ABSTRACT

This article focuses on the role that devolution planning should occupy in an agency's continuity planning effort. A devolution plan is an integral part of a Continuity of Operations (COOP) plan; however, many agencies do not expend the necessary time and effort to develop these essential plans. There are several reasons for this, including the difficult nature of the concepts at issue, as well as the practical challenges inherent with implementation of a devolution plan. This article gives a brief overview of COOP planning, with particular attention given to the reconstitution period. It then gives the definition of devolution and attempts to explain different ways that planners approach this issue, considering both internal and external devolution. Finally, the article reviews some of the core elements that should be included in every devolution plan.

Key words: devolution, COOP, reconstitution, continuity, planning, worst-case scenario

INTRODUCTION

Imagine that a major American city suffered through one of the most powerful earthquakes in modern history. There is damage throughout the city with some agencies being more affected than others. Unfortunately, the city's health department was especially harmed, losing all of its buildings and 70 percent of the agency's personnel. How would this agency continue to provide essential functions and services for its stakeholders? Continuity of Operations (COOP) plans are the contingency plans that agencies develop to ensure that the most essential functions are still carried out after an incident has occurred. However, in this situation, the agency has been so drastically impacted that a COOP plan will not suffice. These agencies must have contingencies in place to deal with worst-case scenarios; devolution plans are targeted at exactly these types of situations.

It is difficult to conceive of a worst-case scenario, let alone to develop a plan that enables an agency to handle this type of situation; however, this is exactly what emergency planners are asked to do when developing devolution plans. Devolution, sometimes referred to as “failover,” is listed as one of the core elements of a COOP plan and like many of these elements; it is a plan within a plan. In this way, a devolution plan shares some characteristics with these other types of plans that are contained within a COOP plan. As with any plan, the more uncertain a situation, the more flexible a plan must be; devolution plans must be among the most flexible types of plans.

Federal agencies are required to create devolution plans within their COOP plans. However, the difficulties inherent in these efforts have caused many emergency planners at various levels of government to forego this process and take a position that devolution should not be part of their agency's continuity efforts. This is not the case. Devolution planning is something that every facet of

*This is often the case in Business Continuity Planning, which addresses many of the same continuity issues as COOP plans, but does this through the lens of private sector business as opposed to government agencies.

†Some of these other plans include the following: succession plans, vital records plans, relocation plans, and reconstitution plans; however, because devolution is aimed at dealing with the most amorphous of contingencies, these devolution plans are often the least defined.
government must undertake, from the Department of Justice to a local records department. The people of the United States rely on their government, be it federal, state, local, tribal, territorial, or commonwealth, to provide essential functions and services. For this reason, it is imperative that the capability exists to ensure that these services persist, even when the agency itself cannot. Although the thought of an agency being unable to continue is not a pleasant one, it must be remembered that protecting our stakeholders and ensuring their well-being through an ordered and just form of government are the ultimate end that all agencies serve. A robust devolution plan ensures that the agency has the capability to protect its stakeholders by handing off responsibility for essential functions when an incident has so greatly impacted the agency that it cannot continue to provide these services itself.

Devolution planning is one of the most challenging aspects of any continuity planning effort. There are numerous reasons for these difficulties, and this study is an attempt to identify and work through some of these issues. Because devolution planning is a core element of a COOP plan, this article will first provide a quick overview of COOP and provide information concerning how devolution planning should fit into an agency’s continuity vision. After this, I will introduce reconstitution and then discuss the distinctions between this concept and devolution, while analyzing the interplay of these two concepts. Then it will be necessary to define what devolution is and review some of the inherent problems with the term as it is currently understood. With an understanding of the term, I will then discuss how this concept is generally integrated into a COOP plan. To accomplish this, the concepts of internal and external devolution will be illustrated. Finally, the plan’s content and the identification of some of the elements that should be included in every agency’s devolution plan will be addressed.

