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THE FEDERAL PROTECTIVE SERVICE: AN AGENCY IN NEED OF REBUILDING

(110–142)

HEARING

BEFORE THE

SUBCOMMITTEE ON
ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND
EMERGENCY MANAGEMENT

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

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U.S. House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

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June 16, 2008

SUMMARY OF SUBJECT MATTER

TO: Members of the Subcommittee on Economic Development, Public Buildings, and Emergency Management

FROM: Subcommittee on Economic Development, Public Buildings, and Emergency Management Staff and the Oversight and Investigations Subcommittee

SUBJECT: Hearing on "The Federal Protective Service: An Agency in Need of Rebuilding"

PURPOSE OF THE HEARING

On Wednesday, June 18, 2008, at 1:00 p.m., in room 2253 of the Rayburn House Office Building, the Subcommittee on Economic Development, Public Buildings, and Emergency Management will examine the final report of the Government Accountability Office's ("GAO") review of the Federal Protective Service ("FPS"). On February 13, 2007, Chairman James L. Oberstar and Subcommittee Chair Eleanor Holmes Norton wrote to the Government Accountability Office to request an examination of whether the FPS budget and personnel were adequate to support the "new" FPS mission, which was grounded in an inspector-based workforce rather than a protection-based workforce. The request called for a comparison of current experience, workforce size, retention rates, and salaries to those areas prior to FPS's transfer to Department of Homeland Security ("DHS"). The hearing will focus on the GAO's final report regarding these issues.

BACKGROUND

History of FPS

The Federal Protective Service dates back to 1790, with the enactment of legislation authorizing President George Washington to appoint three commissioners to establish a federal territory for a permanent seat of Federal Government. Prior to the formal establishment of the seat of government, the commissioners hired six night watchmen to protect the designated buildings the

government was intended to occupy. The FPS traces its origins to the appointment of these six night watchmen.

The FPS has resided in a number of different agencies over the years. The Act of June 1, 1948, authorized the Administrator to appoint special policemen for duty in connection with the policing of all buildings owned and occupied by the United States. In 1949, Congress enacted the Federal Property and Administrative Services Act of 1949, which consolidated real property functions within the newly created General Services Administration ("GSA"). The FPS force, known at the time as the United States Special Police, came under the supervision of the Protection Division of the Public Building Service ("PBS"). In 1971, the Administrator of GSA signed an order formally establishing the Federal Protective Force, later known as the FPS and the Civil Service Commission authorized the special classification title of Federal Protective Officer ("FPO").

Initially the main function of the FPS was protection, as an integral part of building operations. For the most part, the force held fixed posts and performed duties that would be considered safety functions today, such as: eliminating fire and safety hazards, patrolling buildings, detecting fires, and providing the first line of defense in fighting fires; and answering visitor questions, assisting citizens, rendering first aid, and directing traffic when necessary. The Civil Service Commission developed standards for applicants, which included a written examination, background investigations and physical examinations. By 1960, the FPS mission became the first line of defense against bomb threats, bombings, vandalism, mass demonstrations and violence against Federal buildings.

The Federal Protective Service delivers integrated security and law enforcement services to all Federal buildings, including office buildings, courthouses, border stations and warehouses, that GSA owns, controls, or leases. FPS customers reimburse them for these services through direct billing. FPS services include providing a visible uniformed presence in our major Federal buildings, responding to criminal incidents and other emergencies, installing and monitoring security devices and systems, investigating criminal incidents, conducting physical security surveys, coordinating a comprehensive program for occupants' emergency plans, presenting formal crime prevention and security awareness programs, providing police emergency and special security services during natural disasters such as earthquakes, hurricanes, major civil disturbances, and man-made disasters, such as bomb explosions and riots.

In the wake of the 1995 Oklahoma City Federal Building bombing, the Department of Justice ("DOJ") assessed the vulnerability of Federal office buildings in the United States, particularly to acts of terrorism and other forms of violence. The United States Marshals Service coordinated the study. GSA participated, as did the FBI, DOD, Secret Service, Department of State, Social Security Administration, and Administrative Office of the U.S. Courts.

The DOJ report made several recommendations to bring each Federal facility up to minimum standards recommended for its security level. The recommendations reemphasized GSA's primary responsibility for implementing Federal building security.

