance must closely track their costs and submit those costs to the receiving state, which compensates them with funding under the federal Stafford Act (for a detailed discussion of the Stafford Act, please see chapter 6).

Only activities carried out under an EMAC requisition agreement signed by the requesting state and the assisting state are eligible for reimbursement. Costs incurred for activities that are outside the scope of that agreement or by response teams who "self-deploy" into a disaster zone outside the EMAC framework are not reimbursable under the terms of the compact.

Detailed Record Keeping and Auditing Is Essential. The sheer number of EMAC missions carried out during the response to Katrina illustrates the need for accurate record keeping by both receiving and assisting states. Detailed, accurate receipts; employee timesheets; and other financial documents will ease the reimbursement process, particularly in large-scale, costly events such as Katrina. Federal auditors from the Government Accountability Office monitored the post-Katrina reimbursement process very closely, auditing many of the reimbursement claims and rejecting those for which adequate documentation did not exist.

State and Local Officials Should Be Educated About EMAC. Out-of-state teams were able to reach affected areas of the Gulf Coast efficiently through EMAC deployments. However, their integration with response crews already on the ground was complicated by the fact that many local officials, and some federal officials, were unfamiliar with EMAC and questioned or rejected the credentials of the EMAC-deployed teams. The absence of reliable communications systems in the disaster zone meant that the state emergency operations center often was unaware of the problem and could not intervene on behalf of the EMAC teams.

Education at all levels of government is therefore essential for EMAC's continued success. Local emergency management officials, local law enforcement officials, the National Guard leadership, and federal emergency response personnel must be made aware of EMAC, its provisions, its benefits, and its limitations so that out-of-state resources can quickly and efficiently be brought to bear during disasters.

Other Interstate Mutual Aid Agreements

EMAC has emerged as the gold standard in state-to-state mutual aid since its inception in the wake of Hurricane Andrew. But it is not the only vehicle for cross-border cooperation, and the compact

recognizes the likelihood of other arrangements, specifying that EMAC membership does not "preclude any state entering into supplementary agreements with another state or affect any other agreements already in force between states." Those supplementary agreements, the compact adds, could include provisions for "evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation, and communications personnel, and equipment, and supplies."

Several other interstate mutual aid compacts or arrangements already exist. A representative, but by no means comprehensive, sample of interstate mutual aid agreements includes the following:

The Pacific Northwest Emergency Management Arrangement

Ratified by Congress in July 1998, PNEMA is an interstate and international emergency management compact among **Alaska**, **Idaho**, **Oregon**, **Washington,** and the Canadian provinces of British Columbia and Yukon Territory.

The Mid-America Alliance

Although not an interstate compact, the Mid-America Alliance is a multistate framework for public health mutual assistance during situations that stress a state's resources but do not initiate a governor-declared state of emergency. Member states include **Colorado**, **Iowa**, **Kansas**, **Missouri**, **Montana**, **Nebraska**, **North Dakota, South Dakota**, **Utah,** and **Wyoming**. The Mid-America Alliance aims to establish a system by which member states can share services, resources, and information to efficiently address the needs of citizens during a public health emergency.

The National Guard Mutual Assistance Compact

The compact creates a mechanism by which governors can send National Guard forces to another state and place those forces under the temporary command of appropriate National Guard or military authorities of that state. The compact addresses questions of liability, reimbursement, pay, and workers' compensation.

National Guard Mutual Assistance Counter-Drug Activities Compact

The Counter-Drug Activities Compact provides for mutual assistance and support among party states through the use of National Guard troops in drug-interdiction, counter-drug, and demand-reduction activities.

Northern New England Metropolitan Medical Response System

Three states — **New Hampshire**, **Maine**, and **Vermont** — have taken the concept of the MMRS and applied it to a multistate region. The MMRS is a DHS program that encourages metropolitan areas to develop an interjurisdictional, interagency capacity to prepare for and respond to health emergencies in that region. The three-state Northern New England MMRS is designed to ensure that:

- The plans, resources, and responses of the region are coordinated to handle mass care locally
- The education, training, and exercising for the region are cooperative and coordinated
- There is a system in place to keep those activities coordinated on a routine basis
- The region can manage any surge from an event in Boston or New York

The member states also are developing an operational capacity through the establishment of medical strike teams that will be trained and equipped to respond to incidents anywhere in the region.

Public-Private Partnerships

Partnering effectively with the private sector to improve disaster preparedness and response is an area of emergency management that has begun to receive attention only recently. This is despite the fact that the private sector has significant involvement in disaster response, from engaging in volunteer and donation-management activities to providing emergency and long-term medical care to reporting and disseminating information. In some

jurisdictions, private-sector entities have been established to provide services that supplement the government's emergency response role. Thus far, however, most public-private partnerships in the area of emergency preparedness and response exist at the local, rather than at the state, level.

In Hernando County, **Florida**, north of Tampa, for example, the local business community has formed the Hernando Emergency Recovery Council to assist the community in recovering from disasters or emergencies. The organization has more than 30 members and provides services in nine key areas, including emergency housing, education, health care, food, animal care, and transportation. The council was initiated by the local business community in partnership with the county's emergency management division, and county officials have provided advice on how the council should organize itself to work most effectively with the public sector.

In 2001, St. Louis, **Missouri**, launched a program to coordinate emergency response to large-scale critical incidents in eastern Missouri and western Illinois. The St. Louis Area Regional Response System (STARRS) formed a partnership with Nextel, Raytheon, AirClic, and the St. Louis Metropolitan Medical Response program to develop an emergency patient-management system that tracks patients from the scene of an emergency to area hospitals. The emergency patient tracking system is a state-of-the-art wireless triage system that provides information to hospitals, health departments, the Missouri National Guard, and the state emergency management agency.

STARRS features an advisory council comprising representatives of police, fire, EMS, schools, transportation, utility companies, local businesses, public health, hospitals, and emergency management to plan and prepare for emergency response throughout the region. The partnership is now responsible for five separate contracts in disaster preparedness and homeland security.

Summary Points

- Governors should ensure that robust intrastate mutual aid agreements are in place to support jurisdictions across the state as they respond to emergencies and disasters.
- Governors should refer to the Model Intrastate Mutual Aid Legislation when developing mutual aid provisions for member party responsibilities; license, certificate, and permit portability; cost reimbursement; workers compensation; and liability protection.
- Governors should become familiar with the Emergency Management Assistance Compact, which provides the framework for most state-to-state mutual aid during governor-declared emergencies and disasters. EMAC addresses a majority of the challenges to interstate mutual aid, including out-of-state license portability, cost recovery, liability protections, and workers' compensation claims.

Chapter 5

National Guard and Military Assistance

During a disaster, governors have at their disposal a crucial state resource in the National Guard. These state military forces have equipment and expertise in communications, logistics, search and rescue, law enforcement, and decontamination and can serve as a significant resource during a disaster response. When National Guard forces from disaster-impacted and supporting states are insufficient, federal military assets also are available through the U.S. Department of Defense.

The September 11, 2001, terrorist attacks and the 2004 and 2005 hurricane seasons highlighted the important role of the National Guard in disaster response. National Guard members provided airport security immediately following September 11th and were deployed to guard some commercial nuclear power plants; they also were integral to the response efforts during Hurricanes Katrina and Rita. A total of 50,087 National Guard members were deployed to provide assistance in Alabama, Louisiana, and Mississippi in the late summer and fall of 2005. National Guard aircrews from the responding states flew more than 300 air missions each day, flying in critical supplies while evacuating injured and special needs persons and other disaster victims.

Statutory Role of the Governor

Under Article I of the United States Constitution, authority over the state militia (the National Guard) is reposed in the states. States, in turn, have further codified the roles and responsibilities of the governor as commander-in-chief through their state constitutions and statutes.* (The U.S. and state constitutions also generally grant governors the authority to deploy the National Guard to execute laws, suppress or prevent insurrections or lawless violence, and repel invasions. For example, in **Oregon**, "the Governor shall be commander in chief [sic] of the military, and naval forces of this State, and may call out such forces to execute the laws, to suppress insurrection [sic], or to repel invasion." In **Alabama,** "the governor shall be commander-in-chief of the militia and volunteer forces of this state, except when they shall be called into the service of the United States, and he may call out the same to execute the laws, suppress insurrection, and repel invasion, but need not command in person unless directed to do so by resolution of the legislature; and when acting in the service of the United States, he shall appoint his staff, and the legislature shall fix his rank."

Legal Considerations for Military Assistance to Civilian Authority

To stem the potential for abuse or misuse of military forces, legal safeguards have been established to regulate the use of the military in providing assistance to civilian authorities. The most significant of these federal safeguards are the Posse Comitatus Act and the Insurrection Act.

The Posse Comitatus Act of 1878 prohibits the use of the federal military, including National Guard units operating under federal authority (i.e. Title 10 duty status), to enforce civil laws unless authorized to do so by the U.S. Constitution or federal law. The limitations on federal forces spelled out in the Posse Comitatus Act apply only to direct application of federal military forces. Supportive and technical assistance, such as use of facilities, vessels, aircraft, and technical aid are not restricted under the act. The act also does not in any way limit the use of the National Guard while in state active duty or Title 32 status since the National Guard in both statuses remains under state control.

In addition, legislation has been enacted at the federal level to allow federal military forces some law enforcement authority in limited circumstances. These legislative provisions include:

* Article I, Section VII, Clause 16 states: "Congress shall have the power…to provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress

- The military may provide assistance in drug interdiction at the request of federal or state law enforcement agencies.[26]
- Military personnel may conduct searches and arrest those involved in prohibited transactions of nuclear materials if the attorney general and secretary of defense jointly determine that the situation poses a serious threat.[27]
- At the attorney general's request, during the threat of chemical or biological weapons, the military may provide equipment necessary to detect and dispose of those weapons.[28]
- The governor of a state where a major disaster has occurred may request that the President direct military personnel to assist in emergency work to preserve life and property.[29]
- The secret service may request military assistance to protect the President from assault, manslaughter, or murder.[30]
- If requested by the FBI, the military may assist in investigations of the assassination, kidnapping, or assault of a cabinet member, member of Congress, or a Supreme Court justice.[31]

As noted above, governors may use the National Guard for many of the foregoing purposes without the necessity of citing an exception to the Posse Comitatus Act since use of the National Guard in state active duty or Title 32 status does not fall within the proscriptions of the act.

The **Insurrection Act** recognizes that the primary responsibility for protecting life and property and maintaining law and order in the civilian community is vested in state and local governments but authorizes the President to direct the armed forces to enforce the law to suppress insurrections and domestic violence.[32] Military forces may be used to restore order, prevent looting, and engage in other law enforcement activities.

The John Warner Defense Authorization Act of 2007 amends the Insurrection Act to allow the President to federalize National Guard troops to "restore public order as a result of a national disaster, epidemic, or serious public health emergency."[33] The President must inform Congress that he is going to exercise this new authority and must continue to inform Congress every 14 days thereafter as long as he exercises that authority.

The new provision provides little guidance on when the new authority may be used and this could put governors at a disadvantage during disasters. Absent specific guidelines and procedures, the President could federalize a governor's National Guard members at a time when they are most needed by the state. Also, once the President federalizes a National Guard unit, a governor loses all command and control over those forces and is not able to recall the unit or any of its members to address a need within his or her own state.

The National Defense Authorization Act of 2005 includes provisions to help states train, prepare for, and participate in homeland defense activities.[34] Subject to prior approval of the secretary of defense, the act allows the National Guard, while in Title 32 status, to perform and participate in training for homeland defense activities while being compensated by the Department of Defense. Under the act, the term "homeland defense activity" refers to any activity undertaken for the military protection of the territory or domestic population of the United States or of infrastructure or other assets of the United States determined by the secretary of defense as being critical to national security, from a threat or aggression against the United States. What constitutes homeland defense activities is left to the discretion of the secretary of defense.

Under the 2005 act, governors may request the secretary of defense to authorize their National Guard to engage in federally funded Title 32 homeland defense activities. Such requests must include:

- A description of the specific intended homeland defense activities;

- An explanation of why participation of National Guard units or members in the homeland defense activities is necessary and appropriate; and
- A certification that homeland defense activities are to be conducted at a time when the personnel involved are not in federal service.

