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APARTMENT MANAGEMENT CONSIDERATIONS IN THE WAKE OF RECENT BUILDING AND BIOTERRORISM ATTACKS

\$ Terrorist attacks on the World Trade Center and the Pentagon, President Bush's declaration of war against Osama bin Laden and his co-conspirators, and anthrax scares affecting major news media and Congressional offices have raised a variety of management issues for apartment owners.

\$ In response to numerous member inquiries, this document is designed to provide apartment operators with useful references to better address resident, investor, and public concerns.

\$ The provisions of the new USA PATRIOT Act (Pub. L. 107-56), applicable to the apartment industry, are also discussed.

\$ Recommended distribution of this White Paper:

- " Property Management Officers
- " Human Resources Officers
- " General Counsels

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MEMORANDUM

TO: Interested NMHC and NAA Members

FROM: Jay Harris, Vice President of Property Management
Clarine Nardi Riddle, Senior Vice President and General Counsel

RE: Apartment Management Considerations in the Wake of Recent Building and
Bioterrorism Attacks

DATE: November 4, 2001

Please understand that the information discussed in this Memorandum is general in nature and is not intended to be legal advice. It is intended to assist our members in understanding this issue area, but it may not apply to the specific fact circumstances or business situations of all owners and managers. For specific legal advice, consult your attorney.

Terrorist attacks on the World Trade Center and the Pentagon, President Bush's declaration of war against Osama bin Laden and his co-conspirators, and anthrax scares affecting major news media and Congressional offices and post offices have raised a variety of management issues for apartment owners. In response to numerous member inquiries, this document is designed to provide apartment operators with useful references to better address resident, investor, and public concerns.

MILITARY CALL-UP

The deployment of tens of thousands of reservists and National Guard members raises issues that many apartment companies have not had reason to address since the Persian Gulf War in 1991. Specifically, the Soldiers' and Sailors' Civil Relief Act (SSCRA) (50 U.S.C.A. App. 501 et seq.) provides for limited relief from leases and rental agreements for families of service members called overseas. State laws, such as in Virginia, expand the federal benefits for residents. Also, apartment employees called overseas will probably qualify for certain retirement, health care, and other benefits under the federal Uniformed Services Employment and Reemployment Rights Act (USERRA) 38 U.S.C. 4310 et seq.

A. Relief for Residents under the Soldiers' and Sailors' Civil Relief Act

SSCRA permits a "person in military service" and the person's dependents to terminate, upon his or her induction into the service, any residential (or commercial) lease that was executed before entering into the military. Secs. 534, 536. Terminations may be made by regular mail. If the lease provides for monthly rent payments, then termination will not be effective until thirty days after the next due date of the rent which due date follows the mailing of the notice. In all other cases of rent payment, the termination will be effective on the last day of the month which follows the month in which the notice was mailed. Pre-paid rents will be prorated and refunded. Unpaid rent for the period will be prorated. An owner has the right to petition the court for

equitable modification of these rights. Courts have read the Act to relieve members of the public health service from their lease obligations, both as individual guarantor and as resident, where the lease guaranty was signed before entering the military or public health service. *Omega Industries Inc. v. Raffaele*, 894 F. Supp. 1425 (D.C. Nev. 1995).

Where the monthly rent is \$1,200 or less, the Act provides for a stay of an act of eviction or distress of up to three months (unless the court orders longer) on behalf of the person in service or the person's dependents. Secs. 530, 536.

A person in service can stay a creditor's (e.g., apartment owner's) action before it is filed or at any point before a pending action has been reduced to final judgment, and can even set aside a default judgment during or after the end of military duty. Secs. 521, 590.

SSCRA limits the liability of a person in service to pay interest in excess of six percent per annum on any obligation incurred prior to entering the service. Under the statute, "interest" includes service charges, renewal charges, fees, or any other charges in respect of the obligation excluding insurance. Sec. 526. Though this section is generally read to limit the applicable rate on home mortgage loans, the provision also appears to limit to a rate of six percent per year the maximum amount of service charges and late fees that a property owner may charge, though the Act is silent on the specific application of this section to the owner-resident context.

Laws in some states, especially those with significant military populations, provide broader benefits than the federal act for service members wishing to terminate an apartment lease. Virginia law, for example, permits a broader category of service personnel to terminate a lease under certain conditions, regardless of whether the lease was entered into before the resident began military service. Generally, a service member under Virginia law may terminate the lease where: station orders move the member more than thirty-five miles from the rental unit for more than three months; the member has been discharged or released; or the member has been ordered to report to government-supplied quarters. Unlike the federal law, the state provision applies to leases regardless of when the service member is called to duty. Sec. 55-248.21:1 Va. Code.¹

B. Employee Benefits under USERRA

USERRA applies to a broad category of National Guard members and reservists on active duty who are in the "service." Briefly, the Act prohibits discrimination against service members in hiring and governs the procedure under which a veteran applies for reemployment after completing duty. The Act also generally requires that a veteran's position of employment, as well as the rights and benefits of employment based on seniority, reflect his or her time in service. USERRA also extends to veterans certain protections from termination without cause and certain rights to employers' health and retirement benefits plans.

