

**State/Local Issue Team Solution Set  
Structure Working Group  
Project on National Security Reform  
Submitted by John F. Morton, Team Lead  
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*“Where the hell is the cavalry on this one?...They keep saying we’re going to get supplies. For God’s sake, where are they?” Kate Hale, Director of Emergency Management, Miami-Dade County FL, Day Three Press Conference, Hurricane Andrew Response, 1992*

*“[A]t some point we saw there was...nothing for the federal government to stick on to.” Scott Wells, FEMA Deputy Federal Coordinating Officer for Hurricane Katrina in Louisiana, quoted in Hurricane Katrina: A Nation Still Unprepared, Special Report of the Committee on Homeland Security and Governmental Affairs, U.S. Senate, May 2006*

*“The preparation and response to Hurricane Katrina show we are still an analog government in a digital age.” A Failure of Initiative, The Final Report of the Select Bipartisan Committee to Investigate the Preparations for and Response to Hurricane Katrina, U.S. House of Representatives, February 15, 2006*

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\* Except where cited, the views expressed in this solution set are those of the team members and reflect only their expertise in their respective fields and not those of their former or current affiliations or sponsoring agencies.

## SOLUTION STATEMENTS

**SOLUTION 1:** *The PNSR State/Local Issue Team recommends the official merging of the National Security Council (NSC) and the Homeland Security Council (HSC) to end the artificial bifurcation of national security and homeland security at the strategy, policy-development and assessment level. Because of the non-federal constituencies with whom they interact, the Secretary of Homeland Security and the Attorney General should be made permanent members of the NSC, in part to ensure the inclusion of relevant non-federal input into decisions that have national and not just Federal implications.*

**SOLUTION 2:** *A parallel process is required, similar to that currently used within the national security establishment, led by the Assistant to the President for Homeland Security and Counterterrorism, with the Secretary of Homeland Security as his/her executive agent, to prepare an annual assessment of homeland security risk and capabilities across the Federal government, to include state and local inputs, which measures capabilities and outcomes—not simply activities. In consultation with Congress and to improve the efficiency of national homeland security efforts, this assessment should seek maximum consolidation of recurring homeland security capability reporting requirements into one comprehensive, capability-based report, and it should be tied to the annual national security assessment.*

**SOLUTION 3:** *Congress should codify the Secretary of Homeland Security's overall Federal executive agent responsibility as the Principle Federal Official (PFO) for ensuring coordination of domestic incident management to include prevention, protection/mitigation, response and recovery actions, while respecting the inherent authority and responsibility of other cabinet and agency officials to perform the specific duties and execute inherent operational responsibilities assigned to them.*

**SOLUTION 4:** *Homeland and National Security budget activities should be combined into a single entity within the Office of Management and Budget (OMB). Consistent with the review role of the Assistant to the President for National Security in the national security budget process, the Assistant to the President for Homeland Security and Counterterrorism should have similar oversight of homeland security budget submissions across all Federal departments and agencies.*

**SOLUTION 5:** *The Department of Homeland Security should re-establish a single office, acting on behalf of the Secretary of Homeland Security, to oversee and coordinate the policies, programs and activities of the Department relating to state, tribal and local governments to ensure that the relationship between DHS and its partners is well managed and is strong.*

**SOLUTION 6:** *Congress should consolidate congressional oversight of DHS homeland security functions into one authorization committee and one appropriations subcommittee per chamber.*

**SOLUTION 7:** *The PNSR State/Local Issue Team recommends that Congress direct the Secretary of Homeland Security as the Principal Federal Official for domestic incident management to develop by a date-certain a comprehensive National Operational Framework (NOF) that describes how operational integration will occur across all levels of government and*

*the private sector for the full range of prevention, protection/mitigation, response and recovery activities, succeeding the current more narrow National Response Framework.*

**SOLUTION 8:** *Conforming language in statute and executive order should maintain that the Secretary of Homeland Security is the Principal Federal Official (PFO) for domestic incident management of homeland security threats and events and incorporate language to clarify the chain of directive authority through the appropriate regional Federal structures.*

**SOLUTION 9:** *The PNSR State/Local Issue Team supports the idea of pre-designated field-level PFOs but believes that regardless of the type of event, the PFO should be the sitting FPC—by whatever title—as the regional DHS representative who can leverage his/her on-going, steady-state, stakeholder relationships in a crisis.*

**SOLUTION 10:** *The Executive Branch should establish at the appropriate levels formal, up-front, consistent systematic “steering committee” processes and structures for state and local government, private sector and non-governmental organization (NGO) participation to support national security and homeland security policy development for issues where those constituencies have equities. When appropriate, these processes and structures must provide direct and regular reporting access to relevant cabinet secretaries and the White House advisors.*

**SOLUTION 11:** *Congress should adjust the current Federal Advisory Committee Act’s (FACA’s) time consuming requirements to facilitate better coordination needed among Federal, state, local, private sector and NGO representatives for both homeland security and national security policy development, especially under exigent circumstances.*

**SOLUTION 12:** *To further a structure and process for private sector and NGO participation in homeland security/NOF policy development, planning and possibly operational execution, the PNSR State/Local Issue Team encourages the Federal government to support an independent, private sector-led national mechanism/entity to facilitate public/private collaboration and sustain “continuity of community” approaches for domestic incident management.*

**SOLUTION 13:** *DHS should resource the Department of Defense’s Task Force Emergency Response (TFER) initiative (or some equivalent) which leverages military planning expertise for the determination of regional capabilities and capability requirements and development and implementation of regional response/recovery plans based on community-based assessments of risk.*

**SOLUTION 14:** *Further to achieve cost savings and improve efficiency, the Department of Homeland Security must clearly structure and empower departmental-level acquisition, procurement, coordination and resourcing authority and oversight activities relative to its operational components. By statute, therefore, Congress should empower the DHS Under Secretary for Management via the Chief Procurement Officer to centralize acquisition and procurement authority and acquisition offices in a direct line reporting relationship to leverage the buying power of the Department and to mandate consistent, department-wide policies to guide acquisition and procurement.*

**SOLUTION 15:** *The annual national homeland security assessment (Solution 3 above) should inform a systematic, annual Federal homeland security grant process. By statute, Congress should transfer from FEMA to the Secretary of Homeland Security executive agent authority for all homeland security grants, i.e., (1) to develop and publish grant goals, guidance and requirements, (2) manage the grant application, review and approval process and (3) fulfill fiduciary responsibilities associated with grant management. Further, the DHS Secretary should engage non-federal stakeholders, relevant DHS components and other Federal departments and agencies with homeland security*

**SOLUTION 16:** *Consistent with the recommendations of the White House Katrina report and Executive Order (EO) 13434, Congress must authorize and resource a professional development process for the Federal homeland security workforce, similar to that of the national security and intelligence communities, which mutually accommodates and reinforces “continuum of service” and to the degree practicable the state and local governmental levels, as well as in the private sector and NGO communities.*

**SOLUTION 17:** *For the purposes of better coordinating information and intelligence sharing for domestic national security, homeland security situations, the Director of National Intelligence (DNI) should have centralized authority to establish cross-cutting policy to guide the sharing of Federal national security, criminal and incident management information and intelligence with non-federal entities. Further, the DNI should be responsible for establishing technical and cross-cutting information and intelligence sharing training standards that ensure the ability to share and integrate, when authorized and where necessary, all-source data, including those that necessarily should remain routinely independent. Furthermore, all Federal Senior Executive Service (SES) and career personnel in positions with actual and potential domestic incident management, information sharing, law enforcement and domestic incident management command and leadership roles should have a consistent prerequisite to be certified under these training standards before being eligible to assume their positions.*

**SOLUTION 18:** *The PNSR State/Local Team recommends establishment of a dynamic NOF two-way data sharing system, a “platform,” to be used as an Incident Command System (ICS)-enabler, from routine incidents to complex multi-site catastrophes.*

**SOLUTION 19:** *Congress should provide DHS with authority over an NOF information sharing platform for resourcing and standards and should liaise with the Department to determine the appropriate governmental entity to house and administer it on behalf of the states.*

## WHAT IS “HOMELAND SECURITY?”

The term “homeland security” entered the American lexicon on September 20, 2001, when President Bush used the term to name a new “Office of Homeland Security” established in the White House that October. Homeland security generally means the unified national effort to prevent, protect against, respond to and recover from threats and acts of terrorism, as well as other man-made and natural hazards. To quote from the *2007 National Strategy for Homeland Security*, “This *Strategy*...recognizes that effective preparation for catastrophic natural disasters and man-made disasters, while not homeland security *per se*, can nevertheless increase the security of the Homeland.”<sup>1</sup>

This national strategy seeks to apply a comprehensive approach to risk management—primarily the risk of high-end terrorist attacks or other catastrophic disasters. The risk to America can never be reduced to a factor of zero (no more than reducing to zero the national crime rate). However, by leveraging all national resources, the U.S. can substantially reduce risk. It is thus crucial to understand that homeland security is far bigger than any one Federal department in Washington or more especially one level of American government.

With regard to the structure and process for homeland security, it is therefore necessary to consider homeland security in relation both to national security and emergency management.

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<sup>1</sup> *National Strategy for Homeland Security*, Homeland Security Council, October 2007, p. 3.

### GENERAL ASSUMPTIONS

*America's current national security model—premised on the National Security Act of 1947 and historically driven by issues of national defense—is biased toward addressing situations beyond our borders and only addresses those within our borders which are the most extreme, e.g., acts of war.*

*The constitutional separation of powers with its checks and balances has historically impeded a unified national—and not simply Federal—approach to national security. Unintentionally, these provisions exacerbate fragmentation within and between levels of government with regard to national security and homeland security policy development and operational execution. In a truly national domestic crisis—one which by perception or fact constitutes a threat to our national security—Congress and the American people expect a level of command and control among all responsible Federal and non-federal entities.*

*A high-end terrorist attack falls between a criminal act and an act of war. Absent Federal ability to “command and control” non-federal assets, especially in ambiguous events that may or may not constitute a national security situation, the optimal political and practical goal is to have shared and agreed-upon policy, doctrine and operational capabilities among all levels of government which are not subject to multiple interpretations in the midst of a crisis forming or as it is occurring.*

*Given the above contradictions, the PNSR State/Local Issue Team has concluded that the current 21<sup>st</sup> century risk environment—which includes high-end acts of terrorism and catastrophic natural disasters—no longer permits the easy segregation of national security/defense and the security and safety of the homeland. The presently ill-defined boundaries of 21<sup>st</sup> century national security and homeland security (to include emergency management) frustrate policy development and operational execution.*

Note: These and the following italicized paragraphs are the wordings from the Team's Problem Analysis.

Viewed from the Federal perspective, the policy environment must now be seen in terms of what should be called the national and homeland security continuum. Heretofore, the bifurcation has remained at the borders: national security has been borders-out; homeland security, borders-in. This borders-out/borders-in bifurcation essentially worked until the nineties when asymmetric threats became a recognized priority. In the current national security environment, this bifurcation is obsolete and must no longer be used to justify national security structure and process.

*UNDERLYING THE CORE PROBLEM: CAUSE 1*

*The practical effect of national security and homeland security bifurcation is the creation of parallel policy, doctrine and operational environments—sometimes intersecting, sometimes not. Irrespective, effective management of domestic prevention, protection/mitigation, response and recovery activities requires unity of effort among all levels of government, civilian and military entities and elements of the private sector. Multiple approaches used to address a crisis—in advance or after occurrence—hamper unity of effort and produce ambiguity about the nature of the crisis event itself, i.e., whether it is a national security or homeland security issue and correspondingly which structural mechanisms should manage it.*

For homeland security, the continuum of missions runs from prevention through protection and response to recovery. Homeland security derives from multiple disciplines which now intersect: emergency management, public health and medical, fire, civil defense, mobilization and counterterrorism. In addition to the interagency dimension, the national response to today's asymmetric threats involves a second intergovernmental dimension which presents constitutional complications.

*UNDERLYING THE CORE PROBLEM: CAUSE 2*

*National security policy development has been historically the exclusive domain of the Federal government and has never formally engaged state and local levels. Irrespective of the debates about the efficacy of separating homeland security and national security, even under the current environment, states have a vital and critical policy development and operational role in America's national security. Structures and/or processes do not harness non-federal governmental capabilities to address exigent national security situations within the borders to supplement and in certain cases perform primary missions to support Federal national security priorities. However, national security and homeland security policies do not always define the roles, responsibilities and authorities of the Federal government, sovereign state and local governments, the private sector and non-governmental organizations (NGOs).*

Generally speaking, homeland security policy development can be said to be another continuum which begins with strategic planning and runs through policy development and policy review/implementation—ultimately leading to execution.

According to Homeland Security Policy Directive-1 (HSPD-1), *Organization and Operation of the Homeland Security Council*, the Homeland Security Act of 2002 and other foundational documents, the Homeland Security Council (HSC) and the National Security Council (NSC) provide the President with strategic planning and policy advice. The HSC ensures coordination of all homeland security-related activities among executive departments and agencies and promotes the effective development and implementation of all homeland security policies. The HSC is chaired by the Assistant to the President for Homeland Security and Counterterrorism (the Homeland Security Advisor). As does the NSC, the HSC structure includes the Deputies and Principals Committees and eleven Policy Coordination Committees (PCCs) at the assistant secretary level, as well as the Domestic Readiness Group (DRG) and the

Counterterrorism Security Group (CSG). These HSC structures have no operational responsibilities.