Military Homeland Security and Defense Structures

Amid the continuing debate over the military's role in disaster response, at least there has been a clear delineation of which federal agency has primary responsibility for homeland defense and homeland security missions:

- Homeland **defense** is defined as the protection of U.S. sovereignty, territory, domestic population, and critical defense infrastructure against external threats and aggression, or other threats as directed by the President. The Department of Defense is responsible for homeland defense.
- Homeland **security** is the concerted national effort to prevent terrorist attacks within the United States, reduce America's vulnerability to terrorism, and minimize the damage and recover from attacks that do occur. The Department of Homeland Security is the lead federal agency for homeland security.

The National Guard straddles both of these missions. In many states, the National Guard adjutant general is the governor's homeland security advisor as well as commander of the state's military forces. For example, as noted in Chapter 2, in the state of **Washington**, the state's homeland security apparatus is embedded in the Washington Military Department. The adjutant general is therefore responsible for military operations, emergency management, E-911 telecommunications, and policy-related interaction with executive and legislative branches of local, state, and federal governments.

In **Idaho**, the Idaho Bureau of Homeland Security is one of the three divisions within the Idaho Military Division. The mission of the bureau of homeland security is to save lives and limit human suffering, prevent injury to wildlife, limit damage to natural resources, and protect private and public property, the environment, and the economy as a result of the harmful effects of natural and man-made disasters from all hazards, including terrorism and the use of weapons of mass destruction, in support of local governments and communities.

As a shared state and federal asset, the National Guard also plays an important role in the homeland defense mission. The guard has had a critical part in the wars in Afghanistan and Iraq. At one point, more than 40 percent of the units involved in the Iraq war were National Guard members, and the Air National Guard continues to fly missions under North American Aerospace Defense Command control in defense of the North American air space.

There are a number of mechanisms through which the National Guard can be deployed in domestic disaster situations. These include deploying in State active duty status or Title 32 status, or in rare circumstances in Title 10 status. Each of these mechanisms has benefits and drawbacks related to state vs. federal command and control, funding, and other operational considerations.

In state active duty and Title 32 status, the governor is clearly in command and control of the National Guard forces operating within their state or territory. By contrast, personnel in Title 10 status, whether operating domestically or overseas, are under the command and control of the President or his designee, the secretary of defense. Governors have therefore long taken the position that whenever the National Guard is used domestically it should be used in state active duty or Title 32 status to the maximum extent possible.

State active duty. When deployed in state active duty status, the governor retains command and control of the National Guard forces inside their state or territory. The governor can activate National Guard personnel to state active duty in response to natural or man-made disasters or other missions authorized by state law. State active duty is based

on state statute and policy, and the state is responsible for all costs relating to the deployment. A key aspect of state active duty status is that the Posse Comitatus restrictions on military activities do not apply.

Title 32 Full-Time National Guard Duty. "Full time National Guard duty" means federal training or other duty, other than inactive duty, performed by a member of the National Guard. Title 32 allows the governor, with the approval of the President or the secretary of defense, to order a guard member to duty in accordance with the following sections of the United States Code (USC):

- 32 USC §502(f). This statute allows members of the National Guard to be ordered to full-time National Guard duty to perform training and other operational activities.
- 32 USC § 901. This provision defines "Homeland Defense activity" as any activity undertaken for the military protection of the territory or domestic population of the United States, or of the infrastructure or other assets of the United States determined by the secretary of defense as being critical to national security, from a threat or aggression against the United States.
- 32 USC § 902. Homeland Defense funds. The secretary of defense may provide funds to a governor to employ National Guard units or members to conduct homeland defense activities that the Secretary determines to be necessary and appropriate for participation by the National Guard units or members.

The key to these Title 32 deployments is that they give the governor the ability to place a National Guard soldier or airman in full-duty status at federal expense but under continued state command and control. Duty performed in this status, even though funded directly from the federal government, is not subject to the Posse Comitatus restrictions. A governor may use the National Guard in this status in a direct law enforcement capacity while retaining the state chain of command.

Title 10 Active Duty. The circumstances in which the President can federalize National Guard forces for domestic duties under Title 10 are: 1) the state (legislature or the governor if the legislature cannot be convened) may request, through the U.S. Attorney General, federal military assistance under 10 U.S.C. Chapter 15 in the event that state and local police forces, including the National Guard operating under state control, are unable to adequately respond to a civil disturbance or other serious law enforcement emergency; and 2) the President also may "federalize" the National Guard to enforce federal law or to protect Constitutional rights. Under Title 10 authority, the President may federalize and deploy all or part of any state's National Guard in accordance with several Title 10 provisions:

- **Voluntary Order to Active Duty.** At any time, a member of the National Guard may be ordered to active duty voluntarily with the consent of the governor.[35]
- **Partial Mobilization.** In time of a national emergency declared by the President, the secretary of defense may order any National Guard unit and any member to federal active duty for not more than 24 consecutive months.[36]
- **Presidential Reserve Call Up.** When the President determines that it is necessary to augment the active duty federal forces for any operational mission, he may authorize the secretary of defense to order any National Guard unit and any member to federal active duty for not more than 270 days.[37]
- **Federal Aid for State Governments.** Whenever an insurrection occurs in any state against its government, the President may, upon the request of the state's legislature or governor if the legislature cannot be convened, call into federal service such of the militia of the other states, in the number requested by the supported state, and use federal armed forces as he considers necessary to suppress the insurrection.[38] This section is a statutory exception to the Posse Comitatus Act.

- **Use of the Militia and Armed Forces to Enforce Federal Authority.** Whenever the President considers that unlawful obstructions, combinations, assemblages, or rebellion against the authority of the United States, make it impracticable to enforce the laws of the United States in any state or territory by an ordinary course of judicial proceedings, he may call into federal service the militia (the National Guard) of any state, and use the armed forces as he considers necessary to enforce those laws or to suppress the rebellion.[39] This section is a statutory exception to the Posse Comitatus Act.

- **Interference with State and Federal Law.** The President, by using the militia (the National Guard) or the armed forces, or both, or by any other means, shall take such measures as he considers necessary to suppress, in a state, any insurrection, domestic violence, unlawful combination, or conspiracy.[40]

The main limitation on National Guard forces operating under a Title 10 deployment is that they would normally be prohibited by Posse Comitatus from enforcing the laws and would be limited to providing support functions such as logistics or communications. In times of disaster, particularly in a catastrophic event, military units are in high demand to maintain law and order in the disaster zone. Under Title 10, National Guard forces could not perform those functions.

The primary benefit of National Guard units deployed under Title 10 is that the Department of Defense assumes full responsibility for all aspects of the deployment. The primary disadvantage is that the governor forfeits all command, control, and effective influence over the employment of the military force.

Funding of National Guard Activities

Funding military units and activities for homeland security missions and training is a significant concern at the state level. Deployment of the National Guard is expensive once the costs for pay, allowances, subsistence, benefits, equipment, and mobilization activities are taken into account. Governors need to be aware of the deployment funding options for homeland security and emergency response activities. Funding is determined by the deployment status of the National Guard personnel and equipment. States routinely use National Guard units in disaster-response roles. After the September 11th terrorist attacks, many states deployed National Guard units in Title 32 status (at federal expense but under state control) to provide security support at airports and, in some cases, at commercial nuclear facilities. By contrast, in the summer of 2006, **Massachusetts** and **New York** deployed guard units to provide airport security in response to a liquid-explosives plot uncovered in the United Kingdom. Because those forces were deployed under state active duty, the individual states were required to fund those activities directly.

The Defense Authorization Act of 2005 provides an additional means for funding of homeland defense activities. In the case of any homeland defense activity for which the secretary of defense determines a National Guard component is necessary and appropriate, funds may be provided to the state in an amount that the secretary determines is appropriate to cover the following operational costs:

- the pay, allowances, clothing, subsistence, gratuities, travel, and related expenses of personnel of the National Guard of that state;
- the operation and maintenance of the equipment and facilities of the National Guard of that state; and
- the procurement of services and equipment, and the leasing of equipment, for the National Guard of that state.

Role of the Military in Support of States

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act), creates the framework through which the federal government provides disaster relief to the states (for a discussion of the Stafford Act, please see Chapter 6). After a

presidential declaration has been signed for an impacted state, the Stafford Act permits a governor to request military assistance directly from the President. The President then directs the secretary of defense to use the resources of the Department of Defense to provide relief for a period of no more than 10 days.

With or without a presidential disaster or emergency declaration, the governor can request National Guard assistance from all other states and territories under the Emergency Management Assistance Compact (EMAC). Requests for such assistance are processed by the governor's adjutant general in coordination with the state emergency management director. National Guard assistance from other states is not time-limited.

If a presidential disaster declaration is signed, the provisions of the Stafford Act take effect and, as part of the federal response, a governor can request additional federal military support. Under the National Response Plan, a governor sends a request for federal military assistance to the office of the secretary of defense. If approved by the secretary, the Department of Defense designates a supporting combatant commander for the response. The supporting combatant commander determines the appropriate level of command and control for each response and usually deploys a senior military officer to the incident site.

Under most emergency response circumstances, the senior federal military liaison officer is the defense coordinating officer (DCO), who serves as DOD's point of contact in the joint field office (JFO). Requests for DOD assistance originating at the JFO are, with a few exceptions such as those for Army Corps of Engineers missions, coordinated and processed through the DCO. In general, the DCO's job is to:

- Co-locate with the primary federal officer, or the federal coordinating officer in the JFO
- Coordinate and process applicable requests for federal military assistance from the primary federal officer or the federal coordinating officer or designated representative
- Orchestrate the accomplishment of approved mission assignments using available resources
- Assign federal military liaison officers as appropriate to emergency support function agencies at the JFO to provide technical assistance or facilitate timely coordination
- Refer problematic or contentious issues through the appropriate federal military chain of command to the office of the assistant secretary of defense for Homeland Defense

The foregoing functions for all National Guard supporting forces are handled by the governor's adjutant general or his or her designee.

Available Military Resources

Governors have access to the full resources of their own National Guard and to the National Guard personnel and equipment of all other states and territories in times of disasters and emergencies. One such invaluable resource is the National Guard's Weapons of Mass Destruction Civil Support Teams (CST). The CSTs are federally funded, specially trained National Guard units who can augment local and regional terrorism and disaster response capabilities. The Civil Support Teams can provide rapid incident site analysis of hundreds of chemical, biological, radiological, nuclear; or conventional high-yield explosive threat agents. The CST is organized around six functions: command, operations, survey, medical, communications, and logistics/administration. Its 22 full-time soldiers and airmen have more than 850 hours of technical training by agencies including the National Fire Academy, Department of Defense, Department of Energy, and the Environmental Protection Agency.

Team members are trained to the HazMat technician response level or above. The CST teams train collectively on WMD scenarios and drill with local responders for coordinated response effort. Prior to certification, each team undergoes an external evaluation involving more than 40 individual tasks of WMD response operations that are unique to the CST mission.

Upon notification, a team can be dispatched by the adjutant general or designee to an incident scene within three hours to support civil authorities by:

- identifying chemical, biological, radiological, nuclear, and explosive agents and substances;
- accessing current and projected consequences;
- advising on response measures and appropriate response actions; and
- assisting requests for additional state and federal assets to help save lives, prevent human suffering, and mitigate property damage.

In addition, 13 states have deployable Chemical, Biological, Radiological, Nuclear, and high-yield Explosive Emergency Response Force Package (CERFP) task forces capable of conducting mass medical decontamination, tactical interoperable communications fusion, and urban search, and rescue on request of a supported governor. These task forces are deployable at the direction of the supporting state adjutant general.

While the governor has the National Guard and civilian subject matter experts from all other states and territories available to him or her, there are also federal military resources available to governors during disasters, in particular, command and control elements to help coordinate federal military units that may be requested. The U.S. Northern Command (USNORTHCOM) provides command and control of DOD homeland defense efforts and coordinates defense support to civil authorities. In providing civil support, USNORTHCOM generally operates through its subordinate joint task forces. An emergency must exceed the capabilities of local, state, and federal civilian agencies before USNORTHCOM becomes involved. In most cases, support will be limited, localized, and specific. When the scope of the disaster has been reduced to the point that the lead agency can again assume full control and management without military assistance, USNORTHCOM will withdraw and leave the on-scene experts to finish the job.