**COOP PLANNING**

COOP plans are all-hazard, operational level plans designed to ensure that an agency or department can continue to provide essential functions after some event has occurred. Although there are many different ways to implement these plans, the core of any useful COOP plan is the continuous performance of essential functions, with minimal interruption, and a temporary cessation of nonessential functions. At the federal level, these plans are first and foremost supposed to support the eight National Essential Functions. These plans also identify key positions/personnel needed to perform essential functions, succession plans, alternate facilities, and vital records, databases, and equipment. The goal of a COOP plan, in a majority of jurisdictions, is to resume essential functions within 12 hours of an agency being impacted by an event, with the ability to sustain those essential functions for up to 30 days. Clearly, every plan needs to allow for some flexibility, but it is still useful to have some time-based guidelines in mind when dealing with an incident.

COOP plans put an agency in the best position to deal with an event because they allow an agency to focus on completing those functions that are most important. A common misconception is that only first response agencies perform essential functions; therefore, these are the only types of agencies requiring COOP plans. While it is true that these agencies have a larger role to play within a response framework, nearly all agencies perform at least some essential functions. First response agencies will surely have essential functions, such as fire departments providing fire suppression services and police departments providing law enforcement services. However, other agencies like public health organizations, information technology services, critical infrastructure services, accounting, and human resource departments will also likely have essential functions that must be resumed. For this reason, COOP planning is something all agencies must undertake and not just those that are directly involved with first response.

In addition to enhancing an agency’s capability to respond to adverse events that directly impact the agency, COOP plans allow for greater levels of flexibility within an agency as well. This flexibility is important because an emergency may require an agency to perform activities that it does not normally have responsibility for. If the agency had not identified its essential and nonessential functions, then when the
emergency actually occurred it would be overwhelmed trying to provide these additional services. For example, during a public health emergency, local health departments may have additional duties such as providing mass prophylaxis, distributing supplies, providing information, or completing the appropriate documentation that relates to the emergency. These are not tasks that a health department would complete on an ordinary basis; therefore, if it tried to achieve these additional duties along with its normal functions, it may find itself overwhelmed and unable to perform any of these tasks effectively. If these health departments had robust COOP plans, they could be used to address this situation, even if the agency had not lost any of its own facilities, staff, or resources. With a COOP plan, a health department would have already identified the nonessential functions and could temporarily suspend these, allowing it to focus on performing the additional responsibilities that were tied to the incident.

These emergency functions can be surprising. For example, libraries in many jurisdictions, especially those in colder climes, will serve as shelters for the homeless during chilly winter months. Clearly, this is a function that provides a crucial service that cannot be overlooked during the COOP planning process. A COOP plan would allow the library system to suspend some of its functions, while still providing the essential emergency function of providing shelters.

It is self-evident that COOP activation cannot, nor is it intended to, last indefinitely; COOP plans try to mitigate this issue by defining the plan’s operational period temporally (usually 30 days). A COOP plan allows an agency to temporarily suspend some of its functions; however, at some point, the agency must return to normal operations and resume providing the full spectrum of services upon which its constituents rely. Because of this need to resume normal operations, all COOP activations must end with one of two concepts, reconstitution or devolution. We turn first to reconstitution, because it is the more common and straightforward concept.

**RECONSTITUTION**

As already been mentioned, there are numerous smaller plans within the penumbra of a COOP plan. One of these plans is the reconstitution plan. “Reconstitution is the process by which surviving and/or replacement agency personnel resume normal operations from the original or replacement primary operating facility” (emphasis added). This is what happens after the vast majority of COOP activations. It is worth emphasizing that reconstitution is defined by the resumption of normal operations and not necessarily by a return to the agency’s original base of operations. Admittedly, for most COOP activations, an agency will be able to return to its base of operations when it begins the reconstitution process. However, there are many examples of agencies that are unable to reconstitute at their original facility. Consider a situation like the 2001 anthrax attacks and the subsequent contamination of the postal sorting center in Hamilton, New Jersey. The contamination caused by the anthrax would certainly take more than 30 days to remedy, if it was at all possible. In fact, the facility was not decontaminated until 2005. An agency in this position would have to resume normal operations before the original site was available. In those instances, the agency would most likely follow one of two options. First, its alternate facility could become its primary site; or second, the agency would have to procure new space to establish a primary operating facility. Either way, the agency’s location would not alter the fact that reconstitution is driven by the resumption of normal operations and not necessarily the restoration of the original operating facility. In short, reconstitution is going to be used after the vast majority of COOP activations. Although this process usually occurs at the original operating facility, there are numerous situations where an agency would have to resume normal operations, thereby reconstituting, before the primary site was available.

