

# Emergency Preparedness and Response

## BACKGROUND

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### GLOSSARY

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#### **Disaster**

A situation resulting in loss of life, property damage, and/or a threat to public health and safety.

#### **Emergency**

A situation that may result in loss of life, property damage, and/or a threat to public health and safety.

#### **Emergency management assistance compact**

A formal interstate agreement defining how and under what conditions states will aid one another during a disaster or emergency.

#### **First responders**

The first people sent to a disaster or emergency site—e.g., firefighters, emergency medical personnel, local law enforcement.

#### **Mutual aid compact**

A contract between two or more units of government setting out payment, liability protection, and rules for police, fire, or other public personnel in the event of an emergency or disaster.

#### **Weapon of mass destruction (WMD)**

Usually, a weapon containing a nuclear, biological (e.g., anthrax, smallpox, salmonella) or chemical (e.g., nerve agent) payload, but some agencies use a broader definition: For example, the FBI considers the 1995 Oklahoma City bombing to be a WMD attack due to the amount of conventional explosives used and the resulting harm to life and property.

Most people's idea of civil emergency preparedness and response is demarcated sharply by September 11, 2001. Before that, a "disaster" usually meant a flood, tornado, or other natural event after which the affected towns and counties need additional help to tend to the needs of local residents and businesses. Since September 11 and the delivery of anthrax-tainted mail during the following two months, we have become acutely aware that a disaster may be caused by humans as well as nature. This awareness has shone a bright light on how government is and should be prepared to respond to all calamities, from a storm to a train derailment to a biological attack. Michigan is served by its Emergency Management Act, enacted in 1976, and a number of task forces, teams, and other bodies charged with protecting state residents and infrastructure.

In Michigan law, emergency and disaster are precisely defined, but in practice the former has to do with the *potential* for harm and the latter with *actual* harm having been done. Almost every year a number of situations are declared by the chief executive to be an emergency or disaster. Since January 1, 2000, situations in Michigan have been the subject of five gubernatorial and two presidential declarations.<sup>1</sup>

### Emergency Response in Michigan

When there is an emergency or disaster in Michigan, it is likely that among the first people on the scene (first responders) will be local law-enforcement or public-safety personnel. [Hereafter, for simplicity, "emergency" should be read as meaning either emergency or disaster.] Working through the local chain of command, responders may request additional resources from other government units with which the affected local government has a mutual aid compact. A mutual aid compact is a binding agreement among local units of government that sets out payment, liability protection, and rules for police, fire, or other public personnel responding to an emergency in the jurisdiction of another compact member. Without such an agreement, law-enforcement and other public-safety personnel who respond outside of their jurisdiction may lack authority to offer assistance and may be unprotected from liability.

Local personnel also may contact their county's emergency-management coordinator. Every Michigan county and all municipalities with 25,000 or more residents are required by state law to have an emergency coordinator. (It is optional for smaller municipalities.) When a local official declares a state of emergency and asks for state assistance, the formal request is transmitted from the county's emergency coordinator to the Emergency Management Division (EMD) of the Michigan State Police (MSP). The EMD is the lead emergency agency in Michigan and is responsible for

- coordinating local, state, and federal emergency-management activities;
- preparing and maintaining the Michigan Emergency Management Plan;
- proposing and administering a statewide mutual aid compact;

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<sup>1</sup>Gubernatorial declarations: heavy snow in Emmet County; severe winds in Kalamazoo County; flooding in Genesee County; urban flooding in Wayne County; gasoline pipeline rupture in Jackson County. Presidential declarations: urban flooding in Wayne/Oakland counties; blizzard in 39 counties.

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- providing and maintaining the state Emergency Operations Center;
- issuing rules and establishing standards for emergency-training programs; and
- preparing recommendations to the governor for executive orders, proclamations, and regulations in times of emergency.

The state director of emergency management (MSP director), working with the EMD commander (MSP deputy director), has the power to

- direct state disaster-relief forces;
- administer state and federal disaster-relief funds and money;
- make recommendations to the governor;
- assign general missions to the National Guard or state defense force to assist with relief operations; and
- receive and investigate requests for assistance from local governments.

