

# **PREPARE TO PREVENT OR RESPOND TO CATASTROPHIC TERRORIST ATTACKS**

A terrorist attack in the United States using a biological agent, deadly chemicals, or nuclear or radiological material, even if only partially successful, would profoundly affect the entire nation, as would a series of conventional attacks or a single bombing that caused thousands of deaths. Given the trend toward more deadly terrorist attacks and indications that mass casualties are an objective of many of today's terrorists, it is essential that America be fully prepared to prevent and respond to this kind of catastrophic terrorism.

Over the past few years, the U.S. Government has taken a number of positive steps. Several Presidential Directives have effected major changes in organizational responsibilities and improved cooperation. The Department of Health and Human Services' Strategic Plan, the Attorney General's Five-Year Plan, the establishment of a military Joint Task Force for Civil Support, and improvement in first responders' capabilities are valuable efforts, but there is still more to do.

**There is a risk that, in preventing or responding to a catastrophic terrorist attack, officials may hesitate or act improperly because they do not fully understand their legal authority or because there are gaps in that authority.**

There is some statutory authority that does not now exist that should be considered for catastrophic conditions. For example:

- Federal quarantine authority cannot be used in a situation that is confined to a single state.
- Not all cities or states have their own quarantine authority.

- There is no clear federal authority with regard to compelling vaccinations, or rationing scarce vaccinations, or requiring autopsies when necessary for a terrorism investigation.

***"In addition to the potentially massive numbers of physical casualties or deaths, bioterrorism, by threat or in fact, will create a devastating number of psychological casualties. A bioterrorist event is different from all other forms of terrorism in its potential to precipitate mass behavior responses such as panic, civil disorder and pandemonium."***

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The Constitution permits extraordinary measures in the face of extraordinary threats. To prevent or respond to catastrophic terrorism, law enforcement and public health officials have the authority to conduct investigations and implement measures that temporarily exceed measures applicable under non-emergency conditions. These may include cordoning off of areas, vehicle searches, certain medical measures, and sweep searches through areas believed to contain weapons or terrorists.

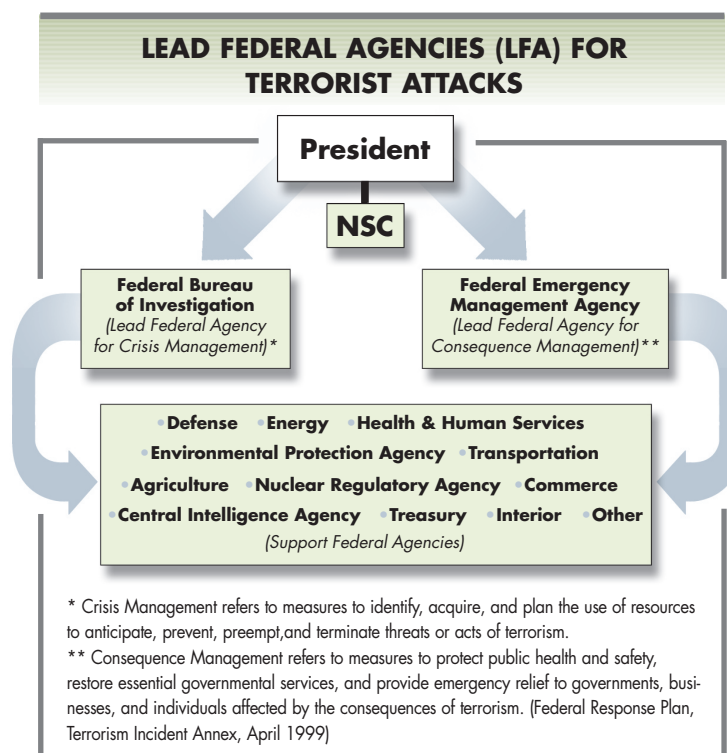
Determining whether a particular measure is reasonable requires balancing privacy and other rights against the public interest in coping with a terrorist threat which may lead to massive casualties. Advance preparation is the best way to deal successfully with a terrorist incident without jeopardizing individuals' Constitutional rights.