One of the standing joint task forces operating under USNORTHCOM is the Joint Task Force Civil Support (JTF-CS). Comprised of active, reserve, and Guard members from the U.S. Army, Navy, Air Force, Marines, and Coast Guard as well as civilian personnel, the JTF-CS is commanded by a federalized Army National Guard general officer.

Integrating State and Federal Military Response

Integration of federal military forces with the National Guard forces of the supported and other supporting states is critical to an effective and efficient response. Several approaches have been developed in this area.

A recent development in integrated command and control is the "dual status command" concept, which allows one commander to command both Title 10 federal forces and National Guard forces operating in either a Title 32 status or on state active duty. Dual status command requires the prior consent of the governor and authorization by the President. This structure provides both the federal and state chains of command with a common mission — tasking authority. In practice the dual status commander can either be a Title 10 federal active duty officer or a Title 32 or state active duty National Guard officer. To date, however, it has only been used to effectuate a dual status National Guard commander assuming command of both federal and state military forces at the G8 summit

in Georgia and at the Democrat and Republican national conventions. Designation of a National Guard dual status commander assures the governor that military forces operating in his or her state will be under the effective command and control of the governor's designated National Guard officer.

Another strategy is to set up a joint operations center that includes representation from appropriate state and federal agencies, including the defense coordinating officer. In Maryland, the emergency operations center is co-located with the National Guard headquarters. During activation of the emergency operations center, each state agency designates a representative to address any issues that may arise. As the scale of the event determines federal involvement, the responding federal agencies provide a representative to the operations center, including the federal and defense coordinating officers, but the state continues to lead the response efforts. All state resource requests are processed in the emergency operations center, and the federal and state agencies work together to fill the requests and ensure that there are no duplications of effort. Although this model does effectuate unity of command for military forces operating within the state, it does help expose and potentially de-conflict inconsistent federal and state military operations.

Summary Points

- Governors have at their disposal a crucial state resource in the National Guard. These state military forces have equipment and expertise in communications, logistics, and decontamination and can serve as a significant resource during a disaster response.
- Governors generally are granted the authority to deploy the National Guard to execute state law, suppress or prevent insurrection or lawless violence, and repel invasion.
- The National Guard straddles homeland defense and homeland security mission areas.
- There are various mechanisms through which the National Guard can be deployed in disaster situations, including deploying on state active duty, deploying under Title 10 status, and deploying under Title 32 states, each of which comes with benefits and costs.
- Significant federal military resources are available to governors during disasters, in particular command and control elements to help coordinate federal units that may be requested.
- Integration of military forces with those of the state is critical to an effective and efficient response.

Chapter 6

Major Disaster and Emergency Declarations

Most emergencies in a state do not reach sufficient magnitude to merit a presidential disaster declaration. However, when state and local resources are insufficient to respond to and recover from a situation, a governor may ask the President to declare a federal disaster or emergency.

The amount and extent of federal assistance, and the state's share of the response and recovery costs, are different for disasters and emergencies. A presidential disaster declaration sets in motion long-term federal recovery assistance programs — some of which are matched by state programs — to help disaster victims, businesses, and public entities.

The amount of federal assistance available in a disaster is limited only by congressional appropriations. Under a federal disaster declaration, states are required to cover no more than 25 percent of the response and recovery costs. A presidential declaration of an emergency, by contrast, provides relatively short-term federal assistance for conducting lifesaving measures. The amount of federal assistance is limited to $5 million per declaration, and the state's cost-share of response and recovery programs are negotiated on a case-by-case basis.

When the governor or the state official responsible for disaster operations believes federal assistance is needed, he or she should contact the FEMA regional director through the state emergency management director to request assistance. The FEMA regional office will then deploy a team of federal officials to assist the state in determining if a request to the President is warranted.

Defining a Disaster or Emergency

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, generally known as the Stafford Act, authorizes the President to provide financial and other forms of assistance to state and local governments, certain private nonprofit organizations, and individuals to support response, recovery, and mitigation efforts following presidentially declared major disasters and emergencies. The Stafford Act describes generally the declaration process, the types and extent of assistance that may be provided, and assistance-eligibility requirements.

The Stafford Act defines a major disaster as "any natural catastrophe (including any hurricane, tornado, storm, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act to supplement the efforts and available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby."

The Stafford Act defines an emergency as "any occasion or instance for which, in the determination of the President, federal assistance is needed to supplement state and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States."

Actions Prior to Requesting a Presidential Declaration

Before making a request to the President for a disaster or emergency declaration, the governor must activate the state's emergency plan and ensure that all appropriate state and local actions have been taken. If the governor is considering asking the President to declare a major disaster or an emergency, state emergency management officials — in cooperation with local officials — should do the following:

- Survey the affected areas to determine the extent of private and public damage.
- Conduct joint preliminary damage assessments with FEMA officials.
- Estimate the types and extent of federal disaster assistance required.
- Consult with the FEMA regional director on eligibility for federal disaster assistance.
- Advise the FEMA regional office if the governor intends to request a declaration by the President.

Requesting a Major Disaster Declaration

Only the governor can initiate a request for a presidential disaster or major disaster declaration. This request is made through the FEMA regional director, in accordance with the Stafford Act. The governor bases the request on a finding that the situation is of such severity and magnitude that an effective response is beyond state and local capabilities and federal assistance is needed. The governor's request for a disaster declaration should include the following:

- information on the extent and nature of state resources that have been or will be used to address the consequences of the disaster;
- a certification by the governor that state and local governments will assume all applicable nonfederal costs required by the Stafford Act;
- an estimate of the types and amounts of supplementary federal assistance required; and
- designation of the state coordination officer for purposes of coordinating response and recovery operations on behalf of the governor.

The completed request should be addressed to the President and sent to the FEMA regional director, who will evaluate the damage and requirements for federal assistance and make a recommendation to the FEMA director. The FEMA director will then recommend a course of action to the President.

The governor, appropriate members of Congress, and federal agencies are immediately notified of a presidential declaration. (For an example of a disaster-declaration request, please see Appendix A.)

Requesting an Emergency Declaration

For events that do not qualify as a major disaster, the governor may request an emergency declaration to obtain federal assistance to save lives; protect property, public health, and safety; or lessen or avert the threat of a catastrophe. This request is made through the FEMA regional director, in accordance with the Stafford Act and its implementing regulations. The process for requesting an emergency declaration is similar to that used for requesting a major disaster declaration except the time in which to submit a request is generally shorter.

The governor's request should contain specific information describing state and local efforts and resources used to alleviate the situation, as well as the extent and type of federal assistance necessary. States are encouraged to consult with the FEMA regional office when preparing the request. The governor has the right to appeal if the request for a declaration is denied or if the request for approval of certain kinds of assistance or designation of certain affected areas is denied (For an example of an emergency-declaration request, please see Appendix A.)

As detailed in the Stafford Act, a declaration of emergency allows federal agencies assisting state and local governments to employ federal equipment, supplies, facilities, and personnel to do the following:

- lend or donate medicine, food, or other services;
- remove debris;
- engage in search and rescue activities;
- provide emergency medical care and emergency shelter;

- assist in moving supplies and people (e.g., clearance of roads, construction of temporary bridges);
- provide temporary facilities for schools;
- demolish unsafe structures; and
- disseminate public information.[41]

The National Response Plan

Triggered by a presidential declaration of a major disaster or emergency, the National Response Plan (NRP) is implemented in anticipation of a significant event or in response to an actual event. The NRP is the major framework through which the federal government responds to all disasters — whether natural, technological, or man-made. Implemented by DHS, the NRP assigns authorities and responsibilities to federal departments and agencies in support of a disaster or emergency declared by the President.

The NRP is a signed agreement among 31 federal departments and agencies and the American Red Cross that does the following:

- provides the mechanism for coordinating delivery of federal assistance and resources to augment efforts of state and local governments overwhelmed by a major disaster or emergency;
- supports implementation of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, as well as individual agency statutory authorities; and
- supplements other federal emergency operations plans developed to address specific hazards.

What Federal Resources Can Be Deployed?

The following federal resources can be deployed through the NRP:

- specialized teams for damage assessment, emergency communications, medical assistance and support, urban search and rescue, emergency power restoration, and community relations;
- equipment and supplies, such as mobile kitchens, water purification units, portable toilets, and showers, and tents; and
- facilities, including a disaster field office, mobilization center, and disaster recovery centers.

What Types of Federal Assistance Are Available?

To speed recovery and reduce damage from future occurrences, the following immediate assistance is available to states under the NRP:

- initial response resources, including food, water, and emergency generators;
- emergency services to clear debris, open critical transportation routes, and provide mass shelter and feeding;
- loans and grants to repair or replace damaged housing and personal property;
- grants to repair or replace roads and public buildings (incorporating, to the extent practical, hazard-reduction structural and nonstructural measures);
- technical assistance to identify and implement mitigation opportunities to reduce future losses; and
- other assistance, including crisis counseling, tax relief, legal services, and job placement.

Additional information on the National Response Plan is available from the Department of Homeland Security Web site at http://www.dhs.gov/xprepresp/committees/editorial_0566.shtm.

As a final note, governors should keep in mind that in catastrophic situations, their relationships with the federal government will be fundamentally different than in emergencies or disasters, when communications and coordination likely will involve FEMA and other response agencies. In catastrophic incidents governors should expect the White House and Congress to take a direct interest in response and recovery activities.

Summary Points

- Most emergencies in a state do not reach sufficient magnitude to merit a presidential disaster declaration.
- The amount and extent of federal assistance, and the state's share of the response and recovery costs, are different for disasters and emergencies.
- When the governor or the state official responsible for disaster operations believes federal assistance is needed, he or she should contact the FEMA regional director through the state emergency management director to request assistance.
- The Robert T. Stafford Disaster Relief and Emergency Assistance Act (The Stafford Act) authorizes the President to provide financial and other forms of assistance to state and local governments, certain private non-profit organizations, and individuals to support response, recovery, and mitigation efforts following presidentially declared major disasters and emergencies.
- Before making a request to the President for a disaster or emergency declaration, the governor must activate the state's emergency plan and ensure that all appropriate state and local actions have been taken.
- The National Response Plan spells out the role of federal departments and agencies in emergency and disaster response and can be implemented in anticipation of a significant event likely to result in a need for federal assistance or in response to an actual event requiring federal assistance under a presidential declaration of a major disaster or emergency.

Chapter 7

Federal Assistance Available to States and Individuals

State and local governments share responsibility for protecting their citizens from disasters and for helping them recover when a disaster strikes. In some cases, however, the scale of a disaster exhausts the capabilities of the state and local governments. The previous chapter described the immediate assistance available to states under presidential emergency and disaster declarations and the processes for obtaining that assistance. This chapter outlines additional and long-term assistance available from the federal government for states, local governments, and individuals.

Actions Following a Presidential Declaration

As soon as is practical after the President declares major disaster or emergency, the state, with assistance from FEMA, should conduct a briefing for state, local, and eligible private nonprofit organization officials on the type of assistance that will be available to them, what the eligibility requirements are, how to apply for the assistance, and how the funds for eligible projects will be provided. The state needs to appoint a coordinating officer who will ensure that state agencies administering individual assistance programs (such as the state labor department, which administers disaster unemployment assistance, or the human services agency) take action to hire adequate staff, initiate funding requests, and process disaster applications.

The state should submit for approval by the FEMA regional director a single assistance application for all disaster-related projects. The state will serve as the program grantee, with overall management and financial responsibilities. A team of federal, state, and local officials should inspect the damage area. Federal inspectors will then prepare project worksheets with recommended scopes of work and estimated project costs in accordance with FEMA eligibility criteria.