In any case, to complete this process effectively, it is vital that a COOP plan contain a well-structured reconstitution plan. This plan will contain a series of procedures and protocols that will specify the manner in which the agency will resume its normal operations. Again, although there must be some flexibility in a plan such as this, it is helpful to have a plan that was rationally conceived during a nonemergency situation.
However, what about situations where resuming normal operations is not an option within 30 days or at all? What if the impact of an event on an agency is so substantial that it becomes impossible for the agency to continue performing essential functions? Although these types of events are, thankfully, uncommon, they are real contingencies that agencies must take into account during the continuity planning process. Devolution plans are one of the most important steps that an agency can take to deal with these types of scenarios.

DEFINING DEVOLUTION

Before engaging in a discussion considering the various aspects of devolution planning, it is crucial to consider some of the overarching difficulties presented by this type of planning. These issues are so deep-rooted that they arise almost immediately after even considering the very definition of devolution. Devolution is defined as “the capability to transfer statutory authority and responsibility for essential functions from an agency’s primary operating staff and facilities to other employees and facilities, and to sustain that operational capability for an extended period” (emphasis added). The problem with this definition is the ambiguity surrounding who the agency will devolve authority to; does “other employees and facilities” refer to resources currently controlled by the agency or does it refer to authorities who have no affiliation with the agency other than the fact that they are in the same discipline? Both of these options will be discussed later.

Devolution plans are constructed to deal with worst-case scenarios; these are incidents that an agency cannot handle with its COOP plan. Devolution plans would most likely deal with situations where there have been mass casualties, evacuations, and/or significant disruptions to economic activity.

Many first responders are troubled by the concept of devolution because the very definition states that it involves “transfer[ing] statutory authority” and this often elicits several responses. One common response is that devolution planning is simply planning for failure; this contravenes much of what first response is about. First response focuses on delivering the most fundamental services of government; it deals with providing services that keep people alive and well. The reasoning follows that no matter what the event, certain services must continue. This is a responsibility that those in this field take seriously; the thinking often follows “these are our people and we cannot fail them.” Devolution planning should not be seen as a substitute or contravention to this sense of duty; rather, it should leverage this desire to serve and indicate that devolution planning, at its core, is about implementing one final failsafe that can be activated, should all other contingency measures fail. In a sense, first responders must accept that there are situations where their constituents are best served by relinquishing some or all of their responsibilities to other agencies that have managed to survive the incident.

Clearly, devolution planning is one of the most challenging aspects of contingency planning that an agency must undertake. For this reason, many governmental players do not complete the process at all. However, of those agencies that develop devolution plans, agencies tend to follow one of two basic approaches.

DEVOLUTION: TWO APPROACHES

Some of the most fundamental challenges involved in devolution planning can be attributed to the ambiguous manner in which the definition is presented in leading guidance. The fact that devolution is defined in the federal guidance as “the capability to transfer authority from an agency’s primary operating site to other facilities and employees” has led to different interpretations of the term. Consequently, two approaches have emerged for this type of planning. One of these approaches is more severe and controversial than the other; however, this version of devolution is applicable to all agencies. This type of devolution shall be referred to as “external devolution” and will deal with situations where an agency must transfer its authority to other governmental entities that are not controlled by the affected agency. The less extreme version of devolution manages to avoid many of these pitfalls; unfortunately, it is simply not an option for all agencies. This shall be referred to as “internal devolution” and will deal with situations where an agency
can transfer authority to departments, branches, or field offices that it already controls. Although these approaches may initially appear to be inapposite of one another, we shall see that they can be synthesized to augment one another instead.

