

The Pandemic Influenza Plan: Implications for Local Law Enforcement

I By Lee Colwell, D.P.A., Assoc. Director (Retired), FBI, and President, Pegasus Research Foundation, Little Rock, Arkansas

“The Spanish Flu pandemic of 1918-1919 caused an estimated 40-50 million deaths worldwide, and many experts predict that the next flu pandemic will be just as severe, and may occur sooner rather than later.”

*Representative Tom Davis
(R-Virginia), Chairman,
Government Reform Committee,
U.S. House of Representatives,
November 1, 2005*

In November 2005, after several years of concern, discussion, and planning in related matters, the U.S. Department of Health and Human Services released the HHS Pandemic Influenza Plan. Post-outbreak action under the plan, if and when that becomes necessary, will require taking steps in the public square that are highly unusual, possibly unprecedented in both nature and scope, and almost certainly highly controversial. Because local law enforcement will be deeply involved in any such steps, law enforcement should undertake significant planning in coordination with others with post-outbreak responsibilities.

The plan begins to articulate the significant additional responsibilities, separate from day-to-day police duties, that local law enforcement will have in the event of a pandemic. And it presents local law enforcement leaders and their communities with a significant challenge to develop regional pandemic preparedness plans at the local level. In coming months, moving forward with the pandemic preparedness efforts, local law enforcement leaders will face a variety of decisions about how they and their communities will respond to the pandemic threat. This article is written to provide background information on the plan for local law enforcement leaders who will be facing those decisions.

Why Plan for a Pandemic?

“Although the timing, nature, and severity of the next pandemic cannot be predicted with any certainty, preparedness planning is imperative to lessen the impact of a pandemic.”

U.S. Department of Health and Human Services Pandemic Influenza Plan, November 2005

a pandemic influenza event occurs “when a novel influenza virus emerges that can infect and be efficiently transmitted among individuals because of a lack of pre-existing immunity in the population.” Although it is possible that post-outbreak action under the plan will never be necessary, HHS has asked for more than \$7 billion in federal funding for its implementation, because there is great concern about the likelihood of a worldwide influenza epidemic in the near future that could claim hundreds of millions of lives, including as many as 700,000 Americans

within six months of an outbreak. Current pandemic concerns have been triggered by the strain of avian influenza (or bird flu) circulating in Asia and Europe, with a reported 50 percent mortality rate among those humans infected.

The plan is nearly 400 pages long, and each page is packed with details that should be considered by local, tribal, state, and federal officials as they put together local and regional plans to respond to a pandemic influenza event. With respect to state and local pandemic influenza plans, the HHS plan says, “These plans should detail how health departments and other agencies of state and local governments and tribal nations will prevent, mitigate, respond to, and recover from an influenza pandemic. They should be community-specific where appropriate and should contemplate specific local and community needs.”

Fully recognizing that nonfederal health departments, hospitals, emergency responders, and private firms will, of necessity, play critical frontline roles in the event of a pandemic, the plan offers detailed guidance for local law enforcement, emergency responders, and other state and local partners in areas such as “community disease control and prevention” and “managing travel-related risk of disease transmission.”

Characteristics of a Pandemic, and Implications for Law Enforcement

Among other things, the HHS plan assumes that an influenza pandemic would have the following characteristics that would directly affect local law enforcement:

- Simultaneous or near-simultaneous outbreaks in communities across the United States that would limit the ability of any jurisdiction to provide support and assistance to other areas

- Delays and shortages in the availability of vaccines and antiviral drugs
- Potential disruption of national and community infrastructures including transportation, commerce, utilities, and public safety due to widespread illness and death among workers and their families and concern about ongoing exposure to the virus

A key principle of the plan is that preparedness will require coordination among federal, state, tribal, and local government and partners in the private sector, including significant requirements for coordination with local law enforcement. Although the plan recognizes that law enforcement will also have key roles in other aspects of a pandemic, the plan especially focuses on the need for local law enforcement to be prepared to help control diseases at the community level and manage the risk of disease transmission through enforcement of travel restrictions.

Law Enforcement Role in Community Disease Control

Prior to a pandemic event, the plan urges that local leaders prepare their communities for implementation of pandemic influenza containment measures that may be called into play during a pandemic. Community disease control measures range from individual containment measures to community-based containment measures.

At the individual level, law enforcement personnel may be called upon to contain the spread of infection by enforcing the isolation of individual patients and by managing individuals who may have come into contact with sources of infection. These steps may be carried out by enforced isolation at health care facilities, individual homes, or alternative facilities. The plan urges local law enforcement leaders to prepare to provide guards and other personnel necessary to isolate patients with a highly infectious disease, and persons who have come in contact with them, at multiple facilities in their communities.