A detailed section-by-section analysis describing the rights and responsibilities that apply to private employers and service members under USERRA was prepared for the benefit of members by James H. Kizziar, Jr. of Bracewell and Patterson, L.L.P. A copy is available at

¹ For this section, the authors are indebted to the excellent summary of the SSCRA and comparison of SSCRA with Virginia law found in this section to *Virginia Landlord-Tenant Law*, 2nd Ed., Friedlander, Chaps. 13, 7-15C, 1998 (Michie). More information about SSCRA can be found at <http://dev.nmhc.rd.net/Content/ServeContent.cfm?IssueID=318&ContentItemID=1453>.

<http://dev.nmhc.rd.net/ContentAdmin/ContentHub.cfm?ContentItemID=1444> and by contacting LaToya Scott at 202/974-2349 or via e-mail at lscott@nmhc.org.

INSURANCE

After close to a decade of softening, markets for apartment and other forms of habitational property and general liability insurance were hardening significantly even before the events of September 11. Before the events of September 11, NMHC/NAA members were reporting year-over-year increases in their 3rd and 4th quarter renewals in the range of 25 to 100 percent.

Following the terrorist attacks, however, members report that some underwriters of the primary layer of property and casualty insurance have informed their clients they are exiting the apartment market. Separately, insurance providers are requiring new policy exclusions for acts of terrorism, adding to existing exclusions for acts of war. These terrorism exclusions have led the real estate, insurance, and financing industry groups (including NMHC/NAA) to call on Congress and President Bush in an October 8 letter for federal risk-sharing to cover losses due to acts of terrorism. A copy of that letter is available at <http://dev.nmhc.rd.net/Content/ServeContent.cfm?IssueID=318&ContentItemID=987>. At this writing, Congress and the Administration are at work on contrasting approaches, but there appears to be general acceptance that the federal government will play some role in sharing the risk of loss due to terrorist attacks. There is a strong push to enact legislation before the end of the calendar year.

To help member executives better address the market for property insurance coverage in the post September 11 environment, NMHC hosted a Risk Management Roundtable in Washington, D.C., on October 19. Highlights of that discussion follow.

- Roundtable participants reported that, in the post-September 11 insurance markets, property and general liability insurance costs could be expected to rise 50 to 300 percent at renewal for similar-level coverage. The need to limit cost increases is causing firms to take higher deductibles and explore new methods of self-insuring risk.
- A number of primary-layer underwriters have already given non-renewal letters to existing apartment owner clients.
- Firms reported closer attention to reducing losses with more active risk management programs and the hiring of new risk management professionals.
- Higher deductibles could be placing many properties in technical default, requiring a waiver of loan covenants with the lender and, where the loan was sold after origination, the secondary market guarantor as well. Fannie Mae and Freddie Mac representatives reported that they were evaluating their current insurance underwriting requirements, particularly with regard to deductible and underwriter market rating requirements, in light of changed market conditions.
- Owners will have to monitor terrorism exclusions carefully even if the federal government takes a backstop role in protecting any loss. Underwriters can be expected to retain broad discretion to exclude from coverage losses that do not meet applicable definitions of terrorist acts.

RESIDENTS AND EMPLOYEES

NMHC/NAA members have also asked questions about how apartment companies can best help the ongoing law enforcement effort to identify terrorist suspects among residents, employees, and applicants, while continuing to meet the obligations of the Fair Housing Act and residents' privacy expectations.

A. Inquiries from Law Enforcement – Suspect Investigations, Apartment Access, and FBI Assistance in Light of the USA PATRIOT Act

Law enforcement agencies routinely inquire at apartment firms for help with ongoing suspect searches, investigations, and arrests. The current investigation for clues into the September 11 hijackings, anthrax scares and related events, however, has increased apartment owners' awareness of their interactions with law enforcement.

Some member firms require that an inspecting law enforcement officer provide a subpoena or search warrant before a property owner will disclose nonpublic information about an employee, resident, or applicant. Obtaining a subpoena or search warrant need not be a burden on the inspecting officer – typically, a subpoena can be obtained by a law enforcement officer from the local U.S. Attorney's office under a showing of cause.

With respect to Federal Bureau of Investigation (FBI) inquiries and requests for assistance, the new USA PATRIOT Act, signed into law by President George Bush on October 26, 2001, provides apartment management and other "landlords" with new liability protections and rights to compensation for certain kinds of assistance provided to FBI investigations. (Pub. L. 107-56) The Act also puts restrictions on the information an assisting apartment owner can disclose about its participation in the investigation. The USA PATRIOT Act may be read at <http://dev.nmhc.rd.net/ContentAdmin/ContentHub.cfm?ContentItemID=1454>.

Section 215 of the Act authorizes FBI representatives to obtain "tangible things," including books, records, papers, and other documents, for international terrorism and covert intelligence activity investigations. The FBI must first obtain a magistrate's order in order to exercise its authority under this section. This section also provides immunity from liability for property management who, in good faith, produces documents or other tangible information pursuant to such an order. Section 215 could apply to resident and employee records. Importantly, owners and managers may not disclose "to any other person (other than those persons necessary to produce the tangible things under this section) that the FBI has sought or obtained tangible things under this section." Sec. 215.