In a traditional COOP scenario, an agency will continue only essential functions, relying on those employees who occupy key positions, and, if need be, will relocate to an alternate facility. However, COOP plans assume that certain elements of an agency will survive an event, including enough of the personnel, resources, and facilities to resume essential functions. Before turning to the types of devolution, let us consider a hypothetical situation that will enable us to better envision this process. First, let us consider the relation between our hypothetical agency and a basic COOP activation.

To illustrate this COOP activation, we will assume that there is a local agency that serves a municipality large enough to warrant having a headquarters and several substations.‡ Now let us assume that this agency has four worksites; one of these facilities serves as headquarters and the other three are all branch offices. For the purpose of this discussion, let us introduce an event that would affect the operations of the headquarters, in this case a fire. A massive fire breaks out in the building, but all those working inside the building safely evacuate. As a result, all employees who work in the building have evacuated to a designated assembly area, safely away from the zone of danger. The fire department arrives at the scene and begins to combat the blaze. However, the fire is so large that in spite of the best efforts of the responding fire departments, the building is entirely consumed by the fire and is reduced to rubble.

It is clear that there is no way that the members of this agency who worked in this building can carry out their functions at headquarters. This is a classic example of a COOP situation. The agency would now turn to its COOP plan; the COOP plan would allow it to suspend nonessential functions, reassign or send nonkey personnel home, and relocate operations to another facility. Once essential functions were resumed, the agency would begin trying to determine if it headquarters could be repaired or would other options need to be considered, such as designating the alternate facility as its headquarters or leasing new space. Then, the agency could look to initiate reconstitution proceedings as soon as possible (Figure 1).

However, let us reconsider the situation in a context more pertinent to a discussion of devolution. What would happen if the staff had not been so fortunate to escape from the building? Instead of safely evacuating let us assume there was an explosion, and before the staff could evacuate, the entire building collapsed. These events would leave all or most of the employees deceased or at the very least unavailable for a long interval of time. This is inarguably a morbid suggestion; however, it is a necessary consideration to ensure that a thorough and fruitful discussion of devolution planning can follow. What would the agency do if all of the employees were lost? The essential functions carried out at agency headquarters would still have to be resumed; however, because of the personnel losses, there is no way that a traditional COOP plan would be able to handle this situation. To address this type of situation, an agency must have a devolution plan to ensure that the essential functions that were formerly carried out at headquarters were reassigned to “other facilities and personnel.” As a practical reality, devolution plans are usually created in one of the two ways, internal and external.

**INTERNAL DEVOLUTION**

First, let us turn to the less extreme version of devolution. This type involves the transfer of authority

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‡For this discussion, we will consider a hypothetical agency, and because the purpose of this scenario is to explain the nuances of devolution, I take some rather large liberties in oversimplifying the operations of this agency.
to other employees and facilities that are already under the control of the agency. Under the classic COOP paradigm, an agency’s facilities are impacted by some event. Because it is all-hazards planning, this event could range from a small fire that makes the building unusable or inaccessible to a massive event like a major storm, seismic event, or pandemic outbreak. Clearly, the building is not operational or it is inaccessible, and for this reason, the agency will then activate its COOP plan and relocate to its alternate facility. It will focus on performing only essential functions with a skeleton crew using those employees who occupy key positions. This is the classic example of COOP activation.

However, if the incident were to have a substantial impact on the agency, then the COOP plan may not sufficiently enable the agency to carry out its essential functions. If the agency lost a significant number of personnel, facilities, and/or equipment, it may have insufficient resources to carry out its COOP plan. But if the agency has other branches, departments, or offices, these subdivisions may be able to assume the authority that was originally vested in the affected department. Because this type of activity would not follow the arrangement set forth in the COOP plan, it would be considered a type of devolution.