The DRG, an interagency body of the HSC, co-chaired with the NSC (which has the lead), convenes on a regular basis to develop and coordinate preparedness and response policy. This 42-member, staff-level group evaluates various policy issues of interagency import regarding domestic preparedness and incident management and makes recommendations to cabinet and agency deputies and principals for decision. As appropriate, the HSC chair and cabinet principals present such policy issues to the President for decision. Again, the DRG has no role regarding operational management during an actual incident.

### **CLARIFYING “PREPAREDNESS”**

As addressed in HSPD-8, *National Preparedness*, and the National Preparedness Guidelines (NPG), preparedness is about building capabilities to prevent, protect against, respond to and recover from threats and acts of terrorism, natural disasters and man-made accidents. Modern preparedness can be traced back to the advent of civil defense in the early 20<sup>th</sup> century. This concept of preparing civilians and non-military agencies for disasters began to take greater shape during the Cold War. At that time, civil defense involved activities such as building fallout shelters and local and state government development of specialized rescue services for their communities. Civil defense eventually gave way to the term comprehensive emergency management (CEM), when the modern model of preparedness began to take shape in the late 1970’s with the creation of the Federal Emergency Management Agency (FEMA) in 1979.

For almost twenty years, as the emergency management profession grew and matured, preparedness evolved on the premise of building capabilities to respond, recover and mitigate damage from disasters. Indeed, shortly after FEMA’s creation, the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1984 outlined formal protocols for major disaster management, i.e., when and to a certain extent how the Federal government may provide assistance to state and local governments during a major disaster.

For nearly a decade, the vast majority of Stafford Act disasters were natural or man-made accidents. Preparedness activities focused on responding to such incidents. During much of this period, terrorism preparedness was barely an after-thought. In 1993, the focus began to change with a presidential disaster declaration issued for the first terrorist bombing of the World Trade Center and later in 1995 with Presidential Decision Directive 39 (PDD-39), *U.S. Policy on Counterterrorism*. PDD-39 provided recognition that the threat of terrorism as a potential major hazard was increasing, as evidenced by the first World Trade Center bombing, the Oklahoma City bombing, and the Tokyo sarin gas attack.

In 1996, Congress authorized the Nunn-Lugar-Domenici Domestic Preparedness Program as part of the Defense Reauthorization Act. This domestic preparedness program focused on enhancing the ability of local and state governments to respond to a weapon of mass destruction (WMD) incident, with a particular emphasis on terrorism. Elements of the program consisted of advanced training, equipment and exercises for local first responders. While PDD-39 assigned FEMA as the lead agency for “consequence management” in response to acts of terrorism, Nunn-Lugar did not assign that agency as the lead agency for managing the program. Instead, Congress gave the Department of Defense (DoD) that task. Nunn-Lugar was the immediate legacy program of the homeland security preparedness programs of today.

While the lead went to DoD, other Federal agencies also played a role in the new domestic preparedness program. This included FEMA, the Federal Bureau of Investigation (FBI), the Department of Health and Human Services (HHS), Department of Energy (DOE) and Environmental Protection Agency (EPA). At the time, FEMA chaired the Senior Interagency Coordination Group on Terrorism, which was established to facilitate better Federal interagency coordination on policy issues and program activities focusing on WMD response. Eventually in the late 1990's, the Department of Justice (DOJ) through the Assistant Attorney General for the Office of Justice Programs would manage the preparedness program through the Office for State and Local Domestic Preparedness Support, which later became the Office for Domestic Preparedness (ODP). The National Domestic Preparedness Office (NDPO), housed in the FBI, inherited oversight of the Nunn-Lugar-Domenici "train-the-trainer" programs for states and localities. At that time, FEMA declined the opportunity to assume the national-preparedness mission.

In 2005, DHS Secretary Michael Chertoff's Second Stage Review (2SR) attempted to institutionalize preparedness as a structure with a DHS directorate led by an Under Secretary of Preparedness. More recently, HHS has structured an operational shop at the assistant-secretary level which is now called Preparedness and Response (ASPR).

Preparedness is thus more of an emergency management term, but in the context of the continuum of homeland security missions, the term contributes to confusion. Preparedness became a political football after Hurricane Katrina. Responding to pressure from the emergency management community, Congress seized upon the Chertoff division of preparedness and response in his 2SR. In the Post-Katrina Emergency Management Reform Act of 2006, lawmakers conjoined the two in FEMA in an effort to empower the agency and restore some of the clout it enjoyed during the tenure of FEMA Administrator James Lee Witt in the 1990s.

The current preparedness mission stems from the Post-Katrina legislation. The act assigns FEMA new responsibilities to develop a National Preparedness System and lead its implementation. The National Preparedness System defines target preparedness levels and priorities and provides for a cycle of standard-setting, training, exercise, planning, assessment, technical assistance, grant-making and reporting activities to build those capabilities. The National Preparedness Guidelines (NPG) released in September 2007 is the foundation for accomplishing and implementing this mission. The NPG supposedly provides the doctrine for how to achieve and sustain coordinated intergovernmental, interagency, private-sector and non-governmental organization (NGO) capabilities presumed to balance risk with resources and need.

Until the HSPD-8, *National Preparedness*, Annex-1, *National Planning*, official language had suggested a homeland security/emergency management continuum based in part on CEM which encompassed prevention, preparedness, response and recovery. The conforming amendments of HSPD-8 Annex 1 clarified the continuum by removing "preparedness" from HSPD-5, *Management of Domestic Incidents*, and inserting "protection" in HSPD-8. As cited above, the original CEM emergency management continuum had been "mitigation, preparedness, response, recovery." The amendments are now saying for HSPD-5 and HSPD-8 that the homeland security/emergency management continuum will be "prevention, protection, response, recovery" and in HSPD-5 they speak of "preparedness and operational prevention, protection, response, recovery." In DoD-speak, HSPD-5 thus distinguishes "readiness" from "operations." The former has to do with a condition; the latter, actions. Similarly, "preparedness" and "steady-state" are not synonymous terms. Rather "steady-state" and "crisis-state" refer to operational *modes* for each mission.

Indeed, in announcing the 2007 *National Strategy for Homeland Security*, the White House spoke of preparedness in terms of “building a culture of preparedness”—a characterization quite accurate.

The PNSR State/Local Issue Team regards the traditional emergency management term “mitigation” as a subset of “protection” which gives protection more of an all-hazards cast. Thus, in conformity with HSPD-8 Annex 1, the Team recommends phrasing the homeland security/emergency management continuum as “prevention, protection/mitigation, response and recovery” better to visualize the scope of the all-hazards, homeland security missions. “Preparedness” (incorporating planning) undergirds these missions and is distinct from the “operational” activities for each of the four. Also of note, the emergency management term “consequence management” applies to response and what FEMA now characterizes as “short-term recovery,” as distinct from “long-term recovery.”

To be accurate, the framework presented by “prevention, protection/mitigation, response, recovery” is more consistent with risk management theory and provides consistency for all-hazards formulation, documentation and integration of processes and operational activities. Preparedness and the execution of operational activities are elements which are integral to each framework component.

### **THE STRUCTURAL/PROCESS MODEL FOR HOMELAND SECURITY**

In the 1940s, rapidly advancing aerospace and nuclear technologies enabled a strategic threat to the American homeland which required a policy response and the structuring of a centralized, top-down national security state replete with security classifications and command and control operational hierarchies. However, today’s advancing technologies and strategic threats and political, economic and social realities require structures which are completely the reverse.

First, the structure of a U.S. *homeland* security system has to account for the social reality imposed by the American federal system of governance. It is fundamental. It is intergovernmental with three layers of sovereignty—Federal, state and local. As such, the traditional defense and *national* security top-down, hierarchical structures do not, will not and moreover cannot apply to homeland security.

Secondly, homeland security structures and processes must accurately reflect the management law of weighting. The Federal government alone does not have the weight to lead a response to a catastrophe and arguably never did. The oft-cited statistic on national critical infrastructure makes the point: the private sector owns and is responsible for 85 percent of national critical infrastructure. The Federal government does not “own” the problem; it thus cannot own the solution. This economic and political reality leads to one conclusion: any structure and process must have up-front buy-in—systematically and comprehensively—from state and local authorities, the private sector and NGOs. The Federal government therefore must provide a *national* structure for systematic and formal state- and local-level, up-front participation in the policy development process which will include the private sector and NGOs as all-hazards, homeland security partners and stakeholders.

Homeland security begins with the sovereign people, and must be driven from the bottom-up. Conveniently, this truth aligns with contemporary network theory.

Four key sources support the position which the PNSR State/Local Issue Team is taking which are absolutely essential for a full understanding of its recommendations as relate to devolution of homeland security functions:

- Albert-Laszlo Barabasi *Linked: The New Science of Networks* (Cambridge: Perseus Publishing, 2002); on network theory and the ramifications of the Internet on socio-political structure
- John Robb *Brave New War: The Next Stage of Terrorism and the End of Global Civilization* (John Wiley & Sons: Hoboken, NJ, 2007); on leveraging network approaches to achieve national resilience
- Donald P. Moynihan *Leveraging Collaborative Networks in Infrequent Emergency Situations* (IBM Center for The Business of Government, June 2005); on the applicability of network structures for managing emergency governance
- Donald P. Moynihan *From Forest Fires to Hurricane Katrina: Case Studies of Incident Command Systems* (IBM Center for The Business of Government, 2007); on the incident command system (ICS) model as a temporary hierarchical-network model for managing catastrophic events

Network theory reflects how insights have moved from applications for the fast-paced innovations of the information technology (IT) world to theories of management and organization. The irony of networks is that their very vulnerability makes them most resilient.<sup>2</sup> This understanding informs recognition of the need to adopt a strategy of decentralized resilience<sup>3</sup> with power devolved to local government, private companies and individuals.<sup>4</sup> Structure and process for homeland security policy must reflect this understanding of 21<sup>st</sup> century socio-political reality.

To illustrate the point, in any high-end catastrophe like a pandemic, meltdown of cyber-infrastructure, major natural disaster or WMD terrorist attack, response and short-term recovery will begin for individual Americans in the household, place of work, school or wherever they may find themselves. From there, response and short-term recovery goes to a community level, to the local jurisdiction, state, region and nation.

There will be no Federal cavalry. Pandemic preparedness policy, for example, posits this truth in an acronym—YOYO—“You’re On Your Own.”

It is an uncomfortable truth which has dramatic policy implications: the Federal government will never be able to resource, command or control a Federal response or recovery. At best, it will be able to serve as one element providing support to a state or states. The notion of “federalizing” a response is a chimera.

Borders-in—and some would argue borders-out—the Federal government is merely a network enabler, a partner, one element, one stakeholder among several. Its role is to resource baseline interagency and intergovernmental preparedness across all four homeland security and

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<sup>2</sup> Albert-Laszlo Barabasi *Linked: The New Science of Networks* (Cambridge: Perseus Publishing, 2002), p.118.

<sup>3</sup> John Robb *Brave New War: The Next Stage of Terrorism and the End of Global Civilization* (John Wiley & Sons: Hoboken, NJ, 2007), p. 164.

<sup>4</sup> *Ibid.*, p. 185.

emergency management missions and to provide operational support for those missions to state and local authorities and communities.

Implementing this new preparedness paradigm is a difficult task. Preparedness may have a broad constituency, but it has no specific champion. The fundamental role of the Federal government in homeland security must be to empower a bottom-up preparedness that is all-hazards, balanced by a community's own determination of risk across the continuum of prevention, protection/mitigation, response and recovery missions. It must sustain a baseline preparedness capability which is all about attitude, skills and relationships. Through education, training and exercises, it achieves this baseline capability which enables and resources a planning culture to support the four missions which have acquisition implications for a broadly-defined and encompassing, yet-to-be-determined homeland security technology and industrial base.

The nature of contemporary civil society being what it is, a homeland security policy development and operational process and structure must be horizontally comprehensive and thus move beyond the purely interagency, interdisciplinary governmental mechanisms to include sustained and institutionalized partnership with the private sector and NGO communities. Incorporation of the private sector, however, must acknowledge differing accountabilities. Whereas public entities are ultimately accountable to electorates, private sector entities are ultimately accountable and report to their shareholders. Corporations weigh the public good of homeland security against their private economic goals.

Homeland security processes and structures must also be vertically comprehensive. States have a resource problem. Left to themselves, they will never have enough treasure, time and talent. At best, state and local authorities can resource themselves to administer emergency management missions and to prioritize threats which their electorates say are threats—be they routine fires or big thunderstorms. However, the average citizen is not going to support a state or local government “ante-up” for preparedness.

By default, it has to be the responsibility of the Federal government in its partnership with the states to facilitate and resource their bottom-up preparedness which they and their local government, private sector and NGO partners can't do themselves, as well as provide capabilities which are unique to its functions. This Federal obligation is the 21<sup>st</sup> century expression of the expectation in the Preamble to the Constitution that constituted government among other things will “insure domestic tranquility, provide for the common defense, promote the general welfare.”

Needed is a Federal commitment to fund long-term preparedness and help sustain it. The Federal government must fund a national level of readiness—whatever level that may be—according to a standard set by interagency/intergovernmental, public/private sector entities with up-front stakeholder input. Policy implementation would come with the understanding that states will apply that level of readiness according to the priorities their citizens set for themselves via their elected officials.