Section 216 provides for the installation and use of a pen register or trap and trace device anywhere within the United States pursuant to a court order authorizing such installation and use. A pen register captures telephone numbers on outgoing calls, as well as routing and addressing information in Internet communications. A trap and trace device captures the incoming electronic or other impulses that identify the originating number or other dialing, routing, addressing, and signaling information relevant to identifying the source of a wire or electronic communication.

Section 222 of the Act states that "a provider of a wire or electronic communication service, landlord, custodian, or other person who furnishes facilities or technical assistance pursuant to

Section 216 shall be reasonably compensated” for expenditures incurred when providing facilities or assistance. Owners, therefore, have the right to request compensation for reasonable costs incurred by management in helping FBI representatives set up pen register and trap and trace facilities. For example, staff time and materials costs associated with setting up a pen register in the telephone closet might be compensable.

Section 225 of the Act amends the Foreign Intelligence Surveillance Act (FISA) to provide immunity to apartment owners and other “landlords” who assist law enforcement in FISA-authorized activities. The Act states no court will accept jurisdiction over a cause of action filed against “any provider of a wire or electronic communication service, landlord, custodian or other person” that supplies information, facilities, or technical assistance in accordance with a court order or request for emergency assistance authorized under the Act. This broad and important provision allows owners to comply with law enforcement requests for assistance under FISA without risking exposure to lawsuits. Section 225 differs from Section 222 in that Section 222 provides reasonable compensation for compliance with court-ordered pen register or trap and trace while Section 225 provides immunity for compliance with any FISA-authorized activity.

The USA PATRIOT Act also creates a new section of the Fair Credit Reporting Act that provides new authority for consumer reporting agencies to provide consumer reports and all related files to government agencies where the agency produces a written certification that the requested information is necessary for conducting a terrorism investigation. Section 358 (g) of the USA PATRIOT Act also requires that the consumer reporting agency and its agents and employees treat the request as confidential and provides for protection from liability for the agency and its employees and agents who disclosed information in “good faith reliance” on an agency’s written certification.

Member firms have implemented specific policies for responding to investigations undertaken by the FBI and related agencies for the purpose of detecting terrorist activities. A sample of one such procedure and written authorization has been provided by an NMHC/NAA member firm and can be found at Appendix 1.

With respect to entry by law enforcement to a resident’s apartment, many firms follow the guidance of the Texas Apartment Association *Redbook* and other authorities and require that the investigating officer produce a search or arrest warrant before giving the law enforcement office access to a residence, unless the officer is in hot pursuit of a suspect. (*TAA Redbook*, 1998-9, 483)

Should you wish to contact an FBI field office to provide information relevant to the ongoing investigation into the September 11 terrorist attacks and subsequent anthrax mailings, a list of FBI field offices can be found at <http://dev.nmhc.rd.net/Content/ServeContent.cfm?IssueID=318&ContentItemID=1446>.

B. Applicant Screening and Resident/Employee Identification Procedures

Companies are inquiring about whether to modify resident screening procedures to gather more information about resident backgrounds in the event of a law enforcement inquiry. In reviewing resident screening procedures, companies should keep in mind the Fair Housing Act’s specific prohibitions against different screening procedures for individuals based on national origin. Fair Housing Act regulations specifically prohibit:

“(4) Using different qualification criteria or applications, or sale or rental standards or procedures, such as income standards, application requirements, application fees, credit analysis or sale or rental approval procedures or other requirements, because of race, color, religion... or national origin.

(5) Evicting tenants because of their race, color, religion ...or national origin or because of the race, color, religion...or national origin of a tenant's guest.” 24 CFR 100.60(b)(4), (5)

In his Sept. 26 letter calling on the housing industry to stand united against discrimination in the wake of the September 11 attacks, HUD Secretary Martinez specifically mentioned the Act's prohibitions on refusing to rent or evicting someone on the basis of race, religion, or national origin. See

<http://dev.nmhc.rd.net/Content/ServeContent.cfm?IssueID=318&ContentItemID=1448>.

Specifically, apartment firms may wish to consider these applications of the Fair Housing Act to resident and applicant evaluation policies and procedures:

- In devising application procedures, firms should put applicants through one application process using one application form. Instead of providing a separate form for non-citizens to fill out, companies should integrate the requested information on that form into one uniform application. For example, if information is needed about an applicant's Immigration and Naturalization Service (INS) status, that information should be requested of all applicants, not simply those who are not American citizens. Making application procedures uniform will reduce the risk of complaints a company is “using different qualification criteria or applications...because of race...religion...or national origin” in violation of subparagraph (4) above.
- Some firms have considered starting to evaluate the immigration status of applicants, on the grounds that a resident on an immigrant visa may have a higher risk of skipping or being deported before the termination of the lease. However, before committing to verify applicants' immigrant status, firms should consider carefully whether site staff are prepared to accurately verify the legal immigration status of resident applicants. Also, firms may not be able to demonstrate that one's immigration status bears any relationship to the risk of the resident defaulting or skipping.
- Firms may be considering whether to verify if residents, employees, or applicants are on a list of known suspects provided by the FBI. However, great care should be taken to ensure that an accurate determination of identity is made before alerting the FBI, INS, or other law enforcement agencies to the past or current presence of a suspect among residents or employees.

MAIL-HANDLING PROCEDURES AND ANTHRAX: CDC AND USPS GUIDANCE

The October anthrax attacks on news media and Congress have raised member firms' awareness of the possibility of biological and chemical weapons attacks on apartment properties, and how firms should respond to such attacks or the threat thereof.