Returning to our hypothetical scenario, what would happen if in addition to the building burning down, the staff was unable to evacuate and was lost in the blaze? The COOP plan would not work in this situation because although the alternate facility still exists, the COOP plan was dependent on some of the headquarters staff being relocated to man this structure. With the loss of the entire staff this is now impossible.

Although the agency in this example has just undergone a horrific tragedy and it might seem callous to suggest that things could have been worse, it is actually the truth. This agency is fortunate because it is large enough to have branches, and this gives the agency additional options when it comes to devolution. Because the agency has branch officers, these can be used to assume the responsibilities normally carried out at headquarters; headquarters would have the ability to devolve its authority internally to its own subdivisions (Figure 2).

This type of devolution has obvious advantages. First, because the same agency is maintaining responsibility for the various duties and responsibilities, it is less likely that there will be any legal entanglements. Another advantage of this approach is that employees of the same agency will still be involved in performing essential functions even if they do not ordinarily complete these activities. These employees will be versed in agency policies and procedures, making for a smoother transition of responsibility. Moreover, this will also allow people with expertise to continue performing the essential functions and providing the core services. This approach also allows an agency to continue to provide support to its constituents, and this is especially important with first responders. Employees government agencies feel a sense of duty to those people it serves, and this is nowhere more apparent than in the world of first response. When first responders are able to perform these duties, confidence in the agency is preserved. Sustaining morale will always be a key goal in the aftermath of a major event, especially if an agency has suffered heavy losses. For all of

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§These subdivisions could just as easily be field offices, departments, divisions, etc.

¶This is especially true when these government employees are involved with law enforcement, the fire service, emergency management, or emergency medical services.
these reasons, the first step in a devolution plan, at least when possible, should always focus on devolving authority within the agency first.

Clearly, this approach to devolution works best when dealing with federal or larger state or municipal agencies because these entities will have subdivisions to which they can devolve authority. For example, if something were to happen to one of the offices in the Securities Exchange Commission or the Department of Energy or even Federal Emergency Management Agency (FEMA),** and it was substantial enough to warrant devolving authority, in all likelihood any of these agencies would be able to take the functions and responsibilities controlled by the impacted branch and pass those off to other offices. Similarly, if some event were to happen to a police station in Chicago, the Chicago Police Department would be able to reassign the duties handled by that branch to other stations. However, what if we are dealing with an agency that only has one building or we are facing an event that is so widespread that all of the various departments have been adversely impacted? In these cases, it becomes necessary to look beyond the bounds of our own jurisdiction.

**EXTERNAL DEVOLUTION**

Unfortunately, devolution planning efforts should not end with constructing an “in-house” devolution plan. First, some agencies only have one office with no separate departments or branches. For these agencies there is simply no one to devolve to in-house; these agencies must always look for external support. Moreover, devolution planning is often concerned with developing contingencies to deal with worst-case scenarios. All agencies, even those large enough to have branches or field offices, must confront the reality that there could be an event whose impact was so great that they would not be able to devolve their authority to any subdivision within the agency. Because the possibility of these contingencies exists, it is crucial for agencies to develop plans that would allow them to pass off their authority to various other agencies that are not affiliated with the agency in question. This transfer of authority will be referred to as external devolution.

In some instances, this handoff to an external agency may be something on the level of one federal agency handing off authority to a different one. On a local level, this transfer could occur between different agencies within a municipal government. This devolution could also occur between adjoining jurisdictions. For example, in a situation like the disaster that befell the Marshall’s Creek Fire Department in Pennsylvania, the fire department in a small town was completely incapacitated and unable to provide fire suppression services to the town. This authority then devolved to nearby towns/boroughs, which provided these services until the town’s fire department was able to reconstitute.††

On a very basic level, the approach to external devolution is the same as internal. However, any agency involved in this type of planning must be particularly sensitive to any legal issues that may arise; this is especially true if an agency has been specifically charged with a duty by statute or regulation. Because of the various legal issues that arise, it is prudent to have in-house counsel review devolution plans to ensure that they are in compliance with any applicable laws.‡‡ It is worth noting that a devolution plan may not definitively designate which external agencies would assume the agency’s duties, it may