Preparedness undergirds the Incident Command System (ICS) and the National Incident Management System (NIMS), the protocols, procedures, relationships and plans practiced on a daily, routine, steady-state basis at the state and local levels. Should a catastrophe hit and generate surge requirements, then all stakeholders engage, and Federal support plugs into incident command along with the private sector and state-to-state support via Emergency Management Assistance Compacts (EMACs), which as the Mississippi Katrina response amply demonstrated will provide the preponderance of assistance in a major regional disaster.

As stated previously, preparedness is all about relationships, especially when hierarchical models do not apply. Relationships and up-front buy-in go hand-in-hand. Underpinning all then

is the establishment of a homeland security culture for all disciplines and all levels—in and out of government—which have homeland security missions.

Because the Federal government is primarily in a supporting role, it is the corresponding responsibility of state and local governments and the private sector and NGOs to utilize the national mechanisms to tell it what support they require to execute their own homeland security responsibilities and authorities. They must provide this input up-front at the strategy, policy and doctrinal development stage of the process. Only by so doing will all parties have buy-in to the policy.

Today's asymmetric threat in this time of rapidly advancing information and public health technologies calls forth a policy response and structuring of a devolved, decentralized homeland security "network" which is ultimately community-based and bottom-up.

*THE STRUCTURAL/PROCESS MODEL FOR HOMELAND SECURITY*

*The PNSR State/Local Issue Team takes the view that the National Response Framework (NRF)/National Incident Management System (NIMS)/Emergency Support Function (ESF) construct based on and derived from incident command system (ICS) principles will work for all-hazards incident management from the routine to events approaching the scale of a Katrina hurricane. Exercises and execution in future incidents will generate iterative improvements.*

A structure to manage this process should draw from—but not replicate—DoD structure which separates professional, operational policymaking and policy implementation by the military from naked political interference. DHS and other Federal departments and agencies with homeland security functions can learn from the Pentagon's policy development and implementation structure in the Office of the Secretary of Defense (OSD) and the Joint Staff. DoD policy development takes place in OSD where political appointees predominate. Policy development and implementation occurs among the military professionals on the Joint Staff. Notwithstanding the overlap, the cultures are different.

Such a structure and process for homeland security policy development should reflect the professional culture of the Joint Staff and require service by representatives exclusively drawn from broadly-defined homeland security, emergency management and public health professionals, i.e., from those representatives who have or have had operational line authority.

However, homeland security makes a key operational distinction between unified command and the strictly military command and control. Unified command is a mode of operation well understood by the National Guard (in its Title 32 role), Coast Guard and Public Health Service. These paramilitary cultures have an inherent understanding of the collaborative interagency and intergovernmental ways of doing things. Their cultures are different than the purely military, i.e., that of the Title 10 Federal military.

Another consideration is the role such a policy development and implementation structure would play in execution, if any. The Joint Staff and its masters, the Joint Chiefs of Staff (JCS) play none. The chain of delegated presidential authority goes through the Secretary of Defense (SecDef) to the combatant commanders (CoComs). This example would suggest that such a structure should be just for policy development and implementation. A homeland security "joint staff," more specifically homeland security "steering committees," could arrive at outputs with the same results as the DoD Joint Staff because the culture would be a professional culture.

Service on the Joint Staff is preceded and followed by service in the field. Those with Joint Staff experience are primarily accountable to their professional peers. Such would be the model for the homeland security steering committee structure.

To restate: the traditional military command and control model does not apply to homeland security. A tenet of emergency management is “all disasters are local.” Thus, in terms of unified command relationships for homeland security policy development and operational execution, advancing 21<sup>st</sup> century information technology is enabling a networked, cross-functional approach for processes and structures for steady-state and crisis management.

### ***CORE PROBLEM***

***The fragmented national security and homeland security structures—between and within all levels of government—fails to require and empower systematic collaboration, coordination and integration of strategy and policy development, resourcing and aligned operational execution in steady-state or crises.***

### **SOLUTION SETS**

#### **A. Resolution first involves an alignment of the interagency and intergovernmental homeland security structure.**

#### ***PROBLEM***

*Symptomatic of the core problem is the ambiguity in many national security and homeland security roles and missions within the Executive Office of the President (EOP) which creates confusion and impedes clear lines of presidentially-delegated authority to lead policy development and Federal-level operational execution.*

PNSR recognizes that the general approach to Federal-level interagency coordination has been to delegate presidential authority either to a lead Federal agency or to a “czar,” who functions above the cabinet level, e.g., in the Executive Office of the President (EOP) or the NSC.

The Team notes several informed studies and recommendations for a supra-cabinet-level entity to coordinate Federal interagency homeland security functions. In essence, these approaches have assumed or advocated the merger of the NSC and HSC, as recommended by the 9/11 Commission, which in some respects is consonant with the Team’s view that the bifurcation of national security and homeland security is artificial in the 21<sup>st</sup> century asymmetric threat environment.

Expert opinion and numerous studies support a merger, with one exception.<sup>5</sup> Richard Clarke and Rand Beers advocate elimination of the HSC and the transfer of homeland security

<sup>5</sup> For merger: Richard A. Clarke and Rand Beers *The Forgotten Homeland: A Century Foundation Task Force Report*, New York: The Century Foundation Press, 2006, p. 247; Christine E. Wormuth *Managing the Next Domestic Catastrophe: Ready (or Not)?*, A Beyond Goldwater-Nichols Phase 4 Report, Washington: CSIS Press, June 2008, CSIS, p. 18; and Cindy Williams “Strengthening Homeland Security: Reforming Planning and Resource Allocation,” IBM Center for The Business of Government, 2008, p. 37. The CSIS report cites several other experts supporting the merger in addition to Clarke and Beers: Clark Murdock, Michele Flourenoy and Jonah Czerwinski, CSIS, p. 20. P.J. Crowley (in his *Safe at Home: A National Security Strategy to Protect the American Homeland*,

functions into the NSC.<sup>6</sup> Clarke and Beers would establish under the National Security Advisor three homeland security czars in the form of: (1) a Deputy National Security Advisor for Homeland Security with two special assistants, one for emergency preparedness and another for cyber security; (2) a Deputy for Homeland Security for Intelligence, Law Enforcement, Prevention and Standards-Setting; and (3) a Deputy for Homeland Security for Crisis Management for the full range of Federal support, who would also hold the chair in the situation room—an operational function—and be responsible for the national exercise program. The two latter Deputy National Security Advisors for Homeland Security and their support staffs would also be the Federal link to state and local authorities.

This year's Center for Strategic and International Studies (CSIS) report on homeland security management similarly advocates the HSC/NSC merger. CSIS calls for amending the National Security Act of 1947 by eliminating Sections 901-06 and adding language to make the Secretary of Homeland Security and the Attorney General permanent members of the NSC.<sup>7</sup> The study further recommends creation of a Deputy National Security Advisor for International Affairs and a deputy National Security Advisor for Domestic Affairs.

Differing from Clarke and Beers, CSIS does not advocate an NSC operational role, rather continued oversight of strategy and policy development. Its position is supported by the findings of a Stanford forum which recorded similarly informed opinion that any iteration of an HSC—merged or not—should not assume any operational role but rather should focus on policy coordination.<sup>8</sup>

The CSIS study poses two options for the President: (1) giving directive authority for unity of effort to a single cabinet secretary or (2) exercising strong leadership from the White House.

As presently configured, the NSC and HSC are unequal in status, both culturally and statutorily. HSC, for example, does not have statutory authority to receive appropriations. Each council has different stakeholders which have their own lenses through which to view policy priorities and crisis management. Multiple approaches used to address a crisis—in advance or after occurrence—hamper unity of effort and produce ambiguity about the nature of the crisis event itself, i.e., whether it is a national security or homeland security issue and correspondingly which structural mechanisms should manage it. Threats which originate externally and internally require tracking in both the external and domestic environments. However, separate NSC and HSC structures continue to institutionalize such approaches that have the potential to produce particular harms, e.g., for management of a domestic “loose nukes” scenario. This scenario in the “prevention” space is precisely ambiguous and demands clear lines of presidentially-delegated authority.

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*the Real Central Front*, Center for American Progress, February 2008, p. 16) advocates merger of the NSC and HSC staffs. Against merger: Paul Stockton, "The Homeland Security Council: A Different Structure for a Different Challenge," draft manuscript, 13 August 2008.

<sup>6</sup> *Forgotten Homeland*, p. 247.

<sup>7</sup> CSIS, p. 18.

<sup>8</sup> Paul N. Stockton and Patrick S. Roberts “Findings from the Forum on *Homeland Security After the Bush Administration: Next Steps in Building Unity of Effort*,” Center for International Security and Cooperation, Stanford University, 12 February 2008, p. 11.

The disestablishment of the HSC with the transfer of its functions to the NSC supports the concept of a more unified national security/homeland security continuum. It would eliminate the seam between external and homeland security policy making and oversight. A reconfigured NSC thus would become the appropriate venue to do the strategic and policy development trade-offs across the artificial borders-out and borders-in priorities. These priorities, however, would retain their operational expressions in various departments, e.g., DoD and State, whose foci will primarily remain borders-out, and DHS and DOJ, whose foci will be primarily borders-in.

Merger has its risks. First, conjoining the NSC and HSC would eliminate the political purpose of communicating to the American people that the security institutions and approaches used externally and domestically are different. Secondly, the NSC's long institutional legacy, its historically shared policy space with DoD and State and its disproportionately large staff-size relative to HSC suggest that traditional "national security" would dominate the culture of a consolidated council, if not properly configured. If Congress were to merge the two councils, some would argue that consolidation would risk homeland security getting lost in steady-state policy discussions. Nevertheless, informed opinion also holds that homeland security would appropriately take the NSC center stage in a domestic, borders-in crisis.

However, combining the councils could be one way to elevate homeland security issues to the same stature as external security concerns; however, it could also have the exact opposite of the intended effect. Much would depend on the individual who served as the security advisor to the President. In actual practice, PNSR has found that presidents use their formal security councils with declining frequency. Effective decision making typically takes place elsewhere. Moreover, the National Security Advisor or Homeland Security Advisor via his/her respective Executive Secretary typically invites any cabinet officials to meet with the President relevant to an issue, irrespective of statutory membership on the councils. In any case, the NSC and HSC have substantial overlap. When issues transcend the scope of one or the other council, the council staffs should be able to work to integrate the issues. This argument, however, can also be used to support the case for one council and one integrated staff in the first place.

Based on interviews with former HSC and NSC senior staff, the PNSR State/Local Issue Team deems that a merged NSC/HSC should have a single permanent staff. The resultant newly-configured NSC would have two Principal-level (vice Deputy-level) advisors whose titles would be Assistant to the President for National Security Affairs and Assistant to the President for Homeland Security and Counterterrorism. Both would have the formal authority and the gravitas to convene Principals and have direct access to the President. Each would have an immediate policy staff. While the national security and homeland security policy staffs would have their primary reporting requirements to their respective advisors, in instances of issue overlaps, e.g., as regard counterterrorism and the homeland security prevention mission, staffs would have a dual reporting requirement as may be warranted.

Whatever the strength of the above observations, making by statute the Secretary of Homeland Security a permanent member of the NSC would eliminate the risk of steady-state inattention to homeland security issues and would further empower NSC domestic crisis management. As for extending the argument to include the secretaries of Energy and Health and Human Services, for example, provision can always be made to allow them to participate in NSC deliberations, and indeed for other departmental and agency heads who would have subject-matter expertise related to a particular issue.

The PNSR State/Local Issue Team would like to note that the Project for National Security Reform (PNSR) is proposing a reform option whereby a President's Security Council

(PSC) would replace the NSC and HSC, but not the National Economic Council (NEC). Under the concept, the President would convene the PSC “as needs dictate, inviting the cabinet officials and any other agency heads that control expertise and resources required for effective decision making. Convening the PSC would still be a formal act, but the membership would fluctuate with the agenda, both of which would be formally specified prior to the PSC convening.” A Director of National Security Affairs would replace the National Security Advisor and the Homeland Security Advisor and would have the authority to “recommend that the President convene the PSC to consider issues elevated by the Principals and Deputies Committees or to issue guidance that merits direct presidential involvement.”

### **SOLUTION 1**

*The PNSR State/Local Issue Team recommends the official merging of the National Security Council (NSC) and the Homeland Security Council (HSC) to end the artificial bifurcation of national security and homeland security at the strategy, policy-development and assessment level. Because of the non-federal constituencies with whom they interact, the Secretary of Homeland Security and the Attorney General should be made permanent members of the NSC, in part to ensure the inclusion of relevant non-federal input into decisions that have national and not just Federal implications.*

### **PROBLEM**

*Currently, there are no satisfactory definitions for homeland security risk, outcomes or end-state, nor objective measures of performance for operational success.*

The Federal government should have the capability to develop national risk assessments and provide risk management guidance and a technical assistance program to assist states, tribes and local governments in developing their own risk management programs. In addition, the Federal government and other levels of government must have tools to measure capability gaps and enhancements based on risks faced.