On October 12, the Centers for Disease Control and Prevention (CDC) published recommended procedures for the public to use upon encountering a suspicious or suspected anthrax threat letter.

A copy of the CDC's guidance to the public is reprinted in Appendix 2. The guidance suggests how to identify suspicious packages and how to treat packages with "anthrax" or other suspicious markings, with white powder, or those that disperse matter into the air through "aerosolization."

The United States Postal Service (USPS) issued an advisory message to customers on October 17 concerning safe mail handling procedures. Although the USPS has not issued specific instructions to businesses that sort mail, including apartment firms sorting resident mail, its general advisory is applicable to those members providing sorting services. The USPS Message to Customers is available at www.nmhc.org/members/propmgnt/terrorism/default.html.

- Regarding the outside appearance of letters and parcels, the USPS advises that the following characteristics should trigger suspicion: Any detectable powdery substance, excessive postage, handwritten or poorly typed addresses, incorrect titles or titles without a name, and misspelled words. The USPS also cautions against letters or parcels addressed to a party no longer with your organization or that are otherwise outdated. Other suspicious characteristics include absent or unverifiable return addresses and unusual weight or shape. Letters or parcels with an unusual amount of tape, that have strange odors or stains, or are restrictively marked "personal" or "confidential" shall also be treated suspiciously.

The USPS cautions that mail suspected of contamination should not be handled. Suspicious letters or parcels should be isolated and the immediate area cordoned off. The USPS message provides specific instructions for those who may have encountered suspicious mail and urges immediate law enforcement notification.

The FBI has also released a color poster describing whom to contact in the event of receiving a suspicious package. The poster is available at www.nmhc.org/members/propmgnt/terrorism/default.html.

Some apartment and condominium operators that sort and hold mail for residents report that they are taking additional mail-handling precautions in light of the bioterrorism attacks. Generally, however, firms do not appear to be ending their mail sort-and-hold services for residents. Among the precautions reported:

- Some firms report that their staff opening corporate mail and letters for residents are using facial masks and wearing gloves.
- A New York City firm reports that postal service workers in some jurisdictions there will no longer deliver boxes but now require that recipients go to the post office for pickup.
- Firms continue to accept packages on behalf of residents and are reviewing with front-line staff the USPS guidance on suspicious packages mentioned above.
- Firms are verifying with the resident that a held package is something the resident is expecting or that the package comes from a known address.

FBI WARNING ON HVAC SYSTEM CONTAMINATION

The FBI issued a Terrorist Threat Advisory October 6 detailing the risk of contamination of air handling systems and suggesting precautions in the event of building contamination. A copy of the

Advisory is found in Appendix 3.

Specifically, the Advisory suggests cutting off air handling systems once the release of a contaminant into the external air is known or, where a contaminant is released inside the building, air handling systems should be turned to “full outside air” settings. The guidance also advises “that military and commercial detectors for toxic chemicals and biological pathogens are of little or no use as in-line monitors within an air handling system.”

In the event of an internal release of hydrogen cyanide, chlorine, or other toxic industrial chemicals, the Advisory recommends activating sprinkler systems. However, the Building Owners and Managers Association (BOMA) has pointed out, as a practical matter, it can be difficult to trigger sprinkler systems without triggering the heating mechanism or breaking sprinkler heads.²

HIGH-RISE BUILDING EVACUATION PROCEDURES/FAMILY EMERGENCY PLANS

In at least one major jurisdiction, the World Trade Center collapses have heightened local government officials’ attention to high-rise building evacuation procedures. While building codes already require a wide variety of building features that promote life safety and ease of egress from apartment buildings, the regulatory focus on tall buildings and evacuation procedures may be expected to continue.

The scope of the high-rise apartment market is significant and is concentrated in the Northeast. NMHC research based on the 1999 American Housing Survey reveals that nationwide there are approximately 1.6 million apartment units in buildings of seven or more stories, more than half of which (862,000) are concentrated in the Northeast region.

One major city’s recent action gives a picture of where other jurisdictions may be headed. In Chicago, the City Council has moved quickly after the events of September 11 to propose a new ordinance requiring that owners of high-rise buildings over 80 feet tall file written evacuation plans with the city, designate a fire safety director for the building, and conduct practice evacuations once a year in residential buildings. Violators will be subject to fine. Passage of the ordinance is expected.

A number of other jurisdictions already have ordinances in place requiring high-rise apartment owners to devise and implement evacuation procedures and notices. In New York City, for example, fire department rules require that multifamily properties have a fire safety plan containing fire safety and evacuation procedures. Also, fire safety notices must be prepared and distributed or posted by the owner. 2 R.C.N.Y.43-01. A copy of the New York City fire safety rule can be found at www.nmhc.org/members/propmgnt/terrorism/default.html.

Even if local ordinances do not require evacuation plans, apartment managers and owners may want to encourage residents to create their own family emergency plans. Family emergency plans are a set of action steps for family members to take in the event a fire or similar catastrophe affects their apartment home. Model plans are available from local fire departments. A sample family emergency plan is available at www.n and is reprinted in Appendix 4.