**Figure 3. A situation where an agency must devolve its authority to an agency with similar expertise that is present in another jurisdiction because it has no other branches or departments to which it can devolve its authority.**

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**Notes:**

*The fire department in this case did not have a devolution plan, but due to the resourcefulness of the surviving members and the surrounding jurisdictions, fire suppression services continued. This may have not been the case if the event had been a region-wide incident.

*This review by counsel is also advisable for other aspects of a COOP plan that involve a transfer of power, particularly any delegations of authority or orders of succession.

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**References:**

**Footnotes:**

*Footnotes are not included in the natural text representation.*
just provide a list of possible suggestions of external authorities to help serve in this regard. A full list of what a devolution plan should contain will be described in the next section. A pragmatic way to approach a devolution plan is to continually ask, “If my agency was completely destroyed by some event, what would a relief agency need to know, to step in and perform our essential functions?” (Figures 3 and 4). Many agencies are aware of the need to provide contingencies to address situations where their capabilities are overwhelmed. They often handle this through the creation of memoranda of understanding and memoranda of agreement. The Emergency Management Assistance Compact also touches on some of these issues.  

Although these are necessary tools that can serve as a good starting point, and should certainly be included into any plan, they are not sufficient to address worst-case scenarios alone. It is only devolution planning that addresses a situation where an agency loses all or most of its own capability to perform its essential functions.

There is one final point that needs to be emphasized, which applies to all forms of devolution planning. With any type of devolution planning, it is important for every planner to realize that devolution is not a situation where an agency is closing its doors forever. Devolution planning is a contingency where an agency passes primary responsibility for its essential functions to other facilities and personnel temporarily. Although this timetable might be fairly substantial, the impacted office is not quitting. The department is merely taking a timeout from its normal responsibilities to procure personnel, facilities, or equipment that would enable an agency to resume responsibility for its essential functions and ultimately reconstitute to its pre-event capability. For these reasons, it is important for planners to emphasize that a devolution scenario is not one in which the affected agency is “giving up,” rather, it is merely a situation where the agency is taking some time to replenish its resources so that it can resume performance of its essential functions and then reconstitute.

Because this type of planning requires intense coordination between planners from different jurisdictions, it is best to use a collaborative approach throughout the planning process, as indicated in the National Response Framework.  

**DEVOLUTION PLAN CONTENT**

As discussed previously, devolution is planning for worst-case scenarios. It is difficult to quantify with precision what constitutes a worst-case scenario, let alone develop a plan to deal with it. However, this difficulty does not relieve the responsibility of developing such a plan. No matter how uncertain the incident that an agency must deal with, there are discrete activities that can be completed for every agency’s devolution planning efforts. Clearly, the level of specificity contained within a devolution plan will largely be determined by the type of devolution involved; obviously, an internal devolution effort will be more detailed, while an external plan will necessarily be less defined because it must contain more flexibility. Again, the best way to approach devolution planning is to think, “What would someone from another agency need to know to assume responsibility for our agency’s functions if everyone from our agency was unavailable to explain any of these operations to the replacement agency?” As a practical matter, it is necessary to emphasize that much of the content of a devolution plan will come from the...
agency’s COOP plan. When this is the case, there is no need to reinvent the wheel; it is simply a matter of transferring the information from the COOP plan to the devolution plan.

