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Empowering America: A Proposal for Enhancing Regional Preparedness

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A Proposal for Enhancing Regional Preparedness

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Executive Summary

In the Homeland Security Act of 2002, Congress required the Department of Homeland Security (DHS) to propose a framework for regional operations. The Secretary of Homeland Security had one year to develop and submit to Congress a plan to consolidate and collocate the field offices under DHS control and any other federal field offices and regional operations that fell within DHS's responsibilities. Secretary Tom Ridge's initial plan fell on deaf ears in the legislative and executive branches.

Hurricane Katrina showed the cost of this inaction. It is time for Congress to set out the missions, organization, authorities, and resources for DHS field offices and put a comprehensive regional plan into effect.

This report, written by a task force of scholars organized by The Heritage Foundation and The George Washington University's Homeland Security Policy Institute, focuses on regional preparedness. Regional preparedness is crucial to building a national response system that allows local communities, states, and the federal government to work together to make sure that the right resources get to the right place at the right time to do the right thing during a catastrophic disaster. Significant local capabilities already exist, including those of domestic military, state, and local first responders, the private sector, and nongovernmental organizations. The challenge is to access and integrate these capabilities to improve preparedness in the near term.

We present three major recommendations:

- DHS should create regional offices to increase preparedness. Its primary goal should be enhanced regional coordination of the preparedness activities of state and local governments, the private sector, nongovernmental organizations, and federal agencies. The regional offices should not have policymaking or grant-making responsibilities. Instead, the offices should work in partnership with state, local, and private organizations in their regions to identify critical gaps in preparedness and critical infrastructure protection, communicate these needs to the staff of DHS's homeland security grant programs, and monitor the adequacy of appropriations in addressing these needs.
- Regional offices should complement a more robust and effective incident command system at the federal level that is designed to integrate effectively with regional responders.
- The field offices should drive the improvement of professional development within homeland security, similar to the Defense Department's Goldwater–Nichols reforms and including education, assignment, and accreditation requirements.

Together, these recommendations emphasize the importance of regional preparedness based on partnership and cooperation across governments and sectors.

Empowering America: A Proposal for Enhancing Regional Preparedness

Homeland Security Policy Institute Task Force

In the Homeland Security Act of 2002, Congress required the Department of Homeland Security (DHS) to propose a framework for regional operations. The Secretary of Homeland Security had one year to develop and submit to Congress a plan to consolidate and collocate the field offices under DHS control and any other federal field offices and regional operations that fell within DHS's responsibilities. Secretary Tom Ridge's initial plan fell on deaf ears in the legislative and executive branches.

Hurricane Katrina showed the cost of this inaction. Both the White House report *Katrina: Lessons Learned* and a report of the House of Representatives Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina conclude that regional field offices are a crucial but missing piece of our homeland security system. It is time for Congress to set out the missions, organization, authorities, and resources for DHS field offices and put a comprehensive regional plan into effect.

This report, written by a task force of scholars organized by The Heritage Foundation and The George Washington University's Homeland Security Policy Institute, focuses on regional preparedness. The task force agreed to focus on preparedness as a first step in building regional capabilities. We do not address incident management and operational response—important aspects of regional organization—in this paper.

Regional preparedness is crucial to building a national response system that allows local communities, states, and the federal government to work together to make sure that the right resources get to the right place at the right time to do the right thing during a catastrophic disaster. The involvement of state and local officials and private-sector entities in a regional preparedness system engages them as true partners in homeland security. Regional preparedness works in the best interests of the states by providing state leaders with a single point of contact in the federal government for their preparedness needs. Likewise, federal preparedness officials who are steeped in the process of regional planning, training, and education will be well-versed in the specific needs of their regions.

Regional field offices should help build state and local preparedness capabilities; facilitate regional cooperation among governments, the private sector, and nongovernmental organizations (NGOs); and plan and exercise with federal entities that will support the regional response to disasters, with a focus on response to catastrophic threats. Significant local capabilities already exist, including those of domestic military, state, and local first responders, the private sector, and nongovernmental organizations. The challenge is to access and integrate these capabilities to improve preparedness quickly.

We present conclusions in four areas: roles and missions, organization, authorities, and resources. *Roles and missions* concerns the organization and conduct of operations for the most critical preparedness and coordination tasks. *Organization* considers the structure and functions of the regional offices, as well as their place in the large DHS structure. *Authorities* addresses the adequacy of the legal authorities and policies governing regional offices' activities. *Resources* analyzes the allocation of resources and the ability to respond effectively and efficiently to critical missions.

