

# THE UNITED STATES CONFERENCE OF MAYORS

## *2005 National Action Plan on Safety and Security in America's Cities*

(Working Paper of 10/24/05)

### **Overview**

One month after the attacks of September 11, 2001, The United States Conference of Mayors brought together mayors, police chiefs, fire chiefs, and emergency services/health care leaders for a Summit in Washington, DC. That Summit resulted in the release of *A National Action Plan for Safety and Security in America's Cities* focused on transportation security, emergency preparedness and federal-local law enforcement - which has guided the Conference of Mayors' advocacy efforts for the last four years.

Upon assuming the Presidency of The U.S. Conference of Mayors in June of 2005, Long Beach Mayor Beverly O'Neill charged the Conference's relevant standing committees and task forces – including the Criminal and Social Justice Committee, the Transportation and Communications Committee, the Homeland Security Task Force, and the Mayors and Police Chiefs Task Force – to review the progress that has been made on the National Action Plan and make recommendation on needed refinements and new priorities.

This effort became more urgent following Hurricanes Katrina and Rita that devastated cities in Louisiana, Mississippi, Alabama and then Texas. As Mayor O'Neill and the Conference learned first-hand during a mission to the New Orleans/Baton Rouge/Gulf Coast area on September 15-16 to meet with New Orleans Mayor Ray Nagin and dozens of other impacted mayors, additional changes are needed in the federal-local partnership on disaster preparedness and response.

The discussion on these updated priorities began on September 23-24 during the Conference's Fall Leadership Meeting in Long Beach, and culminated in an emergency meeting in Washington, DC on October 23-24 of key mayors and local public safety personnel. Following are key recommendations and priorities that have emerged from these discussions in five areas:

- I. Fixing the FEMA Disaster Response System**
- II. Military Involvement in Disaster Response and Recovery**
- III. Communications Interoperability**
- IV. Enhanced Transportation Security**
- V. First Responder Funding – A Better Distribution System is Needed**

These recommendations will be carried to Congress and the Administration, and will be further discussed and refined during the 74<sup>th</sup> Winter Meeting of The U.S. Conference of Mayors to be held in Washington, DC on January 25-27, 2006.

## **I. FIXING THE FEMA DISASTER RESPONSE SYSTEM**

Mayors and local police, fire and emergency medical services personnel are America's true first responders to any disaster, whether natural or man-made.

Mayoral concerns with the state control on homeland security and disaster preparedness and response relate to what mayors experienced during Hurricanes Katrina and Rita.

Mayors recognize the important role of FEMA, the states, and the National Guard in responding to disasters. But as the Conference of Mayors learned from its mission to the Gulf Coast area following Hurricane Katrina, the fact is that aid did not come in time.

For example, in the early days of response to Hurricane Katrina, mayors were told by DHS that all offers of assistance to the impacted area had to be made through their states, and that these offers would then be coordinated through the Emergency Management Assistance Compact, or EMAC, system.

For some cities this seemed to have worked. But others found this system very slow to respond, and were forced to self-deploy first responder and other resources to the area. Mayors do not like to watch television for days after a disaster and see areas that reporters can get to, but seemingly no federal resources, and then be told that they cannot send help.

Virtually every municipality has entered into "mutual aid" or "inter-local" agreements for first responder activities, debris removal, etc. However, as was seen with Hurricanes Katrina and Rita, such agreements were rendered useless as almost all municipalities in the respective target region required full deployment of their personnel and assets. What should be explored is the ability of municipalities to enter into such "mutual aid" agreements with other cities/metro areas with geographic dispersion to enable regions to provide "real time" assistance and aid to the target region.

In addition to the issue of disaster response, there are many questions that continue to be raised by cities regarding disaster recovery assistance, such as housing and reimbursement policies. We were pleased that Congress recently approved \$750 million in loans for hurricane hit cities, which was a major priority for our organization following our mission to the New Orleans/Baton Rouge/Gulf Coast area. However, we were outraged that Congress adopted language that would - for the first time - prohibit these loans from being forgivable by FEMA, even if local conditions necessitate.