### **Recommendations:**

- The President should direct the preparation of a manual on the implementation of existing legal authority necessary to address effectively a catastrophic terrorist threat or attack. The manual should be distributed to the appropriate federal, state, and local officials and be used in training, exercises, and educational programs.
- The President should determine whether any additional legal authority is needed to deal with catastrophic terrorism and make recommendations to Congress if necessary.

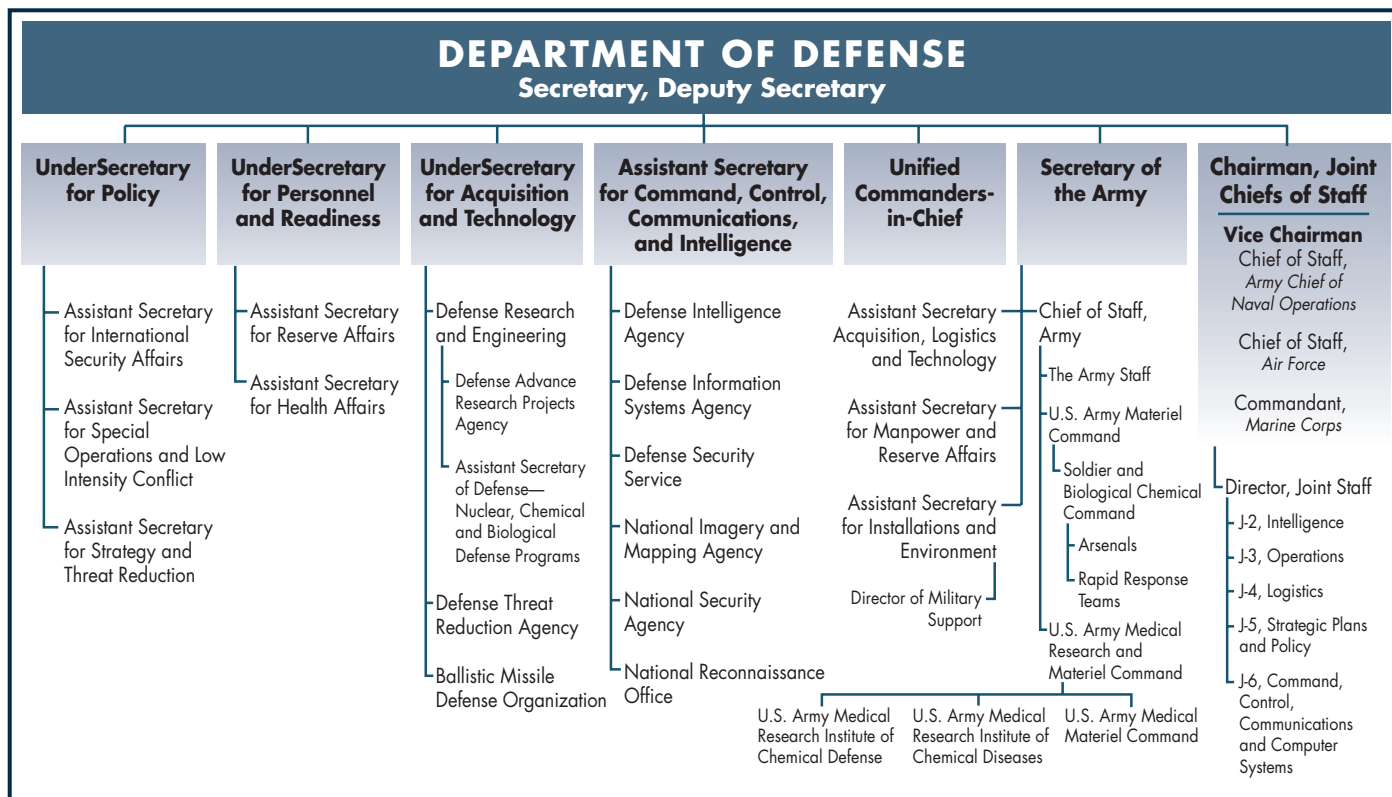
**The U.S. Government’s plans for a catastrophic terrorist attack on the United States do not employ the full range of the Department of Defense’s (DoD’s) capabilities for managing large operations. Additionally, the interagency coordination and cooperation required to integrate the DoD properly into counterterrorism planning has not been accomplished.**