At the departmental level, DHS has not adequately developed a comprehensive risk analysis capability to produce analyses and products focusing on the threats, vulnerabilities and consequences of incidents across the nation—whether those incidents are caused by nature, accident or terrorism. If risk is going to drive overall homeland security actions, then DHS must have a robust risk analysis capability that can assist Federal, state and local agencies in understanding the all-hazards risk environment in which they operate and which homeland security capabilities are needed to mitigate those risks.

If Congress is expected to increase homeland security funding for Federal agencies and state and local governments, lawmakers should require that all levels of government have a set of tools to measure the effectiveness of investments made and those proposed to mitigate identified risk. To that end, the Secretary of Homeland Security should develop tools to determine and measure (1) the level of capability to secure the homeland, based on the Target Capabilities List (TCL), and (2) the associated costs to maintain those capabilities at the Federal, state and local level.

To enhance risk and capabilities assessment, a statute or executive order should designate the Secretary of Homeland Security as the chief risk officer of the United States and primary risk advisor to the Assistant to the President for Homeland Security and Counterterrorism who will work . The DHS Secretary will further be responsible for reporting annually to the OMB

Director the Federal agency and state, local, tribal, territorial and private entity compliance with the assessment methodology. The Secretary and his/her staff would oversee and coordinate strategic risk assessments and capability metrics, leading the entire Federal, state and local interagency process for collecting risk data and for developing tools to identify gaps in capabilities and capability enhancements related to all-hazards risk. Although the Secretary would work primarily through existing structures, conforming language would establish his/her lead responsibility and authority to collect risk and capability information from other Federal departments and agencies. Staff capacity would need to augment, e.g., within the Homeland Infrastructure Threat Reporting and Analysis Center (HITRAC), to serve as the empowered liaison to other Federal, state and local departments and agencies.

Several states and localities have already begun the process of measuring capability based on their homeland security grants and other investments. DHS must work with those states, localities and private sector and NGO stakeholders in the development of capability measurement tools to ensure their utility especially at the state and local levels. Measuring capability cannot be simply another Federal reporting requirement such as the current State Preparedness Report. It must effectively help decision-makers make policy and budget decisions at each level of government based on risks faced and capabilities—both those currently attained and still needed.

#### **SOLUTION 2**

*A parallel process is required, similar to that currently used within the national security establishment, led by the Assistant to the President for Homeland Security and Counterterrorism, with the Secretary of Homeland Security as his/her executive agent, to prepare an annual assessment of homeland security risk and capabilities across the Federal government, to include state and local inputs, which measures capabilities and outcomes—not simply activities. In consultation with Congress and to improve the efficiency of national homeland security efforts, this assessment should seek maximum consolidation of recurring homeland security capability reporting requirements into one comprehensive, capability-based report, and it should be tied to the annual national security assessment.*

The PNSR State/Local Issue Team believes that DHS—in concept—should be the lead Federal agency for homeland security. However, after five years of operation with at least two reorganizations, DHS has failed to realize that concept and is yet to live into its lead Federal agency role for homeland security. The Team favors the lead Federal agency approach based on three main findings:

- Czars independent of a department have had a patchy history. As the saying goes in Washington about czars: the serfs revolt, and the barons kill them.
- The congressional bias against operational roles undertaken by the NSC or EOP makes for a dubious constituency, uncertain funding and eventual atrophy, as history has proven.
- Most importantly, given the absolute necessity that homeland security requires a statutorily empowered structure to drive sustained, “systematic collaboration, coordination and integration of strategy and policy development, resourcing and aligned

operational execution in steady-state or crises,” such capability best resides in a department *properly* configured as a 21<sup>st</sup> century government enterprise.

By extension, strengthened DHS leadership at the secretary level would give added clout for domestic incident management and behind FEMA to coordinate Federal interagency ESF functions to plan for and execute the response and recovery missions.

With particular regard to improvements to planning and resourcing, an empowered DHS Executive Secretary (ExecSec) might include an operational board of senior leaders to do trade-off studies, as suggested by former Assistant Director of the Congressional Budget Office (CBO) Cindy Williams in a recent and most excellent study.<sup>9</sup> While this corrective and others suggested by Williams would certainly help DHS prioritize and do its internal trade-off drills, by itself it will not correct the interagency homeland security unity of effort shortfalls.

Congress must empower the DHS Secretary to lead the national homeland security policy space. Absent this empowerment, homeland security will not have a concomitantly empowered constituency in the NSC and thus a merger of the two councils would not serve the domestic borders-in component of national security. The two correctives must be linked—not one without the other.

The Secretary of Homeland Security, like the Secretary of Defense and others, maintains both policy direction and operational execution responsibilities. Effective operational *coordination* of Federal agencies for domestic prevention, protection/mitigation, response and recovery operations and its integration with local, state, private-sector and NGO organizations should not have to occur in the White House and detract from its role of maintaining broad strategic focus.

### **SOLUTION 3**

*Congress should codify the Secretary of Homeland Security’s overall Federal executive agent responsibility as the Principle Federal Official (PFO) for ensuring coordination of domestic incident management to include prevention, protection/mitigation, response and recovery actions, while respecting the inherent authority and responsibility of other cabinet and agency officials to perform the specific duties and execute inherent operational responsibilities assigned to them.*

### **PROBLEM**

*The currently inefficient budget process does not vest the Office of Management and Budget (OMB) with the appropriate authority to oversee and make recommendations on all Federal homeland security and national security budgets to identify and eliminate duplication of effort among and within departments and agencies.*

Further to empower systematic collaboration, coordination and integration of homeland security policy development and resourcing, the PNSR State/Local Issue Team supports the Cindy Williams recommendations for Congress and the White House to transfer OMB’s homeland security branch into its National Security RMO and to create a single homeland

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<sup>9</sup> Cindy Williams “Strengthening Homeland Security: Reforming Planning and Resource Allocation,” IBM Center for The Business of Government, 2008, p. 7.

security budget function. Implementation of these recommendations would align with the Team's recommendation to merge the HSC and NSC. As Williams noted, putting the HSC into NSC would allow the creation of homeland security cells for long-term planning, risk assessments, gap analyses and trade-offs cells for the NSC staff which would conform to similar cells in the OMB to identify priorities and link to constrained budgets.<sup>10</sup>

The Team also supports the CSIS recommendation for establishment of a partnership between the OMB and NSC to lead the development of integrated budget planning across the homeland security mission areas. CSIS sees a need for a new OMB staff group to facilitate an integrated review across mission areas similar to the role of OSD's Office of Program Analysis and Evaluation (PA&E). It also would have an NSC Strategic Planning Directorate to oversee homeland security requirements generation across all departments and agencies. These two entities would work together in a joint OMB/NSC budget review process whereby the OMB staff group would leverage policy and budget expertise with an NSC Strategic Planning Directorate's budget and planning expertise.<sup>11</sup>

#### **SOLUTION 4**

*Homeland and National Security budget activities should be combined into a single entity within the Office of Management and Budget (OMB). Consistent with the review role of the Assistant to the President for National Security in the national security budget process, the Assistant to the President for Homeland Security and Counterterrorism should have similar oversight of homeland security budget submissions across all Federal departments and agencies.*

Congress should re-empower the DHS Office of State and Local Government Coordination. Acting on behalf of the Secretary of Homeland Security, the Office should be headed by an Assistant Secretary or Deputy Assistant Secretary, either by presidential appointment (PA) or presidential appointment with Senate confirmation (PAS), for State and Local Government Coordination supported by approximately 25-30 personnel. The Office of Intergovernmental Programs (the successor office to the Office of State and Local Government Coordination) would be dissolved or removed from the National Protection and Programs Directorate and made a part of the Office of the Secretary of DHS. Presumably the Office of State and Local Government Coordination currently has authority to fulfill much of this solution through the Homeland Security Act of 2002, but reconfirming language would be needed in light of the Post-Katrina Reform Act.

The responsibilities of the State and Local Government Coordination Office should include: (1) coordination of DHS policies, programs and activities relating to state, tribal and local governments to include direct oversight of DHS-component state and local offices, similar to the current structure used by DHS Public Affairs and the General Counsel's office; (2) coordination and, as appropriate, consolidation of the Federal government's communications and systems of communications relating to homeland security with state, tribal and local government personnel and agencies; (3) distribution or, as appropriate, coordination of the distribution of warnings and information to state, tribal and local government personnel and agencies; (4)

<sup>10</sup> Williams, p. 37.

<sup>11</sup> CSIS, p. 55.

assessment of and advocacy for resources needed by state and local governments to implement the national strategy for homeland security (5) provision to state and local government of regular information and research to assist state, tribal and local efforts at securing the homeland; and (6) development of a process, in coordination with the Under Secretary for Policy, to receive meaningful input from state, tribal and local governments to assist the development of national homeland security policy

The Office will also work with regional organizations on grants via its state and local programs office for managing grants, training, exercises and technical assistance. Through it, DHS would have a single entity that looks across the entire department on all issues which have an impact on state and local governments. At the same time, the Office would be able to coordinate interaction at the headquarters level between different directorates and components which need to engage directly with states and localities on certain issues. Examples would include CBP on Operation Stonegarden (border security), Immigration and Customs Enforcement (ICE) on 287(g) (immigration enforcement) and the Office of Intelligence and Analysis (I&A) on fusion centers. Having a full picture of coordinated interaction, this single DHS state/local entity would coordinate activities on behalf of the Secretary and allow agency-level operators to engage directly with the states and local on policy and other issues.

#### **SOLUTION 5**

*The Department of Homeland Security should re-establish a single office, acting on behalf of the Secretary of Homeland Security, to oversee and coordinate the policies, programs and activities of the Department relating to state, tribal and local governments to ensure that the relationship between DHS and its partners is well managed and is strong.*

#### **B. Resolution of the core problem involves alignment of congressional oversight with executive branch homeland security functions.**

##### *PROBLEM*

*Current legislative branch mechanisms (structure, processes, culture, etc.) drive further fragmentation and inefficiencies in execution of executive branch and national security and homeland security responsibilities.*

Homeland security should be a separate congressional committee obligation. Oversight over non-homeland security functions in DHS and other agencies should remain with the legacy committees. Lawmakers with long experience with the organization and operations of such DHS legacy agencies as the Coast Guard or the Secret Service should retain jurisdiction over non-homeland security functions within those units.

Such streamlined congressional oversight will strengthen the DHS secretary-level and the department's interagency role as coordinator of homeland security missions in other agencies and departments. Lawmakers need to put their oversight over a strengthened DHS Secretary and senior departmental leadership above the agency level in the homeland security authorization committees and appropriations subcommittees. These four homeland security panels will fence monies for all DHS agencies and eventually for all agencies with homeland security missions in legislation modeled on the Guard Empowerment Act which successfully fences military funding specifically for the National Guard. By also fencing homeland security grant monies, these

committees would provide Governors four points of contact for purposes of lobbying for homeland security authorization and appropriations on Capitol Hill. Thus would these panels serve as “joint mission-driven” committees which would match the mission-driven concept of DHS and in acquisition terms would better enable a “joint mission area acquisition” strategy for homeland security.

#### **SOLUTION 6**

*Congress should consolidate congressional oversight of DHS homeland security functions into one authorization committee and one appropriations subcommittee per chamber.*

### **C. Resolution further requires clarification of the secretary of homeland security’s role in domestic incident management and proper alignment of certain departmental functions.**

#### *PROBLEM*

*Ambiguity in many national security and homeland security roles and missions within the Executive Office of the President (EOP) creates confusion and impedes clear lines of presidentially-delegated authority to lead policy development and Federal-level operational execution.*

The PNSR State/Local Issue Team takes the view that the National Response Framework (NRF)/National Incident Management System (NIMS)/Emergency Support Function (ESF) construct based on and derived from Incident Command System (ICS) principles will work for all-hazards incident management from the routine to events approaching the scale of a Katrina hurricane. Exercises and execution in future incidents will generate iterative improvements.

The NRF and ongoing efforts to develop national planning doctrine for use among all civilian agencies reflect response and recovery imperatives revealed by the 9/11 attacks and reinforced by Hurricane Katrina. Yet the NRF constitutes an operational capability primarily targeting Stafford Act events and to a much lesser extent national security emergencies or broader coordination of domestic prevention and protection operations. Because the national experience is limited with respect to the prevention and protection missions as well as in dealing with national security events and the needed coordination among all Federal and non-federal entities, the National Security Council and Homeland Security Council have not adequately developed shared and understood policy, doctrine and plans.

The Post-Katrina Emergency Management Reform Act reconnected preparedness and response in the “new” FEMA. This structural solution may have resolved the disconnect in emergency management terms, but as detailed above, it fails to incorporate the prevention and protection missions in a comprehensive homeland security framework for domestic incident management.

Given the breadth of the homeland security mission continuum, the PNSR State/Local Issue Team believes the scope of the NRF is currently too narrow and should expand to cover more adequately the prevention and protection missions. At a minimum, the NRF must incorporate the National Infrastructure Protection Plan (NIPP) and the protect mission in order to

affect a truly comprehensive, integrated and national homeland security policy and operational framework for prevention, protection/mitigation, response and recovery. Hence, the NRF needs to be redefined. Team sees three options for clarification:

- (1) Change the name of the NRF to the National Protection and Response Framework (NPRF) and incorporate language to address protection
- (2) Publish the NRF in two volumes as the National Prevention and Protection Framework (NPPF) and the National Response and Recovery Framework (NRRF)
- (3) Replace the NRF as the National Operational Framework (NOF)

When Congress put the responsibility of national response doctrine into FEMA, what resulted was the NRF framework. Though an improvement over the National Response Plan (NRP) and the predecessor Federal Response Plan (FRP), the NRF is heavily weighted toward response and recovery. While it may be well articulated for emergency management, the NRF does not account for the fact that the prevention and protection missions are at the intersection between national security and homeland security.