### **Therefore:**

- **Congress and the Administration should implement a more focused process to work directly with mayors and first responders to review and make changes to the national disaster preparedness and recovery process.**
- **Congress must reverse its decision to make loans to cities hard hit by Hurricanes Katrina and Rita, under the Disaster Assistance Loan Program, non-forgivable.**
- **Congress and the Administration should work with The U.S. Conference of Mayors to authorize a mechanism that would allow city-to-city mutual aid agreements to trigger reimbursement procedures and liability protection under the Stafford Act during an emergency.**

- **The federal government should utilize untapped resources through the development of specialized “go-teams” to respond to major events who could be the liaisons with local mayors, EMS, police and fire departments (at the executive level) to assist in the response of FEMA and other federal assets.**
- **The federal government should support funding for training on an all-hazards approach by allowing local jurisdictions the flexibility to quickly adapt and meet local needs, we will be better prepared to respond to natural disasters like Hurricanes Katrina and Rita, as well as terrorist attacks we hope won’t come.**
- **Congress and the Administration must work with mayors to better define federal reimbursement and other policies related to housing, transportation, and health and human services for evacuees from disasters – and how these policies are coordinated across federal agencies.**

## **II. MILITARY INVOLVEMENT IN DISASTER RESPONSE AND RECOVERY**

The use of military armed forces to support civilian response is conditioned by certain legal restrictions that define their possible activities. The military is precluded, except under certain circumstances, from conducting law enforcement operations in civilian setting under the Posse Comitatus Act.

More recently, the Stafford Act has broadened the military’s role in civil support. Under the Stafford Act, the military may engage in:

- Debris removal and road clearance
- Search and rescue (EMS)
- Sheltering and feeding
- Public information
- Providing advice to local government on disaster and health/safety issues

Under the Stafford Act the military may not engage in:

- Traffic control
- Security at non-federal facilities
- Patrolling civilian neighborhoods except to provide humanitarian relief

Clearly, there are events of a certain nature that require immediate military intervention and/or pre-staging. For example:

- The detonation of a nuclear device, such as a suitcase nuclear device, would be expected to render the local and state government incapable of mounting adequate disaster response.
- Widespread biological attack or disease outbreak would require national command and control measures be implemented.
- Mega catastrophes such as Katrina and Rita that could be reasonably anticipated to overwhelm local and state response capabilities.

The military can also offer expertise in many areas that support disaster relief:

- Ability to mobilize large numbers of self-sufficient personnel.
- Advanced logistical operations support.
- Experience with command and control methodologies just now being implemented at the local level via NIMS.
- Capability to provide mass feeding, water, shelters and other support to disaster victims.
- Easily move across political boundaries.
- Provide specialized equipment and trained personnel to address incidents involving chemical, biological, radiological, nuclear, and explosive (CBRNE) agents.
- Re-establish critical infrastructure including communications and mass care.

The current legal paradigm is that the military is viewed as the “resource of last resort” deployed to restore order. However, Hurricanes Katrina and Rita have given us reason to re-evaluate this paradigm. Because of the sheer magnitude of the hurricane events recently experienced, and because acts of terrorism may spring up during or in the wake of such natural disasters, it is advantageous to consider an increased role for the military in disaster response.

Immediately after a storm occurs is the time when the military is most needed, not to take over the duty or responsibility of a mayor or a governor or a county commissioner – not to impose by itself martial law or make police power decisions. Those decisions, of course, must still be the province of elected officials. But what the military has is the skills, the experience, the training, the duty, responsibility to help restore order after there has been a disaster, and to marshal the equipment, training and manpower to put things back together because they have to do that in a time of war.

**Therefore:**

- **The federal government should allow for greater military involvement in the immediate response to such overwhelming disasters, at the very least during the first days and weeks of response and when requested by local or state governments.**
- **Cities need a mechanism to request direct assistance in form of military assets during a major natural disaster or terrorist attack. It is too cumbersome for cities to have to go through the state apparatus.**
- **The federal government should identify a lead military agency to work directly with local governments on the deployment of federal resources needed immediately prior to and after a disaster.**

### **III. COMMUNICATIONS INTEROPERABILITY**

Major incidents, whether the 9/11 attacks, the Oklahoma City bombing, Hurricanes Katrina and Rita, or tornados or floods, repeatedly show the criticality of first responder communications.