Federal regulations allow for repair or restoration of facilities to their predisaster condition, in accordance with applicable codes, specifications, and standards. Following the applicants' briefing, and after identifying public or private nonprofit facility damages, state or local representatives attend an initial meeting with a FEMA representative — generally the public assistance coordinator (PAC). At this meeting, damages will be discussed, needs assessed, and a plan of action put into place. The PAC will go over what is expected of the state and will provide detailed instructions on the process for applying for and receiving federal assistance. This meeting also is the appropriate time and place for state officials to raise questions or voice concerns about how the public assistance process works.

Assistance Available to State and Local Governments

Public assistance, oriented to public entities, can fund the repair, restoration, reconstruction, or replacement of a public facility or infrastructure that is damaged or destroyed in a disaster. Eligible recipients include state governments, local governments, any political subdivision of the state, as well as Indian tribes or authorized tribal organizations, and Alaska native villages. Private nonprofit organizations such as educational organizations; nonprofit utilities; emergency, medical, rehabilitation, temporary, or permanent custodial care facilities (including those for the aged and disabled); and other facilities that provide essential services of a governmental nature to the general public also may be eligible to receive assistance.

State agency, local government, and nonprofit organization officials must submit requests for public assistance to the state public assistance officer — a state official situated in the emergency operations center — within 30 days of the date of the disaster declaration.

Applicants may combine damaged sites into work projects. Projects are considered small if they fall

below an inflation-adjusted threshold. In fiscal 2006, that threshold was $57,500. Applicants may complete their own small projects and document their damages on a project worksheet. If the applicant is unable to complete the worksheet, federal representatives are available to develop the worksheet for the applicant. For large projects, a federal representative will work with the applicant and the state to develop the worksheet. Large projects fall in the following categories:

- Category A: Debris removal
- Category B: Emergency protective measures
- Category C: Road systems and bridges
- Category D: Water control facilities
- Category E: Public buildings and contents
- Category F: Public utilities
- Category G: Parks, recreational, and other

For insurable structures — primarily buildings — within special flood hazard areas (SFHA), FEMA reduces its assistance by the amount of insurance that could have been obtained under a standard national flood insurance program (NFIP) policy. For structures located outside a SFHA, FEMA reduces the amount of assistance by any insurance proceeds.

FEMA reviews and approves project worksheets and obligates the federal share of the costs (at least 75 percent of the total) to the state. The state then distributes funds to the local recipients. For small public assistance projects, payment of the federal share of the estimated total is made upon approval of the project, and no further accounting to FEMA is required. For large public assistance projects (currently $57,500 or greater), payment is made on the basis of actual costs after the project is completed, although interim payments may be made. Once FEMA obligates funds to the state, the state is responsible for further management of the assistance, including disbursement to local governments and nonprofit organizations. FEMA will continue to monitor the recovery process to ensure the timely delivery of eligible assistance and compliance with applicable laws and regulations.

Following a major disaster declaration, state and local governments may obtain assistance to pay part of the costs of rebuilding a community's damaged infrastructure. Federal public assistance programs typically pay for 75 percent of the approved project costs.

Assistance Available to Individuals

After the President has declared a major disaster, FEMA, in coordination with the affected state, will inform citizens how to apply for various forms of federal assistance. The application process generally commences when those affected by the disaster call a FEMA toll-free teleregistration number. Through this number, applicants can access all FEMA programs for individuals. FEMA also may refer applicants to disaster programs operated by the Small Business Administration (SBA) and other federal, state, and local programs. FEMA generally mails the applicants information on accessing other federal programs.

In some cases, FEMA, in coordination with the state, will establish disaster recovery centers (DRCs) in heavily affected communities. DRCs provide a location in which disaster applicants can speak directly with FEMA representatives and obtain information about applying for disaster assistance. States also have the opportunity to staff DRCs with representatives of various state agencies that want to provide greater access to their programs and services. The state also has a major role in managing donated goods and services.[42]

Individual assistance

Individual assistance is available from the federal government in a wide range of categories, including:

Disaster Unemployment Assistance. Weekly benefit payments for up to 26 weeks are available to those out of work because of the disaster. Recipients

include the self-employed, farm workers, farm and ranch owners, and others not covered by regular unemployment insurance programs. This assistance is available through state unemployment offices.

Crisis Counseling. The Crisis Counseling Assistance and Training Program (CCP), authorized by the Stafford Act, is designed to provide supplemental funding to states for short-term crisis counseling services to people affected by presidentially declared disasters. Two separate portions of the CCP can be funded: immediate services and regular programs. A state may request either or both types of funding.

The immediate services program is intended to enable the state or local agency to respond to the immediate mental health needs of disaster victims. Immediate services include screening, diagnosis, and counseling as well as outreach services such as public information and community networking. The regular services program is designed to provide up to nine months of crisis counseling, community outreach, consultation, and education services to people affected by a presidentially declared disaster. To be eligible for crisis counseling services funded by this program, applicants must be residents of the designated area or must have been in the area when the disaster occurred. The person also must have a mental health problem that was caused by or aggravated by the disaster or its aftermath or must otherwise benefit from services provided by the program.

Disaster Housing Assistance. Disaster housing assistance is available to people in the affected area whose primary residence has been damaged or destroyed and whose losses are not covered by insurance. This assistance provides for temporary housing, repair, placement, and permanent housing construction.

Legal Services. Through an agreement with FEMA, the young lawyers division of the American Bar Association (ABA) provides free legal advice to low-income people whose cases will not produce a fee. ABA turns over cases that may generate fees to local lawyer-referral services.

Veterans' Assistance. Veterans' assistance includes death benefits, pensions, insurance settlements, and adjustments to home mortgages held by the U.S. Department of Veterans' Affairs (VA) if a VA-insured home has been damaged.[43]

Tax Relief. The Internal Revenue Service (IRS) provides assistance to people claiming casualty losses as a result of the disaster. State tax assistance is available as well. The IRS also can expedite refunds due to taxpayers in a federally declared disaster area.

Federal Disaster Loans

The federal government also provides low-interest loans through SBA and the U.S. Department of Agriculture's Farm Service Agency (FSA). This assistance is intended to aid individuals, farmers, ranchers, and businesses in repairing or replacing uninsured property that was damaged in a disaster.

Small Business Administration

SBA offers two primary kinds of disaster loan programs to help business owners recover from a disaster:

Business Physical Disaster Loans. Up to 100 percent of the uninsured, SBA-verified loss, not to exceed $1.5 million, is available to repair or replace damaged business property, including inventory and supplies. Within this limit, the loan may be increased by up to 20 percent for the purchase of mitigating devices for damaged real property.

Economic Injury Disaster Loans. The purpose of economic injury disaster loans (EIDLs) is to permit small businesses and small agricultural cooperatives to meet necessary financial obligations that could have been met had a disaster not occurred. EIDLs are working-capital loans and are made only to provide relief from economic injury caused directly by the disaster and to permit people to maintain a reasonable working-capital position during the period affected by the disaster.

EIDL assistance is provided only to businesses that cannot obtain credit elsewhere and is limited to a

maximum of $1.5 million (together with any business physical-disaster loan for damage from the same disaster). However, the actual amount of the loan will be based upon the economic injury to the business and its financial needs. The interest rate on EIDLs may not exceed 4 percent per year, and the term of these loans may not exceed 30 years. The actual term will be based upon the ability of the business to repay the loan.[44]

Farm Service Agency

The Farm Service Agency (FSA), provides an assortment of loans to farming and ranching operations that have suffered a loss caused by a natural disaster.

Emergency Conservation Program. The Emergency Conservation Program (ECP) helps agricultural producers rehabilitate eligible farmlands damaged by natural disaster. ECP cost-share assistance may be available to agricultural producers for all designated natural disasters. To be eligible, an applicant must have suffered a natural disaster that created new conservation problems that, untreated, would impair or endanger the land; materially affect the land's productive capacity; represent unusual damage that, except for wind erosion, is not of a type likely to recur frequently in the same area; or are so costly to repair that federal assistance is or will be required to return the land to productive agricultural use. Conservation problems that existed before the natural disaster are not eligible for cost-sharing assistance. ECP funds may be used for debris removal, fence restoration, restoring conservation structures, or water conservation measures, including providing water to livestock in periods of severe drought. Other emergency conservation measures may be authorized by county FSA committees with the approval of the state committee and the agency's deputy administrator for farm programs.

The Crop Disaster Program. The Crop Disaster Program (CDP) covers crops for which crop insurance is not available and crops insured by either catastrophic or "buy-in" insurance. It provides assistance for farmers who grow such crops, limiting their losses from natural disaster and helping to manage their overall business risk. CDP payments are limited to $80,000 per person. Producers with incomes of greater than $2.5 million, as defined by the Food Security Act of 1985, are not eligible.

Emergency Loan Assistance. FSA provides low-interest loan assistance to eligible farmers and ranchers to help cover production and physical losses in counties declared disaster areas by the President or designated by the secretary of agriculture. The FSA administrator also may authorize loan assistance to cover physical losses. Emergency loans are available to qualifying ranchers and farmers who are established operators of family farms, are citizens or permanent residents of the United States, have adequate training or experience in managing and operating a farm or ranch, have suffered a qualifying physical loss or a production loss of at least 30 percent in any essential farm or ranch enterprise, cannot obtain commercial credit, can provide collateral to secure the loan; and can demonstrate repayment ability.

Emergency loan funds may be used to restore or replace essential physical property, pay all or part of production costs associated with the disaster year, pay essential family living expenses, reorganize the farming operation, and refinance debts. The loan limit is 100 percent of the actual physical loss, with a maximum indebtedness under this program of $500,000.

Emergency Haying and Grazing Assistance. Emergency haying and grazing of certain Conservation Reserve Program acreage may be made available in areas suffering from a weather-related natural disaster. FSA county committees may initiate requests for assistance. The state committee may approve emergency haying and grazing on a county-by-county basis under the designated extreme or exception drought conditions.[45]

Federal Assistance Available Without a Presidential Declaration

Governors should be aware that disaster assistance may be obtained from the federal government and volunteer agencies without a presidential disaster

or emergency declaration. For example, military installations located near the disaster areas may provide immediate lifesaving assistance, and other federal agencies may provide assistance under their own statutory authorities.

Fire Management Assistance

The Stafford Act authorizes the President to provide assistance, including grants, equipment, supplies, and personnel, to a state for the suppression of a forest or grassland fire on public or private lands that threatens to become a major disaster. The governor or the governor's authorized representative must request this assistance through the FEMA regional director. The request must include detailed information on the nature of the threat and the federal assistance needed. Fire suppression assistance must be requested while the fire is burning. The fire must threaten to cause such destruction to life or property that it would constitute a major disaster. A FEMA decision can be rendered within a few hours of the request. Costs eligible for reimbursement include equipment, emergency work such as evacuation and sheltering, the temporary repair of damage caused by firefighting activities, and other items.[46]

Flood Protection

The U.S. Army Corps of Engineers is authorized to assist in flood fighting and rescue operations and to protect, repair, and restore certain flood-control works that are threatened, damaged, or destroyed by a flood. The corps may assist states for a 10-day period, subject to specific criteria.[47]

Health and Welfare

The U.S. Department of Health and Human Services may provide assistance to state and local welfare agencies and state vocational rehabilitation agencies. The U.S. Food and Drug Administration may work with state and local governments to establish public health controls by decontaminating or condemning contaminated food and drugs.[48]

Repairs to Roads and Bridges

The U.S. Department of Transportation's Federal Highway Administration can provide assistance to restore roads and bridges that are part of the federal aid system.[49]

Search and Rescue

U.S. Coast Guard or armed forces units may assist in search-and-rescue operations, evacuate disaster victims, and transport supplies and equipment.[50]

Tax Refunds

The Internal Revenue Service can help people apply for casualty losses resulting from natural disasters.

Long-Term Recovery Assistance

Recovery is defined as the process of restoring a community to predisaster conditions. It is the final phase of managing an emergency and continues until all systems return to normal or near normal. Recovery is a longer and more complex process than response, and it can take years until the entire disaster area is completely redeveloped, either as it was in the past or for entirely new purposes that are more resistant to disasters. The amount, type, and sources of assistance for long-term recovery depend on the extent of the disaster.