The Department of Defense’s ability to command and control vast resources for dangerous, unstructured situations is unmatched by any other department or agency. According to current plans, DoD involvement is limited to supporting the agencies that are currently designated as having the lead in a terrorism crisis, the FBI and the Federal Emergency Management Agency (FEMA). But, in extraordinary circumstances, when a catastrophe is beyond the capabilities of local, state, and other federal agencies, or is directly related to an armed conflict overseas, the President may want to designate DoD as a lead federal agency. This may become a critical operational consideration in planning for future conflicts. Current plans and exercises do not consider this possibility.



An expanded role for the DoD in a catastrophic terrorist attack will have policy and legal implications. Other federal agencies, the states, and local communities will have major concerns. In preparing for such a contingency, there will also be internal DoD issues on resources and possible conflicts with traditional military contingency plans. These issues should be addressed beforehand.

Effective preparation also requires effective organization. The DoD is not optimally organized to respond to the wide range of missions that would likely arise from the threat of a catastrophic terrorist attack. For example, within DoD several offices, departments, Unified Commands, the Army, and the National Guard have



overlapping responsibilities to plan and execute operations in case of a catastrophic terrorist attack. These operations will require an unprecedented degree of interagency coordination and communication in order to be successful.

There are neither plans for the DoD to assume a lead agency role nor exercises rehearsing this capability. Hence, these demanding tasks would have to be accomplished on an ad hoc basis by the military.

**Recommendations:**

- The President should direct the Assistant to the President for National Security Affairs, in coordination with the Secretary of Defense and the Attorney General, to develop and adopt detailed contingency plans that would transfer lead federal agency authority to the Department of Defense if necessary during a catastrophic terrorist attack or prior to an imminent attack.
- The Secretary of Defense should establish a unified command structure that would integrate all catastrophic terrorism capabilities and conduct detailed planning and exercises with relevant federal, state, and local authorities.

**The interagency program and plan for exercising the government's preparedness to respond to a catastrophic terrorist attack is inadequate.**

In addition to DoD exercises, a realistic interagency exercise program, with full participation by all relevant federal agencies and their leaders, is essential for national preparedness to counter a catastrophic terrorist attack. In June 1995, the President established an interagency counterterrorist Exercise Subgroup and program which included preparation for a catastrophic terrorist attack. However, not all federal agencies have participated in or budgeted for these exercises.

Additionally, in September 1998, Congress funded and mandated the Department of Justice and the Federal Emergency Management Agency to conduct a counterterrorism and consequence management exercise, called TOPOFF, involving relevant federal agencies and their senior leadership, with select state and local governments participating, to evaluate the U.S. Government's preparedness for a catastrophic terrorist incident. However, sufficient funding was not provided and there is no requirement to exercise on a regular schedule.

**Recommendation:**

- The President should direct (1) the Exercise Subgroup, under the direction of the national coordinator for counterterrorism, to exercise annually the government's response to a catastrophic terrorism crisis, including consequence management; and (2) all relevant federal agencies to plan, budget and participate in counterterrorism and consequence management exercises coordinated by the Exercise Subgroup and ensure senior officer level participation, particularly in the annual exercises.

