

MINUTES OF KANSAS SELECT COMMITTEE ON SECURITY

The meeting was called to order by Chairperson Lee Tapanelli at 12:00 p.m. on February 21, 2003 in Room 519-S of the Capitol.

All members were present except:

Representative John Faber
Representative Tom Holland
Representative Tim Owens

Committee staff present:

Robert Waller, Legislative Research Department
Bruce Kinzie, Office of the Revisor of Statutes
Carol Doel, Committee Secretary

Conferees appearing before the committee:

Eric Melgrin, U.S. Attorney
Jeffrey Russell, Director, Legislative Administrative Services

Others attending:

See attached list

Chairman Tapanelli called the meeting to order and thanked Mr. Bill Jarrell of the Boeing Company for providing lunch for the committee and staff.

Next on the agenda, the Chairman asked for approval of the minutes for February 14th. Representative Carlin called to the attention that Dr. Trewyn's name had two letters reversed which will be corrected. With no further additions or corrections Representative Goico made a motion to adopt the minutes with Representative Dahl making a second on the motion. Vote was taken. Minutes were adopted.

Chairman Tapanelli introduced the US Attorney, Eric Melgrin who spoke on the Patriot Act. This is an act to deter and punish terrorist acts in the United States and around the world, to enhance law enforcement investigatory tools, and for other purposes

This Act may be cited as the 'Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act of 2001 **HR 3162** Mr. Melgrin commended the committee for looking into the Homeland Security issues. (No written testimony - The Patriot Act can be found on Internet - US Government **HR 3162**)

Mr. Melgrin stood for questions from the committee.

Next to appear in presentation before the committee was Jeffrey Russell, Director, Legislative Administrative Services. Mr. Russell addressed the committee on continuity of government with a the scenario of "what would the Legislature's alternatives be if the Capitol Building became uninhabitable for any reason?" (Attachment 1) Also included in his testimony was a "Check List for Continuity of Government" (Attachment 2) as well as a copy of "Wisconsin's Operation Plan Guidance" which shows an example of a good document to guide one through the planning process to achieve a state of readiness. (Attachment 3.)

With no further business before the committee, Chairman Tapanelli adjourned at 1:20 p.m.



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Jeffrey M. Russell
Director

Presentation by Jeff Russell to the **House Select Committee on Kansas Security**
February 21, 2003

Good afternoon, Mr. Chairman and Members of the Committee. Thank you for the opportunity to appear today and discuss concerns regarding the continuity of government. While a myriad number of topics can be included under that subject matter, I wish to confine my remarks to one scenario ... what would the Legislature's alternatives be if this building became inhabitable for any reason?

Within that scenario, many decisions will be driven by the service level required by the Legislature, both in session and the interim. For example, would the Legislature address only budget items in session? Would temporary and full-time staff needs diminish?

Attachment #1 poses various questions for consideration. It is a check list for continuity of government. Of particular interest to me are Items #4 and #7.

Attachment #2, Wisconsin's Operation Plan Guidance, shows an example of a good document to guide one through the planning process to achieve a state of readiness.

I'm sure we have raised more questions than answers. But a basic plan of action for the Legislature could be as follows:

1. Legislature - determine required service levels and needs under both session and non-session conditions.
2. Selected legislators and staff determine offsite resources necessary to meet those service levels.
3. Office of Emergency Preparedness assists in meeting location and resource needs.

Thank you for your time and attention. I will be happy to try and answer any questions you may have.

A handwritten signature in black ink, appearing to be "J. Russell".

Select Committee on Kansas
Security

Attachment 1-1

Date 2-21-03

Check List for Continuity of Government

1. How does the State Constitution or existing state laws deal with the issue of continuity of government?
2. Does your Legislature have a plan that reflects the continuity of government laws if a tragedy should occur?
3. Can the appropriate legislative leadership be contacted if such a tragedy should occur? If so, how long will making the contact take?
4. Does the Legislature have a plan for continuing the legislative process off site if the State Capitol Complex becomes unusable for any length of time?
5. Has the Legislature the necessary redundant systems to ensure success?
6. Has the Legislature identified the critical system needs that are necessary for the continuation of government?
7. Do the legislators and staff know there is a plan for the continuation of government if a major tragedy occurs? If so, do they know their role?
8. Has the plan been tested in any fashion such as table top drills, practice drills or other method?
9. Does the legislative branch know what the Judicial and Executive branches plan for continuity of government is?
10. Who has the power to close the buildings and grounds of the State Capitol, legislative offices and other facilities during such events?
11. Does the Legislature have the necessary planning and resources at hand to respond to predictable events (fire, weather, earthquakes, demonstrations) and unforeseen events (travel accidents, terrorist attack) that may result in putting into action the continuity of government?