Together, these recommendations emphasize the importance of regional preparedness based on partnership and cooperation across governments and sectors.

I. Roles and Missions

Findings

- **Federalism is a strength, not a constraint.** Any regional framework must be consistent with constitutional principles. Aiding states in response to catastrophic events is among the federal government's roles. State and local governments have the constitutional responsibility to provide for the health, safety, and welfare of their citizens. State leadership makes sense because state and local officials know the needs of their communities best and are well-placed to provide immediate, on-the-ground response following disasters. Furthermore, federal, state, and local governments working as partners with NGOs and the private sector can accomplish more than each individually and leverage assets beyond those of just the government.
- **Retain an all-hazards approach.** Any regional structure needs to be part of an outcomes-based, requirements-driven system. An all-hazards, risk-based approach to emergency management—a single response system that meets a range of potential disasters, including natural, accidental, and deliberate disasters—is the best one. Many of the instruments and policies required to prevent, respond to, and recover from terrorist acts are the same as those needed to address natural disasters.
- **Develop shared situational awareness of available capabilities and resources.** While Hurricane Katrina exposed shortcomings in capabilities and resources at all levels, the principal lesson of Katrina is that all levels of government failed to leverage the considerable capabilities and resources that already existed rapidly and effectively as part of a coordinated approach. They are bound to fail again when the next catastrophic disaster strikes. Currently, potential responders have no shared understanding of what capabilities and assets are available for use in a crisis—from federal, state, and local government assets to resources from the private sector and NGOs. There still is not even any system in place to accept assets and suitable goods from the private sector and NGOs during a crisis.
- **Focus on planning, not plans.** To respond effectively to a crisis, planning—more than any other factor—must occur in advance. Planning drives requirements, programming, budgeting, training exercises, and rapid decentralized execution. Ultimately, however, it is necessary to keep plans flexible in order to adapt to the current circumstances on the ground. In a time of crisis, plans provide responders with a starting point for action.
- **Critical infrastructure protection must be part of planning.** Protecting critical infrastructure is a national responsibility shared by all levels of government and the private sector. Ownership, location, and types of critical infrastructure vary greatly. The private sector, NGOs, state and local governments, and the federal government must work together to ensure critical infrastructure protection and resiliency.
- **Focus on catastrophic disasters.** The United States currently has a tiered disaster response system. Local leaders request state resources when they have exhausted their own. In turn, state leaders ask the federal government for aid when their means are exceeded. Catastrophic disasters are of a different magnitude. State and local resources are usually destroyed or exhausted immediately, and state and local government officials may have difficulty determining and communicating their needs. In these situations, federal resources are needed immediately and in massive amounts despite likely difficulties that may impede communication and delivery.

Recommendations

- **Preparedness missions.** Within the sphere of preparedness, DHS's regional offices should have four key missions: (1) facilitating regional planning, (2) organizing regional exercises and training, (3) helping states and local communities to prepare for catastrophic events, and (4) coordinating critical infrastructure protection.

- **Key partnerships.** The regional offices should work in partnership with state, local, and private authorities in their regions to identify critical gaps in preparedness and critical infrastructure protection. The offices should communicate these needs to those in DHS who are responsible for allocating homeland security grants rather than wield policymaking and grant-making responsibilities themselves.
- **The point of contact.** To build the nation's ability to respond to catastrophic events, DHS's regional offices need to be the point of contact between DHS, the Department of Defense (DOD) (and, specifically, U.S. Northern Command, known as NORTHCOM), and the states for joint DOD–DHS contingency planning.
- **A national plan.** When the impact of a disaster overwhelms the ability of a state government to respond and it becomes necessary for the regional office to participate in the response, it should do so as part of an integrated, functional approach that follows the National Response Plan (NRP). The regional offices should enable the development of a strong federal incident management structure.
- **Coordination.** The regional field offices should be capable of improving information sharing and other forms of coordination among the states, the private sector, and federal officials in Washington.
- **The final contingency.** Regional offices should help to establish regional evacuation plans that consider both the back-end capacity necessary to facilitate a regional evacuation and the needs of destination jurisdictions. Each regional office should provide a forum for the federal, state, and local governments, the private sector, NGOs, and other stakeholders to develop and exercise these plans.