First, before considering the specific components of a devolution plan, it is useful to recommend two tools that planners can use to assist in devolution planning efforts. The first is the Continuity Assistance Tool, which contains a series of checklists that state and local planners can use to construct their COOP plans, and consequently, their devolution plans as well.\(^\text{18}\) The other tool that planners should consult is FEMA’s Devolution Plan Template and Instructions. This document is aimed at providing a framework for Federal agencies to create devolution plans; however, it is a useful starting point for planners on the state and local levels as well.\(^\text{19}\)

Whether it is an internal or an external planning effort, there are certain activities that must be completed. One of the most vital steps that all devolution planning requires is the identification of prioritized essential functions.\(^\text{20,21}\) This list would provide any entity that would be taking over for the impacted department a starting point to understand the most important functions for that agency. This will ensure that no matter what the agency is forced to devolve to, the relief agency will have the capability to quickly assume responsibility for performing these essential functions. Fortunately, although this is one of the most important steps, it is also a step that is going to be completed in any COOP planning process.

Another planning step that must be completed for both types of devolution planning is a catalog of the resources needed to perform the prioritized essential functions.\(^\text{20,21}\) This list would include the personnel, equipment, supplies, databases, systems, and materials needed to perform essential functions from a devolution site.\(^\text{22}\) Again, this is a task that is going to be carried out in COOP planning, so it is just a matter of taking the information from the COOP plan and including it in the devolution plan. Closely related to the identification of these resources is providing the relief agency/department with a roster of surviving personnel, who are properly equipped and trained.\(^\text{22}\) Any surviving personnel could provide vital support during the devolution process. Although the number of surviving personnel may be too small to actually run the agency, would be an invaluable resource to an external agency that would be trying to intervene and carry out the essential functions. These individuals would have the expertise necessary to carry out the essential functions and could guide the relief agency through the process.

Some of the other elements to be included in the devolution plan deal with restoring the agency after it has devolved its authority. This is because a devolution plan should not be seen as a permanent abdication of responsibility; rather, it is merely an opportunity for a wounded agency to sufficiently recover its resources so that it can reconstitute at some point in the future. In this vein, there are several elements that should be incorporated into the devolution plan. Among the elements that should be included are ensuring that the capability exists to restore the agent to its pre-event status. This would include creating protocols and procedures that would enable the agency to procure new resources, hire replacement personnel, and acquire new facilities to resume essential functions, and ultimately reconstitute.\(^\text{20,21}\)

There are several other elements that should be included in a devolution plan; however, some of these will have different degrees of specificity depending on the nature of the agency. One of these would be identifying the triggers that would initiate a devolution plan activation.\(^\text{20,21}\) Obviously, this will often be a difficult task; however, it should be possible to identify some of these triggers.\(^\text{55}\) A manpower study might be a tool to effectively establish a devolution trigger. For example, let us assume that a manpower study explained that an agency generally used 10,000 man hours a week to perform all functions and at least 4,000 hours a week to perform essential functions. Continuing with this example, let us also assume that after some significant event, an agency only has the capability to provide a total of 1,000 man hours per week. In this case, the agency has lost such a significant portion of its workforce that it cannot possibly perform even its essential functions; therefore, this

\(^{\text{55}}\)Admittedly, it will also be impossible to identify every possible trigger of a devolution plan.
situation would require devolution. Now, this is a neat example with clearly defined parameters; however, similar triggers can be identified in the real world. Other triggers might include the following: loss of all facilities (perhaps losing the primary site and alternate facilities), loss of a certain percentage of equipment or supplies, or loss of key systems or databases.

Finally, a devolution plan should specify the protocols that would allow for the transfer of control over an agency’s essential functions to the devolution site and personnel. Clearly, this is one of the elements of devolution that is much more explicit and structured when dealing with internal devolution. This is the case because when an agency is devolving within itself, it can clearly identify facilities and personnel who will assume responsibility for carrying out the essential functions. However, when an external devolution is required, it is unlikely that such exactness will be possible. If an agency is devolving to an external entity, many of the decisions as to how the duties will be distributed will be left to that entity. Moreover, during the planning process, the agency that is devolving authority may not even know which agency will be assuming control, thereby making it impossible to fully explain the transfer of authority. Regardless, specifying how control will pass and be reassumed by the agency are tasks that need to be completed as thoroughly as possible. Any applicable statutes or regulations that define the agency’s power must also be included and accounted for in the devolution plan; therefore, this is another aspect of a devolution plan that should be vetted through in-house counsel. This is especially true if the situation is going to involve external devolution, and the transfer of authority is going to be for a significant amount of time.