Together, the EMD and State Police heads determine whether a state of emergency exists in the requesting locality. Depending on the nature, scope, and magnitude of the event, the EMD may recommend to the governor that s/he declare a state of emergency because local resources have been exhausted. A gubernatorial declaration permits the governor to assume certain extra powers with regard to the emergency area for up to 28 days, including the authority to

- issue executive orders, proclamations, and directives having the force of law;
- seek and accept federal assistance;
- suspend a regulatory statute, order, or rule;
- commandeer or use private property; and
- direct mandatory evacuations and control access to the emergency site.

The nature of the event determines which state or federal agency has the primary responsibility to respond. In the event of a forest fire, for example, the Michigan Department of Natural Resources is the primary agency, while the response to an oil spill on the Great Lakes would be led by the U.S. Coast Guard. The assignment of primary and supporting roles for a wide range of emergencies is set out in the *Michigan Hazard Analysis* framework and other state and federal planning documents.

Considerable Michigan legislative activity followed the September 11 attacks. Among the first laws enacted were Public Acts 247 and 248 of 2001, making Michigan a member of the national Emergency Management Assistance Compact. The compact establishes procedures whereby member states may request training and emergency assistance from the compact and provides for (1) command and control of responding personnel and (2) limited liability immunity for personnel rendering assistance in another state. Michigan, which had been planning to join the compact prior to the September 11 attacks, became the 43d signatory. In addition to this step, the State Police, attorney general, secretary of state, and legislative leaders reached agreement on various other anti-terrorism measures to be introduced as legislation. In total, 46 bills were introduced, 34 of which have been enacted as of this writing (see the exhibit); the remainder still are under consideration.

### Michigan's Statewide and Regional Emergency Response Resources

- *Michigan National Guard Civil Support Team* This group—officially a Military Support Detachment/Rapid Assessment and Initial Detection (MSD/RAID) team—is a 22-member group of National Guard troops who have specialized training and equipment enabling them to respond to attacks involving weapons of mass destruction (WMDs). Until November 15, 2001, Michigan's team was a "light" team—that is, it comprised part-time guard members; the nearest "heavy" (full-time) team was located in Peoria, Illinois. On that date, the U.S. Department of Defense authorized a full-time team to be deployed in Michigan, bringing the total number of national teams to 32. The Michigan team expects to be certified in late 2002, after each member completes more than 650 hours of training from the Michigan State Police, U.S. departments of Defense and Energy, and U.S. Environmental Protection Agency. The team will be located at Fort Custer (near the Battle Creek Air National Guard base).
- *Michigan Hazardous Materials Training Center* Operated by the State Police, the center provides hazardous-materials training to public and private responders. The center was created in 1991 with private-sector donations and is located adjacent to the Michigan State Police Training Academy, in Lansing. Courses include such topics as confined-space rescue, monitoring and sampling hazardous materials, and terrorism-incident planning and response.
- *Michigan Urban Search and Rescue Team (MUSAR)* This is a privately funded team of skilled