²NMHC/NAA are grateful for BOMA staff assistance in preparing this section. BOMA comments on the FBI Advisory can be found at www.boma.org/iaq/terror&hvac.htm.

CONCLUSION

The country and the apartment industry today are in a unique state of risk, facing threats of a very different and vastly more uncertain nature than the range of risks that were in the public and industry consciousness before September 11. To respond, NMHC/NAA have prepared this guidance to provide firms with industry-specific considerations and useful resources in one location. Going forward, NMHC/NAA staff are available to discuss with member firms what additional steps industry leaders are taking to respond to today's rapidly evolving risk environment.

APPENDIX 1: POLICIES AND PROCEDURES FOR RESPONDING TO LAW ENFORCEMENT INVESTIGATIONS FOR THE PURPOSE OF NATIONAL SECURITY

MEMORANDUM

TO: All Property Managers
FROM: [Corporate Office]
SUBJECT: FBI Investigations
DATE: September 21, 2001

As we all are aware, the FBI and other agencies have banded together to investigate terrorist-related activity across the country. Some of these investigations have brought officials to the doorsteps of our rental communities and to others across the country.

We have wrestled with how we balance our desire to cooperate with the FBI or related task forces on any investigation related to national security with our long-standing commitment to protecting the privacy of our residents. We also have an obligation to protect the company, to the best of our abilities, from any litigation that could occur from the inappropriate release of information on a resident.

Following discussions with the local FBI office, we have developed an interim policy that applies only to investigations related to national security and to the recent terrorist activities. Further, this policy applies only to investigations related to one of our residents or an apartment on our premises. Any inquiries related to any other site matter or to an employee must be referred to the Office of the General Counsel in our Legal Department.

This policy will be revisited on a periodic basis and you will be notified if and when the policy no longer applies. **Property Managers are accountable for strict compliance with this policy.**

- ❑ Responses to inquiries at the sites will only be handled by the Property Manager or the Associate/Assistant Property Manager.
- ❑ If an FBI investigator (or related task force member) arrives, request identification and verify identity of investigator. The FBI identification will be a card with the name of the agent, their signature and an embossed seal. In the upper right hand corner will be their credential number. Agents also carry a small badge. Ask what field office they are dispatched from. Other agencies may have different credentials. If you question any of the credentials, contact the Legal Department.
- ❑ Write down the investigator's name and the badge number on the attached form.
- ❑ Contact the appropriate FBI field office and verify the identity of the investigator. A listing of field offices has been attached.
- ❑ Once identity is confirmed, inquire as to the nature of the investigation. If the reason given is national security, the recent bombings, Twin Towers, or terrorist activity, please continue below. **If the response is anything other than a reason listed above or "I can't tell you," kindly inform the investigator that no information can be shared without a subpoena.**
- ❑ If documents are requested, inquire as to which ones. Ask the investigator to be specific.
- ❑ You may supply copies of the lease and the lease application. Nothing else.

- ❑ On the form, list the documents provided and ask the investigator to sign the form. Fax a copy of the form to the Legal Department.
- ❑ For requests for additional documents, access to your computer or access to an apartment, a **valid subpoena or search warrant** is required.
- ❑ If a subpoena or search warrant is received, fax it to the Legal Department where its validity can be assured. You will then be notified and can comply.
- ❑ Notify your Asset Specialist/Manager of the inquiry and how it was handled.
- ❑ **No information may be given over the telephone or email.**
- ❑ If an agent is requesting to speak with our employees regarding any activities at the property, please contact the Office of the General Counsel for guidance.

Any other requests for information from law enforcement authorities unrelated to national security or any requests for access MUST be accompanied by a valid subpoena or a search warrant per our standard policies.

If you feel you have relevant knowledge of applicants, residents or former residents that may be of interest to the FBI, please contact the Legal Department to discuss whether or not the FBI should be contacted with the information.

Any other issues that may arise which are not covered by the above policy should be directed to the Office of the General Counsel.

Thank you for your diligence in complying with this policy. We hope this memo provides you with enough guidance on how to handle these situations at your site. As always, please do not hesitate to contact your Asset Manager, RVP or me with any additional questions.

APPENDIX 1 (cont.): POLICIES AND PROCEDURES FOR RESPONDING TO LAW ENFORCEMENT INVESTIGATIONS FOR THE PURPOSE OF NATIONAL SECURITY

SIGNED AUTHORIZATION TO RELEASE FILE INFORMATION

Property Name:

Property Manager/Assistant Property Manager Name:

The following documents were provided to _____ an FBI Agent with Badge Number _____ on _____, 2001.

These documents were provided relating to an investigation involving national security as explained by above agent.

Agent Signature

APPENDIX 2: CENTERS FOR DISEASE CONTROL HEALTH ADVISORY

HOW TO HANDLE ANTHRAX AND OTHER BIOLOGICAL AGENT THREATS

Many facilities in communities around the country have received anthrax threat letters. Most were empty envelopes; some have contained powdery substances. The purpose of these guidelines is to recommend procedures for handling such incidents.

DO NOT PANIC

1. Anthrax organisms can cause infection in the skin, gastrointestinal system, or the lungs. To do, so the organism must be rubbed into abraded skin, swallowed, or inhaled as a fine, aerosolized mist. Disease can be prevented after exposure to the anthrax spores by early treatment with the appropriate antibiotics. Anthrax is not spread from one person to another person.
2. For anthrax to be effective as a covert agent, it must be aerosolized into very small particles. This is difficult to do, and requires a great deal of technical skill and special equipment. If these small particles are inhaled, life-threatening lung infection can occur, but prompt recognition and treatment are effective.