Federal recovery assistance is supplementary to state and local activities, and the governor should emphasize that point in public statements. It will be incumbent upon the governor to ensure coordination of long-term recovery activities well after resources from outside the state have departed. Historically, federal financing has been available for physical damage and loss of business, such as working capital, machinery and equipment, building construction or rehabilitation, environmental remediation, hazard mitigation, and other improvements.

Summary Points

- Once a disaster declaration is approved, governors should have state officials work with FEMA to conduct a briefing for state, local, and eligible private nonprofit organizations applying for federal assistance programs.
- Governors should be aware that the state will be required to pay 25 percent of the costs of rebuilding damaged state infrastructure.
- Governors should ensure that the state sends staff to any disaster recovery center set up by FEMA for heavily affected communities.
- Governors should be aware that some forms of federal disaster assistance are available even without a presidential disaster declaration.

Chapter 8

Intelligence and Information Sharing

A lack of information sharing can be an obstacle to implementing an effective homeland security strategy. The fragmented nature of data collection and incident reporting among state, local, and federal law enforcement agencies hinders their ability to connect information that may point to terrorist plots or other ongoing criminal activity, and the private sector — which owns a significant amount of data and an estimated 85 percent of the nation's critical infrastructure — often is not connected to the homeland security intelligence and information-sharing networks.†

Recognizing these challenges, governors can aid in solving such information-sharing problems by:

- creating intelligence fusion centers that bring together law enforcement, intelligence, emergency management, public health, and other agencies, and the variety of information they collect into one central location;
- utilizing national standards for information sharing that foster the ability of systems to exchange data; and
- joining national efforts that encourage intelligence and information sharing and include regional, multistate, and federal systems.

Building an Intelligence Fusion Center

A significant focus of post-September 11 efforts to improve homeland security has been to close the information-sharing gaps among various components of the intelligence community. At the state level, intelligence fusion centers — central locations at which local, state, and federal officials can work in close proximity to receive, integrate, and analyze information and intelligence — encourage interagency cooperation and help integrate that information into a network that can benefit homeland security and counterterrorism programs.

Since 2003, more than 42 fusion centers have been created by states, cities, and regions to share information from several agencies. Many of these operations are still in their infancy, but they represent efforts at the state level to build a foundation for the integration of information from federal, state, and local agencies.

As a result of those efforts, state and local practitioners in cooperation with the Department of Justice's Global Justice Information Sharing Initiative (Global) and the Department of Homeland Security's Homeland Security Advisory Council (HSAC) have developed a set of initial guidelines that governors should be aware of as they establish or enhance state fusion centers. The guidelines have been created specifically to enhance information sharing among law enforcement agencies, the intelligence community, public safety organizations, and the private sector. Additional guidelines are being developed to incorporate information from other disciplines, such as public health, transportation, and energy.

According to those guidelines, states should ensure that their fusion centers:

- adhere to preexisting information-sharing plans, such as the National Criminal Intelligence Sharing Plan;
- have representative governance structures that include law enforcement, public safety, and the private sector;
- foster an environment conducive to information sharing among local, state, tribal, and federal law enforcement agencies, public safety agencies, and the private sector;
- leverage the databases, systems, and networks available via participating entities to maximize information sharing;
- develop, publish, and adhere to policies for the protection of privacy and civil liberties; and

† Intelligence can be defined in many different ways depending on one's point of reference. In this document, the terms "information" and "intelligence" are used interchangeably to mean data that has been analyzed and used for decision-making purposes.

- develop and implement a communications plan among fusion center personnel, all law enforcement, public safety, and private sector agencies and entities involved, and the general public.[51]

Although state fusion centers operate under a variety of organizational structures and missions, states have come to rely on the DOJ/DHS guidelines to create environments in which those fusion centers can operate effectively. In total, there are 18 guidelines that states should incorporate into the development of their fusion centers. In addition, DHS' National Intelligence Fusion Resource Center provides assistance to states in establishing polices and procedures for fusion center operations. The center also provides DHS analysts to help staff state centers on an as-needed basis.

The following descriptions of operating state fusion centers illustrate different organizational and staffing methods.

Arizona's fusion center, known as the Arizona Counter-Terrorism Information Center (ACTIC), opened in 2004 as the state's central analysis hub for real-time crime and terrorism-related intelligence and information. ACTIC is staffed with more than 200 detectives, special agents, analysts, and other personnel representing 34 state, local, and federal agencies. ACTIC also includes a complete integration of the FBI's Joint Terrorism Task Force (JTTF). Although the driving force of the center is counter-terrorism detection, planning, response, and recovery, it also builds on existing networks, such as the state's domestic preparedness operations center and city/county law enforcement agencies to provide analysis.

In 2006, Arizona Governor Janet Napolitano signed a memorandum of understanding with **California** Governor Arnold Schwarzenegger, **Texas** Governor Rick Perry, and **New Mexico** Governor Bill Richardson that will enable the four southwest border states to share unclassified and classified intelligence information to provide better security along the border. The four states are formalizing a cooperative relationship between ACTIC, the California State Terrorist Threat Assessment Center, the New Mexico Office of Homeland Security, and the Texas Fusion Center.[52]

Georgia's Information Sharing and Analysis Center (GISAC) has an analytical and investigatory role. Each investigator is assigned an analyst, and officials report regular contact between investigators and their assigned analysts to share information. GISAC is equipped with an emergency operations center — featuring large-screen television, multiple phone lines, white boards, high-speed Internet connections, and backup generators — although that facility is used only during active operations.

The **Illinois** Statewide Terrorism Intelligence Center (STIC) includes analysts and representatives of agencies dealing with narcotics, sex offenses, violent crimes, and motor vehicle theft. The facility is outfitted with whiteboards, multiple television screens, and a virtual command center that links to the FBI and to state and local emergency operations centers. In 2005, the Illinois STIC co-located its facility with the state emergency operations center. In the new facility, all personnel share the same work area, a change that officials expect will improve information sharing.

In 2006, **North Carolina** opened its Information Sharing and Analysis Center (ISAAC) to help law enforcement agencies from across the state gather, exchange, and evaluate information on homeland security and gang activity in the state. The ISAAC serves as the focal point for collection, analysis, and dissemination of information on possible terrorist and criminal threats. ISAAC partners include the U.S. Attorney's Office, the FBI, the North Carolina State Bureau of Investigation, the state highway patrol, the National Guard, the state association of chiefs of police, the state sheriff's association, the state alcohol law enforcement agency, the division of public health, the state department of agriculture, the state department of corrections, the division of emergency management, and the governor's crime commission.

ISAAC staff collaborate to analyze information from a variety of sources, including tips from the public, public records such as driver's license and vehicle registration records, and national law enforcement databases. The 2,500-square-foot facility houses about a dozen people from participating law enforcement agencies.[53]

South Dakota has established a statewide fusion center to investigate, collect, and disseminate homeland security-related information and intelligence gathered by law enforcement and other state and federal agencies. The center is staffed by the state's office of homeland security, the division of criminal investigation, and the South Dakota National Guard. Center staff monitor and share intelligence from local, state, and federal law enforcement agencies; military organizations; public tips; and media sources. The center also serves as a link to the FBI's JTTF.

Employing National Standards for Information Sharing

As information sharing improves and expands, states should adopt national technical standards for exchanging data among their law enforcement, public safety, emergency management, and National Guard networks. Specifically, the National Information Exchange Model (NIEM) has been adopted by DOJ/DHS for sharing information and has emerged as the national information-sharing technical standard. NIEM is based on the work of state and local practitioners. It removes the need for agencies to create exchange standards independently and provides flexibility to deal with unique agency requirements.

Although NIEM is a technical set of requirements that states might adopt, another information-sharing framework is being created that focuses on the processes, policy, and technology that should be coordinated among federal, state, local, private, and international organizations. In 2005, President Bush signed Executive Order 13388 to create an information sharing council tasked with defining an information-sharing environment (ISE). ISE is not a system but a framework that defines the roles and responsibilities of each entity in terms of when and how it needs to share information. The ISE definition is scheduled to be available by the end of 2006.

One of ISE's major tenets is that the federal government is not creating one communications pipeline but is relying on the systems that state and local agencies use every day to create multiple channels of information.

It should be emphasized that as these and other national information-sharing standards evolve and become accepted, they may be used to determine grant funding to states.

Joining National Efforts that Encourage Intelligence and Information Sharing

Several national information-sharing initiatives have been launched to assist states in accessing databases that may be helpful to ongoing investigations. Both DHS and DOJ have introduced secure computer networks and Web-based services aimed at improving the flow of information among intelligence and law enforcement agencies at the federal, state, tribal, and local levels. Requests to access those federal systems must come from the law enforcement agency or the state intelligence fusion center. The owner of the information network will then authenticate and authorize access to the user.

The following systems are notable examples of information-sharing networks.

- The **Regional Information Sharing Systems Network** (RISS.Net), sponsored by DOJ, supports regional law enforcement efforts to combat terrorist activity, drug trafficking, organized crime, gang activity, violent crime, and other regional criminal priorities and to promote officer safety. There are six regional centers that coordinate the various functions of the network. States sign on to RISS through their regional center.[54]

- The **National Data Exchange Project**, or **N-DEx** is an FBI-led initiative that includes state and local practitioners. The purpose of N-DEx is to share complete, accurate, timely, and useful information across jurisdictional boundaries and provide investigative tools that enhance the nation's ability to fight crime and terrorism. This will allow law enforcement agencies to search, link, and analyze criminal justice information.[55]

- **Nlets**, the International Justice & Public Safety Information Sharing Network, is owned and governed by its state members. This is a message-switching system that links state, local, and federal law enforcement and justice agencies for the purpose of information exchange. Nlets supports data communications links to state networks through a common interface. Users include all states and territories, all federal agencies with a justice component, and selected international agencies. The types of data exchanged by the users vary from motor vehicle and driver data to Canadian "Hot File" records to state criminal history records.[56]

These are just a few of the examples of information sharing systems; there are several others that provide valuable information to the public safety and homeland security community everyday. Ideally these information networks need to provide products that can be quickly shared among stakeholders in order to minimize threats to homeland security. Collaboration among agencies, coordination of resources, and the use of commonly agreed-upon standards are the keys to improving information sharing.

Challenges to Intelligence and Information Sharing

Although some information-sharing initiatives have achieved success, governors should be aware that several challenges remain to the seamless integration of information from intelligence, law enforcement, public safety, and other agencies across all levels of government. Those challenges include:

- The existence of a large number of federal information-sharing networks, some of which are not compatible with state and local systems. As a result, users at the state and local level are required to sign on to multiple systems to access information.

- The need for security clearances for public safety officials to receive SBU information. Security clearances issued by one federal agency often are not recognized by other federal agencies, exacerbating an already lengthy clearance process.

- Privacy issues that stymie information sharing because of the fear of lawsuits. Resources exist to help state policymakers navigate federal privacy-protection regulations, but states that have pushed to share information before privacy or security policies are in place have seen those information-sharing efforts fail.

Additional Resources

State Intelligence Fusion Centers: Recent State Actions *http://www.nga.org/Files/pdf/0509FUSION.PDF*

Fusion Center Guidelines *http://it.ojp.gov/topic.jsp?topic_id=209*

Executive Order: Further Strengthening the Sharing of Terrorism Information to Protect Americans *http://www.whitehouse.gov/news/releases/2005/10/20051025-5.html*

U.S. Department of Justice Information Sharing Initiatives and the Global Justiced Information Sharing Initiative *http://www.it.ojp.gov/index.jsp*

National Information Exchange Model *www.niem.gov*

U.S. Department of Justice Privacy Policy Guidelines *http://it.ojp.gov/documents/Privacy_Guide_Final.pdf*

National Criminal Intelligence Resource Center (NCIRC) *http://www.ncirc.gov*

Nlets, The International Justice & Public Safety Information Sharing Network *http://www.nlets.org*

Summary Points

- State-level intelligence fusion centers are the focal point for information and intelligence sharing among local, state, and federal agencies from a variety of disciplines, including law enforcement, emergency management, and, increasingly, public health, transportation, energy, and others.
- Guidelines exist to help governors and state officials establish fusion centers that will enhance information sharing and incorporate a variety of agencies into the state's information sharing efforts.
- Several national information sharing initiatives have been launched to assist states in accessing databases that may be helpful to ongoing investigations.
- Privacy issues, the need for security clearances, and the existence of a large number of federal information-sharing networks present challenges to the seamless integration of information from all levels of government and across disciplines.