## Michigan Anti-Terrorism Legislation, 2001–02

<i>Act Number (All 2002 unless otherwise indicated)</i>	<i>Synopsis and Effective Date</i>
P.A. 225 of 2001	Prohibits firearms, explosives, knives, or other dangerous weapons on commercial airport property. 4/1/02
P.A.s 247–248 of 2001	Make Michigan a member of the Emergency Management Assistance Compact, a mutual-aid agreement among the states, territorial possessions, Puerto Rico, and the District of Columbia. 1/8/02
P.A. 24	Provides sentencing guidelines for possessing a dangerous weapon on commercial airport property. 3/6/02
P.A. 112	Allows a judge to suppress delivery of an affidavit to a person served a search warrant if necessary to protect an investigation or the safety of a victim or witness. 4/22/02
P.A. 113	Creates the Michigan Anti-Terrorism Act and declares an act of terrorism—and providing material support for terrorism—to be a felony. 4/22/02
P.A. 114	Clarifies procedures under which law-enforcement agencies may share grand jury information about terrorism-related investigations and crimes. 5/1/02
P.A. 115	Prohibits a person from obtaining or possessing a blueprint or other diagram of a public building for the purpose of committing an act of terrorism. 4/22/02
P.A. 116	Amends the list of “vulnerable targets,” adding stadiums, transportation structures (including bridges and tunnels), public utilities (e.g., gas pipelines and electric generating plants), airports, and port facilities; additional felony penalties apply to someone convicted of committing an act of terrorism against them. 4/22/02
P.A. 117	Prohibits a person from using the Internet or other telecommunications device to impair public safety or government operations with the intent to commit an act of terrorism. 4/22/02
P.A. 118	Prohibits drivers from transporting hazardous material without a hazardous-material endorsement on their operator’s license. 5/1/02
P.A. 119	Includes acts of terrorism punishable by life imprisonment among the crimes to which a statute of limitations does not apply. 4/22/02
P.A. 120	Requires someone convicted of an act of terrorism to reimburse affected government entities for incident-related expenses, including emergency response and prosecution. 4/22/02
P.A. 121	Gives National Guard members certain protections with regard to their civilian job when they are called into state service; makes Michigan’s protections the same as federal protections. 4/1/02
P.A. 122	Defines as felonies terrorist threats, acts of terrorism that do not cause death, and soliciting support for an act of terrorism. 4/22/02
P.A. 123	Amends the Michigan Code of Criminal Procedure to include sentencing guidelines for poisoning (or making a false report of poisoning) food, drink, medicine, or water supplies. 4/22/02
P.A. 124	Amends the definition of racketeering to include an act of terrorism. 4/22/02
P.A. 125	Requires hospitals to develop and maintain a plan for detecting and handling biohazards. 4/1/02
P.A. 126	Amends the Michigan Vehicle Code to increase the penalty for creating, possessing, selling, or obtaining a fake driver’s license. 4/22/02
P.A. 127	Amends the Michigan Code of Criminal Procedure to include sentencing guidelines for forging, selling, or possessing a fake driver’s license. 4/22/02
P.A. 128	Specifies that a search warrant, affidavit, or tabulation contained in any court file or record-retention system is not public information. 4/22/02
P.A. 129	Allows a person to be prosecuted for a criminal offense—even if s/he is not located in Michigan—if the offense was conducted partly in Michigan or resulted in substantial and detrimental effects in Michigan. 4/22/02
P.A. 130	Exempts from Freedom of Information requests a public body’s emergency-response plans, risk planning and threat assessments, and domestic-preparedness strategies. 5/1/02
P.A. 131	Defines a terrorist organization and excludes First Amendment activities from the definition of terrorism. 4/22/02
P.A. 132	Amends the Emergency Management Act to extend the maximum effective duration of an emergency or disaster from 14 to 28 days; authorizes the State Police Emergency Management Division to administer statewide mutual-aid compacts; and permits “heightened state of alert” declarations to warn of terrorist activities and gives the governor limited emergency powers during such a state. 5/1/02



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P.A. 133	Amends the Michigan Military Act to grant additional law-enforcement powers to the National Guard when responding to terrorism or protecting the state's vital resources, including military installations. 5/1/02
P.A. 134	Establishes possession of a fake incendiary device, explosive, or bomb as a felony. 4/22/02
P.A. 135	Increases the punishment for tampering with a food, drink, nonprescription medicine, or pharmaceutical product or poisoning a spring, well, reservoir, or public water supply. 4/22/02
P.A. 136	Expands the definition of money laundering to include proceeds from acts of terrorism. 4/22/02
P.A. 137	Amends the Code of Criminal Procedure to include sentencing guidelines for acts of terrorism. 4/22/02
P.A. 140	Amends the list of "vulnerable targets," adding petroleum refineries, storage facilities, and pipelines; vehicles, trains, aircraft, or boats used to transport the public; and federal, state, and local governmental buildings. Additional felony penalties apply to someone convicted of committing an act of terrorism against them. 4/22/02
P.A. 141	Requires that someone convicted of terrorism to make monetary restitution to victims and units of government for the terrorism act(s). 4/22/02
P.A. 142	Adds an act of terrorism to the list of situations in which real and/or personal property may be seized by and forfeited to state and local government. 5/1/02
P.A. 143	Amends the Code of Criminal Procedure to add sentencing guidelines for acts of terrorism. 4/22/02