II. Organization

Findings

- **Federal assets should not be regionalized.** A plan that regionalizes all federal emergency-preparedness and response assets will divert focus from incident management, reduce the effectiveness of other entities within DHS, and disrupt disaster response at a time when DHS continues to wrestle with the difficult and complex task of integrating all of its components. By the time catastrophe strikes, a clear process for "pulling down" the full complement of federal capabilities and resources must be ready and available. The focus needs to be on building a strong incident management system within DHS and throughout the federal government. The federal government's incident management system should be built to facilitate regional responses.
- **Emergency support functions are inadequate for regional planning.** There are currently 15 emergency support functions (ESFs) within the National Response Plan. Most of these ESFs reflect a narrow view of federal assistance to state and local governments during crises. When a catastrophe strikes, the federal government must provide the assistance that states and municipalities actually need, regardless of whether this assistance fits neatly into one or another ESF. Federal support to state and local governments under the NRP should be provided according to missions rather than ESFs.
- **The lack of uniform credentialing hobbles interagency coordination.** Currently, no standards exist for credentialing response personnel across jurisdictions. Further, the definition of "first responder" does not encompass all of those who may be critical to an effective response and need immediate access to the disaster area. As a result, verification of identification, affiliation, and expertise cannot be accomplished rapidly during a crisis. Homeland Security Presidential Directive (HSPD) 12, which requires secure, uniform credentials across the federal government, is a good first step. So far, no similar or complementary requirement exists at the state and local level.
- **Professional development standards are lacking.** The nation lacks a professional development and education system for homeland security professionals. As required by the Goldwater–Nichols Act, the Department of Defense established a professional development model based on education, assignments,

and accreditation. Homeland Security needs a similar professional development process. In addition, Goldwater–Nichols institutionalized the concept of "jointness," achieving greater cohesion, agility, and responsiveness through inter-force planning and cooperation. This mindset is necessary for successful leadership within DHS and state, local, and private emergency management.

- **Regional offices must have sufficient stature to carry out their role.** The DHS elements that work best—that have the highest morale and thus the greatest effectiveness—are those that combine prominent stature with sufficient authority to carry out their missions. The directors of the new organizations that have been successful have had significant authority and latitude from the start, and their charters clearly articulated that authority with respect to the departments and agencies with which they interact daily.

Recommendations

- **Think broadly.** Regional offices should focus on the anticipated needs of state and local governments and the private sector during a crisis. The NRP groups the 15 ESFs into four broad categories: emergency services, infrastructure support, human services, and community recovery and mitigation. Federal assistance to state and local governments during crises should focus on these categories and should cut across all agencies and areas of government rather than focusing on narrowly drawn ESFs or single agencies.
- **Leadership.** The President should appoint, and the Senate should confirm, a director of each DHS regional office. These directors should have experience in state and local governance, emergency preparedness, and management. Five years of each type of experience should be required, although the President should have the ability to waive this requirement in extraordinary circumstances or in the interests of national security. Regional directors should be trained and qualified to act as Principal Federal Officials (PFOs), who lead the federal response to a crisis under the National Response Plan. Ideally, regional directors will have studied homeland security issues at the proposed National Homeland Security University. Regional directors should report to the Under Secretary for Preparedness in DHS.
- **Staffing.** Regional offices should employ no more than two dozen people. Staff positions should be filled on a two-year rotating basis by DHS personnel, state and local government personnel, NGO employees detailed to DHS, and private-sector specialists and leaders who have been trained and accredited through a National Homeland Security University. As necessary, and upon appropriate background checks, staff from outside DHS should be afforded security clearances. Rotations would provide critical experience to future public officials and leaders in these fields, as well as promote interagency and intergovernmental cooperation.
- **Wide integration.** Each DHS regional office should integrate all relevant federal agencies. In addition to DHS employees, each DHS regional office should include representatives from the Department of Health and Human Services (HHS), the Coast Guard (USCG), the National Guard, and NORTHCOM. It might also be prudent to include liaisons from other federal entities, such as the Department of Transportation (DOT), the Federal Bureau of Investigation (FBI), and the Department of Veterans Affairs, for input on issues like evacuation planning, law enforcement during crises, and the use of the National Disaster Medical System (NDMS), respectively. DHS regional personnel and Federal Emergency Management Agency (FEMA) regional personnel should closely coordinate their activities. DHS's regional offices should, at least initially, be positioned together with current FEMA offices.
- **An asset plan.** Each regional office should have a position responsible for developing a comprehensive inventory of federal, state, local, and private-sector assets that would be available in the region during crises. This officer should also be responsible for developing and implementing, in consultation with all participants, plans and mechanisms to accept assets from the private sector and NGOs as well as contingency plans for when assets and capabilities become unavailable—e.g., DOD assets that have been sent into the field.