Chapter 9
Interoperability

Reliable communications are a critical component of any disaster response. In the early stages of any major incident, the ability of first responders to save lives and property can be influenced to a large degree by their ability to communicate with each other.

Many states are developing state-of-the art radio communications systems for law enforcement, fire services, emergency medical services, public health, transportation, the National Guard, and other response agencies. To be fully effective, these communications systems must be interoperable — that is, they must allow communications among the various agencies and across jurisdictional lines and levels of government. The efficiency of inter-jurisdictional mutual aid agreements and the effectiveness of emergency response will increase directly if state and local governments develop interoperable equipment, procedures, plans, and standards.

Governors and their state homeland security advisors should:

- Develop a statewide plan for interoperable communications
- Develop a funding strategy that addresses startup costs as well as maintenance and operation costs
- Include interoperability as part of state training and exercise programs
- Incorporate developed technical and equipment standards as part of the state system

Interoperability Defined

Interoperability refers to the ability of public safety agencies to share information using radio communications systems to exchange voice and/or data on demand, in real time, when needed, and as authorized.[57] Public safety agencies have used radio communications systems for many decades, but most of these systems have been limited in reach and have only enabled communication within a particular group, agency, or jurisdiction.

Public safety systems operate on different frequency bands, much like AM and FM bands on standard radios. Just as AM radios cannot receive transmissions from FM radio stations, public safety radios in one frequency band cannot receive transmissions from another channel. As a result, when public safety agencies from different or multiple jurisdictions respond to incidents, they may not be able to talk with each other on their assigned radios because of incompatible equipment.

Challenges to Interoperability[58]

Five key issues underlie the current status of interoperability among public safety agencies in the United States:

- Many jurisdictions have incompatible and aging communications equipment that escalate maintenance costs and reduce reliability.
- Limited and fragmented funding has restricted public safety agencies' ability to develop radio communications systems based on individual needs and resulted in strategies that did not consider interoperability requirements.
- Interoperability planning is inadequate resulting in wasted resources and unachieved outcomes. A lack of coordination of the various communications funding streams also hampers overall interoperability, since divergent agency and community funding priorities and budget cycles result in inefficient implementation.
- Despite the need for coordination, many public safety agencies are reluctant to cede management and control of their communications systems because of disparate agency missions and jurisdictional responsibilities. Interoperability requires shared management, control, policies, and procedures.

- The current radio spectrum dedicated to public safety is inadequate and fragmented.[59] The Federal Communications Commission manages the nation's radio spectrum, but the allocated spectrum for public safety is not able to accommodate an ever-growing number of electronic communications devices.

Improving Interoperability

The most effective means to address the challenges to interoperability is through an integrated approach that incorporates all levels of government and disciplines. Governors can lead this effort by:

- developing a statewide plan that incorporates local plans and input;
- developing a comprehensive funding strategy that includes not only build-out costs for a system but funding for operational and maintenance costs in the long term;
- including interoperability as part of a training and exercise program to test interoperable communications systems to determine the gaps that need to be addressed; and
- ensuring that an interoperable communications system adheres to developed standards, is flexible enough to adjust to new technologies, and is able to connect existing legacy systems.

Develop a Statewide Plan

Governors should require their agencies to develop a coordinated vision for interoperability that includes a mix of existing resources and new investments. Such a vision can help create a public safety communications infrastructure that provides consistent, quality service throughout the state. A governor should encourage progress through systemic improvements that will allow governments at all levels to realize efficiencies in spectrum allocation, funding, and shared use of common infrastructure components. State leadership is essential to developing a common approach to regional and statewide interoperability.

Many states are establishing foundations for cooperation and statewide planning through robust governance structures that solidify relationships, bring all stakeholders to the decision-making table, and provide a method for exploring innovative technologies and potential funding sources to achieve interoperability. For example, Florida's interoperability strategy is based on a grassroots effort that now reflects local, state, and federal interests. Each of the state's seven regional domestic security task forces (RDSTFs) has an interoperable communications committee, which is open to all radio systems staff in the region. People who are responsible for their jurisdictions' radio services meet regularly to discuss short-term and long-term issues, build business relationships for interagency actions, and contribute to statewide discussions and actions. The state's domestic security oversight board (DSOB) sets the overall direction and priorities for domestic security and related emergency management plans, actions, and funding. DSOB is linked to the local RDSTF committees through the state working group and Florida Executive Interoperable Technologies Committee.

In **Idaho**, the statewide interoperability executive council (SIEC) developed the I-C-A-N WIN Concept — a concept plan for the development of a statewide emergency communications system. The SIEC leveraged several state assets, such as the State of Idaho's Microwave System investment and the Idaho Bureau of Homeland Security's Master site investment, to allow the state and localities to plan and implement a single infrastructure to serve the communications needs of first responders. It also built upon regional networks being constructed in counties across the state and incorporated existing local and tribal plans into its decisions.

In order to develop a consensus-driven statewide plan, a governor can do the following:

- establish an executive committee that reports to the governor and the legislature, establishes priorities, and develops a funding strategy;

- establish memoranda of understanding that define interoperability procedures; and
- lead planning efforts to identify state requirements for implementing interoperable communications system strategies.

Develop a Comprehensive Funding Strategy

Arguably, the most difficult hurdle agencies, regions, and states face in establishing, upgrading, or operating interoperable wireless communications systems is funding. Many existing public safety communications systems cannot support the modern technologies needed to achieve full interoperability. Covering the basic maintenance costs of an existing system often is a big challenge, and obtaining the significant funding required for major upgrades or for a complete system replacement — often tens of millions of dollars — is sometimes impossible.

Optimizing the use of limited funding is therefore important in interoperability planning and implementation. States should develop prioritized strategies for governmental units to coordinate and share funding for common infrastructure and equipment. State and local governments also should ensure that homeland security funding designated for interoperable communications is spent effectively and efficiently.

State comprehensive funding strategies should:[60]

- foster cooperative efforts to ensure maximum cost savings;
- identify and educate stakeholders to build consensus and support;
- determine a recognized and accepted authority for procuring, implementing, and operating the new communications system;
- examine the successful funding processes of similar states or regions; and
- use anecdotal stories to emphasize the funding need.

In **Indiana**, Project Hoosier SAFE-T, the statewide interoperable communications system, partnered with Motorola to decrease the costs of the system to the users. Motorola equipment prices are fixed until July 1, 2007, with discounts of between 20 percent and 25 percent when purchased through the integrated public safety commission. Also, Project Hoosier SAFE-T has negotiated for volume discounts on maintenance.[61]

Some states have adopted creative approaches to fund interoperability systems. **Minnesota** passed legislation that encourages state and local governments to share infrastructure instead of upgrading systems separately. The Minnesota Department of Transportation financed half the cost of the infrastructure, partly through general obligation bonds and partly with money from the state's trunk highway fund. The other half of the capital costs came from the metropolitan radio board through revenue bonds issued on its behalf by the metropolitan council. Debt service is provided by 4 cents of a 9-1-1 surtax, which is collected monthly on all of the state's wired and wireless telephone lines.[62]

Include Interoperability as Part of State Training and Exercise Programs

An interoperable communications system is only effective if the users understand how to use it. Governors need to ensure that realistic communications scenarios are included in all state training programs and tabletop and full-scale exercises. The chances of success will be increased by regular, comprehensive, and realistic exercises that address potential problems in the region or state and that involve all personnel.

To achieve the most effective results, state communications training and exercises should be tiered and include the entire spectrum of exercise designs, from single agency tabletop exercises to multiagency, multidiscipline functional exercises. Agencies should participate in a structured tabletop exercise program that promotes coordinated planning and identifies gaps. Once multiagency and multidiscipline plans are developed at the

management and supervisory level, it is then critical that all staff who would eventually be involved in implementation receive training and participate in exercises.[63] One strategy to ensure training for all users or potential users is to include training as part of the procurement process of a new interoperable communications system. Governors also can require detailed interoperable communications training and exercise programs as a prerequisite for state funding.

Incorporate Interoperable Technical and Equipment Standards

New radio technologies provide an unprecedented technical capability to first responders, but that alone does not guarantee interoperability. Many states, regions, or cities have invested in a single, homogeneous system that, while providing substantial interoperability among users of that system, does not result in compatibility with systems in nearby jurisdictions.

Governors can help ensure interoperability by requiring communications systems to be designed on an open architecture that adheres to universally agreed upon standards. For example, the Association of Public Safety Communications Officials developed a digital standard for wireless communications users called Project 25 (P25) that had input from state, local, and federal agencies and from the Telecommunications Industry Association.

The P25 standards seek to provide digital, narrowband radios that are effective, efficient, and reliable for intra- and interagency communications. A secondary objective is to achieve maximum radio spectrum efficiency. Project 25 systems have been deployed globally and should provide states with a standard guidance for procuring new land mobile radio systems.

Ensuring that a state's communications system adheres to published standards is critical for long-term viability of that system. A governor can ensure that technical and equipment standards are incorporated by doing the following:

- developing and implementing strategies for efficient use of radio frequency spectrum;
- funding only those new communications system acquisitions that adhere to accepted standards; and
- establishing a statewide interoperability policy that supports agency participation in a statewide or regional shared system built on established standards.

Coordination among local and state emergency response agencies leads to improved interoperable communications in daily operations. Further, as new capabilities and resources are acquired, local and state agencies can work together to develop standard operating procedures, training curricula, and exercise schedules for those new capabilities. As a result, a larger number of stakeholders in local and state agencies will have access to and knowledge of resources and capabilities for interoperable communications.

Summary Points

- Form a committee or council that reports back to the governor and the legislature on regional and state interoperability issues.
- Establish memoranda of understanding that define interoperability procedures with agencies and local government.
- Lead planning efforts to identify state requirements necessary for implementing interoperable system strategies.
- Develop funding strategies and incentives that encourage greater local, state, and federal participation.
- Ensure training to all users or potential users as part of the procurement process of a new interoperable communications system.
- Require a detailed interoperable communications training and exercise program as a prerequisite for state funding.
- Develop and implement strategies for efficient use of available radio frequency spectrum.
- Fund only those new communications system acquisitions that adhere to accepted standards.
- Establish a statewide interoperability policy that supports agency participation in a statewide or regional shared system built on established standards.

Chapter 10

Critical Infrastructure Protection

As heads of state, governors ultimately are responsible for preparing for and responding to any disaster or emergency within their state. However, governors' ability to ensure the security and resiliency of privately owned infrastructure and assets often is limited by a lack of regulatory or statutory authority. Although this makes private industry primarily responsible for its own security, governors can take several steps to ensure their states are well-positioned to respond to electrical blackouts, fuel shortages, cyberattacks, and other crises.

Because the nation's critical infrastructure often crosses state borders, and because the disasters and emergencies that affect that infrastructure rarely confine themselves to a state's political borders, the federal government has a significant role in preparing the nation for energy crises and for responding when emergencies occur. State planning efforts should be conducted in the context of that federal role.

The Federal Role

The basis for the federal government's role in critical infrastructure protection is a series of homeland security presidential directives (HSPD) issued in the years since the September 11, 2001, terrorist attacks. The directive most applicable to the area of critical infrastructure protection is *HSPD-7: Critical Infrastructure Identification, Prioritization and Protection.*

HSPD-7 establishes a national policy for federal departments and agencies to identify, prioritize, and protect the nation's critical infrastructure, which it defines as "systems and assets, whether physical or virtual, so vital to the United States that [their] incapacity or destruction… would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters."[64] The directive designates lead federal agencies, known as sector-specific agencies, for each sector of the economy and charges those lead agencies with the following:

- collaborating with all relevant federal agencies, state and local governments, and the private sector, including key people and entities in their infrastructure sector;
- conducting or facilitating vulnerability assessments for the sector; and
- encouraging risk-management strategies to protect against or mitigate the effects of attacks against critical infrastructure and key resources.