OPERATIONS PLAN GUIDANCE



Wisconsin State Agencies
Continuity of Operations (COOP)/
Continuity of Government (COG)

August 19, 2002

Select Committee on Kansas
Security
Attachment 3-1
Date 2-21-03

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1. **PURPOSE:** All Wisconsin state agencies should have in place a comprehensive and effective program to ensure continuity of essential functions under all circumstances. As a baseline of preparedness for the full range of potential emergencies, all state agencies should have in place a COOP/COG plan that ensures the performance of their essential functions during any emergency or situation that may disrupt normal operations. This guidance is designed to assist Wisconsin state agencies with developing viable and executable contingency plans for the continuity of operations (COOP) and continuity of government (COG).

a. Definitions:

- 1) Continuity of Operations (COOP) – the ability to provide essential functions to customers from a different location, due to the primary facility becoming unusable, for long or short periods of time.
- 2) Continuity of Government (COG) – ensures the continued performance of essential agency functions and support of the Governor during emergency or disaster situations.

b. Background: COOP/COG planning is a “good business practice” and is part of the fundamental mission of agencies as responsible and reliable public institutions. While it has not been a high-priority activity in the past, the changing threat environment and recent emergencies (e.g., localized acts of nature, accidents, technological emergencies, military or terrorist attack-related incidents) have shifted awareness to the need for COOP/COG capabilities that enable agencies to continue their essential functions across a broad spectrum of emergencies. Also, the potential for terrorist use of weapons of mass destruction (WMD) has emphasized the need to provide a capability that ensures continuity of essential government functions to the citizens of Wisconsin. Wisconsin Emergency Management has formulated this guidance for agencies to use in developing viable, executable COOP/COG plan.

c. Planning Considerations: A viable COOP/COG capability:

- Must be maintained at a high level of readiness
- Must be capable of implementation both with and without warning
- Must be operational no later than 12 hours after activation
- Must maintain sustained operations for up to 30 days
- Should take maximum advantage of existing agency field infrastructures.

Agencies should develop and maintain their COOP/COG capabilities using a multi-year strategy and program management plan. The plan should outline the process the agency will follow to designate essential functions and resources, define short and long-term COOP/COG goals and objectives, forecast budgetary requirements, anticipate and address issues and potential obstacles and establish planning milestones.

2. **AUTHORITIES:**

Wisconsin State Statutes, Chapter 166.

3. **OBJECTIVES:** COOP/COG planning is an effort to assure that the capability exists to continue essential agency functions across a wide range of potential emergencies. The objectives of a COOP/COG plan include:

- a. Ensuring the continuous performance of an agency's essential functions and operations during an emergency
- b. Protecting essential facilities, equipment, records and other assets
- c. Reducing or mitigating disruptions to operations
- d. Reducing loss of life and minimizing damage and losses
- e. Achieving a timely and orderly recovery from an emergency and resumption of full service to customers.

4. **COOP/COG IMPLEMENTATION:** Relocation may be required to accommodate a variety of emergency scenarios. Examples include scenarios in which:

- An agency headquarters is unavailable and operations can shift to a regional or field location
- A single agency facility is temporarily unavailable and the agency can share one of its own facilities or that of another agency
- Many, if not all, agencies must evacuate the Madison area.