#### *Interoperable Communications*

A major concern related to communications interoperability is the limited access to spectrum for public safety. The limited availability of spectrum continues to force first responders to operate on several different and incompatible and congested voice channels. This continues to be identified by mayors and their first responders as an obstacle to achieving full interoperability - as identified in the Conference’s 2004 Interoperable Communications Survey of 192 cities.

For example, in our survey:

- Of the cities with a major chemical plant, 97% reported that they did not have interoperable capability between the chemical plant, police, fire and emergency medical services.
- 60% of the cities reported that they did not have interoperable capability with state emergency operations centers.
- 75% of the cities said that limited funding was preventing achieving full interoperable capability.

It is essential to have access to this spectrum to enable deployment of advanced mobile technologies such as images and video to police, fire and other emergency responders. A major barrier to public safety interoperability is cost. The Office of Management and Budget (OMB) estimated interoperability solutions would cost more than \$15 billion.

According to the Conference's 2004 survey on interoperable communications:

- Cities under 100,000 reported an average of \$4.7 million in funding is needed to achieve full interoperability.
- Cities of 100,001 to 400,000 require approximately \$5.4 million to achieve full interoperability.
- Cities over 400,001 reported an average of \$30 million is needed to achieve full interoperability.

**Therefore:**

- **Congress must make expansion of the communications spectrum for public safety a Congressional priority by establishing a firm date for the transition of analog broadcast to digital as close to December 31, 2006 as possible.**
- **Congress should provide urgent funding to assist cities and their first responders achieve full interoperability.**
- **Congress and the Administration should require cellular, VOIP and other advance telecommunications to provide 911, reverse 911 (preemptive) and other emergency communications.**
- **Congress and the Administration should provide the funding and infrastructure support for emergency first responder redundant telecommunications systems.**
- **Congress and the Administration should work with the military to provide redundant telecommunications communications systems for first responders during emergencies.**

### 3-1-1 Communications

The U. S. Conference of Mayors recognized in December 2001 in "A National Action Plan for Safety and Security in America's Cities" that in the event of a terrorist attack using weapons of mass destruction a city's 9-1-1 system could be quickly overwhelmed and, therefore, 3-1-1 systems should be put in place to handle the large volumes of incoming calls from citizens.

The Department of Homeland Security's Authorized Equipment List currently includes under the Terrorism Incident Prevention Equipment category items such as data collection and information gathering software, alert/notification systems and hardware/software that allow for information exchange and dissemination; and under the Interoperable Communications Equipment category includes public notification and warning systems and computer-aided dispatch systems; and under the Information Technology category includes tracking and accountability systems.

3-1-1 systems can facilitate post-incident recovery efforts by tracking damage assessment and providing a detailed accounting of clean-up efforts that is required for federal or state assistance. Unfortunately, DHS recently ruled in a letter to the Conference of Mayors that 3-1-1 systems are not eligible under first responder funding because, “they are not specifically devoted to non-emergency situations and are not related to the inherent homeland security mission of the Department of Homeland Security.” However, mayors strongly believe that dual use of homeland security equipment is essential for homeland security and fiscal responsibility.

**Therefore:**

- **Congress and the Administration must clarify that 3-1-1 systems are an allowable cost under its homeland security grant programs and to make explicit reference to 3-1-1 systems in the Authorized Equipment List.**

#### **IV. ENHANCED TRANSPORTATION SECURITY**

##### *Public Transportation: Bus and Rail*

With more than 9.6 billion trips logged on the nation’s public transportation systems in 2004, securing this critical infrastructure and protecting riders from potential terrorist attacks rank as a high priority.

Despite the fact that Americans use public transportation 32 million times each weekday, and with the growing number of terror attacks on bus and rail systems worldwide, such as the attacks this summer in London killing more than 50, and last year in Madrid killing 191 and Moscow killing 41, since 9/11, bus and rail public transportation have received only \$400 million in Federal security grants. By contrast, in 2004, transit agencies identified \$6 billion in security needs, including \$5.2 billion in capital and \$800 million in operating.

