

STATEMENT OF DAVID L. WRIGHT,  
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AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

BEFORE THE

COMMITTEE ON HOMELAND SECURITY

U.S. HOUSE OF REPRESENTATIVES

HEARING ON

“Federal Protective Service: Will Continuing Challenges Weaken  
Transition and Impede Progress?”

November 18, 2009

Chairman Thompson, Ranking Member King and Members of the Committee:

My name is David Wright. I am President of AFGE Local 918, which represents the dedicated men and women of the Federal Protective Service. I have been an FPS Law Enforcement Officer for the past twenty-three years. In the eight years since the September 11 attacks, I watched with growing frustration and outrage, as the Federal Protective Service was allowed to deteriorate and drift like a rudderless, sinking ship. Despite intervention by Congress to establish minimum staffing levels, FPS still has significantly less boots-on-the-ground in-service field staff than when it joined DHS. The transition to the National Protection Programs Directorate is clearly a welcome change in the right direction. I am hopeful that under the leadership of Secretary Napolitano and Under Secretary Beers, DHS can finally get the vital mission of protecting the over 1 million dedicated civil servants who work in the 9,000 FPS secured facilities located in over 2,100 American communities right.

The Federal Protective Service indeed faces daunting challenges, and its Officers and Inspectors have been shocked and dismayed by the recent GAO reports and vulnerabilities that continue to exist. Every day, they put their lives on the line to accomplish the DHS mission and have willingly sacrificed their leisure and family time to work the many hours of overtime required to make sure facilities are protected and contract guards are correctly trained and proficient in their duties. Despite these yeoman efforts, FPS does not have sufficient staff to accomplish these vital tasks. While we are finally confident the Department leadership wants FPS to succeed, we need your help to make sure the embedded, intransigent and unaccountable bureaucrats at OMB cooperate to provide the minimum resources necessary to accomplish our mission.

One glaring example is the monitoring and training of contract guards. In 2001 there were 5,000 contract guards and FPS was authorized over 1,450 total personnel. By 2009 there were 15,000 contract guards, but FPS was authorized only 1,225 total personnel. A three-fold increase in guards coupled with a 16% cut in FPS staff was a recipe for failure. No one should have been surprised to discover shortfalls in contract guard management, performance and ability to detect weapons and explosives. Clearly OMB should have increased the resources available for monitoring, rather than imposing a cut.

Based in the GAO test, where without detection, they entered facilities with explosives; the overreliance on contract guards – particularly at the highest security level buildings – has clearly reduced the effectiveness of security provided around these facilities. The staggering lapses found by the GAO make insourcing of contract guards at high risk buildings an important component of any overall reform effort for FPS.

We do not dispute GAO findings that FPS could better manage its roles, and are encouraged that implementation of the long planned Risk Assessment Management Program (RAMP) is a major step forward to provide a viable tool that will assist our Officers and Inspectors to manage

defined risks at the facility and local levels. While RAMP will apply GAO key practices to facility protection, the additional workload and tracking of field staff actions will result in increased time to complete assessments. Since the overall mission will not change RAMP could add to the real root cause of most FPS failures and the largest impediment to progress, which is a lack of sufficient field staff.

Major challenges that hamper the protection of government employees and members of the public who work in and visit Federal facilities include:

- Diminished security and increased the risk of crime or terrorist attacks to facilities as a result of decreased or eliminated law enforcement services such as proactive patrol in many locations.
- Contract guards that lack law enforcement authority, and are not adequately monitored or trained.
- An unworkable and inefficient funding structure that has resulted in funding being cut by \$700 million since 9/11, employee pay reduced by ten percent, and unbudgeted transition costs.
- The FY 10 Appropriations act requires FPS to pay the costs of transition to NPPD from its revenues, but OMB has not yet raised security charges to provide any increased revenue.
- FPS consistently loses high performing employees because our law enforcement officers are not recognized as such and do not have the same benefits as other agencies with equivalent missions.
- Limited service hours in major cities impact critical monitoring tasks.
- Inadequate time to complete necessary tasks, including security assessments.
- Building Security Committees that fail to understand or approve critical security measures.
- ISC guidance interpreted by tenant and GSA security staff that could result in hiding rather than accepting or mitigating risk.
- Coordination with other agencies security personnel who frequently attempt to ineffectively duplicate FPS provided services and hamper consistent application of risk-based security measures.
- In-service field staff below congressionally mandated levels.
- FPS lacks membership on the interagency security committee and no longer has a role as an honest broker to ensure compliance with security standards.
- FPS field managers need to build a labor management partnership to establish one team dedicated to the critical Federal facilities protection mission.