The sector-specific agencies also are required to collaborate with the private sector to develop information-sharing and analysis mechanisms and to work with industry to identify, prioritize, and coordinate the protection of critical infrastructure and key resources. They also facilitate the sharing of information about physical and cyber threats, vulnerabilities, incidents, potential protective measures, and best practices.[65]

The National Infrastructure Protection Plan

The National Infrastructure Protection Plan (NIPP), released by the Department of Homeland Security in 2006, details the development of a structure of collaboration among the private sector, state governments, and federal agencies. The overall goal of the plan is to:

- set security goals;
- identify assets;
- assess risk;
- prioritize infrastructure;
- implement protective programs;
- measure effectiveness; and
- establish a feedback mechanism for continuous improvement.

The backbone of the NIPP is a network of industry-specific sector coordinating councils (SCCs) and government coordinating councils (GCCs) through which representatives of the private sector and government will share information, collaborate, and develop strategies for protecting critical infrastructure.

The industry-based SCCs are the principal focal point for private sector coordination with the government on critical infrastructure protection activities and issues. Membership of the SCCs will vary by sector but should include a broad base of owners, operators, associations, and other entities within each sector. A private sector cross-sector council has been established to address cross-sector issues and interdependencies.

GCCs are the public-sector counterparts to the SCCs and are designed to provide interagency and cross-jurisdictional coordination. Each GCC includes representation from federal, state, local, and tribal governments. As in the private sector, a government cross-sector council will address cross-sector issues and interdependencies.[66] The various industry sector and government coordinating councils are themselves coordinated through the partnership for critical infrastructure security composed of representatives of each of the sector coordinating councils, and the NIPP senior leadership council, composed of representatives of each government coordinating council.

Sector-specific plans detailing the application of the NIPP framework across all critical sectors were expected to be completed by the end of calendar year 2006. Each of those sector-specific plans will include eight components:

- Sector-specific profile and goals.
- An identification of assets, systems, networks, and functions.
- A sector-wide risk assessment.
- A prioritization of infrastructure.
- Outlines of a plan to develop and implement protective programs.
- Processes to measure progress.
- Research and development strategies.
- A sector management and coordination plan.

Governors' Role in Protecting Critical Infrastructure

Despite their statutory and regulatory limitations, governors can take several steps that, in combination with the federal programs and activities outlined above, will ensure their states are well-positioned to respond to electrical blackouts, fuel shortages, cyber-attacks, and other crises. Those steps include:

- identifying the state's critical infrastructure;
- conducting vulnerability and risk assessments;
- identifying and understand interdependencies;
- investing in infrastructure improvements;
- developing regional strategies; and
- coordinating with the private sector.

Conduct an Inventory of the State's Critical Infrastructure

One of the truisms of homeland security is that an estimated 85 percent of the nation's critical infrastructure is privately owned. To fully comprehend the range of threats that exist in any state, governors must ensure that all critical infrastructure and key assets in their states — that is, those physical and cyber-based systems that are essential to the minimum operations of the economy and government — are fully identified.[67] The federal government has encouraged this cataloguing of critical infrastructure through the establishment of the National Asset Database, a comprehensive inventory of all assets in the nation. That database, however, has been criticized as including businesses and sites that do not appear to meet the federal government's definition of "critical."

Governors should ensure that state officials work not only with their federal counterparts in the Department of Homeland Security and other agencies but also with local governments, business owners, and other organizations to identify infrastructure and assets that are critical and to assess their vulnerabilities.

Conduct Vulnerability and Risk Assessments

Governors and their homeland security teams should first determine who will conduct the risk assessment process and the methodology to be used. Many states have developed and applied their own risk-and-vulnerability assessment tools; others have either designated agency risk managers or contracted with the private sector to conduct assessments.

Threats to state critical infrastructure should be assessed in the context of natural, man-made, terrorist, and technological events, and risks should be determined based on those threats, their likelihood of occurrence, and the impact they would have on the immediate infrastructure and on interdependent systems and facilities. This type of analysis can be used to prioritize infrastructure for protection and to develop and implement a critical infrastructure protection plan that identifies measures to prevent, eliminate, or mitigate the threat.

Some states have gone so far as to enact legislation requiring industries to take specific actions to protect their infrastructure. **New Jersey**, for example, amended its Toxic Catastrophe Prevention Act (TCPA) in November 2005 to require the state's 140 chemical facilities to conduct an assessment of vulnerabilities and hazards that might be exploited by terrorists. The assessments must include critical reviews of the following areas:

- security systems and access to the facility grounds;
- existing or required security measures outside the perimeter of the facility that would reduce vulnerabilities to an attack on the facility;
- storage and processing of potentially hazardous materials;
- employee and contractor background checks and other personnel security measures; and
- information and cyber security systems.

Forty-three facilities that already were subject to the state's TCPA program also are required under the new law to review the potential for adopting inherently safer technologies.

Identify and Understand Interdependencies

The nation's critical infrastructure is not a distinct collection of factories, power plants, hospitals and other physical entities. Increasingly, it is an interconnected system of systems, each part of which relies on and affects the operations of other parts. Petroleum refineries, for example, rely on the nation's transportation systems, including pipelines, trains, and trucks, to move both raw and refined products. Those transportation systems, in turn, rely on a robust and resilient refining capacity to provide the fuels they need to operate. The computer-based systems that control much of the nation's infrastructure — from freight rail lines to nuclear power plants — rely on the electrical grid to operate. In turn, those supervisory control and data acquisition systems are used to control, direct, and detect failures in the nation's energy networks.

Invest in Infrastructure Improvements

Although state and local governments own and control a minority of the nation's critical infrastructure, governors can play a significant role in the resilience of that infrastructure by making targeted investments in systems and facilities that will improve their states' ability to quickly recover from disasters and emergencies.

For example, **North Dakota** Governor John Hoeven created a new state agency to plan, finance, construct, develop, and, if necessary, acquire and operate electrical transmission facilities to improve the resiliency of the state's electrical systems. The

North Dakota Transmission Authority is authorized to do the following:

- Make grants and loans.
- Establish reasonable fees, rates, tariffs, and other charges.
- Obtain permits and acquire rights-of-way.
- Identify, plan, prioritize, and propose electric transmission corridors.
- Create and execute interest rate exchange contracts.

Develop Regional Strategies

Just as critical infrastructure seldom exists as an island unaffected by other infrastructure, events that affect the critical systems and facilities in one state are likely to have an impact across state lines. As a result, governors should develop regional strategies to manage emergencies and disasters that affect the infrastructure in one state. Mutual aid agreements such as EMAC allow for the rapid movement of replacement equipment and supplies into affected areas, and private sector utilities and retailers also have systems in place to back up their operations and supply chains after disasters.

Similarly, governors should consider working together to develop strategies for managing events that affect regions of the country. In some regions, this already is taking place. The Pacific NorthWest Economic Region, which comprises **Alaska**, **Idaho**, **Montana**, **Oregon**, **Washington,** and the Canadian provinces of Alberta, British Columbia, and the Yukon, created a partnership for regional infrastructure security to develop a regional protection, preparedness, and response plan for dealing with infrastructure-related emergencies.

Coordinate with the Private Sector on Response Plans

Governors should work closely with the private sector to develop emergency response and risk communications plans for incidents affecting privately owned systems or infrastructure. Forging a trust-based relationship between emergency response officials and the private sector is essential to ensure effective security preparations, including accurate vulnerability assessments and the integration of private-sector emergency response plans with those of government agencies.

Several national-level efforts already are underway to encourage this coordination. The Infrastructure Security Partnership (TISP), formed by 11 professional organizations and federal agencies after the September 11 terrorist attacks, promotes collaboration within government and industry to improve the resilience of the nation's critical infrastructure against natural and man-made disasters.[68] TISP members include state, local, and federal agencies; national organizations; academics; and representatives of the design, construction, operation, and maintenance communities. A steering committee composed of professional and technical organizations and federal agencies oversees TISP activities.

The partnership's objectives are to:

- Raise awareness of the importance of achieving national and regional disaster resilience for critical infrastructure.
- Create effective, task-focused, multidisciplinary work groups to improve regional disaster resilience for critical infrastructure.
- Foster creation and development of regional public-private partnerships to address infrastructure interdependency and interoperability.
- Disseminate knowledge on infrastructure security and disaster preparedness.
- Mobilize TISP members to respond to significant issues and events.
- Promote the improvement and application of risk assessment and management methodologies.
- Promote development and review of national and regional plans and policies.

In addition, information sharing and analysis centers (ISACs) were established jointly by federal agencies and private industry in several sectors. ISACs are used to share information on threats and planning among industry members; state, local, and federal agencies; and other industries. The electricity sector ISAC, for example, is operated by the North American Electric Reliability Council and provides daily infrastructure reports from the Department of Homeland Security; advisories, alerts, and notices from federal agencies; and security standard and guideline information.

States also should consider developing direct relationships with industries in their states. ExxonMobil, for example, maintains close working relationships with each state in which the company has a large industrial presence. Company officials have met with state officials in at least one state to discuss their security efforts and to discuss what threats the company is and is not capable of managing on its own.

Direct relationships with the owners and operators of critical infrastructure in a state are important for several reasons, but coordination of effort during the response to a disaster is essential. During the 2004 hurricane season, Florida utilities sent representatives to the state emergency operations center (EOC) and to local government EOCs. Other utility officials were available by telephone or other communications systems. As a result, emerging problems were capable of being solved at the local level by officials who felt empowered to make critical decisions and then report what they had accomplished.[69]

Summary Points

- Governors should understand the federal government's role in infrastructure protection and should develop plans and strategies in the context of that federal role.
- Governors should ensure that vulnerability and risk assessments have been conducted and are adequate for all the infrastructure in their state.
- Governors should identify interdependencies among various industry sectors and understand that attacks on or damage to one sector can have immediate effects on other sectors.
- Governors should invest in infrastructure and work with other states to improve their states' resiliency to natural disasters and other emergencies.
- Governors should work closely with the private sector to develop emergency response and risk communication plans for incidents that affect privately owned infrastructure.

Notes

NOTES

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32 10 U.S.C. §§ 331_335.

33 John Warner Authorization Act, available at http://www.rules.house.gov/109_2nd/text/hr5122cr/1092nd5122cr_1.pdf

34 Ronald Reagan National Defense Authorization Act for 2005, available at http://thomas.loc.gov/cgi-bin/query/D?c108:5:./temp/~c108YGbKqv::

35 10 USC § 12301(d).

36 10 USC § 12302.

37 10 USC § 12304.

38 10 USC § 331.

39 10 USC § 332.

40 10 USC § 333.

41 Ibid., p. 1_2.

42 Additional information on federal disaster assistance is available on the Federal Emergency Management Agency Web site at www.fema.gov.

43 Additional information on Department of Veterans Affairs assistance programs is available on the VA Web site at www.va.gov.

44 Additional information on Small Business Administration assistance is available on the SBA Web site at www.sba.gov.

45 Additional information on Farm Service Agency assistance is available on the U.S. Department of Agriculture Web site at www.fsa.usda.gov/pas.

46 Additional information on FEMA's Fire Management Assistance Program is available on FEMA's Web site at http://www.fema.gov/government/grant/fmagp/details.shtm.

47 Additional information on U.S. Army Corps of Engineers assistance is available on the Corps' Web site at www.usace.army.mil.

48 Additional information on U.S. Department of Health and Human Services assistance is available on the HHS Web site at www.hhs.gov. Additional information on U.S. Food and Drug Administration assistance is available on the FDA Web site at www.fda.gov.

49 Additional information on Federal Highway Administration assistance is available on the U.S. Department of Transportation Web site at www.fhwa.dot.gov/index.html.

50 For a detailed discussion of military assistance during disasters, please see chapter 5.

51 "Fusion Center Guidelines: Developing and Sharing Information and Intelligence in a New Era," August 2006, available at http://it.ojp.gov/documents/fusion_center_guidelines.pdf.

52 "Governor Napolitano Signs Homeland Security Agreement with California, New Mexico, and Texas," March 3, 2006, available at http://www.homelandsecurity.az.gov/documents/030306_BorderStateMOU.pdf.