SUSPICIOUS UNOPENED LETTER OR PACKAGE MARKED WITH THREATENING MESSAGE SUCH AS “ANTHRAX”:

1. Do not shake or empty the contents of any suspicious envelope or package.
2. PLACE the envelope or package in a plastic bag or some other type of container to prevent leakage of contents.
3. If you do not have any container, then COVER the envelope or package with anything (e.g., clothing, paper, trash can, etc.) and do not remove this cover.
4. Then LEAVE the room and CLOSE the door, or section off the area to prevent others from entering (i.e., keep others away).
5. WASH your hands with **soap and water** to prevent spreading any powder to your face.
6. What to do next...
 - If you are at **HOME**, then report the incident to local police.
 - If you are at **WORK**, then report the incident to local police, **and** notify your building security official or an available supervisor.
7. LIST all people who were in the room or area when this suspicious letter or package was recognized. Give this list to both the local public health authorities and law enforcement officials for follow-up investigations and advice.

ENVELOPE WITH POWDER AND POWDER SPILLS OUT ONTO SURFACE:

1. DO NOT try to CLEAN UP the powder. COVER the spilled contents immediately with anything (e.g., clothing, paper, trash can, etc.) and do not remove this cover!
2. Then LEAVE the room and CLOSE the door, or section off the area to prevent others from entering (i.e., keep others away).
3. WASH your hands with **soap and water** to prevent spreading any powder to your face.
4. What to do next...
 - If you are at **HOME**, then report the incident to local police.
 - If you are at **WORK**, then report the incident to local police, **and** notify your building security official or an available supervisor.
5. REMOVE heavily contaminated clothing as soon as possible and place in a plastic bag, or some other container that can be sealed. This clothing bag should be given to the emergency responders for proper handling.
6. SHOWER with **soap and water** as soon as possible. *Do Not Use Bleach Or Other Disinfectant On Your Skin.*
7. If possible, list all people who were in the room or area, especially those who had actual contact with the powder. Give this list to both the local public health authorities so that proper instructions can be given for medical follow-up, and to law enforcement officials for further investigation.

QUESTION OF ROOM CONTAMINATION BY AEROSOLIZATION:

For example: small device triggered, warning that air handling system is contaminated, or warning that a biological agent released in a public space.

1. Turn off local fans or ventilation units in the area.
2. LEAVE area immediately.
3. CLOSE the door, or section off the area to prevent others from entering (i.e., keep others away).
4. What to do next...
 - If you are at **HOME**, then **dial "911"** to report the incident to local police and the local FBI field office.
 - If you are at **WORK**, then **dial "911"** to report the incident to local police and the local FBI field office, **and** notify your building security official or an available supervisor.
5. SHUT down air handling system in the building, if possible.
6. If possible, list all people who were in the room or area. Give this list to both the local public health authorities so that proper instructions can be given for medical follow-up, and to law

enforcement officials for further investigation.

HOW TO IDENTIFY SUSPICIOUS PACKAGES AND LETTERS

Some characteristics of suspicious packages and letters include the following...

- Excessive postage
- Handwritten or poorly typed addresses
- Incorrect titles
- Title, but no name
- Misspellings of common words
- Oily stains, discolorations or odor
- No return address
- Excessive weight
- Lopsided or uneven envelope
- Protruding wires or aluminum foil
- Excessive security material such as masking tape, string, etc.
- Visual distractions
- Ticking sound
- Marked with restrictive endorsements, such as "Personal" or "Confidential"
- Shows a city or state in the postmark that does not match the return address

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www.bt.cdc.gov/DocumentsApp/Anthrax/10122001Handle/10122001Handle.asp

APPENDIX 3: FBI ADVISORY ON AIR HANDLING CONTAMINATION

October 6, 2001

National Threat Warning System - TERRORIST THREAT ADVISORY

CONTAMINATION OF AIR HANDLING SYSTEMS IN THE WAKE OF THE SEPTEMBER 11, 2001 TERRORIST ATTACKS ON THE WORLD TRADE CENTER AND PENTAGON, RECIPIENTS SHOULD BE AWARE OF THE POTENTIAL FOR CONTAMINATION OF AIR HANDLING SYSTEMS. THIS INFORMATION SHOULD BE FORWARDED TO ALL BUILDING AND SYSTEM MANAGERS IN ORDER TO ADVISE OF THIS THREAT AS WELL AS MITIGATION PROCEDURES.

WHILE THE FBI POSSESSES NO SPECIFIC THREATS AT THIS TIME REGARDING THE RELEASE OF TOXIC CHEMICALS INTO AIR HANDLING SYSTEMS, STATE AND LOCAL LAW ENFORCEMENT AUTHORITIES AND THE PUBLIC ARE ADVISED TO REMAIN ESPECIALLY ALERT TO ANY UNUSUAL ACTIVITIES AROUND VENTILATION SYSTEMS. THIS IS A PRECAUTIONARY MEASURE IN KEEPING WITH THE ONGOING NECESSARY HEIGHTENED AWARENESS FOR TERRORISM IN THE UNITED STATES.