To meet these challenges and to achieve the promise of one Department responsible for securing the Homeland, including Federal employees and facilities, an effective long and short-term strategy is necessary. Congress should take these critical initial steps:

1. Immediately mandate sufficient FPS staff to meet mission requirements.
2. Recognize FPS' dedicated law enforcement officers as such with appropriate pay and benefits.

3. Stop the fee-funding scheme that forces agencies to choose between adequate protection for their employees and service to the public, by proposing direct appropriation of essential basic and mandated security measures.
4. In-source contract guard positions at high-risk facilities, by replacing them with Federal Police Officers.
5. Give DHS the tools to protect Federal facilities by codifying the role of the Interagency Security Committee; and restoring FPS Committee membership as its honest broker.

### **Continuing Challenges to Effective Protection**

1. Diminished security and increased the risk of crime or terrorist attacks in many facilities as a result of decreased or eliminated law enforcement services such as proactive patrol in many locations.

The GAO has pointed to the importance of a uniformed, Federal law enforcement presence surrounding federal buildings as an essential security requirement to detect and deter attack. It is an approach embraced by virtually all law enforcement agencies across the country. A properly staffed FPS would function as a community police organization where security and law enforcement tasks are integrated. The focus would be proactive and designed to prevent criminal and terrorist attack, rather than the traditional police model of merely responding to reports of crime, determining if a law was violated, initiating action through the criminal justice system and cleaning up the resulting mess. FPS' protection mission will be best accomplished by using Inspectors, augmented by Federal Police Officers (series 083) in the largest cities, and at the highest risk facilities. Inspectors would be assigned as the designated service provider for a mix of high and lower risk facilities to conduct facility security assessments, support facility security committees, assist facility emergency planning, train facility tenants on security topics, assist with facility emergency plans, train contract guards, and verify functionality of most security countermeasures. Both Police Officers and Inspectors would provide law enforcement response, proactive patrol, guard performance inspections, verification of guard certifications and guard training monitoring.

2. Contract guards that lack law enforcement authority and are not adequately monitored or trained.

The GAO has documented the risks inherent in depending on contract guards as a force multiplier without adequate government inspection, performance monitoring and training. Contract guards lack the authority to arrest. With additional staff, FPS would have significantly higher assurance guards are performing and are trained to the specifications of the contract, through robust inspection and monitoring protocols. Contract guards should not have the responsibility for all dedicated facility patrol, access control, CCTV monitoring, and weapons detection at all facilities, including complex buildings with established high and very high risks. Roving patrol and weapons detection positions at the highest risk facilities should be performed by Federal Police Officers, just as they are at the White House, the Capitol and Congressional Office Buildings, and the Pentagon. In-sourcing these positions at select facilities to use FPS Police Officers would materially reduce the risk of successful attack using tactics similar to those used by the GAO. The use of contract guards can

continue for monitoring functions, for agency specific requirements, and at lower risk facilities with guard requirements, such as Social Security Offices. Additionally, these Police Officers would have a natural career path, building on their experience as Federal officers, to the inspector position, thus creating an initial accession position within FPS.

3. An unworkable and inefficient funding structure that has resulted in funding being cut by \$700 million since 9/11, employee pay reduced by ten percent, and unbudgeted transition costs.

The history of the unworkable FPS funding method has been well documented. Congress created DHS to prioritize risk mitigation strategies based on threat, vulnerability and consequence of attack. DHS cannot perform this function for the Federal facilities it is charged with protecting under the current security charge FPS funding scheme.