Developing the content of a devolution plan is a difficult undertaking, and there are limits as to how much of this can be completed with precision. Some of these activities, like identifying the prioritized essential functions and resource requirements, can and should be completed by all agencies for both types of devolution. Other aspects of this planning are more difficult to quantify; still, efforts should be made to define these as clearly as possible. Identifying devolution triggers and specifying the protocols that would allow for the transfer of authority will certainly be easier for internal devolution; however, any strides that can be made with regard to these issues for external devolution should also be undertaken. The more content that emergency planners can develop for their devolution plans the better a position the agency will be in if it has to respond to a worst-case scenario disaster.

CONCLUSIONS

Recent incidents have underscored the need for enhanced continuity planning efforts ranging from local jurisdictions all the way to the federal government. However, one of the most important and often overlooked or disregarded aspect of many continuity efforts is the devolution plan. Devolution plans are crucial because they are the only plans that deal with contingencies in which the agency has lost its capability to provide essential functions; these are the only plans that are specifically targeted at worst-case scenarios. Despite the inherent difficulties, both practically and conceptually, it is the duty of every agency to undertake and complete these planning efforts to ensure that all of the stakeholders will continue to receive the basic services they need. Even if the agency itself cannot persist, planners must ensure that someone is going to assume responsibility for those operations. Obviously, when an agency is able to, it should attempt to devolve its authority internally. This is the preferred method because the plan can be completed in more detail and some of the potential legal entanglements can be circumvented. However, it is also imperative that an agency prepare an external devolution plan as well. In this way, an agency can ensure that it has covered all of its bases and will be able to devolve its authority when it is impacted by a serious incident.

A police officer from a jurisdiction in Maryland used the following analogy to explain devolution when I spoke to him about devolution, and I think that it is one of the most useful ways to visualize the concept. In his analogy, he stated that a devolution planner should imagine that there is a family living in a single-family home. It is in the evening and a fire breaks out in the residence. The smoke detectors sound and the family evacuates safely. Although the fire department responds quickly, the house is...
consumed and burns to the ground. The family goes to a hotel and focuses on caring for their children. As the weeks pass, the parents focus on providing food and clothing, sending the children to school, and trying to begin the process of rebuilding their home. The family focuses on taking care of basic necessities, until they are able to acquire a permanent shelter (this could be a new apartment, a rebuilt home, etc.). During this time, the family does not focus on activities like vacations or going out to dinner or to the movies. Now, let us re-envision this analogy; however, in this second scenario, the children are able to escape the home, but the parents are killed in the fire. Even though they are deceased, the parents will have left behind certain things to ensure that their children are cared for. They may have left behind life insurance, wills, trusts, medical information, relatives to contact; in short, the parents would leave behind all of the things that would give a new caregiver a starting point for looking after their children.

If it is not immediately apparent, this analogy is an attempt to illustrate the differences between a COOP activation followed by reconstitution and a devolution scenario, respectively. In the first case, the parents represent the agency and the house is their primary operating facility, while the children represent the stakeholders/constituents served by the agency. When the primary site becomes unavailable, they relocate to and alternate facility, the hotel, and focus on performing only essential functions like providing food, clothing, shelter, and schooling for the children. Although the agency will suspend some functions, like going on vacations, until they have a permanent shelter, the family will eventually reconstitute and resume all functions. In the second scenario, the parents have been killed, which means that the agency has been destroyed. However, the stakeholders, in this case the children still need to be cared for still need to be cared for. Insurance policies, wills, family members who can care for the children are all things that parents would use to protect their surviving children, and these items represent the various elements of a devolution plan. Just as the cautious parents need to ensure that their children are taken care of, so should the well-prepared agency ensure that its constituents are provided for in the event that it is no longer capable of performing essential functions.

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REFERENCES