While any of these scenarios involves unavailability of a facility, the distinction must be made between a situation requiring evacuation only and one dictating the need to implement COOP/COG plans. A COOP/COG plan includes the deliberate and pre-planned movement of selected key principals and supporting staff to a relocation facility. For example, a sudden emergency such as a fire or hazardous materials incident may require the evacuation of an agency building with little or no advanced notice but for only a short duration. Alternatively, an emergency so severe that an agency facility is rendered unusable and likely will be for a period long enough to significantly impact normal operations may require COOP/COG plan implementation. Agencies should develop an executive decision process that allows for a review of the emergency and for a determination of the best course of action for response and recovery that should preclude the premature or inappropriate activation of an agency COOP/COG plan.

One approach to ensuring a logical sequence of events in implementing a COOP/COG plan is time phasing. A suggested time-phased approach for COOP/COG activation, relocation, alternate facility operation and reconstitution follows:

a. Phase I—Activation and Relocation (0-12 hours)

- Notify alternate facility manager(s) of impending activation and actual relocation requirements
- Notify WEM Duty Officer (800-943-0003) and other appropriate agencies of the decision to relocate and the time of execution or activation of call-down procedures
- Activate plans, procedures and schedules to transfer activities, personnel, records and equipment to alternate operating facility(ies)
- Notify initial COOP/COG contingency staff to relocate
- Instruct all other emergency and non-emergency personnel on what they are to do
- Assemble necessary documents and equipment required to continue performance of essential operations at alternate operating facility(ies)
- Order equipment and supplies, if not already in place
- Transport documents and designated communications, automated data processing and other equipment to the alternate operating facility(ies), if applicable
- Secure the normal operating facility physical plant and non-moveable equipment and records, to the extent possible
- Continue essential operations at the normal operating facility if available, until alternate facility(ies) is/are operational
- Advise alternate operating facility manager(s) on the status of follow-on personnel.

b. Phase II—Alternate Facility Operations (12 hours – termination)

- Provide amplifying guidance to other key staff and non-emergency employees
- Identify replacements for missing personnel and request augmentation as necessary
- Commence full execution of essential operations at alternate operating facility(ies)
- Notify WEM and all other appropriate agencies immediately of the agency's alternate location, operational and communications status, and anticipated duration of relocation, if known
- Develop plans and schedules to phase down alternate facility(ies) operations and return activities, personnel, records and equipment to the primary facility when appropriate.

- c. Phase III—Reconstitution (termination and return to normal operations)
- Inform all personnel that the threat of or actual emergency no longer exists and provide instructions for resumption of normal operations
 - Supervise an orderly return to the normal operating facility or movement to other temporary or permanent facility(ies)
 - Report status of relocation to WEM and other agencies, if applicable
 - Conduct an after-action review of COOP/COG operations and effectiveness of plans and procedures as soon as possible, identify areas for correction and develop a remedial action plan.

5. THE COOP/COG PLAN

- a. Responsibilities: The following responsibilities should be clearly outlined in agency COOP/COG planning guidance and internal documents:

1) Each agency head is responsible for:

- Appointing an agency COOP/COG program point of contact (POC)
- Developing, approving, and maintaining agency COOP/COG plans and procedures for headquarters and all subordinate elements that provide for:
 - Identification of agency essential functions
 - Pre-determined delegations of authority and lines of succession
 - Contingency staffing to perform essential functions
 - Alternate operating facilities
 - Interoperable communications, information processing systems and equipment
 - Protection of vital records and systems.
- Conducting tests and training of agency COOP/COG plans (i.e., COOP/COG contingency staff, essential systems and equipment) to ensure timely and reliable implementation of COOP/COG plans and procedures
- Participating in periodic interagency COOP/COG exercises to ensure effective interagency coordination and mutual support
- Notifying WEM and other appropriate agencies upon implementation of COOP/COG plans

2) In addition, WEM is responsible for:

- Coordinating COOP/COG activities of Wisconsin state agencies
- Issuing COOP/COG guidance to promote understanding of and compliance with the requirements and objectives of governing directives
- Supporting Wisconsin state agencies' COOP/COG planning, training and exercising efforts to the extent possible