RECIPIENTS WITH INFORMATION RELATING TO THIS MATTER SHOULD IMMEDIATELY CONTACT THEIR LOCAL FBI FIELD OFFICE.

Summary

Release of a toxic chemical into an air handling system is a feasible; however, simple measures taken immediately on learning of the release might lessen harmful effects. Use of military and commercial chemical-biological detectors as "in-line" monitors is deemed unlikely to benefit because the response time is longer than the time needed for the toxic substance to be spread through the air handling system.

Key Findings

Most structures in the US have an air handling system (residences, office buildings, shopping centers, commercial establishments, transit systems, airports). Each system has one or more air intakes and a blower or some similar device that moves the air through the system (typically, the ventilation system).

Release of a toxic chemical into an air handling system is a credible threat because (1) toxic chemicals are readily available in quantities and in forms making them easy to disperse into the air handling system, (2) most air intakes are readily accessible, (3) few air handling systems have any in-line filters that would be effective at removing these chemicals and (4) any release would be spread throughout the entire system within five minutes or less. Benefits will be derived from the simple measures of (1) turning off the air handling system (for an external release) or opening up the air handling system to full outside make-up air (for an internal release) and (2) moving occupants away from windows, elevators, courtyards, and stairwells and into interior rooms.

Adversary's Capabilities: Hydrogen Cyanide (HCN)

Intelligence assessments have focused attention to hydrogen cyanide as a potential chemical weapon for use against, in particular, air handling systems (that is, released within a building or other confined space or introduced into an air intake such that the hydrogen cyanide is spread throughout the building or space via the air handling system). Fueling such assessments are open-literature reports of improvised devices involving compounds intended to evolve hydrogen cyanide gas on mixing.

Hydrogen cyanide is a colorless liquid that rapidly evaporates under ordinary temperature and weather conditions. The hydrogen cyanide vapors (that is, a gas) have a faint almond odor; however, 20% of humans are incapable of detecting hydrogen cyanide at any concentration.

The toxicity of hydrogen cyanide is equivalent to that of chlorine but is significantly less than that of military chemical warfare agents. Hydrogen cyanide is less toxic by inhalation than by ingestion. The poisoning effects of hydrogen cyanide are not cumulative. An exposed person who survives can be expected to suffer no serious, long-term ill health effects from the hydrogen cyanide (by contrast, chlorine and many other toxic industrial chemicals often cause such long-term effects).

It is extremely difficult (some authorities report "impossible") to achieve a lethal concentration of hydrogen cyanide out-of-doors.

Preventions

Immediate, low- or no-cost measures:

- Building and system managers (for example, subway and tunnel systems) should be instructed to cut off the air handling system immediately upon being advised of the release of a toxic substance external to the building.
- This simple measure will stop the spread of the toxic substance throughout the building.
- Building and system managers should be instructed to place the air handling system on "full (or 100%) outside air" immediately upon being advised of the release of a toxic substance internal to the building. This simple measure will dilute the toxic substance already within the air handling system and will speed up its removal from the building.
- Building occupants should be instructed to seek "shelter in place" in areas where air movement is low. Occupants should be instructed to stay away from windows and to avoid places where air movement is brisk (for example: elevator shafts and stairwells). Occupants should be instructed to remain inside, under cover.
- Building and system managers should be advised that military and commercial detectors for toxic chemicals and biological pathogens are of little or no use as in-line monitors within an air handling system. The response time of currently available detectors is too slow to impact the spread of any toxic substance within the building or system. These detectors might have value as a diagnostic tool post-exposure of the building or system occupants and as a tool for determining when the outside air is safe for use following shut-off of external air intake.

- Building and system managers should activate the water sprinklers if advised of an in-building release of hydrogen cyanide, chlorine or other toxic industrial chemicals. The water will mix with these chemicals to form less toxic substances, removing them from the air.

Near term measure:

- Building and system managers should consider design and equipment modifications to make external air intakes less accessible. Options include installation of false or decoy intakes, camouflaging the actual intakes, and relocating the intakes to less accessible areas.

APPENDIX 4: FEDERAL EMERGENCY MANAGEMENT AGENCY MODEL FAMILY DISASTER PLAN

Your Family Disaster Plan

Disaster can strike quickly and without warning. It can force you to evacuate your neighborhood or confine you to your home. What would you do if basic services--water, gas, electricity or telephones--were cut off? Local officials and relief workers will be on the scene after a disaster, but they cannot reach everyone right away.

Families can--and do--cope with disaster by preparing in advance and working together as a team. Follow the steps listed in this brochure to create your family's disaster plan. Knowing what to do is your best protection and your responsibility.

Where will your family be when disaster strikes? They could be anywhere--at work, at school or in the car.

How will you find each other? Will you know if your children are safe?

4 Steps to Safety

1. Find Out What Could Happen to You

Contact your local emergency management or civil defense office and American Red Cross chapter--be prepared to take notes:

- Ask what types of disasters are most likely to happen. Request information on how to prepare for each.
- Learn about your community's warning signals: what they sound like and what you should do when you hear them.
- Ask about animal care after disaster. Animals may not be allowed inside emergency shelters due to health regulations.
- Find out how to help elderly or disabled persons, if needed.
- Next, find out about the disaster plans at your workplace, your children's school or daycare center and other places where your family spends time.