FEMA is not an intelligence or public safety agency. As such, it is not suited to be the executive agent for homeland security operational doctrine across the full continuum.

Aggregation of the homeland security/emergency management continuum can take place at one of three Federal levels. It could build on FEMA's ongoing NRF process which FEMA administers via its NIMS Integration Center (NIC). It could occur at the DHS Secretary level which potentially could manage policy and resourcing trade-offs across the continuum as represented by the range of DHS agencies as well as buttress DHS efforts at interagency homeland security/emergency management coordination via the ESF process. Thirdly, it could occur above the cabinet level via the HSC (independent or merged with the NSC), EOP or some independent Federal entity modeled on the Office of the Director of National Intelligence (ODNI).

The PNSR State/Local Issue Team believes strongly that protection and response must be conjoined above emergency management and that the appropriate executive agent is the Secretary of Homeland Security with appropriate input from the states.

In the opinion of the State/Local Issue Team, 60 percent of any combined national operational doctrine based on the current iteration of the NRF would focus on response and recovery. Required is a major effort to incorporate prevention and protection to balance a successor document. Just as FEMA has led the policy and doctrine effort for response and recovery, so might the DHS National Operations Center (NOC), for example, coordinate a similar effort for prevention and protection inputs.

This new document should be called the National Operational Framework (NOF) to reflect accurately the true homeland security/emergency management continuum—prevention, protection/mitigation, response and recovery—furthering the integration of the public safety and emergency management communities which, with other homeland security stakeholder disciplines, must plan and execute ICS at the operational levels.

## SOLUTION 7

*The PNSR State/Local Issue Team recommends that Congress direct the Secretary of Homeland Security as the Principal Federal Official for domestic incident management to develop by a date-certain a comprehensive National Operational Framework (NOF) that describes how operational integration will occur across all levels of government and the private sector for the full range of prevention, protection/mitigation, response and recovery activities, succeeding the current more narrow National Response Framework.*

The current chain of command among Federal agencies for domestic incident management involving catastrophic disasters is unwieldy and inefficient. The roles and authorities of the Defense Coordinating Officer (DCO), who ultimately reports to the Secretary of Defense, the Senior Federal Law Enforcement Official (SFLEO), who ultimately reports to the Attorney General, Federal Coordinating Officer (FCO), who reports to the FEMA Administrator, and the Principal Federal Official (PFO) in the field, who reports directly to the Secretary of Homeland Security, among others, are less than clear. While HSPD-5, *Management of Domestic Incidents*, designated the DHS Secretary as the PFO for domestic incident management, the directive bestows no additional authority to the Secretary to execute that mission and does not affect existing statutory authorities vested in other cabinet secretaries, i.e., the Secretary of Defense and the Attorney General.

The State of Florida, which arguably has the most effective statewide incident management structure in the United States, affords a model which may have a Federal applicability. The Florida Governor often designates—pre-disaster in the case of a hurricane—directive and control authority to the State Coordinating Officer (SCO), e.g., the state emergency manager, over all state assets and personnel as well as local government personnel and assets.<sup>12</sup> Drawing on this example, the PNSR State/Local Issue Team believes the Federal government may want to consider following the Florida model and allowing the President to delegate directive and control authority to the Secretary of Homeland Security as the PFO for domestic incident management under HSPD-5 over all Federal response assets to include, but not be limited to, Federal law enforcement, public health and military personnel and assets.

For execution, the chain of command would go from the President to the DHS Secretary and an empowered NOC, to the regional- and state-level Federal homeland security officials. The empowered regional level would be like a domestic interagency Combatant Command. However, unlike a military Combatant Command, the field-level PFO (by whatever name) would function via unified command vice military command and control.

In steady-state, ongoing activities require execution for the prevent and protect missions. This 24/7 mission set would help keep in mind the reality of the system with a life of its own as is true for the military. The system is not one of preparedness and response: it is one of prevention and protection (which happen all the time) and response and recovery (which happen in a disaster event). Steady-state activities must include coordination of Federal prevention and protection activities on a regional level in accordance with national strategic objectives under the oversight of the Secretary of Homeland Security.

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<sup>12</sup> In the Florida model, the director of the Florida Emergency Management Agency is the default SCO, while the governor has executive authority to designate others as deemed appropriate, i.e., from the fire services or law enforcement.

### SOLUTION 8

*Conforming language in statute and executive order should maintain that the Secretary of Homeland Security is the Principal Federal Official (PFO) for domestic incident management of homeland security threats and events and incorporate language to clarify the chain of directive authority through the appropriate regional Federal structures.*

As the PFO for domestic incident management of homeland security threats and events, the Secretary of Homeland Security would exercise directive authority for all homeland security operations requiring interagency integration. Directly reporting to the President as his/her single PFO for domestic incident management, the Secretary and staff would thus direct the entire Federal interagency process and serve as the President's singly-empowered domestic incident manager for homeland security. Strengthening his/her role would probably require augmentation of the staff and capacity, e.g., to support the DHS National Operations Center (NOC) and serve as empowered liaison to other Federal departments and agencies. The Secretary would work primarily through existing structures, but conforming language would make clear his/her directive authority over other departments and agencies, specifically vis-à-vis DoD and DOJ, and delegated lines of authority to Federal representatives in the field to eliminate currently confused reporting relationships and stovepiping, e.g., as presently detailed in the NRF.

With regard to devolving Federal authorities to regional homeland security structures, DHS must avoid creating regional "fiefdoms." Homeland security must be mindful of the historical example of devolved authorities in the Department of Justice where at one time the positions of U.S. attorney and U.S. marshals were so regionally empowered (by judicial district) as to prioritize local objectives over national priorities. In the DOJ experience, the national agency headquarters struggled to gain operational and policy control of U.S. attorneys and U.S. marshals. As such, the department was squarely at odds with the Federal judiciary, impeding local information sharing and diligence in performing national objectives.

FEMA faces similar challenges by virtue of the relationships FEMA regional administrators need to build locally. However, FEMA has managed this potential condition well through the regionalization of multi-state operational areas (regions) such that no single state or local authority exercises too great an influence on the regional agency leadership.

Selection of DHS regional administrators should mirror the same statutory authorities applied to the General Services Administration (GSA). GSA regional administrators are presidential appointments which fall under the operational and administrative authority of the GSA Administrator. The names of candidate senior regional homeland security officials, who would be serving the same geographical area should be developed and vetted through the same process used for GSA Regional Administrator nominations for Senate confirmation. DHS regional administrators would fall under and serve as directed by the Secretary of Homeland Security.

Of note, GSA and DHS/FEMA Regions are identical, except that GSA designates a National Capital Region (NCR) and FEMA does not. However, FEMA has an NCR Principal Federal Official in the form of an "NCR Federal Coordinator," the only standing position of its kind. While this example has been functionally under utilized, it is a better example of how *not* to develop the regional positions. The NCR Federal Coordinator has consistently been under-budgeted and under-staffed, given the absence of a requirement for any DHS agency to augment the Coordinator's staff or an incentive to support his/her initiatives. A single regional PFO/FCO must have clearly defined duties, performance metrics linked to national strategies with functional alignment with regional realities, and corresponding budget and staffing authorities.

An empowered DHS Secretary would help solve the intergovernmental problem where DHS would lead in the regions and at the state level. Federal support is but one and not necessarily the primary support element to support a state. DHS must establish regional all-hazards prevention, protection/mitigation, response and recovery structures which build upon EMACs.<sup>13</sup> It must institutionalize partnership relationships at the regional level. It can do so by leveraging FEMA preparedness efforts in the FEMA regions—which are, after all, Federal regions.

FEMA regional structures atrophied when the agency transferred into DHS. While DHS and FEMA have now embraced the concept of empowering regional Federal structures for homeland security, their emphasis thus far has been on the FEMA structure in the context of emergency management response and recovery.

At present, the FEMA Federal Preparedness Coordinator (FPC) is the key Federal homeland security official at the regional level and is central to the regional national preparedness framework. The focus of the FPC is on preparedness for the entire homeland security mission continuum—not just response or recovery.

CSIS has recommended pre-designation of so-called Lead Federal Coordinators (LFCs) as composite Federal Coordinating Officials (FCOs)/Principal Federal Officials (PFOs) and the strengthening of Regional Interagency Steering Committees (RISCs) to ensure all senior Federal officials at the regional and state levels are as qualified as DoD DCOs.<sup>14</sup>

The PNSR State/Local Issue Team believes strongly that DHS must build its regional capacities and capabilities not just on FEMA. For example, Clarke and Beers have advocated regional critical infrastructure protection (CIP) offices in each FEMA region.<sup>15</sup> The CSIS report variously referred to FEMA regional administrators as DHS regional administrators.<sup>16</sup> CSIS accepts that DHS regional administrators would have no line authority over other Federal agencies except in extraordinary circumstances and that they would have no authority to direct activities within a state or states. The report makes the domestic comparison to the military's regional CoCom organization.<sup>17</sup>

The regional hub for homeland security should not just be a FEMA entity. It should be a component of DHS reporting to the DHS Secretary.

Since the Hurricane Katrina response, the confusion as to the roles and responsibilities of the PFO, FCO and the Secretary of Homeland Security has generated much debate and discussion.

The White House *Federal Response to Hurricane Katrina: Lessons Learned* report said in Recommendation Six, “The PFO should have the authority to execute responsibilities and coordinate Federal response assets. The PFO should have the same authority as an FCO to

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<sup>13</sup> The success of the EMAC system suggests an application at the Federal level. The executive branch could develop an intra-Federal governmental EMAC such that by executive order departments must provide resources in accordance with the compact.

<sup>14</sup> CSIS, pp. 68-71.

<sup>15</sup> *Forgotten Homeland*, p. 131.

<sup>16</sup> CSIS, p. 53.

<sup>17</sup> *Ibid.*, p. 72. Of note, the suggestion has been made that for purposes of U.S. Northern Command, the contraction of the title Combatant Commander, “CoCom,” should in this instance stand for “Coordinating Commander” to reflect the non-military interagency and hemispheric relationships that would not be geared to warfighting.

manage and coordinate the Federal response to a disaster. The PFO should have the authority to make any operational decisions necessary, within the law, without having to obtain approval from headquarters. Giving the PFO this authority could be accomplished without a change to the Stafford Act by simply designating the PFO as an FCO. Alternatively, the Secretary of Homeland Security or the FEMA Director could delegate their authority to oversee FCO to the PFO. This action does not require demoting FCOs within a particular region to Deputy FCOs. The FCO will retain all current authorities under the Stafford Act and will report through the PFO. An incident covering multiple states will require multiple FCOs operating concurrently under the command of the PFO.”

Although the White House wanted the FCO to report through the PFO, Congress did not ratify the recommendation in the Post-Katrina Act.

The distinction between the Secretary of Homeland Security as the Federal coordinator for incident command and the FEMA Administrator as the principal advisor to the President and the Secretary for emergency management is still poorly defined. Moreover, vesting and weighting authority with the Secretary would put emergency management into a broader context.

Combining the authorities and responsibilities of the PFO and FCO into one position with clear reporting responsibility is consistent with unity of command. The FCO function as the state-level counterpart of the SCO in unified command would be covered by the Deputy FCO.<sup>18</sup> Some quarters support the idea that PFOs should be drawn from a predetermined interagency pool and assigned according to the type of the event. PFOs, and indeed all key players in domestic incident command, should not only know the fundamentals of command and management but must be able to apply them effectively. Should the President and DHS have the authority to predesignate a single senior Federal official for domestic incident management in each region, those individuals should be ICS-certified at the highest level (included certification from a professional development and education program) and not restricted to a DHS cadre. Moreover, candidates should have both operational (equivalent to brigade-level command) and Washington experience.

#### **SOLUTION 9**

*The PNSR State/Local Issue Team supports the idea of pre-designated field-level PFOs but believes that regardless of the type of event, the PFO should be the sitting FPC—by whatever title—as the regional DHS representative who can leverage his/her on-going, steady-state, stakeholder relationships in a crisis.*

#### **D. Resolution of the core problem requires alignment of policy development.**

##### *PROBLEM*

*Despite the language of such foundational policy documents as the National Security Act of 1947, Homeland Security Act of 2002, Intelligence Reform and Terrorism Prevention Act of 2004 and others such as National Response Framework (NRF), the National Security Council*

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<sup>18</sup> Further to streamlining reporting and responsibilities and connectivity between critical infrastructure protection (CIP) and NRF functions, consideration should be given to combining the Federal state-level positions of the DFCO, currently a FEMA official, and the Protection Security Advisor (PSA), a DHS official who reports to the Office of Infrastructure Protection (OIP).

*(NSC) and Homeland Security Council (HSC) have no standardized process to solicit and receive state, local, private sector and NGO input into the development of national policy.*

DHS decisions project broad impact on the national fabric. From high-level strategic planning and policy development to agency-level policy implementation, DHS decisions affect a vast array of stakeholders. As the PNSR State/Local Issue Team recommends enhancing DHS executive authority, it is in nation's best interest to impose certain checks and balances.