- Assessing state agency COOP/COG capabilities and reporting the results to the Governor.
- b. Elements of a Viable COOP/COG Capability: At a minimum, all agency COOP/COG capabilities shall encompass the following elements:
- 1) Plans and Procedures: A COOP/COG plan shall be developed so that when implemented, it will provide for continued performance of essential agency functions under all circumstances. At a minimum, the plan should:
 - Delineate essential functions and activities
 - Outline a decision process for determining appropriate actions in implementing COOP/COG plans and procedures
 - Establish a roster of fully equipped and trained emergency personnel with the authority to perform essential functions and activities
 - Include procedures for employee advisories, alerts and COOP/COG plan activation with instructions for relocation to pre-designated facilities, with and without warning, during duty and non-duty hours
 - Provide for personnel accountability throughout the duration of the emergency
 - Provide for attaining operational capability within 12 hours
 - Establish reliable processes and procedures to acquire resources necessary to continue essential functions and sustain operations for up to 30 days.
 - 2) Identification of Essential Functions: All agencies should identify their essential functions as the basis for COOP/COG planning. Essential functions are those functions that enable agencies to provide vital services, exercise civil authority, maintain the safety and well being of the general populace and sustain the economic base in an emergency. In identifying essential functions, agencies should:
 - Identify all functions performed by the agency, then determine which must be continued under all circumstances
 - Prioritize these essential functions
 - Establish staffing and resources requirements needed to perform essential functions
 - Identify mission critical data and systems necessary to conduct essential functions
 - Defer functions not deemed essential to immediate agency needs until additional personnel and resources become available

- Integrate supporting activities to ensure that essential functions can be performed as efficiently as possible during emergency relocation.

3) Orders of Succession: Agencies are responsible for establishing, promulgating and maintaining orders of succession to key positions. Such orders of succession are an essential part of an agency's COOP/COG plan. Orders should be of sufficient depth to ensure the agency's ability to perform essential functions while remaining a viable part of government through any emergency. Geographical dispersion is encouraged, consistent with the principle of providing succession to office in emergencies of all types. Each agency should:

- Establish an order of succession to the agency's position of highest authority. A designated official serves as acting head of the agency until appointed by the Governor or relieved. Where a suitable field structure exists, appropriate personnel located outside of the headquarters area should be considered in the order of succession
- Establish orders of succession to other key leadership positions
- Identify any limitation of authority based on delegations of authority to others
- Describe orders of succession by positions or titles, rather than names of individuals
- Include the orders of succession in the vital records of the agency
- Revise orders of succession as necessary, and distribute revised versions promptly as changes occur
- Establish the rules and procedures designated officials are to follow when facing the issues of succession to office in emergency situations
- Include in succession procedures the conditions under which succession will take place, method of notification and any temporal, geographical, or organizational limitations of authorities
- Assign successors among the emergency teams established to perform essential functions to ensure that each team has an equitable share of duly constituted leadership
- Conduct orientation programs to prepare successors for their emergency duties.

4) Delegations of Authority: To ensure rapid response to any emergency situation requiring COOP/COG plan implementation, agencies should pre-delegate authorities for making policy determinations and decisions at headquarters, field levels and other organizational locations as appropriate. These delegations of authority should:

- Identify the programs and administrative authorities needed for effective operations at all organizational levels having emergency responsibilities
- Identify the circumstances under which the authorities would be exercised
- Document the necessary authorities at all points where emergency actions may be required, delineating the limits of authority and accountability
- State explicitly the authority of designated successors to exercise agency direction, including any exceptions, and the successor's authority to re-delegate functions and activities as appropriate
- Indicate the circumstances under which delegated authorities would become effective and when they would terminate. Generally, pre-determined delegations of authority would take effect when normal channels of direction are disrupted and would terminate when these channels have resumed
- Ensure that officials who may be expected to assume authorities in an emergency are trained to carry out their emergency duties
- Specify responsibilities and authorities of individual agency representatives designated to participate as members of interagency emergency response teams.