- **Private information.** To encourage the private sector to share information on its vulnerabilities, Congress should consider indemnifying companies from liability for sharing certain types of information and should direct the Secretary of Homeland Security to develop procedures for sector-specific Information Sharing and Analysis Centers (ISACs) to protect proprietary information from competitors.
- **Professional development.** As Congress and DHS consider establishing a National Homeland Security University, DHS should implement a Goldwater–Nichols-like approach to training and professional development for homeland security professionals. Regional office personnel should be graduates of a program in the National Homeland Security University or a program recognized by the National Homeland Security University and accredited by the Department of Homeland Security. Advancement to senior civil service positions in DHS should require a rotation through a regional office and, potentially, detailing to other levels of government or the private sector.

III. Authorities

Findings

- **The law is not the problem.** Generally, current legal authorities are sufficient to create a robust regional structure for DHS, to integrate that structure with state and local governments, and to carry out the preparedness and critical infrastructure protection missions discussed in this report. (This report does not address legal issues concerning operational regional response to a catastrophic incident.) Federal and state emergency authorities are very broad, and the government's power to act is broadest in times of crisis. However, planning processes must be sufficiently robust to make good use these authorities.
- **Gaps exist in authorities for public–private coordination.** Existing authorities are insufficient to allow meaningful private-sector integration into preparedness efforts. This is especially important for private-sector providers of critical infrastructure services, such as communications, energy, health care, food, and essential commodities. Currently, no legal system exists for creating or maintaining an inventory of such assets.
- **HSPD-5 and HSPD-8 adequately articulate executive branch policy.** HSPD-5 directs the Secretary of Homeland Security to develop and administer the National Incident Management System—a common approach and process to prepare for, prevent, respond to, and recover from incidents—and the National Response Plan, which dictates when a Principal Federal Official will be appointed to oversee and coordinate the federal response to "Incidents of National Significance." The responsibilities and policies articulated in HSPD-5 and HSPD-8 are entirely consistent with the recommendations of the White House and House of Representatives reports on Katrina.
- **Interagency coordination at the regional level is still insufficient.** Four years after 9/11, interstate regions continue to struggle with regional assistance arrangements and effective integration of federal and out-of-state resources. Federal first-responder grant programs are intended, in part, to foster regional coordination and cooperation, but much more needs to be done. Regional coordination and cooperation maximize the effectiveness of scarce preparedness funds, eliminate duplication of effort, and build effective preparedness and response networks by integrating federal, state, and local assets. Mutual-aid agreements, regional coordination plans, and interstate compacts such as the Emergency Management Assistance Compact facilitate regional coordination and reduce legal risk.
- **No clear federal authority exists to evaluate and report on regional and interagency preparedness activities.** While state and metropolitan regional grants provide a basis for evaluating the effectiveness of preparedness activities at those levels, no one produces independent assessments of the effectiveness of regional planning and interagency preparedness activities that include the federal government's activities.

Recommendations

- **Unify authorities.** HSPD-5 should be implemented with the assistance of the joint regional structure to standardize incident management processes and create effective federal, state, and local unity of command and operations in complex situations.
- **State and local clarity.** State and local officials should ensure that they clearly understand the scope and depth of their legal authority to respond to incidents. Clear documentation of these governments' powers is important in preparedness planning.
- **Effectiveness.** Congress should establish a Special Interagency Inspector General (SIIG), modeled on the Special Inspector General for Iraq, who would evaluate the effectiveness of interagency regional preparedness activities, including federal grants and regional exercises. The SIIG would report to the secretaries of the relevant federal agencies, including DHS, DOD, and HHS. The SIIG should work with the Inspectors General (IGs) of these departments on preparedness-related activities. SIIG personnel should be accredited homeland security professionals with suitable experience and education, and IG personnel from relevant departments should rotate through assignments in the SIIG. During crisis response, the SIIG should be authorized to serve as the IG for evaluating the effectiveness of the response.
- **The private sector.** Authorities must be modified to allow better information sharing between government and the private sector, to allow private-sector experts and leaders to rotate through regional preparedness structures, and to permit private-sector entities to participate as full partners in regional preparedness efforts. Authorities must also contemplate private-sector access to incident sites for response, restoration, and recovery as well as standardized training and credentialing of private-sector responders. At the same time, these changes must not jeopardize the ability of corporations to participate in open and fair contracting processes.
- **Coherent authorities.** Congress should examine whether existing authorities, including current laws and systems within government agencies, such as relating to quarantine, are sufficient to respond to pandemic outbreaks and acts of bioterrorism and whether federal authorities conflict with or complement state and local authorities in each region. The Secretary of Homeland Security and the regional directors should assess, in consultation with all participants, the coherence of federal, state, and local authorities within each region and the consistency of authorities between contiguous regions.

