Mutual Aid, NIMS, and Interoperable Communications 2006

By Alan D. Cohn[1]

One year ago, I presented the paper *Mutual Aid, the National Incident Management System, and Interoperable Communications*, describing the interrelationship between these three key domestic preparedness systems and concepts. As noted in last year's paper, municipal governments face the triple challenge of establishing local and regional mutual aid relationships, implementing the National Incident Management System ("NIMS"), and creating regional and statewide interoperable communications networks. These are interrelated challenges that should be addressed in an integrated fashion.

The NIMS is "a consistent nationwide approach for Federal, State, and local governments to work effectively and efficiently together to prepare for, respond to, and recover from domestic incidents, regardless of cause, size or complexity."[2] Rooted in the concepts of the Incident Command System ("ICS"), which was developed in the 1970's to manage large wildfires, the NIMS is not a plan but rather a common language and structure for incident response that facilitates interagency and multi-jurisdictional coordination and cooperation.

Mutual aid agreements are "the means for one jurisdiction to provide resources, facilities, services, and other required support to another jurisdiction during an incident."[3] Mutual aid agreements can be between neighboring jurisdictions; among all jurisdictions in a geographic

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[2] U.S. DEPARTMENT OF HOMELAND SECURITY, NATIONAL INCIDENT MANAGEMENT SYSTEM (2004), *available at* http://www.fema.gov/emergency/nims/index.shtm [hereinafter "NIMS].

[3] NIMS, at 39.

region; or between states or among different levels of government, *e.g.*, between several states and the federal government.[4]

Interoperable communications is defined by the federal government's Project SAFECOM as "the ability of public safety agencies to talk across disciplines and jurisdictions via radio communications systems, exchanging voice and/or data with one another on demand, in real time, when needed, and as authorized."[5] Interoperable communications is often thought of as a technical challenge. However, technical aspects are only one part of the interoperability problem.

Project SAFECOM describes the "Interoperability Continuum" in terms of five key elements: (1) Governance; (2) Standard Operating Procedures; (3) Technology; (4) Training & Exercises; and (5) Usage. Project SAFECOM recommends following six principles in order to drive progress across all five key elements in the Interoperability Continuum:

- Gain leadership commitment from all disciplines;
- Foster collaboration across disciplines;
- Interface with policy makers to gain leadership commitment and resource support;
- Use interoperability solutions on a regular basis;
- Plan and budget for ongoing updates to systems, procedures, and documentation; and
- Ensure collaboration and coordination across all five key elements.

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[4] *See generally* Alan D. Cohn, *Mutual Aid: Intergovernmental Agreements for Emergency Preparedness and Response*, 37 URB. LAW. 1 (2005).

[5] U.S. DEPARTMENT OF HOMELAND SECURITY, INTEROPERABILITY CONTINUUM: A TOOL FOR IMPROVING PUBLIC SAFETY COMMUNICATIONS AND INTEROPERABILITY, *available at* http://www.safecomprogram.gov/SAFECOM/library/interoperabilitybasics/1190_interoperabilitycontinuum.htm [hereinafter "Interoperability Continuum"].

Examining the five key elements of interoperability and the six principles that drive progress towards interoperability, the interrelationship between the NIMS, mutual aid agreements, and interoperable communications becomes apparent. Multi-jurisdictional governance structures depend on effective mutual aid and other regional coordination arrangements, and a strong mutual aid network can support the development of regional interoperability governance structures. Indeed, an interoperability governance structure would ideally be a subcomponent of a larger regional preparedness and response network. Similarly, the NIMS provides the underpinning for interagency and multi-jurisdictional standard operating procedures, by giving all participating jurisdictions a common language and incident management structure upon which standard operating procedures can be built.

Thus, the triple challenge of establishing local and regional mutual aid arrangements, implementing the NIMS, and creating regional and statewide interoperable communications networks are in fact a single challenge of effective regional preparedness. As a result, municipal governments should approach NIMS implementation, regional coordination through mutual aid agreements, and interoperable communications as related issues, and should attempt to address them through integrated municipal ordinances and directives, and on a coordinated basis by municipal elected officials, attorneys, and policymakers.[6]

[6] The Department of Homeland Security's Fiscal Year 2006 Homeland Security Grant Program ("HSGP"), the Department's primary first responder preparedness grant program, preconditions funding on compliance with milestones set forth in the interim National Preparedness Goal (NPG). The NPG identifies expanded regional coordination and NIMS implementation as key overarching priorities, and strengthened interoperable communications capabilities as a critical capability-specific priority. Thus, a single integrated approach to NIMS implementation, regional coordination through mutual aid relationships, and interoperable communications maximizes eligibility for federal preparedness grant funding. *See* U.S. DEPARTMENT OF HOMELAND SECURITY, FY 2006 HOMELAND SECURITY GRANT PROGRAM: PROGRAM GUIDANCE AND APPLICATION KIT (2005), *available at* http://www.ojp.usdoj.gov/odp/docs/fy2006hsgp.pdf; U.S. DEPARTMENT OF HOMELAND SECURITY, INTERIM NATIONAL PREPAREDNESS GOAL (2005), available at http://www.ojp.usdoj.gov/odp/docs/InterimNationalPreparednessGoal_03-31-05_1.pdf. Fiscal year 2006 NIMS compliance requirements are available from the NIMS Integration Center, http://www.fema.gov/emergency/nims/index.shtm.