5) Alternate Facilities: All agencies shall designate alternate operating facilities as part of their COOP/COG plans and prepare their personnel for the possibility of unannounced relocation of essential functions and/or COOP/COG contingency staffs to these facilities. Facilities may be identified from existing agency local or field infrastructures or external sources. Facilities shall be capable of supporting operations in a threat-free environment as determined by the geographical location of the facility, a favorable assessment of the local threat and/or the collective protection characteristics of the facility. In acquiring and equipping such facilities, agencies are encouraged to consider cooperative interagency agreements and promote sharing of identified alternate facilities. Alternate facilities should provide:

- Immediate capability to perform essential functions under various threat conditions including WMD threats
- Sufficient space and equipment to sustain the relocating organization. Since the need to relocate may occur without warning or access to normal operating facilities may be denied, agencies are encouraged to pre-position and maintain minimum essential equipment for continued operations at the alternate operating facilities
- Interoperable communications with all identified essential internal and external organizations, critical customers and the public

- Reliable logistical support, services and infrastructure systems. (e.g., water, electrical power, heating and air conditioning)
- Ability to sustain operations for a period of up to 30 days
- Consideration for the health, safety and emotional well being of relocated employees
- Appropriate physical security and access controls.

6) Interoperable Communications: The success of agency operations at an alternate facility is dependent upon the availability and redundancy of critical communications systems to support connectivity to internal organizations, other agencies, critical customers and the public. When identifying communications requirements, agencies should take maximum advantage of the entire spectrum of communications media likely to be available in any emergency situation (e.g., secure and/or non-secure voice, fax, and data connectivity; Internet access; e-mail). Interoperable communications should provide:

- Capability commensurate with an agency's essential functions and activities
- Ability to communicate with COOP/COG contingency staffs, management and other organizational components
- Ability to communicate with other agencies and emergency personnel
- Access to other data and systems necessary to conduct essential activities and functions.

7) Vital Records and Databases: The protection and ready availability of electronic and hardcopy documents, references, records and information systems needed to support essential functions under the full spectrum of emergencies is another critical element of a successful COOP/COG plan. Agency personnel must have access to and be able to use these records and systems in conducting their essential functions. Categories of these types of records may include:

- Emergency Operating Records: Vital records essential to the continued functioning or reconstitution of an organization during and after an emergency (e.g., emergency plans and directives; orders of succession; delegations of authority; staffing assignments; policy or procedural records that provide agency staff with guidance and information resources necessary for conducting operations during an emergency and for resuming formal operations at its conclusion).
- Legal and Financial Records: Vital records critical to carrying out an organization's essential legal and financial functions and activities and protecting the legal and financial rights of individuals directly affected by its activities. Included are records having such value that their loss would

significantly impair the conduct of essential agency functions, to the detriment of the legal or financial rights or entitlements of the organization or of the affected individuals. Examples of this category of vital records are accounts receivable; contracting and acquisition files; official personnel files; Social Security, payroll, retirement, and insurance records and property management and inventory records.

- Plans should account for identification and protection of the vital records, systems and data management software and equipment (including classified or sensitive data) necessary to perform essential functions and activities and to reconstitute normal agency operations after the emergency. To the extent possible, agencies should pre-position and update on a regular basis duplicate records or back-up electronic files.

8) Tests, Training and Exercises: Testing, training and exercising COOP/COG capabilities is essential to demonstrating and improving the ability of agencies to execute their COOP/COG plans. Training familiarizes contingency staff members with the essential functions they may have to perform in an emergency. Tests and exercises serve to validate, or identify for subsequent correction, specific aspects of COOP/COG plans, policies, procedures, systems and facilities used in response to an emergency situation. Periodic testing also ensures that equipment and procedures are maintained in a constant state of readiness. COOP/COG testing, training and exercising plans should provide for:

- Annual individual and team training of agency COOP/COG contingency staffs and emergency personnel to ensure currency of knowledge and integration of skills necessary to implement COOP/COG plans and carry out essential functions.
- Annual agency testing and exercising of COOP/COG plans and procedures to ensure the ability to perform essential functions and operate from designated alternate facility(ies).
- Quarterly testing of emergency alert and notification procedures and systems
- Refresher orientation for COOP/COG contingency staff arriving at an alternate operating facility. The orientation should cover the support and services available at the facility (e.g., communications, systems for information exchange with the normal operating facility, if functioning) and administrative matters (e.g., supervision, security, personnel policies).
- Joint agency exercising of COOP/COG plans where applicable and feasible.