2. Create a Disaster Plan

Meet with your family and discuss why you need to prepare for disaster. Explain the dangers of fire, severe weather and earthquakes to children. Plan to share responsibilities and work together as a team.

- Discuss the types of disasters that are most likely to happen. Explain what to do in each case.
- Pick two places to meet:
 1. Right outside your home in case of a sudden emergency, like a fire.

2. Outside your neighborhood in case you can't return home. Everyone must know the address and phone number.

- Ask an out-of-state friend to be your "family contact." After a disaster, its often easier to call long distance. Other family members should call this person and tell them where they are. Everyone must know your contact's phone number.
- Discuss what to do in an evacuation. Plan how to take care of your pets.

3. Complete This Checklist

- Post emergency telephone numbers by phones (fire, police, ambulance, etc.).
- Teach children how and when to call 911 or your local Emergency Medical Services number for emergency help.
- Show each family member how and when to turn off the water, gas and electricity at the main switches.
- Check if you have adequate insurance coverage.
- Teach each family member how to use the fire extinguisher (ABC type), and show them where it's kept.
- Install smoke detectors on each level of your home, especially near bedrooms.
- Conduct a home hazard hunt.
- Stock emergency supplies and assemble a Disaster Supplies Kit.
- Take a Red Cross first aid and CPR class.
- Determine the best escape routes from your home. Find two ways out of each room.
- Find the safe spots in your home for each type of disaster.

4. Practice and Maintain Your Plan

- Quiz your kids every six months so they remember what to do.
- Conduct fire and emergency evacuation drills.
- Replace stored water every three months and stored food every six months.
- Test and recharge your fire extinguisher(s) according to manufacturer's instructions.
- Test your smoke detectors monthly and change the batteries at least once a year.

EMERGENCY SUPPLIES

Keep enough supplies in your home to meet your needs for at least three days. Assemble a Disaster Supplies Kit with items you may need in an evacuation. Store these supplies in sturdy, easy-to-carry containers such as backpacks, duffle bags or covered trash containers.

Include:

- A three-day supply of water (one gallon per person per day) and food that won't spoil.
- One change of clothing and footwear per person, and one blanket or sleeping bag per person.
- A first aid kit that includes your family's prescription medications.
- Emergency tools including a battery-powered radio, flashlight and plenty of extra batteries.
- An extra set of car keys and a credit card, cash or traveler's checks.
- Sanitation supplies.
- Special items for infant, elderly or disabled family members.
- An extra pair of glasses.
- Keep important family documents in a waterproof container. Keep a smaller kit in the trunk of your car.

UTILITIES

Locate the main electric fuse box, water service main and natural gas main. Learn how and when to turn these utilities off. Teach all responsible family members. Keep necessary tools near gas and water shut-off valves.

Remember, turn off the utilities only if you suspect the lines are damaged or if you are instructed to do so. *If you turn the gas off, you will need a professional to turn it back on.*

NEIGHBORS HELPING NEIGHBORS

Working with neighbors can save lives and property. Meet with your neighbors to plan how the neighborhood could work together after a disaster until help arrives. If you're a member of a neighborhood organization, such as a home association or crime watch group, introduce disaster preparedness as a new activity. Know your neighbors' special skills (e.g., medical, technical) and consider how you could help neighbors who have special needs, such as disabled and elderly persons. Make plans for child care in case parents can't get home.

HOME HAZARD HUNT

During a disaster, ordinary objects in your home can cause injury or damage. Anything that can move, fall, break or cause a fire is a home hazard. For example, a hot water heater or a bookshelf can fall. Inspect your home at least once a year and fix potential hazards.

Contact your local fire department to learn about home fire hazards.

EVACUATION

Evacuate immediately if told to do so:

- Listen to your battery-powered radio and follow the instructions of local emergency officials.

- Wear protective clothing and sturdy shoes.
- Take [your family disaster supplies kit](#).
- Lock your home.
- Use travel routes specified by local authorities--don't use shortcuts because certain areas may be impassable or dangerous.

If you're sure you have time:

- Shut off water, gas and electricity before leaving, if instructed to do so.
- Post a note telling others when you left and where you are going.
- Make arrangements for your pets.

IF DISASTER STRIKES

- Remain calm and patient. Put your plan into action.
- Check for injuries
- Give first aid and get help for seriously injured people.
- Listen to your battery powered radio for news and instructions
- Evacuate, if advised to do so. Wear protective clothing and sturdy shoes.
- Check for damage in your home...
 - Use flashlights--do not light matches or turn on electrical switches, if you suspect damage.
 - Check for fires, fire hazards and other household hazards.
 - Sniff for gas leaks, starting at the water heater. If you smell gas or suspect a leak, turn off the main gas valve, open windows, and get everyone outside quickly.
 - Shut off any other damaged utilities.
 - Clean up spilled medicines, bleaches, gasoline and other flammable liquids immediately.

Remember to...

- Confine or secure your pets.
- Call your family contact--do not use the telephone again unless it is a life-threatening emergency.
- Check on your neighbors, especially elderly or disabled persons.
- Make sure you have an adequate water supply in case service is cut off.
- Stay away from downed power lines.

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