In the post- 9/11 world of today, it makes virtually no sense to rely upon a square footage based fee to entirely determine funding for the FPS. While state and local taxes are used to fund basic police and security functions, no government collects fees from other government budget accounts for these essential services. Relying only on increased basic fees, as OMB has done, ultimately reduces the basic security services agencies can afford and increases the risk of their employees and facilities to attack. Prior to its transfer to DHS, GSA subsidized the FPS by \$139 million above security fee collections and paid FPS overhead and other costs from its appropriated base. DHS however, has relied only on security fee collections, resulting in a net cut of \$700 million (including inflation adjustments of 2.5%) between 2003 and 2008, despite increases in the fees charged to agencies for their protection.

4. The FY 10 Appropriations act requires FPS to pay transition costs from its revenues but OMB has not raised security charges to provide any increased revenue.

Without increased security charges, particularly after this year's 25% cut in the FPS charge to administer and monitor contract guards, to cover FPS support costs which were previously provided without charge by ICE, FPS will likely be forced to cancel procurement of critical capital items and may have to curtail operations or hiring of replacement staff.

5. FPS consistently loses high performing employees because our law enforcement officers are not recognized as such and do not have the same benefits as other agencies with equivalent missions.

FPS Officers have been denied the same benefits many other Officers with equivalent missions receive including the Capitol Police and the Secret Service Uniformed Division. This results in excessive attrition, and impedes recruitment of many superbly qualified law enforcement candidates.

6. Limited service hours in major cities that impact critical monitoring tasks.

The GAO found that in most regions FPS is only on duty during regular business hours. Guards are not routinely monitored at night and on weekends. FPS does not even have 24-hour staffing in New York City. Criminals and terrorists don't work business hours and neither should FPS. Night and weekend staffing should be established in the 18 to 20 major metropolitan areas with the greatest number of high-risk and total facilities.

7. Inadequate time to complete critical tasks, including security assessments.

The GAO has reported FPS Inspectors do not have enough time to complete Facility Security Assessments. Some only have 10% of the time required to complete quality assessments to established standards. In the last two years, as FPS attempted to reduce the various increased risks reported by the GAO without increased FTE, our Inspectors and Police Officers had to rob Peter to pay Paul to get the job done. In some cases this had the effect of reducing risk in one area by adding it in another. Additional staffing, including Police Officers, coupled with a reduction in the number and mix of facilities assigned to each Inspector is critical to the success of a viable community policing model.

8. Building Security Committees that fail to approve critical security measures.

The GAO reported Building Security Committees (BSC), which are not composed of security professionals, have responsibility for approving security countermeasures to reduce that facilities vulnerability to attack. Additionally, due to budget pressures agencies had competing uses, in addition to security, for their funds. Recently at an unguarded courthouse in a western state, there were gunshots directed into a congressional office window. FPS has proposed a nighttime guard for that facility each year since initial building planning in 2002, but it has not been implemented by the BSC. Action to place DHS in charge of this process is necessary to ensure facilities are properly protected.

9. ISC guidance interpreted by tenant and GSA security staff that could result in hiding rather than accepting or mitigating risk.

The Interagency Security Committee (ISC) recently promulgated new guidance on the establishment of Facility Security Level (FSL). The FSL determines what level of protection a building should have. Members of the GSA and other agency security staff have stated that if a facility is not going to implement required security standards, the FSL level should be downgraded as a risk acceptance measure. This has the effect of hiding, not mitigating risk. DHS should be assigned a clearly defined management and oversight role for the ISC to ensure consistent implementation of its critical security guidance, rather than the “consensus basis” under which it currently operates.

10. Coordination with other agencies security personnel who frequently attempt to ineffectively duplicate FPS provided services and hamper consistent application of risk-based security measures.

Since 2001 the number of non-DOD security specialists and police officers has increased by over 3,200 positions. Many of these security positions appear to duplicate functions and services provided by FPS, and may represent inefficient empire building. Some agencies have even claimed that since they have security specialists they should not have to pay security charges. This is like a homeowner buying a shotgun and garden hose, then claiming he should be exempt from paying taxes for police and fire protection. Ad hoc security staff and procedures can create additional vulnerabilities and make coordination of government wide standards difficult. It was even reported that the DHS Office of Security attempted to create its own law enforcement agency to protect its GSA owned space, rather than use FPS for the service. The “I will take care of my agency

and everyone else be damned” attitude prevalent in some of these uncoordinated security staffs increase the risk that we may fail to put the pieces together to prevent an attack. These separate organizations each build their own supervisory and overhead staff and in total cost more than placing the responsibility with a single agency. A single provider like FPS can achieve nationwide economies of scale that elude most non-DOD security staffs.