Homeland security policy development obviously occurs throughout the Federal government in a number of departments and many agencies and at several levels. Placing all homeland security policy making decisions into a single entity would grind policy development to a halt. For some issues, how the Federal government should engage non-federal input at the right level and on the right topics is more about process than structure.

For example, the FEMA Administrator's policy on public assistance reimbursement or the Immigration and Customs Enforcement (ICE) Commissioner's policy decisions on how to handle transfers from non-federal to Federal status represent a class of issues which require state and local input. The primary stakeholders in such cases are the Federal, state and local operational communities. For the most part, the process in these instances does not call for the intimate engagement of the White House (except OMB), and Capitol Hill needs only to be generally aware. Existing structures thus work well.

General policy promulgated by secretaries and/or their departments, e.g., in areas such as grants, critical infrastructure sector security guidelines and foreign traveler ID requirements, regularly needs external stakeholder input. With these types of examples, the present lack of uniform and clear processes for what input is required and how to solicit it has driven individual officials and Federal entities to base ad hoc decisions from issue to issue on "how to get the input"—whether the process is internal to those entities or a Federal interagency drill. Further complications arise from the state and local side: obviously no single voice can speak for all governors and mayors on general policy. Where state, local, private sector and NGO perspectives are much more important than full unanimous agreement, most of the existing structures can handle input needs with process improvements. Thus, for development of general agency and departmental homeland security policies, the Federal government must formalize consistent processes (vice structural consolidations) for up-front state, local, private sector and NGO input.

More challenging, however, is another category of policy development issues: those homeland security policies issued at the presidential level which have direct impact on states and communities. Because such policies involve classified information and/or executive privilege, institutionalized solicitation of perspectives and inputs is problematic.

Formalized opportunities for input should be established at the NSC/HSC level with respect to all homeland security missions with the DRG. For example, the National Counterterrorism Center (NCTC) can provide good offices for prevention; the DHS Office of Infrastructure Protection (OIP), for protection; and FEMA, for response and recovery. Each entity has potential for more direct and formal state and local government participation.

Stakeholder inputs for policy development should come from three primary sources. First, interagency staffing could come from joint duty representatives from all departments and agencies with homeland security functions. Second, intergovernmental staffs could be assigned from a pool managed by the DHS Office of State and Local Government Coordination. Third,

private sector and NGO representatives could come from a pool managed by the DHS Private Sector Office.

The staffing thus would have interagency, intergovernmental, private sector and NGO representatives on temporary duty assignments, similar to a corporate advisory board. Homeland security workforce development improvements (interagency and intergovernmental) would make possible such a process in line with the adoption of an expeditionary homeland security workforce culture. With regard to the use of representatives from state and local governments and the private sector and NGO communities, adoption of these processes and structures would require revisions to the Federal Advisory Committee Act of 1972 (FACA) and the Ethics in Government Act of 1978<sup>19</sup>

The PNSR State/Local Issue Team thus recommends permanent "NOF policy development offices" or "NOF steering committees" to set policy direction. These steering committees would be composed of "professionals" whose appointments would be strictly based on credentials. Their composition would be representative of all disciplines and levels of government drawn from a pool of stakeholder organizations and associations, e.g., the National Homeland Security Consortium. Indeed, such offices would involve relatively large groups, but their mission charge should be to set one uniform direction not subject to politics and "interpretation."

Such entities would be called steering committees, vice advisory boards, given that the latter term has corporate connotations which complicate the public/private relationships. This homeland security/NOF policy development steering committee process and structure for the strategic and agency levels would provide formal, up-front, systematic and comprehensive participation by state and local governments, the private sector and NGOs. NOF steering committees would professionalize policy development and implementation. They would convene for all homeland security missions: prevention, protection/mitigation, response and recovery. If they include all stakeholders, i.e., from the Federal, state, local, private sector and NGO communities, they would provide the mandatory venues for up-front buy-in—whether supporting the DRG, the NOC's Incident Management Planning Team (IMPT) or policy development entities elsewhere. While these entities would function as interagency NOF policy development steering committees, it might be appropriate to have them be resident in the DHS Office of the Under Secretary for Policy. In either case, the NOC or Policy Office would act on behalf of the senior Federal executive agent for homeland security, i.e., the Secretary of Homeland Security.

Such institutionalization should not be in the form of another advisory body; rather the approach could be a process solution working for the most part—where possible—through existing policy development bodies. For example, Congress also should consider reconfigure such existing advisory councils as the DHS Homeland Security Advisory Council (HSAC) and the FEMA National Advisory Council (NAC) to serve as homeland security steering committees.

The concept of steering committees, already widely used in an advisory role, is an excellent means of providing stakeholders a meaningful voice. Both HSPD-7, *Critical Infrastructure Identification, Prioritization and Protection*, and the NIPP establish a structural framework for partnership between the private sector and government sector for protection of critical infrastructure/key resources (CI/KR). This sector partnership structure encourages the formation of Sector Coordinating Councils (SCCs) and the Critical Infrastructure Partnership

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<sup>19</sup> Cf. below, p. 34, Solution 11.

Advisory Council (CIPAC). Building upon the advisory council concept such that these entities are charged with a steering role in policy development and agency-level policy implementation is a progressive step of enhancing partnership.

At the local level, the Metropolitan Medical Response System (MMRS) utilizes a steering committee structure for public, private and NGO stakeholders to operationalize HSPD-8, *National Preparedness*, target capabilities for medical incident management. This systematic up-front effort for local planning for ESF-8 (Emergency Support Function-8, Public Health and Medical Services) is recognized and supported by HHS. It forms the basis for regional collaboration and is another collaborative model for state- and Federal-level steering committees.

Informed by such approaches, Congress should legislate a formal process and structure for steering committees to provide venues for the Federal government to collaborate with state and local government authorities, the private sector and NGOs on homeland security matters. Steering committees would serve as fora to develop national—as opposed to purely Federal—agendas and policy solutions. In this process, committees would seek to strike a consensus across Federal and non-federal homeland security stakeholder representatives on issues ranging from interoperability to infrastructure protection to mitigation. i.e., any function vital to Federal homeland security missions but which escape the control and responsibility of Federal agencies.

For strategic-level planning, a steering committee would engage “strategic thinkers” (recently retired or senior professionals) drawn from the state- and local-levels, the private sector and NGOs. These members would represent diverse experience in disciplines of relevance. For directive influence, non-federal members might not have a *full* vote, but they would have an appropriate *proportional* voting level.

At the agency level, this steering committee structure would duplicate, with different experiential depth to function within the policy development arena. However, at this level, the agency would retain policy development and might not extend directive influence to the steering committee, i.e., non-federal committee members would not have proportional voting. Their function would be strictly advisory and would serve only as a mechanism for voicing state, local, private sector and NGO perspectives. An excerpt from FEMA’s National Advisory Council overview statement is instructive:

“The National Advisory Council (NAC) shall advise the Administrator of the Federal Emergency Management Agency (FEMA) on all aspects of emergency management. The National Advisory Council shall incorporate state, local and tribal government and private sector input in the development and revision of the national preparedness goal, the national preparedness system, the National Incident Management System, the National Response Plan and other related plans and strategies.”

While this FEMA NAC language above appears passive and optional, the PNSR State/Local Issue Team proposal would *require* an agency director/administrator to utilize the agency-specific steering committee in all homeland security/NOF policy development.

Should Congress codify the steering committees for the strategic and agency levels, one option might have these panels play no role in operational vetting, development of standards/procedures/protocols or operational execution. Such a change might require revising existing statutory language in Title 6 USC §451(a) and §121, as well as for those governing appropriations authorizations. Another might have DHS incorporate national proposals and standards arising from this process in lieu of Federal standards, similar to American National Standards Institute (ANSI) standards for regulatory issues. This approach would yield a process more akin to participatory, voluntary rule-making as opposed to governmental regulation.

Beyond reviewing proposals from DHS, steering committees would develop proposals for consideration and adoption by Federal, state and local policymaking bodies. Steering committees could also convene in cases where sufficient advance warning permitted. In this way, the nation would shift from a centralized approach to homeland security policy formation to a broader collaborative approach. In essence, such a committee structure would resemble cross-functional teams: this governance process would enable representation of all key players with stakes, assets and capabilities. Such an inclusive process is likely to generate more effective and sustainable homeland security policies, grounded in intergovernmental, public/private sector realities.

#### **SOLUTION 10**

*The Executive Branch should establish at the appropriate levels formal, up-front, consistent systematic “steering committee” processes and structures for state and local government, private sector and non-governmental organization (NGO) participation to support national security and homeland security policy development for issues where those constituencies have equities. When appropriate, these processes and structures must provide direct and regular reporting access to relevant cabinet secretaries and the White House advisors.*

Non-federal engagement in public policy development is governed by the Federal Advisory Committee Act of 1972 (FACA). FACA was not written with the idea of homeland security and national security discussions, many of which are time sensitive and do not lend themselves to notification requirements of FACA. In these cases, virtually no current mechanism engages state, local, private-sector and NGO perspectives in a meaningful way. Agencies are precluded from talking about issues with their constituents, because of classification or pre-decisional deliberation requirements, and most of those are legacy issues from a time when state, local and private sector entities did not have the stake they do today.

Congress should rewrite FACA to allow the exemption under Section 871 of the Homeland Security Act to be specific to NOF policy development issues in order to protect the secrecy of communications under executive privilege as already provided under the Act. Congress should also rewrite the Ethics Act for civilian government service to allow state, local, private sector and NGO representatives to serve in temporary duty at a Federal-, state- or local-level government entity with a waiver on disclosure, similar to the waiver enjoyed by state Title 32 National Guardsmen/women who are assigned to temporary active duty at the National Guard Bureau (NGB) under Title 10.

#### **SOLUTION 11**

*Congress should adjust the current Federal Advisory Committee Act’s (FACA’s) time consuming requirements to facilitate better coordination needed among Federal, state, local, private sector and NGO representatives for both homeland security and national security policy development, especially under exigent circumstances.*

The Federal government generally must make particular provision for broader implementation and sustainment of the private sector and NGOs in homeland security/NOF

policy development, planning, exercises and operations. It is necessary, however, to distinguish carefully private sector and NGO participation in steering committees, which may deal with technical issues, and deliberate planning, which is a tricky challenge. The problem is the public/private operational interface. Engaging the private sector and NGOs for the response mission in particular requires a mechanism for systematic integration starting at the state level.

The private sector has led several initiatives to form a national-level entity to encourage and facilitate state/local-level entities nationwide and provide integration points for business with government at all levels. The structural component would be an independent entity that develops and nurtures public/private partnerships and recommend procedures to facilitate tactical information sharing and response activities. Programs and recommendation of such an entity must be consistent with emergency management doctrine, i.e., codified in the NOF.

Including the private sector and NGOs in exercises and planning through multi-level partnership structures would allow assimilation of private sector/NGO knowledge, skill and input into overall policy development as well as into development of specific protocols for the prevention, protection/mitigation, response and recovery continuum.

A national framework would provide guidance for national and regional businesses and NGOs and would recommend a common approach for consistent execution at the state and local levels. This commonality would allow for national companies and organizations to participate anywhere with greater efficiency, thus minimizing costs at the jurisdiction level.

Such an entity would require some kind of national governing board with both public and private participation to ensure the appropriate checks and balances. In the event of a disaster (with or without a presidential declaration), it could facilitate activities to allow seamless scalability of the response efforts. A board of representatives from the constituent population would govern such an entity.

The field-level entity would facilitate resource acquisition, not just procurement, in disaster response. One approach would be to have essentially a private sector and NGO ESF within the Joint Field Office (JFO), i.e., where the Federal government establishes unified command in the field, and/or the state EOC, i.e., the locus of state-level coordination. Alternately, it could operate as a component of the logistics section of the EOC. Either way such an entity would encourage horizontal integration of practical operational insights to inform the development of plans and strategies for the private sector and NGOs.

The concept of “continuity of community” should serve as a foundational element in strategy and policy development as well as for procedural execution to maximize efficiency and effectiveness in all homeland security/emergency management missions. This concept holds that the private sector and NGOs, as members of the community and dependent upon the community, will act in the community’s best interest to restore it to normal functioning as quickly as possible after a disaster event.

To ensure scalability and minimize process conflicts, private sector and NGO participation must integrate with ICS and other Federally-mandated protocols. At the state and local levels, those participants representing the private sector and NGOs would participate in exercises and other activities. They would have input and review privileges into policy development, although they would not necessarily need to be a discrete part of policy development.

This kind of proposal underscores the importance of legislative language to provide for liability protection for businesses which put themselves on the line during a response effort as well as for relaxation of some regulations to enable them to participate fully. It may also require

revisions to the Stafford Act to allow businesses to receive public support under certain circumstances.

Already widely accepted is the FEMA-supported Aidmatrix Network as the standard tool for donations management. FEMA partnered with the Aidmatrix Foundation to enable state-based, interoperable portals which form a national network for matching private sector resources to specific points of need. Aidmatrix portals plug into the ESF structure in a JFO or EOC. In the past 18 months, 30 states have activated Aidmatrix, covering more than 80 percent of the U.S. population. While FEMA's core Aidmatrix tool currently applies to in-kind donations of products or services, several states are already working with Aidmatrix to expand its application to reimbursable and procured resources, as well. Additional capability exists also for cash donations and volunteer management.