NOTE: These are 34 of the 46 anti-terrorism bills proposed in the wake of September 11, 2001. The remaining 12 bills are in various stages of the legislative process. SOURCE: Public Sector Consultants, using information from the legislation, House and Senate fiscal agency analyses, and House Legislative Analysis Section documents.

responders from the State Police and local law-enforcement, public-safety, and private-sector organizations. The team, comprising members from across the state, consists of four specialty groups: search, rescue, technical, and medical. The Federal Emergency Management Agency (FEMA) has a national network of 28 urban search and rescue teams nationally, and MUSAR is pursuing such certification. Currently, the nearest FEMA search and rescue teams are located in Ohio and Indiana.

- **Michigan Regional Response Team Network** This is a network of 12 teams throughout the state that are composed of local police, fire, and medical agencies. Teams may use MUSAR resources as well as local and state bomb squads. The teams can respond within two hours to a situation involving a weapon of mass destruction anywhere in the state.
- **Michigan Homeland Security Task Force** The task force was established as the Michigan Terrorism Task Force in 1996 in the wake of the World Trade Center and Oklahoma City bombings. Its purpose is to facilitate information sharing among agencies about Michigan's domestic anti-terrorism preparedness. The task force was renamed in 2002 and is composed of 18 officials from federal, state, and local agencies. Federal agencies represented are the Department of Defense, Environmental Protection Agency, Public Health Service, and Federal Bureau of Investigation. State agencies represented are the State Police, National Guard, and departments of Agriculture, Community Health, Environmental Quality, and Natural Resources. Local government is represented by law-enforcement officials. The task force meets quarterly and is chaired by the Michigan State Police.

## DISCUSSION

The horrific events of late 2001 raised the priority of emergency management and preparedness nationwide. In Michigan, policymakers undertook a review of the state's emergency-management plans and are addressing the changes needed and the challenges in implementing them.

### Preparedness Drills

First-responder training is a key component of many of the emergency-preparedness and response plans at all government levels. But even with billions of promised federal dollars, states and local governments cannot train all potential first responders for all potential situations. Large-scale drills—in which units of government respond to a disaster complete with volunteer "casualties"—are an excellent way to train responders, but they also are expensive. Less costly but effective are such smaller-scale exercises as "What if . . .?" discussions and analysis/study of other localities' responses to various situations. The "Dark Winter" exercise (in mid-2001), in which a mock smallpox outbreak was responded to, provided both direct training for the many federal officials involved and indirect training for the state and local responders nationwide who now are studying the exercise.

Preparedness is only as good as the information available to those who must respond. For example, during the anthrax attack in October 2001, medical professionals at first did not know that anthrax spores could be made finely enough to pass through the microscopic pores in envelopes, and the public health system was ill-prepared to simultaneously test a large number of samples, conduct an epidemiological investigation, meet inoculation demands, and assist the FBI with its criminal investigation.

In Michigan, a number of preparedness drills are coordinated by the Michigan State Police each year, and the Michigan National Guard participates in the MSP drills and also conducts its own for guard forces. In recent years, drills have pertained to nuclear-power-plant accidents/disasters, terrorist attacks, use or threatened use of a weapon of mass destruction, civil unrest, airplane crashes, and biological outbreaks (e.g., foot and mouth disease). Preparedness drills may involve one or several local, state, and federal agencies; formats include discussions, classroom training, “tabletop” scenarios (wherein the command structure responds as if the event were occurring), or simulated incidents.

### **Budget Battles: Distribution and Disbursement**

In 2002 the president requested nearly \$38 billion for new homeland defense activities focusing on four key areas: preparation for bioterrorism, emergency response, airport and border security, and improved intelligence gathering and information sharing. In Michigan, the governor’s 2002–03 budget proposes \$9.5 million to strengthen the state’s public health infrastructure and \$60 million in bonding for airport security improvements. Michigan will receive millions more in federal homeland defense funds.

Federal/state policymakers face politically charged questions about how the money shall be allocated. Should enhanced protection, training, equipment, and supplies be provided equally to all states/counties? To the more populous states/counties? To states/counties that are home to high-profile targets? To statewide teams that can be deployed rapidly to any county?