11. In-service field staff below congressionally mandated levels.

The FY 10 DHS Appropriations Act mandates that OMB and DHS shall ensure fee collections are sufficient to ensure that the Federal Protective Service maintains not fewer than 1,200 full-time equivalent staff and 900 full-time equivalent Police Officers, Inspectors, Area Commanders, and Special Agents who, while working, are directly engaged on a daily basis protecting and enforcing laws at Federal buildings (referred to as “in-service field staff”). Based on ICE and OMB guidance the FPS in-service field staff has been interpreted as including all personnel assigned to FPS law enforcement positions. Thus the 900 minimum includes recruits who have not even attended FLETC Uniformed Police training, personnel on long term restricted duty that prevents service as a law enforcement officer, regional office GS 14 and 15 managers, regional intelligence and JTTF Agents, and staff assigned to the FPS national headquarters. This appears to be at variance with the very specific language of the Act. The committee should clarify to the DHS Secretary and Director of OMB, that in-service means in-service, and FPS should be immediately funded to recruit sufficient staff to ensure compliance.

12. FPS is not a member of the interagency security committee and no longer has a role as an honest broker to ensure compliance with security standards.

When President Clinton issued Executive Order 12977 in 1995 he specified that the Director (then Assistant Commissioner) of FPS was a member of the ISC. He also made the Director of FPS responsible for monitoring Federal agency compliance with the policies and recommendations of the ISC. When the Bush Administration revised the order upon the creation of DHS, these critical roles were eliminated.

13. FPS field managers need to build a labor management partnership to establish one team dedicated to the critical Federal facilities protection mission.

In some regions managers attempt to manage workload by imposing impossible deadlines rather than working together with employees to set achievable goals. We have Inspectors and Police Officers who work up to 60 hours a week to meet management demands for national and regional goals, but in some locations these dedicated officers work the extra hours without overtime pay because they cannot do all that is necessary in the time allowed by their management. Officers also report that administrative contracting tasks detract from essential protective activities, while other regions get these tasks done at the region headquarters. Better partnering can build a cohesive team where goals can be accomplished without fear as a primary motivation.

14. With the potential terrorist trials in New York likely requiring significant augmentation of the FPS NYC staff, more staff is required to prevent diversion of staff from other areas.

## **Actions to Meet Challenges and Ensure Progress**

To meet these challenges and to achieve the promise of one Department responsible for securing the Homeland, including Federal employees and facilities, an effective long and short-term strategy is necessary. Congress should take these critical initial steps:

1. Provide sufficient FPS staff to meet mission requirements.
  - In FY 2010 FPS is projected to have 1,225 personnel and approximately \$240 million to protect 9,000 facilities and over 1 million employees nationwide.
  - There are over 1,600 Capitol Police with \$292 million, to protect the Capitol and Congressional Offices in a 12 block area of Washington DC.
  - The Secret Service has over 1,300 officers in its Uniformed Division, to protect its assigned facilities in Washington DC.
  - The Veterans Health Administration has over 2,500 Police Officers to protect their 154 medical centers nationwide.
  - Clearly FPS is not adequately staffed to accomplish its mission.
  - Immediately establish a minimum requirement of 1,200 field law enforcement staff (in-service field staff as defined in the DHS Appropriations Act) to protect buildings, including effective monitoring of contract guard performance and training.
  - Mandate night and weekend service in the largest cities with the highest number of high-risk facilities, using Police Officers to augment the Inspector force.
  - Notify DHS and OMB that in-service field staff as defined in the FY 2010 Appropriations act means in-service staff in the field, not merely any position categorized as law enforcement.
  - Additional resources may be required after receipt of a budget request that reflects an output driven staff allocation model.
2. Recognize FPS' dedicated law enforcement officers as such with appropriate pay and benefits.
  - FPS Officers should be granted the same authority given to all other federal law enforcement officers to carry their service weapons on a 24/7 basis. Not only does this provide an additional police presence in communities where these officers reside, it also gives the officers protection against retribution from persons they have arrested and others who might wish to do them harm.
  - FPS Police Officers and Inspectors are treated as second-class citizens in regards to the federal law enforcement status. They should be granted the same retirement benefits afforded to other law enforcement personnel with virtually the same mission.
  - FPS Police Officers and Inspectors received a retention allowance and were placed on special pay tables until 2007. These initiatives significantly slowed attrition and retained highly qualified employees. When these were eliminated, many of the most qualified and experienced employees moved to other law enforcement and security positions with higher pay rates. FPS law enforcement personnel should receive Administratively Uncontrollable Overtime (AUO) at an initial rate of 25%. This will