53 North Carolina Information Sharing and Analysis Center, available at http://www.nccrimecontrol.org/Index2.cfm?a=000003,000010,000021.

54 Regional Information Sharing Systems, available at http://www.rissinfo.com/overview.htm.

55 Presentation on N-DEx given by David Gavin, Texas Department of Public Safety, March 20, 2006, available at http://www.search.org/conferences/2006symposium/presentations/Wednesday_Day%203/Ndex%20Case%20Study/David%20Gavin%20N-DEx%20Presentation%20SEARCH%20March%202006%20%202.ppt#262,7,N-DEx Vision.

56 Nlets, available at http://www.nlets.org/.

57 "What Is Communications Interoperability," available on the SAFECOM Website at www.safecomprogram.gov/SAFECOM/interoperabillity/default.htm. Accessed October 24, 2006.

58 "Why Can't We Talk? Working Together to Bridge the Communications Gap to Save Lives: A Guide for Public Officials," National Task Force on Interoperability, Washington, D.C., 2003.

59 "Why Can't We Talk?"

60 PSWN Funding Strategy Report, available at http://www.safecomprogram.gov/NR/rdonlyres/E2D71272-B332-4B28-9DE8-745CC576B618/0/Funding_Strategy_Best_Practices_Report.pdf

61 Project Hoosier SAFE-T Web site, available at http://www.in.gov/ipsc/safe-t/links/brochure.pdf

62 "Why Can't We Talk?" 18_19.

63 Interoperability Continuum, available at http://www.safecomprogram.gov/NR/rdonlyres/65AA8ACF-5DE6-428B-BBD2-7EA4BF44FE3A/0/Continuum080106JR.pdf

64 The White House, Homeland Security Presidential Directive 7, "Critical Infrastructure Identification, Prioritization, and Protection," Washington, DC, 2003.

65 HSPD-7.

66 Department of Homeland Security, National Infrastructure Protection Plan Sector Partnership Model.

67 Presidential Decision Directive/NSC-63, "Critical Infrastructure Protection," May 22, 1998.

68 The Infrastructure Security Partnership at www.tisp.org. Accessed September 27, 2006.

69 U.S. Department of Energy, Florida State's Energy Emergency Response to the 2004 Hurricanes, June 2005.

Appendix A

Governor's Request For a Major Disaster Declaration

(Date of Request)

The President
The White House
Washington, D. C.

Through: Regional Director
FEMA Region _____
City, State, Zip Code

Dear Mr. President:

Under the provisions of Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5206 (Stafford Act), and implemented by 44 CFR § 206.36, I request that you declare a major disaster for the State of _____ as a result of

Name type of incident: e.g., severe storms, flooding, hurricane, tornadoes; include the time period involved, e.g., beginning _____ through _____ or, beginning _____ and continuing. Name the affected counties or independent cities being requested.

In response to the situation, I have taken appropriate action under State law and directed the execution of the State Emergency Plan on (date) in accordance with Section 401 of the Stafford Act.1

If a State of Emergency has been declared, indicate when and to what area(s) it is applicable. Identify status of the State's mitigation planning effort, type of State Mitigation Plan, and expected completion date.

On (date), I requested a joint Federal, State, and local survey of the damaged areas. Preliminary assessments indicated the most severe impacts were to

Describe the type of facilities and the adverse affect the damage has on the public and private sectors.

I have determined that this incident is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that supplementary Federal assistance is necessary. I am specifically requesting

Name programs: e.g., Individual Assistance (including the Individuals and Households Program (IHP), Disaster Unemployment Assistance, Crisis Counseling); Public Assistance; Hazard Mitigation; and Small Business Administration disaster loans.

Name counties requested for each program. For Hazard Mitigation, request "statewide" or name specific counties.

Preliminary estimates of the types and amount of assistance needed under the Stafford Act are tabulated in Enclosures A and B. Estimated requirements for assistance from certain Federal agencies under other statutory authorities are tabulated in Enclosure C.

The following information is furnished on the nature and amount of State and local resources that have been or will be used to alleviate the conditions of this disaster:

List Actions. Include actions pending or taken by State legislative and governing bodies with regard to the disaster.

I certify that for this major disaster, the State and local governments will assume all applicable non-Federal share of costs required by the Stafford Act. Total expenditures are expected to exceed $_____, in accordance with the table in Enclosure D.2

IF Direct Federal Assistance (DFA) is requested, the following information and certifications must be provided before DFA can take place.

I request direct Federal assistance for work and services to save lives and protect property.

(a). List any reasons State and local government cannot perform or contract for performance, (if applicable).

(b). Specify the type of assistance requested.

In accordance with 44 CFR § 206.208, the State of _____ agrees that it will, with respect to direct Federal assistance:

1. Provide without cost to the United States all lands, easements and rights-of-ways necessary to accomplish the approved work;

2. Hold and save the United States free from damages due to the requested work, and shall indemnify the Federal Government against any claims arising from such work;

3. Provide reimbursement to FEMA for the non-Federal share of the cost of such work in accordance with the provisions of the FEMA-State Agreement; and

4. Assist the performing Federal agency in all support and local jurisdictional matters.

IF debris removal is being requested/or anticipated, either through DFA or through reimbursement under a project worksheet under the Public Assistance program, the following information and certifications must be provided before DFA, debris removal, or reimbursement for debris removal under project worksheet cant take place.

In addition, I anticipate the need for debris removal, which poses an immediate threat to lives, public health, and safety.

Pursuant to Sections 403 and 407 of the Stafford Act, 42 U.S.C. §§ 5170b & 5173, the State agrees to indemnify and hold harmless the United States of America for any claims arising from the removal of debris or wreckage for this disaster. The State agrees that debris removal from public and private property will not occur until the landowner signs an unconditional authorization for the removal of debris.

I have designated _____ as the State Coordinating Officer for this request. He/she will work with the Federal Emergency Management Agency in damage assessments and may provide further information or justification on my behalf.

Sincerely,

Governor

Enclosure

ENCLOSURE A TO MAJOR DISASTER REQUEST

Estimated Requirements for Individual Assistance under the Stafford Act

County	Assistance to Individuals and Households					Other Programs
(List each requested county)	Temporary Housing (Indicate No.)	Repairs	Replacement	Permanent Housing Construction	Other Needs Assistance	(Disaster Unemployment Assistance, Legal Services, and Crisis Counseling)
TOTALS						

ENCLOSURE B TO MAJOR DISASTER REQUEST

Estimated Requirements for Public Assistance Stafford Act

CATEGORY

County	A	B	C	D	E	F	G	Total
Totals:								

Note: Estimates are to reflect total eligible costs before any cost sharing.

ENCLOSURE C TO MAJOR DISASTER REQUEST

Estimated Requirements for Other Federal Agency Programs

County	SBA Home Loans	SBA Business Loans	FSA Loans	NRCS	FHWA	USACE	OTHER
Totals							

Note: Provide numbers and amounts, as appropriate.

ENCLOSURE D TO MAJOR DISASTER REQUEST

Governor's Certification

I certify that for this current disaster, State and local government expenditures and obligations will include the non-Federal share of costs required by the Stafford Act. As stated in my basic letter, and based on information available at this time, tabulation of these estimated expenditures and obligations are as follows:

CATEGORY OF ASSISTANCE	AMOUNT	
Individual Assistance:	STATE	LOCAL
"Other Assistance" under the Individuals and Households Program"		
Other (specify)		
Total:		
Public Assistance:		
Category A — Debris Removal		
Category B — Emergency Protective Measures		
Category C — Roads and Bridges		
Category D — Water Control Facilities		
Category E — Buildings and Equipment		
Category F — Utilities		
Category G — Other (Parks, Recreational Facilities, etc.)		
Total:		
Grand Total:		

Governor's Request For Emergency Declaration

(Date of Request)

The President
The White House
Washington, D. C.

Through: Regional Director
FEMA Region ___
City, State, Zip Code

Dear Mr. President:

Under the provisions of Section 501 (a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5206 (Stafford Act), and implemented by 44 CFR § 206.35, I request that you declare an emergency for the State of _____ as a result of

Name type of incident: e.g., severe storms, flooding, hurricane, tornadoes; include the time period involved, e.g., beginning _____ through _____ or, beginning _____ and continuing. Name the affected counties or independent cities being requested.

In response to the situation I have taken appropriate action under State law and directed the execution of the State Emergency Plan on (date) in accordance with Section 501 (a) of the Stafford Act.3

If a State of Emergency has been declared, indicate when and to what area(s) it is applicable.

Pursuant to 44 CFR § 206.35, I have determined that this incident is of such severity and magnitude that effective response is beyond the capabilities of the State and affected local governments, and that supplementary Federal assistance is necessary to save lives, protect property, public health, and safety, or to lessen or avert the threat of a disaster. I am specifically requesting

Indicate type and nature of emergency assistance required, such as debris removal, emergency protective measures, direct Federal Assistance, or the Individuals and Households Program (IHP).

Preliminary estimates of the types and amount of emergency assistance needed under the Stafford Act, and emergency assistance from certain Federal agencies under other statutory authorities are tabulated in Enclosure A.

The following information is furnished on the nature and amount of State and local resources that have been or will be used to alleviate the conditions of this emergency:

List actions. Include actions pending or taken by State legislative and governing bodies with regard to the emergency.

The following information is furnished on efforts and resources of other Federal agencies, which have been or will be used in responding to this incident:

List actions by agency

I certify that for this emergency, the State and local governments will assume all applicable non-Federal share of costs required by the Stafford Act.4

IF Direct Federal Assistance is requested, the following information and certification must be provided before DFA can take place.

I request direct Federal assistance for work and services to save lives and protect property.

(a) List any reasons State and local government cannot perform or contract for performance, (if applicable).

(b) Specify the type of assistance requested.

In accordance with 44 CFR § 206.208, the State of _____ agrees that it will, with respect to direct Federal assistance:

1. Provide without cost to the United States all lands, easement, and rights-of-ways necessary to accomplish the approved work.

2. Hold and save the United States free from damages due to the requested work, and shall indemnify the Federal Government against any claims arising from such work;

3. Provide reimbursement to FEMA for the non-Federal share of the cost of such work in accordance with the provisions of the FEMA-State Agreement; and

4. Assist the performing Federal agency in all support and local jurisdictional matters.

IF debris removal is being requested/ or anticipated, either through DFA or through reimbursement under a project worksheet under the Public Assistance program, the following information and certifications must be provided before DFA, debris removal, or reimbursement for debris removal under a project worksheet can take place

In addition, I anticipate the need for debris removal, which poses an immediate threat to lives, public health, and safety.

Pursuant to Sections 502 and 407 of the Stafford Act, 42 U.S.C. §§ 5192 & 5173, the State agrees to indemnify and hold harmless the United States of America for any claims arising from the removal of debris or wreckage for this disaster. The State agrees that debris removal from public and private property will not occur until the landowner signs an unconditional authorization for the removal of debris.

I have designated _____ as the State Coordinating Officer for this request. He/she will work with the Federal Emergency Management Agency in damage assessments and may provide further information or justification on my behalf.

Sincerely,

Governor

Enclosure

ENCLOSURE A TO EMERGENCY REQUEST DECLARATION

(Estimated Requirements)

Estimated requirements for other Federal agency programs:

(Specify agency and assistance required).

Totals: _____

Estimated Requirements for assistance under the Stafford Act:

	AMOUNT
Coordination	
Technical and advisory assistance	
Debris removal	
Emergency protective measures	
Individuals and Households Program (IHP)	
Distribution of emergency supplies	
Other (specify)	
Totals:	
Grand Total:	

Note: Estimates should reflect total eligible costs prior to cost sharing.

1 Execution of the State's emergency plan is a prerequisite to major disaster assistance.

2 The certification to cost share must be included; otherwise the processing of the request may be delayed until the Governor has provided the certification.

3 Execution of the State's Emergency Plan is a prerequisite to emergency assistance.

4 The certification to cost share must be included; otherwise the processing of the request may be delayed until the Governor has provided the certification.

John Thomasian, Director
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