How the money shall be channeled is another question. Supporters of channeling all monies to local governments through the EMD assert that it would permit the agency to coordinate training and resources and assure appropriate coverage statewide. Most FEMA dollars currently are administered in Michigan by the EMD, but this is not the case with other anti-terrorism money. The Michigan Department of Community Health recently was notified that it will receive more than \$30 million from the Federal Centers for Disease Control to strengthen the department’s bioterrorism preparedness. Some anti-terrorism funding goes directly to local units of government via Justice Department grants, and while this allows for flexibility in seeking funding to meet local priorities, it also can mean overlapping or duplicate services. Monies sought and received directly by local governments and agencies could result, for example, in two similar-sized cities receiving (1) vastly different grants as a result of Congressional pressure and/or grant-writing prowess or (2) grants with which they purchase equipment that is incompatible with that

used elsewhere in Michigan (e.g., emergency radios using different frequencies).

### **Interagency Communication**

The events of September 11 revealed that there was inadequate communication among and within U.S. immigration, intelligence, and law-enforcement agencies. In many cases, one federal agency had information that was not passed to others that could have acted on it. Protecting national borders, an important issue in Michigan, is an area in which interagency communications are important but complicated: Responsibility falls to the U.S. Coast Guard, Customs Service, and Immigration and Naturalization Service, and to various state agencies—in Michigan, the National Guard, local police and sheriffs, State Police, and Michigan Department of Transportation. Policymakers and law-enforcement officials must jointly define, monitor, and adjust organization structures to ensure that all partners share all relevant information at all times. In Michigan, this coordination is being managed by the EMD and the Homeland Security Task Force in conjunction with federal anti-terrorism task forces directed by the U.S. attorneys’ offices.

### **Changes to Michigan Laws**

Even before September 11, the Michigan emergency-management command structure was considering needed changes in the guiding document, the Michigan Emergency Management Act (P.A. 390 of 1976). For example, the act gave the governor emergency powers for up to 14 days unless the period were extended by the legislature, but it did not specify how the legislature shall grant an extension.

As mentioned, following September 11, Michigan legislative and executive branch leaders developed 46 bills that they believe are necessary to improve Michigan’s security. The 34 that have been enacted as of this writing include an extension of the governor’s emergency powers to 28 days and establishment of a process by which the legislature may further extend the duration.

One challenge for policymakers was to sort out which of the many proposals were adequate and appropriate responses and which marked an unacceptable intrusion into individual liberty. One issue that remains particularly contentious is expanded wiretap authority (this was not part of the 46-bill package but received attention during its deliberation). Expansion supporters believe that authorizing state and local law enforcement to conduct wiretaps will increase the effectiveness of investigation and prosecution of major crimes, including terrorism, abduction, computer crime, and crime involving children and computers. In addition, supporters point out that wiretaps

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must receive advance approval by multiple law-enforcement and judicial entities. Opponents argue that the expanded wiretapping authority will lead to abuses and threaten personal liberties, and they point to the extremely high cost of wiretaps (the House Legislative Analysis Section reports an average exceeding \$54,000).

### U.S. Office of Homeland Security

Another question for emergency management in Michigan is how the new federal Office of Homeland Security will interact with and affect Michigan's emergency-management agencies and plans. The mission of the federal office is to "develop and coordinate the implementation of a comprehensive national strategy to secure the United States from terrorist threats or attacks." How effective this office will be at integrating disparate agendas, gathering and controlling funding, and getting buy-in from local, state, and federal partners is a question that concerns the emergency-preparedness community at every level of government.

As of this writing, it is unclear both how much of the \$38 billion in federal homeland defense monies will make its way to Michigan and which agency or agencies in the state will be in charge of disbursing it. Adding to the confusion is that the federal office is not expected to distribute funding directly. Rather, it will distribute it through other federal agencies (e.g., the departments of Justice, Agriculture, Energy). As is the case with existing emergency-preparedness dollars, Michigan policymakers will face distribution and disbursement questions: How shall the money be allocated, and which agency will control distribution?

See also Privacy.

## FOR ADDITIONAL INFORMATION

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