enhance overall facility security and guard monitoring by ensuring officers can accomplish of all assigned tasks. Chemical inspectors and Protective Service Advisors within NPPD currently receive AUO to improve their ability to accomplish the myriad of tasks they are assigned, thus showing two situations in NPPD where this proposal works to improve mission performance..

3. Stop the fee-funding scheme that forces agencies to choose between adequate protection for their employees and service to the public, by proposing direct appropriation of essential basic and mandated security measures. All basic, building specific and security fixture security costs should be authorized and directly appropriated to FPS to implement an integrated risk-based strategy to protect Federal facilities.
  - Direct appropriation for basic operations could be achieved through a transfer of funds by the Office of Management and Budget to the FPS of \$0.66 for each square foot assigned to each department and agency occupying GSA space (excluding facilities protected by the Secret Service Uniformed Division) from the agencies appropriation, with unoccupied and out-leased space considered as assigned to the GSA.
  - Direct appropriation for Building Specific Security Services, can also be achieved through a transfer of the costs paid by each agency, plus the charge paid for FPS program administration.
  - Optional security services to meet agency standards, such as guards at SSA Service Offices, should continue to be provided through the existing Security Work Authorization process.
4. In-source contract guard positions at high-risk facilities, by replacing them with Federal Police Officers.
  - Just as Congress and the White House use Federal Police Officers for dedicated patrol and weapons detection positions, all high risk Federal facilities should use these highly qualified law enforcement personnel rather than depending entirely on contract guards to perform these functions.
  - Direct the Department to in-source these positions.
  - Implement the transition at the rate of 300 officers a year.
5. Give DHS the tools to protect Federal facilities by codifying the role of the Interagency Security Committee; and restoring FPS Committee membership and its honest broker.
  - With the mandate of section 1315 of title 40 USC that the DHS protect all Federal facilities, the ISC should be codified as well.
  - FPS should be restored to its roles in the original directive.
  - Clear guidance should be provided that DHS is in charge of security standards for Federal facilities. Federal facility security standards are too important to be left to a consensus decision by ad hoc committee members.

6. Recognize the FPS manpower crisis in New York City – particularly in relation to upcoming terrorist trials.
  - Obtain an immediate assessment of present law enforcement and support staffing in NYC.
  - Obtain an immediate status of present management challenges.
  - Mandate FPS to correct management deficiencies and hire personnel sufficient to ensure 24/7 law enforcement coverage and to staff security for the upcoming terrorist trials.

### **Summary**

Mr. Chairman, the sole Federal agency charged with the critical mission of protecting thousands of federal buildings and millions of people from terrorist and criminal attack is on a path to mission success within NPPD. However, it is faced with significant challenges that if not remedied will impede progress. I believe the state of the FPS right now is little different from that of the airline industry security prior to 9/11. There, a reliance on poorly trained, unmonitored contract guards with no law enforcement authority; security implementation by conflicting entities; an unworkable funding structure; and a perception of security through inspections, instead of protection by boots-on-the-ground Federal officers proved disastrous.

It should not have happened then, and it should not be allowed to happen now. The dedicated men and women of FPS need your help to enable our success and to protect federal employees across the country. Again, thank you for the opportunity to testify at this important hearing.