Most recently in November 2008, a public benefit coalition of 30 representatives from the homeland security stakeholder community released for comment a proposal to strengthen public/private collaboration titled "Building a Resilient America."<sup>20</sup> The coalition proposal puts forth a concept for an entity to facilitate and sustain partnerships for "ensuring continuity of community—and by extension, a resilient nation." According to the coalition document, "The nation's preparedness and response policies must be informed by the realities of life in local communities, as well as by the Federal perspective."<sup>21</sup> This coalition sees its proposed entity as independent, i.e., operating outside of DHS and other Federal agencies. Further, it argues that any such public/private effort should not have legal authority to mandate nor to regulate state and local partnerships but would rather engender standards. "Collaboration cannot be mandated by government, but rather is grounded in trusted, tested relationships and common purpose—often more easily established at the local level."<sup>22</sup> Partnerships must have the flexibility and authority to self-govern and to reflect the economies, culture and priorities of their respective regions. Public/private collaboration must come in a manner consistent with Federal doctrine, e.g., NIMS, without top-down regulation from Washington.

This proposed nationally-recognized, independent public benefit organization would draw on such models as the National Academies and the Corporation for Public Broadcasting. This concept does not call for an operational entity, however. "The not-for-profit corporation will serve as a trusted venue for sharing information, best practices, mistakes and lessons learned. It will be a national repository of subject matter expertise, innovative programming, illustrative partnership models and business plans, resources for resilience education and information on related technology solutions."<sup>23</sup> As yet, the legal/organizational construct and funding model for this proposal is yet to be determined but may result in an entity which would be Federally chartered, independent, not-for-profit or public benefit. It may or may not involve government money, or it might receive only Federal start-up money as was the case for the Presidio following the 1995 Base Realignment and Closure (BRAC).

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<sup>20</sup> The Public Benefit Coalition "Building a Resilient America: A proposal to strengthen public-private collaboration" (November 3, 2008).

<sup>21</sup> *Ibid.*, p. 1.

<sup>22</sup> *Ibid.*, p. 2.

<sup>23</sup> *Ibid.*, p.3.

## SOLUTION 12

*To further a structure and process for private sector and NGO participation in homeland security/NOF policy development, planning and possibly operational execution, the PNSR State/Local Issue Team encourages the Federal government to support an independent, private sector-led national mechanism/entity to facilitate public/private collaboration and sustain “continuity of community” approaches for domestic incident management.*

## PROBLEM

*Implementation of comprehensive national security and homeland security planning at the state and local levels is uneven.*

On the DoD side, U.S. Northern Command (NORTHCOM) has achieved some concepts of operations (CONOPS), including those for chemical, biological, radiological, nuclear and explosive (CBRNE) consequence management (CBRNE CM) and defense support to civil authorities (DSCA) for the 15 National Planning Scenarios. However, one Pentagon official with well over a decade’s experience in DSCA-type relationships is skeptical of their worth. In his view, while DoD may say it is able to execute Concept Plan 3501 (CONPLAN 3501, NORTHCOM’s DSCA plan), he is assured that NORTHCOM lacks sufficient knowledge of the ESF structure. In reality, he says, NORTHCOM won’t be able to execute CONPLAN 3501. In other words, at an operational level DoD will not know how to plug into a state or local ICS structure.<sup>24</sup>

DoD is developing a planning capability in its Task Force Emergency Response (TFER), an initiative launched by the Office of the Assistant Secretary of Defense for Homeland Defense and Americas Security Affairs (HD/ASA). The TFER approach is based on the 15 National Planning Scenarios, whereas state and local planning is not usually scenario-based but rather is more often functionally-based to identify common tasks to be performed under all-hazards planning. However, the approach does have merit because of its proximity to the regional and state levels and leveraging of military planning expertise.

A TFER is a regional DCO’s responsibility which falls under his/her J-5 (deliberate planning support). The DCO will liaise with regional adjutants general (TAGs) to use the TFER to backfill states’ planning capabilities if needed. While the capabilities of states with large- and medium-sized metropolitan areas may be robust, rural states with smaller populations need help. The DCO reports his/her TFER findings to the NORTHCOM J-5. TFERs are now piloting in 12 states.

Whereas DHS is wrestling with how to incentivize states to engage in the Integrated Planning System (IPS) by using FEMA grants as the whip, DoD is proactively covering the costs of the TFERs. Since no congressional authority requires states to do a gap analysis study, NORTHCOM sees the DoD-funded TFER initiative as means to determine individual state capability requirements where FEMA efforts to do so have been unsuccessful.

TFERs and IPS are planning attempts to address but one symptom of the failure of the cross-cutting, interagency structure for national security and homeland security resourcing to translate effectively and efficiently capability requirements into budgeting and programming. It

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<sup>24</sup> His solution is to have DHS write the CONPLAN with guidance from HSPD-8, Annex 1.

is oft noted that civilian departments and agencies do not have a planning culture as DoD understands it. The charge applies even to the DHS legacy agencies with law enforcement missions. Theirs is a tactical culture. As such, a trend is underway to task military planners for homeland security planning, specifically deliberate planning, i.e., “the structured development of operational plans”—not a field where civilian Federal agencies and state and local governments have much experience. As CSIS observes, preparedness would benefit from cross-fertilization of military planners and ICS emergency management planners.<sup>25</sup>

Such is already happening. As referenced above, two years ago DHS created the Incident Management Planning Team (IMPT) as a planning element in the NOC which can augment with an “on-call” staff. The IMPT, which includes a number of military personnel, works on national planning system CONPLAN development in a process which includes a DRG review. In 2007, FEMA launched its Operational Planning Unit (OPU) with some 12-15 planners, who were mostly former members of the military. The IMPT focuses on long-term planning at the strategic level and is more of a deliberate planning entity. The Operational Planning Branch (OPB, as the OPU is currently known) functions from the FEMA Disaster Operations Directorate and focuses on near-term planning (under six months out) as would a military staff J-35 (future operations).

Implementation and resourcing of a planning continuum is primarily a Federal responsibility. Yet credible homeland security planning should (1) reflect bottom-up, community-based assessments of risks which may require Federal-level entities to backfill, (2) orient to the regional level leveraging EMAC processes/structures and (3) engage military planning expertise. The TFER, perhaps refocused more on regional planning scenarios vice the 15 National Planning Scenarios, would appear to be a good model for comprehensive, integrated Federal, state and local response/recovery planning.

### **SOLUTION 13**

*DHS should resource the Department of Defense’s Task Force Emergency Response (TFER) initiative (or some equivalent) which leverages military planning expertise for the determination of regional capabilities and capability requirements and development and implementation of regional response/recovery plans based on community-based assessments of risk.*

#### **E. Homeland security resourcing must be properly structured.**

DHS does not have centralized acquisition and procurement authority. The Secretary of Homeland Security and the Under Secretary for Management currently have sufficient authority to make it so, and the Government Accountability Office (GAO) and DHS Inspector General have both recommended such. However, objections from DHS agencies and components and congressional supporters have stalled implementation. Needed is statutory language to affect it.

Under the current structure, DHS has nine separate procurement policy shops, nine separate procurement automation shops and nine separate procurement training organizations—all within a 15 minutes drive of one another. Centralization would make these nine component procurement offices report directly to the DHS Chief Procurement Officer, enabling the

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<sup>25</sup> CSIS, p. 81.

department to unify its acquisition program, increase opportunities for program success and eliminate waste. This change would allow DHS to obligate nearly 15 billion dollars of its budget through the acquisition process in a more unified manner thereby assuring greater program and mission success. By not implementing this recommendation, DHS would require some additional 500 procurement staff. Implementation, however, would enable it to provide a higher level of service with no additional staffing and without eliminating structure. Agency and component procurement offices would merely report directly to the Chief Procurement Officer and enable him/her to align staffing and resource around department-wide needs in addition to component specific programs.

#### **SOLUTION 14**

*Further to achieve cost savings and improve efficiency, the Department of Homeland Security must clearly structure and empower departmental-level acquisition, procurement, coordination and resourcing authority and oversight activities relative to its operational components. By statute, therefore, Congress should empower the DHS Under Secretary for Management via the Chief Procurement Officer to centralize acquisition and procurement authority and acquisition offices in a direct line reporting relationship to leverage the buying power of the Department and to mandate consistent, department-wide policies to guide acquisition and procurement.*

#### **PROBLEM**

*Homeland security grant mechanisms work against collaboration, fragment state and local planning and reinforce Federal stovepipes.*

The PNSR State/Local Issue Team has studied the current homeland security grant system, primarily based on individual programs, and sees merit in moving toward a state-based structure where states determine their own homeland security priorities. At the same time, DHS needs more authority to direct the grant process to state and local authorities.

Structuring grants for individual programs like the Public Safety Interoperable Communications (PSIC) grant program (notwithstanding its positive attributes) is not a good model because individual grant programs with equipment procurements tend to favor legacy solutions articulated by contractors

Grant criteria and funding must henceforth drive integration and planning as well as interoperability. On the up-side, PSIC grants, as well as the Urban Area Security Initiative (UASI) grants, recognize integration. UASI in particular, which followed the efforts of the Nunn-Lugar-Domenici “train-the-trainer” program of the late 1990s, supports integrated planning. Grants must also support planning at all levels, including the regional level for a regional planning and the NOF framework—intra-state and multi-state.

The CSIS report supports empowering FEMA regional offices to be the “front line” of the grants process. CSIS wants grant guidance for all major DHS grant programs to “focus proposed state investment in the target capabilities.”<sup>26</sup> To that end, it recommends revising the DHS Target Capabilities List (TCL) to set an agreed basis for assessing capability

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<sup>26</sup> CSIS, p. 60.

development.<sup>27</sup> According to CSIS, “A baseline survey of state capabilities, followed by the development of a database to track state capabilities, would facilitate operational planning at all levels.”<sup>28</sup> Evidently confident that previous grant programs have brought state efforts to a level sufficient for building incident management, it would shift the risk-based strategies for grants toward sustaining capabilities. CSIS also is recommending that “the National Exercise Program should be designed explicitly to verify Federal, state, and local acquisition of target capabilities.”<sup>29</sup>

Too many grant programs with too many requirements overwhelm state and local authorities which do not have the infrastructure to handle them. While some grant programs, specifically the UASI grant program, have actually encouraged multi-jurisdictional coordination, others have mechanisms which have worked against collaboration, fragmented state and local planning and reinforced Federal stovepipes. The grants structure and process must be streamlined.

### **SOLUTION 15**

*The annual national homeland security assessment (Solution 3 above) should inform a systematic, annual Federal homeland security grant process. By statute, Congress should transfer from FEMA to the Secretary of Homeland Security executive agent authority for all homeland security grants, i.e., (1) to develop and publish grant goals, guidance and requirements, (2) manage the grant application, review and approval process and (3) fulfill fiduciary responsibilities associated with grant management. Further, the DHS Secretary should engage non-Federal stakeholders, relevant DHS components and other Federal departments and agencies with homeland security*

### **F. Human Capital: A homeland security workforce culture, as a subset of a national security workforce culture, must be institutionalized.**

#### *PROBLEM*

*Strong workforce cultures in each department, agency and intra-DHS stovepipe have prevented full institutionalization of a homeland security culture. With respect to DHS, no organizational entity above the DHS agencies—whether in the mission or back offices—effectively drives a common culture.*

The time has come for institutionalization of a homeland security culture, fostered by a broad-based, interagency, intergovernmental workforce professional development program. This claim rests on a number of recent governmental findings and initiatives.

In 2006, the White House *Federal Response to Hurricane Katrina: Lessons Learned* report called for a professional development and education program for homeland security personnel. According to the report, “Over the long term, our professional development and

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<sup>27</sup> *Ibid.*, p. 58.

<sup>28</sup> *Ibid.*, p.59.

<sup>29</sup> *Ibid.*, p.62.

education programs must break down interagency barriers to build a unified team across the Federal government. Just as the Department of Defense succeeded in building a joint leadership cadre, so the rest of the Federal government must make familiarity with other departments and agencies a requirement for career advancement. Where practicable, interagency and intergovernmental assignments for Federal personnel must build trust and familiarity among diverse homeland security professionals.”

The report charged DHS specifically with the responsibility to “develop a comprehensive program for the professional development and education of the nation’s homeland security personnel, including Federal, state and local employees as well as emergency management persons within the private sector, non-governmental organizations, as well as faith-based and community groups. This program should foster a ‘joint’ Federal interagency, state, local, and civilian team.”

Similarly, the May 17, 2007, Executive Order (EO) 13434, *National Security Professional Development*, called for establishment of a national security professional development program, a plan for interagency and intergovernmental assignments and fellowship opportunities and professional development guidelines for career advancement. It tasked the DHS Secretary to develop a program for Federal, state, local and tribal government officials to receive education in disaster preparedness/response/recovery plans and authorities and training in crisis decision-making skills.

Earlier, the 2003 National Commission on the Public Service (Volcker Commission) more generally observed that the senior executive service (SES) had never developed into a corps of experienced managers which would move across agencies, deploying skills and bringing the benefit of experience to a broad array of management venues. It recommended dividing the SES into a professional and technical corps (PTC) and a executive management corps (EMC), where “mobility across agencies should characterize service in the EMC,” i.e., in conformity to the principle that interdisciplinary experience is a positive value toward building a top-down, public service culture.