**Given the urgency of near-term needs, long-term research and development (R&D) projects on technologies useful to fighting terrorism will be short-changed unless Congress and the President can agree on special procedures and institutional arrangements to work on research that is risky and has more distant payoffs.**

Research and Development spending for new technologies to cope with catastrophic terrorism has significantly increased over the past three years. Most of the funds, however, are targeted on near-term improvements to meet immediate needs for better detectors, more vaccines, and requirements of first responders.

To prevent or cope with terrorist attacks in the future, in particular attacks using CBRN agents, the U.S. Government must make greater use of America's dominance in science and technology. No other country, much less any sub-national organization, can match U.S. scientific and technological prowess in biotechnology and pharmaceutical production and quality control, electronics, computer science and other domains that could help overcome and defeat the technologies used by future terrorists. But this kind of R&D requires time—five to ten years or more—to develop new ideas, test hypotheses, craft preliminary applications, and test them. Developing mass production for successful applications further delays getting products into the hands of users.

The following list illustrates, but by no means exhausts, the type of projects that could constitute a long-term R&D program:

- New sensors to detect nuclear weapons in transit (e.g., gamma-ray imaging systems, including stimulation to elicit detectable emissions).
- High power ultraviolet beams to destroy BW agents and to clean up contaminated areas.
- New types of "tripwires" suitable for many different entry-points (e.g., explosive-sniffers, body-scanner), and their prototyping for mass-production.
- Advanced development of anti-virals for smallpox.

The Commission considered several institutional arrangements to manage long-term R&D. One option is establishing a large program at one of the Department of Energy (DoE) or other national laboratories to conduct in-house research, contract for external research, initiate prototyping for production, and involve qualified outside experts. This last task is particularly important in the fields of biotechnology and pharmaceutical production techniques. The goal would be to attract talented biotechnology and pharmaceutical industry scientists and engineers to work with the government for one or two years on high priority projects.

**Recommendation:**

- The President should establish a comprehensive and coordinated long-term Research and Development program to counter catastrophic terrorism.

**Current controls on transfers of pathogens that could be used in biological terrorism are inadequate and controls on related equipment are nonexistent. In addition, current programs of the Department of Health and Human Services are not adequate to ensure physical security of pathogens or to monitor disease outbreaks overseas.**

Terrorists, without serious risk of detection, could obtain pathogens from domestic natural sources, steal them, or import them into the United States. Most pathogens in the United States are tightly controlled, but regulation of laboratories as well as of dangerous agents during transport are designed to prevent accidents, not theft. Moreover, these controls are not as rigorous as controls over nuclear material.



Creating pathogens small and sturdy enough to disperse broadly over a target population for an effective period of time remains, fortunately, a complex process. Thus, regulating the sophisticated equipment required to turn pathogens into weapons could hamper terrorist efforts to acquire this capability.

However, no regulatory scheme is foolproof. Moreover, contagious diseases do not require sophisticated dispersion devices. Thus, it is important to have the ability to detect outbreaks of infectious diseases and to distinguish bioterrorist attacks from natural outbreaks. Some detection and analytical systems are in place domestically, but the international community's ability to distinguish natural disease from terrorism lags far behind even these modest U.S. efforts.

**Recommendations:**

- The Secretary of Health and Human Services should strengthen physical security standards applicable to the storage, creation, and transport of pathogens in research laboratories and other certified facilities in order to protect against theft or diversion. These standards should be as rigorous as the physical protection and security measures applicable to critical nuclear materials.
- The Congress should:
  - Make possession of designated critical pathogens illegal for anyone who is not properly certified.
  - Control domestic sale and transfer of equipment critical to the development or use of biological agents by certifying legitimate users of critical equipment and prohibiting sales of such equipment to non-certified entities.
  - Require tagging of critical equipment to enable law enforcement to identify its location.
- The Secretary of Health and Human Services, working with the Department of State, should develop an international monitoring program to provide early warning of infectious disease outbreaks and possible terrorist experimentation with biological substances.