At the community level, the plan describes containment measures involving local law enforcement which range from voluntary snow days to the closure of office buildings, shopping malls, schools, and public transportation to widespread community quarantine (or cordon sanitaire, as it is known). In the voluntary snow day scenario, when the public is asked to stay at home rather than go about their normal daily business, law enforcement leaders will need to communicate staffing decisions about nonessential personnel who should honor the snow day declaration. If public facilities and public transportation are closed, local law enforcement will doubtless also be called upon to enforce facility and transportation closure orders and to provide essential transport for supplies, patients, and public health personnel. And, if a community quarantine is ordered, local law enforcement agencies will further be called upon to legally enforce the order, in coordination with involved public health officials and personnel in neighboring jurisdictions.

Law Enforcement Role in Managing Travel-Related Risks of Disease Transmission

In the event of a pandemic, law enforcement will be involved with managing all types of travel, but local law enforcement will have particular responsibility for managing the risk of disease related to travel in the United States. The plan urges that travel-restriction planning in preparation for a pandemic engage a broad range of health and community leaders, including public health and hospital personnel, local law enforcement, firefighters, political leaders, and representatives of airports, seaports, transportation service providers, and others.

The plan identifies a number of additional travel restriction-related activities that local law enforcement personnel will need to be prepared to carry out, once a pandemic event has commenced. They include the following:

- Meeting and transporting ill or possibly infected passengers and animals at airports and seaports
- Notifying the public and neighboring jurisdictions of official closures and enforcing those closures
- Addressing and coordinating multi-jurisdictional issues involved in official closures
- Establishing legal authority and protocols for restricting departure and entry and use of mass transit systems, bus and train routes, and streets and highways

Observations and Conclusions

It is clear, even from this brief discussion, that a pandemic event would require a number of complex decisions to be made by local law enforcement leaders and trigger a number of complex problems for law enforcement leaders and personnel. The plan triggers a number of questions and issues for local law enforcement:

- What is the chain of command, and who will make decisions, during a pandemic event?
- What legal authority is there for the actions to be taken by law enforcement?
- What orders will be lawful or unlawful in such circumstances?
- What vaccines and antiviral and other medications will local law enforcement personnel (and their families) be offered, and how can leaders assure their personnel that the offered vaccines and medication are safe and effective?
- What problems will local law enforcement leaders face if vaccines and medication are not provided to law enforcement personnel and their families?
- How can law enforcement leaders assure their personnel that it is safe to carry out their sworn duties requiring

close contact with highly infectious persons?

- How will local law enforcement securely communicate with public health partners, their own agency personnel, and personnel in neighboring jurisdictions?
- What will local law enforcement leaders communicate to the media and the public regarding the law enforcement actions taken in the face of a pandemic event? How will rumors inside agencies and in public circulation be countered?
- What level of force will law enforcement use to enforce an individual containment or community-wide quarantine measure?
- What steps should law enforcement leaders take to maintain control and authority without overstepping roles and overstating or understating risks?
- What lessons have been learned from recent experiences with Hurricanes Katrina and Rita and the 2003 SARS outbreak, especially travel-related containment measures imposed in Toronto?
- How will law enforcement carry out their traditional duties while also carrying out these significant additional responsibilities, and where will the financial and personnel resources required to carry out these additional responsibilities come from?
- How will local law enforcement leaders and their counterparts in hospitals, public health, transportation sectors, local government, and local and state political leaders, not only in their own jurisdictions but in neighboring jurisdictions, come together to make meaningful plans as urged in the HHS plan?

Coordination with Emergency Responders

"Robust preparedness for the next pandemic requires coordination with state and local emergency responders. HHS encourages all levels of government to use this plan and begin refining their own."

U.S. Department of Health and Human Services Pandemic Influenza Plan, November 2005

On this last and most important issue, the HHS request for funding includes \$100 million "to help states complete and exercise their pandemic plans before a pandemic strikes." Based on previous efforts at state-directed planning of community-level and local agency-level activities, it is not at all clear that leaders of communities and local agencies will have the tools or resources sufficient to catalyze local-level planning for an uncertain new threat. Although much of the planning for a pandemic needs to be carried out by state public health departments, certainly much of the planning

also needs to take place at the local level, between and among local level emergency responders and others in their communities.

The plan makes it clear that it does not provide answers to these or many other questions, and that, as one size does not fit all, each community must develop its own plan. Recent events show the peril faced by communities when federal, state, and local agencies and their leaders are unable to work as a seamless force fully prepared to respond to the threat at hand. Because local law enforcement will play such a key role in the event of a pandemic, forward-looking local law enforcement leaders will take steps to prepare their agencies and their communities to respond to the possibly devastating effects of a pandemic event. ■

“Local emergency responders will be the first on the scene of any major catastrophe. It is imperative that they be given the training, the resources, and the support they need to react appropriately when disaster strikes.”

Julian Fantino, “2003 SARS Outbreak: The Response of the Toronto Police Service,” The Police Chief 72 (April 2005): 22-28; available in the archives at www.policchiefmagazine.org.

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