**Therefore:**

- **Congress and the Administration should fund deployment of security and communications technologies including:**
  - **Voice and video interoperable communication systems ;**
  - **Security cameras on-board public transportation vehicles and in bus and rail stations ;**
  - **Video surveillance and threat detection cameras;**
  - **Increased surveillance via closed circuit TV; and**
  - **Automated bus and rail locator systems.**
  
- **Congress and the Administration should fund security infrastructure expansion, modernization and rehabilitation including:**
  - **Permanent chemical, biological and explosive detection systems ;**
  - **Fencing and barriers, lighting, alarms and access control for tunnels, bridges, interlockings, track, yards and facilities;**
  - **Redesign of infrastructure to eliminate hiding places; and**
  - **The life safety program in New York City and to rehabilitate existing Baltimore and Washington, D.C. tunnels.**

- **Congress and the Administration should clarify that federal public transportation security funding can be used for extra personnel during heightened alert levels, payment for overtime costs, reassignment of law enforcement officers and increased training for security personnel.**
- **Congress and the Administration should provide flexible funding of at least \$6 billion, \$2 billion per year over a three year period, to safeguard the nation's bus and rail critical infrastructure.**

### Port Security

Not enough is being done about security at our nation's ports. Ports remain exposed to large-scale acts of terrorism, including weapons of mass destruction or other dangerous materials. For example, according to the Government Accountability Office in a May 2005 report, only 17.5% of containers deemed "high risks" were being inspected.

A terrorist act involving chemical, biological, radiological or nuclear weapons at one of these seaports could result in extensive loss of lives, property, and business; affect the operations of harbors and the transportation infrastructure (bridges, railroads and highways) within the port limits; cause extensive environmental damage; and disrupt the free flow of trade.

Port security remains largely under-funded at the federal level. Since 2002, the Department of Homeland Security Port Security Grant Program has provided \$882 million for seaports. In contrast, the U.S. Coast Guard has estimated that ports would have to spend \$5.4 billion over ten years to meet Federal mandated port security enhancements. That's on top of the more than \$3 billion ports have to spend already annually on infrastructure improvements and operations, maintenance and personnel expenses just to keep pace with world trade.

### **Therefore:**

- **Congress and the Administration should provide full and flexible funding for port security needs including:**
  - **Improvised Explosive Device (IED) Detection and Prevention Systems;**
  - **Video Surveillance and Threat Detection Cameras;**
  - **Fiber Optic Communications Connectivity;**
  - **Access control communications;**
  - **Command and control facilities; and**
  - **Personnel and detection dogs for screening and checking cargo and passengers.**
- **Congress and the Administration should provide a federal funding mechanism to sustain the significant annual operating costs for the reoccurring maintenance of the new security systems and security personnel salaries that have not yet been identified.**
- **Congress and the Administration should direct the Department of Homeland Security to issue Letters of Intent for multiyear funding to ports with plans to carry out long-term security improvements.**

## Freight Rail

Each day hundreds of thousands of shipments of extremely hazardous materials such as chlorine, ammonia, phosphoric acid and molten sulfur travel through the hearts of our cities and near critical infrastructure. A major break of a single tanker of hazardous materials can result in mass casualties.

The U.S. Conference of Mayors supports advance notification for hazardous freight rail. Mayors recognize that there are sensitive issues that need to be addressed, such as concern that terrorists might also mistakenly gain access to such information, and the freight rail carriers are apprehensive about sharing their client's proprietary commercial information. We want to work with Congress and the Administration to address these issues so a system of advance notification can be implemented.

### **Therefore:**

- **Congress and the Administration should direct the U.S. Department of Homeland Security and the U.S. Department of Transportation to conduct an assessment of freight railroad notification procedures for the transport of hazardous materials through local jurisdictions.**
- **Congress and the Administration should direct the U.S. Department of Homeland Security and the U.S. Department of Transportation to establish a coordinated system for notifying appropriate local first responders of the transportation of rail hazardous materials through local jurisdictions, including a rail carrier's comprehensive list of all hazardous materials scheduled to be transported.**
- **Congress and the Administration should direct the U.S. Department of Homeland Security and the U.S. Department of Transportation to work with railroad operators to increase physical security measures surrounding shipments and storage of hazardous materials, with such increases to include the number of hazardous materials inspectors employed by the Federal Railroad Administration, lighting fencing, alarms and access control for tunnels, bridges, interlockings, track, yards and facilities.**

## Airport Security

Mandated to screen all checked baggage using explosive detection systems at airports by December 31, 2003, the Transportation Security Administration (TSA) deployed two types of screening equipment: explosives detection systems (EDS), which use computer-aided tomography X-rays to recognize the characteristics of explosives, and explosives trace detection (ETD) systems, which use chemical analysis to detect traces of explosive material vapors or residues.