It took the Goldwater-Nichols Act of 1986 to mandate for DoD the so-called “joint duty requirement” for professional advancement in the military officer corps. Similarly, Congress must authorize and resource by statute a structure to implement the recommendations of the White House Katrina report and EO 13434. The homeland security workforce professional development program is all about training and exercising to develop collaborative skill sets and build relationships which will lead to a national NOF culture built on familiarity with ICS protocols and processes. The end state should be a homeland security workforce professional development structure for a joint culture and NOF career path which is horizontal across disciplines/agencies and vertical concerning Federal/state/local governmental service.

The PNSR State/Local Issue Team further recognizes the career succession challenge of maintaining a talented, trained and capable workforce. In today’s world, if the government identifies high-flying public sector employees and incentivizes them, they will not stay in government for 20 years. As the saying goes in state government, “You have to leave to get a raise.” To attract and retain qualified individuals, the government needs creative compensation packages and incentives, e.g., student-loan forgiveness for years of service, merit-based bonuses, career paths accommodating promotions and salary increases, etc. Such inducements are hard to structure.

One paradigm which holds promise is the concept of “continuum of service,” articulated by the Punaro Commission on the National Guard and Reserves and based on a 2004 report by

the Office of the Assistant Secretary of Defense for Reserve Affairs titled *Rebalancing Forces: Easing the Stress on Guard and Reserve*. As applied to the active and reserve components of the military, continuum of service would institutionally support “a pool of individuals who may participate in varying levels of service throughout their careers, moving along as circumstances in their lives change or as the needs of [DoD] evolve.” Under continuum of service, public sector employees can leave government, work in the private sector and return to public service at a higher pay grade reflecting their time, experience and performance as private sector employees.

Continuum of service plans, for example, could be facilitated by a public/private partnership via memoranda of agreement (MoAs) whereby private sector employers would get incentives coming from some kind of contract similar to the 8A status or tax credit for those firms with a vendor or contractor relationship with government. Such continuum of service arrangements should apply to homeland security professionals, and indeed should be institutionalized as a fundamental element of a workforce career path.

#### **SOLUTION 16**

*Consistent with the recommendations of the White House Katrina report and Executive Order (EO) 13434, Congress must authorize and resource a professional development process for the Federal homeland security workforce, similar to that of the national security and intelligence communities, which mutually accommodates and reinforces “continuum of service” and to the degree practicable the state and local governmental levels, as well as in the private sector and NGO communities.*

#### **G. Knowledge Management: A system of systems for information sharing must be institutionalized.**

##### *PROBLEM*

*DHS, the Department of Justice, DoD, ODNI, the HSC and other Federal entities with homeland security mission responsibilities—along with their state and local partners—have failed to institutionalize a responsibility-to-provide information sharing culture and a comprehensive and workable information sharing structure.*

Agencies at all three levels of government need to have clarity as to who grants the authority to declassify information for sharing. Resolving the bifurcation of national security and homeland security should lead to resolution of the security clearance standards issue, at least as far as the law enforcement communities are concerned. Clear standards for information sharing with respect to non-law enforcement public officials and the private sector will require further work, but are equally mandatory.

The Robb-Silverman Commission on U.S. intelligence capabilities addressed standards for ODNI classification. Its report recommended the establishment of a Chief Information Management Officer (CIMO) who, reporting directly to the DNI, would be responsible for information sharing for Federal agencies. The charge to the CIMO should extend to include standards setting for all levels of government as well as the private sector.

The DNI should be able to set and enforce standards, procedures and training protocols and exercise administrative oversight of training for information sharing and classification standards from Sensitive But Unclassified (SBU) to Top Secret (TS)/compartmented. In

addition to Federal-level information sharing, oversight must account for sharing necessary information with state and local levels and the private sector and NGOs to improve effectiveness in prevention of and preparedness for threats and allow the private sector and NGOs to work more effectively with the various law enforcement agencies. Further, the focus of the Information Sharing Environment (ISE) should not be restricted to counterterrorism information but rather should include all intelligence information as per the Robb-Silverman Commission.

#### **SOLUTION 17**

*For the purposes of better coordinating information and intelligence sharing for domestic national security, homeland security situations, the Director of National Intelligence (DNI) should have centralized authority to establish cross-cutting policy to guide the sharing of Federal national security, criminal and incident management information and intelligence with non-federal entities. Further, the DNI should be responsible for establishing technical and cross-cutting information and intelligence sharing training standards that ensure the ability to share and integrate, when authorized and where necessary, all-source data, including those that necessarily should remain routinely independent. Furthermore, all Federal Senior Executive Service (SES) and career personnel in positions with actual and potential domestic incident management, information sharing, law enforcement and domestic incident management command and leadership roles should have a consistent prerequisite to be certified under these training standards before being eligible to assume their positions.*

Operational requirements should give direction for technology development and deployment of interoperable situational awareness and communications systems, which in turn would facilitate operational information sharing. At present, they are not, and they must.

For the incident commander and the EOC, the “Holy Grail” of situational awareness and communications interoperability is vertical and horizontal voice, data, video and geographic information system (GIS) integration.

Despite such efforts as the PSIC grant program, the Federal government has not provided sufficient direction in terms of standards and requirements. With some 100 contractors operating in the space, all proffering communications solutions, jurisdictions struggle with various bridging technologies (e.g., the ACU-1000) and 800 MHz to make their current systems work.

The problem is not entirely Federal. All government entities (local, state, tribal and Federal) still cling to legacy systems and are not focusing on advancing technologies and their capabilities for broadly integrated information sharing.

The Federal government, specifically DHS, has the responsibility to establish standards for a national information sharing system for situational awareness and communications interoperability and to program for it. It must do so with a Federal-level policy directive on funding which requires states to submit plans detailing how they will use the money to construct communications systems that must work together and integrate. Further, the directive should condition funding on whether that plan meets Federal standards for a national situational awareness and interoperable communications system.

Some form of NOF information sharing “platform” should work off routine information, e.g., transportation information. As a flexible system-of-systems, akin to the Web, it must be technologically neutral, i.e., data neutral, and serve steady-state information sharing as a platform which personnel will use on a daily basis. Daily use is a critical success factor. From

it, personnel develop competence and the faith to use the platform in crisis mode. Finally, the system must be the platform for EOC staff training as well as for enhanced planning and private sector use for critical infrastructure/key resource (CI/KR) protection, business continuity and response.

States do not want an information sharing process and platform which push information from above and produce information overload at the incident command level. The system must frame, prioritize and direct information to the different sections of the incident command, which as per ICS are operations, planning, logistics and finance. At the same time, the process and platform must also provide some capability to expose all parties to relevant information when its relevancy is not understood in the stovepipe and can only be ascertained by those to whom it might apply.

As a technologically neutral platform, it will have to employ data brokering. It will inevitably have data entry challenges, e.g., those involving out-of-state access, health information and privacy, credentialing/privileging/access, planning, training, integration with the intelligence community and the sharing of critical infrastructure protection (CIP) data.

Rather than phrase information sharing in terms of a Federal/state issue or protection of state/local/Federal/private sector interests, it is less politically charged to express sharing in terms of “data owners” and “data customers.” This approach conforms to key elements in the DNI’s recently released Vision 2015 for what he calls “a net-centric information enterprise” and mostly particularly with respect to his expectations for “customer-driven intelligence.”

The process would involve three layers. The data layer would consist of all-source data produced by owners. The integrated layer would be where integration by ESF function would occur. Finally, a presentation layer would generate integrated data, a common operating picture (COP), et al to customers using the Web, 511, secure portals, paging, etc. In the end, the system would be more or less a closed loop where the customers in fact would overlap with the data owners. The information flow needs to be across jurisdictions (local-state-Federal) and across disciplines (police-fire-EMS-transportation-health, etc.) from "the field" (i.e., at the scene) to the various centers’ EOCs—traffic management centers, fusion centers, Health Industry Distributors Association (HIDA) data centers, etc.

These interfaces have ramifications for the networks used, i.e., wireless, in order to transmit voice, data, video and GIS to create situational awareness and a COP. All operations or fusion centers must publish into the neutral platform with different security protocols for each data “bucket.” Protocol and process are technology agnostic. Above the data sets at the integrated data layer, the data set standards will allow data to aggregate across state lines. Utilizing a technology equivalent to the intelligence community’s “Intelipedia,” the platform would serve to deconstruct the stovepipes for analysis.<sup>30</sup>

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<sup>30</sup> One noteworthy example for the intelligence community is Palantir Technologies’ Java-based platform. Further examples of platforms on at <http://www.cip.msu.edu>, along with such collaboration portals as ClearspaceX, the Hope Coordination Center in Biloxi, Sahana <http://www.sahana.lk/>, a free and open source disaster management system, the E-Team program, “Convenors of Capability” in strategy+business <http://www.strategy-business.com> [http://www.strategy-business.com/media/file/sb50\\_08109.pdf](http://www.strategy-business.com/media/file/sb50_08109.pdf).

### SOLUTION 18

*The PNSR State/Local Team recommends establishment of a dynamic NOF two-way data sharing system, a “platform,” to be used as an Incident Command System (ICS)-enabler, from routine incidents to complex multi-site catastrophes.*

While the Federal government has had the primary responsibility for national security, in the 21<sup>st</sup> century threat environment, it no longer has (if it ever had) the exclusive responsibility to execute it.

Information sharing must be seen in terms of an intergovernmental and public/private partnership with shared responsibilities for managing and resourcing. With regard to the intergovernmental piece, precedents include shared intergovernmental responsibilities for transportation and medical entitlement programs and the example of Federal Title 10 funding to the National Guard for preparedness and state funding to the Guard for Title 32 execution. The virtue of an intergovernmental partnership for such a national program is clear when compared to a Federally-mandated program like Real ID, notwithstanding the Federal funding. Such a program without state buy-in runs the risk of Governors opting out.

In principle, the NOF platform should be an initiative driven by the states—coming together with a common need—to leverage up to the Federal level and the intelligence community for information sharing.

Congress gives the authorization on information sharing policy. As it relates to the information sharing process, the Federal responsibility should be to define standards which should be used by all potential information sources to ensure that data can be combined in a common data base or data warehouse and to facilitate common analysis of different data. The technology layer could be the ability to link a variety of data sources in a virtual fashion rather than require that data be moved to a common warehouse. Wherever the Federal responsibility is housed, it should not have a bias toward who is using the data or how they are using it. Again, its responsibility is rather to define standards and facilitate a common infrastructure. The Federal government (possibly with some level of state resourcing) would have the responsibility to fund the data layer and publishing. The presentation layer could be use-funded, i.e., by the private sector. Ten percent of the states are proceeding in this manner.

With respect to issues of Protected Critical Infrastructure Information (PCII) accreditation—the uneven PCII adoption by the states and corresponding private sector concerns—it is important to put the platform in play and then worry about security. “If we build it, they will come.” However, the private sector will need a statement protecting liability concerning information sharing and proprietary information. Participation must be voluntary, and the data owner should establish the security level of what he/she provides. It will be information sharing only for those with need-to-know.

At first blush, it would seem that the Federal government should own the platform, have the aggregation responsibility and standardize protocols. Wherever this platform resides at the Federal level, the administering entity should have state representation drawn from a pool of state homeland security advisors and state emergency management directors and their deputies, designated by Governors.

It may be that the platform and these representatives would be physically resident in the DHS National Operations Center (NOC). While for training and exercises all such representatives would rotate into the NOC, the crisis itself would determine the state(s) which would detail their representatives. All other state issues would resolve via the EMAC structure. DHS might also undertake administration via the State, Local, Tribal, and Territorial

Government Coordinating Council (SLTTGCC) structure or each CI/KR sector's Government Coordinating Council (GCC) and private Sector Coordinating Council (SCC) system. However, this approach might be too stovepiped. Other options would be to house the aggregation capability in ODNI, DoD or the FBI, although each has its obvious drawbacks, particularly with regard to state perceptions that the orientation would be too national security oriented, too Federal.

Another alternative would be to house portions of the platform by ESF leads. Absent the Team's suggested consolidation of congressional committees around the NOF missions, this option would give a number of congressional committees oversight and authorization responsibilities for portions of the platform which could yield uneven results. On the up-side, however, housing by ESF lead would give each lead a stake in the game. This option would still require a framework-of-a-framework over the 15 Federal ESFs, i.e., some supra-cabinet-level interagency body, e.g., the HSC or NSC, as the case may be, or an EOP entity like the White House Office of Intergovernmental Operations which would have to include state, local, private-sector and NGO communities and would serve as a one-stop shop for the governors to call.

In sum, the PNSR State/Local Issue Team recommends consideration of the following specific options: a White House function resident in the HSC/NSC or EOP; a GAO-type body; a department or agency; an equivalent to an independent agency like the Federal Reserve or the Securities Exchange Commission (SEC); or as a function under the National Guard Bureau (NGB). While the NGB operates with Federal Title 10 funds, it could create a state-funded Title 32 entity which Federal Title 10 funds could support all or in part. In that regard, the states would have some ownership.

#### **SOLUTION 19**

*Congress should provide DHS with authority over an NOF information sharing platform for resourcing and standards and should liaise with the Department to determine the appropriate governmental entity to house and administer it on behalf of the states.*