IV. Resources

Findings

- **Federal funding should focus on building effective regional response capabilities.** The post-9/11 rush to build state and local governments' capacity to respond to terrorism was understandable, but this approach will not build the national system of integrated federal, state, and local capabilities needed to protect the nation over the long term. Instead, funding should be risk-based and address all catastrophic hazards.
- **DHS is not adequately funded to establish regional field offices.** Regional offices cannot be established with existing appropriations and full-time equivalent employees (FTEs). DHS will need additional appropriations to establish and staff regional field offices. To facilitate interagency and intergovernmental cooperation, DHS should have sufficient funds to provide for the education, training, accreditation, and salaries of all personnel in the regional field offices, including personnel from other agencies, other levels of government, and the private sector.
- **The DHS regional framework can save money and increase efficiency by identifying redundancies and promoting consolidations across geographic boundaries.** The July 2002 National Strategy for Homeland Security called for enhanced cooperation among actors at the various levels of government

and in the private sector to avoid duplication and improve the integration of scarce national homeland security assets. Obvious candidates for improved integration include information technology systems and administrative activities, but other areas—such as communications networks and equipment purchasing—offer additional opportunities for savings.

- **Interoperable communications are essential for multi-jurisdictional incident response.** Ultimately, regionally interoperable communications networks are essential for effective regional disaster response. As well, larger communications networks provide substantial efficiencies of scale.

Recommendations

- **State grants.** Congress should reduce or eliminate the minimum allocations for state homeland security grants stipulated by the USA PATRIOT Act.
- **Funding.** Regional offices should be federally funded. The offices would fulfill the federal responsibility of coordinating preparedness and play a critical role in helping states to develop the kinds of capabilities needed to participate in a national catastrophic-disaster response system. Regional offices should receive direct appropriations for joint exercise programs (which should be federated and require as little preparation for use as possible), contingency planning, operations centers and communications, training facilities and programs, and continuity of operations.
- **Shared responsibility.** Federal funds cannot meet and should not be expected to meet all of the nation's homeland security needs. Public safety is a shared responsibility; states, counties, cities, and other units of government are responsible for providing staff, equipment, and services. Federal funds should be a last resort in a crisis after local and state resources are exhausted. Grants from Washington should encourage the development of specific capabilities and should ensure effective integration of federal, state, and local assets in order to construct a true national capacity to conduct domestic counterterrorism and disaster response.
- **Interoperability.** Communications interoperability should be regionally based to ensure the functional integration of all resources and responders across regions. Communications networks can and should cross organizational and governmental boundaries.
- **Accountability.** Congress should establish and fund the Special Interagency Inspector General's office.
- **Assets.** Congress should appropriate funds for DHS to regionalize assets, where appropriate, to improve incident command in support of regional response.

The Way Forward

Regional preparedness is critical. The cost of failing to implement a regional framework is too high to delay any longer. The price of delay can already be measured in terms of lives lost. The path forward, however, is marked by complexity and riddled with potential pitfalls and stumbling blocks.

We know this complexity first-hand. Within this task force, the full membership concurred on the findings and recommendations published in this report, but our views do vary on the role of the regional field offices in incident management and response. It will take time for the homeland security community to reach consensus on those issues, but that is no reason to put off the important steps that can be taken today. Improving regional preparedness is the first step for and the main mission of regional DHS offices. The recommendations put forward in this report represent a consensus approach that will rapidly improve the nation's disaster preparedness in a manner that is pragmatic, cost-effective, and consistent with federalism.

(The George Washington University Homeland Security Policy Institute intends to expand on the views presented in this report in a subsequent publication. The opinions expressed in that publication will be those of its authors alone and not necessarily those of the authors of this report.)