TSA has made substantial progress in installing EDS and ETD systems at the nation's more than 400 airports to provide the capability to screen all checked baggage using explosive detection systems, as mandated by Congress. However, in initially deploying EDS and ETD equipment, TSA placed stand-alone ETD and the minivan-sized EDS machines--mainly in airport lobbies--that were not integrated in-line with airport baggage conveyor systems. TSA officials stated that the agency's ability to initially install in-line systems was limited because of the high costs.

**Therefore:**

- **Congress and the Administration should significantly increase funding and reimburse airports at the statutorially authorized Federal share for in-line baggage and cargo screening system and airport facility expansion to accommodate in-line systems to streamline airport and TSA operations, reduce screening costs, and enhance security.**
- **The United States Conference of Mayors reaffirms our policy calling for a fully federalized workforce at points of passenger, baggage and cargo inspections.**

**V. FIRST RESPONDER FUNDING – A BETTER DISTRIBUTION SYSTEM IS NEEDED**

Since the early days after September 11, 2001, there was serious concern that an over-reliance by the federal government on a multi-layered, state-based distribution system for first responder resources and training, which then often is further channeled through counties, would be slow and result in delays in funding reaching high-threat, high-risk population cities.

Unfortunately, the many surveys the Conference of Mayors conducted proved this to be the case. Time and time again, these surveys have showed that money was not reaching cities quickly, and when it did reach cities, it often came with federal restrictions and rules that made it very difficult to spend on what was needed most, such as limitations on the use of overtime.

By raising concern on this issue through the release of our studies, we were able to get support from President George W. Bush and former Department of Homeland Security (DHS) Secretary Tom Ridge to examine why money was “stuck” in many states. The special DHS task force created to work on this effort came up with a number of helpful recommendations, some of which, like a waiver from the Cash Management Act, have been implemented for new funding. Some additional flexibility for the use of overtime, especially for the larger cities, has also been provided. But the DHS task force was not allowed to even consider the issue of direct funding for cities.

Congress did create a new high-threat urban areas program, called UASI (Urban Area Security Initiative), which ensures that some of the bigger metro areas get funding, but this funding is still sent through the states. And, major changes to the current state-based system still have not been made.

Now, Congress is using the fact that because previous money they have appropriated is not being spent fast enough – as mayors predicted - it is now acceptable to cut funding. Over the last two years, funding has been cut by more than a billion dollars.

And, the Administration and Congress have been slashing funding for key law enforcement programs like COPS and the local law enforcement block grant since 9/11. Their stated argument was that cities would be getting funding from homeland security, so did not need it for law enforcement programs. But, homeland security funding cannot be used to put officers on the streets like COPS can, and the eyes and ears of officers on the streets can be the best defense against acts of terrorism.

Mayors strongly support regional cooperation, and have been working across city boundaries to enhance mutual aid agreements and develop new concepts such as regional logistics centers for the management and deployment of resources. However, mayors believe that a slow, complicated, and multi-layered distribution system for federal resources is not necessary, and in fact counterproductive, for fostering regional cooperation.

**Therefore:**

- **Congress should increase, not decrease, funding for key first responder grant programs.**
- **Authorizing legislation should ensure that the waiver of the Cash Management Act, approved by Congress for fiscal years 2005 and 2006, is made permanent, and made retroactive for fiscal years prior to 2005.**
- **Congress and the Administration should support the establishment of regional logistics centers, not only those previously established under the Pre-Positioned Equipment Program within ODP, but also additional capabilities to be established under regional control, to help consolidate State and local assets, provide life-cycle management and maintenance of equipment, allow for easy identification and rapid deployment during an incident, and allow for the sharing of inventories across jurisdictions.**
- **Congress should work with the Conference of Mayors to make other refinements needed to the first responder program.**
- **Congress should restore funding for key law enforcement/homeland security programs like COPS and the Justice Assistance Grant program, and allow Department of Homeland Security first responder funding to be used for hiring and overtime for police, fire, and EMS personnel.**
- **Congress should amend the current state-based system for distribution of federal first responder assistance to provide a significant portion of the funding directly to cities and local areas.**