Current FPS Status

Today, the FPS is a division within the Immigration, Customs, and Enforcement ("ICE") agency of the Department of Homeland Security ("DHS"). The DHS Federal Protective

Service provides law enforcement and security services to more than one million tenants and daily visitors to federally owned and leased facilities nationwide. FPS is a full service agency with a comprehensive HAZMAT, Weapons of Mass Destruction ("WMD"), canine, and emergency response programs, as well as state-of-the-art communication and dispatch Mega centers.

The FPS protects all Federal agencies, housed in nearly 9,000 federally owned and leased facilities throughout the United States and its territories. On an annual basis, the FPS handles 10 million law enforcement calls for service, including 3.8 million radio calls, 2.4 million telephone calls, and 3.8 million alarm responses; conducts more than 1,000 criminal investigations for crimes against government facilities and employees; arrests more than 4,000 people for committing crimes on Federal property; and guards more than 500 facilities 24 hours per day, seven days a week.

The current FPS force is composed of both uniformed and non-uniformed officers, including criminal investigators and law enforcement and security specialists. Training for FPS officers includes eight weeks of instruction at the Federal Law Enforcement Training Center ("FLETC") in Glynco, Georgia, with additional periodic in-service and refresher training courses. FPS supervisors without military or local police training participate in a Leadership Academy Law Enforcement Course held at FLETC, which consists of two, two-week sessions. More recently, the role of the FPS officer has undergone further changes. The FPS has shifted its emphasis from the fixed-guard post framework for security to a mobile police patrol and response framework. FPS officers perform all duties attendant to the normal interpretation of a police officer function, including maintaining law and order, preventing or deterring disturbances, and investigating both felonies and misdemeanors.

However, as the Federal inventory of buildings has increased steadily over the last 30 years, the number of Federal Protective Service officers has steadily declined. The Committee is concerned about these trends and will scrutinize whether the Federal Protective Service has the resources and personnel to continue to provide top flight protection for Federal workers and Federal buildings.

Recent Administration Proposals

In FY 2008, the Bush administration proposed to severely cut the number of FPS officers across the nation. According to the GAO, at the end of FY 2007, there were about 756 FPS inspectors and police officers responsible for law enforcement, and an additional 344 operational and support employees. The administration proposed to cut the number of FPS employees from 1,100 to 950. Congress rejected the administration's request. The administration renews its request in FY 2009.

Under the current administration proposal, there would be no FPS presence in 50 cities that currently have FPS officers. There would be no night or weekend FPS response or service anywhere in the country. The largest proposed reduction is planned in New York and Washington, DC. In addition, the proposal eliminated proactive patrols to deter attack planning. Under the proposal, FPS officers will not respond to calls for police service to protect Federal employees and visitors and investigate crimes in areas where FPS no longer has a presence. Initially, according to DHS, FPS planned to seek Memorandums of Understanding ("MOUs") with local police departments to backstop police services typically provided by FPS. It remained unclear how FPS would entice local police departments to take on this added responsibility. Since their initial plans,

the FPS has decided not to pursue memoranda of understanding and instead will rely on "informal relationships that exist between local law enforcement agencies and the FPS".

RECENT LEGISLATIVE AND OVERSIGHT ACTIVITIES

On February 11, 2005, then-Ranking Member James L. Oberstar and then-Subcommittee Ranking Member Eleanor Holmes Norton wrote to the DHS Inspector General requesting an audit of the use of FPS funds. On June 14, 2005, Ranking Member Oberstar and Subcommittee Ranking Member Norton wrote to DHS expressing concern about the placement of FPS within DHS' ICE.

In the 110th Congress, on February 13, 2007, Chairman Oberstar and Subcommittee Chair Norton requested that the Government Accountability Office review FPS's budget and personnel, focusing on FPS workforce size, experience, retention rates, and salaries.

On April 18, 2007, the Subcommittee held a hearing on whether the administration's FY 2008 budget proposal to reduce the number of Federal Protective Service officers and presence nationally will adversely affect the Federal Government's efforts to protect the thousands of Federal workers and visitors to Federal buildings every day across the country.

On June 21, 2007, the Subcommittee held a hearing on weaknesses in FPS' oversight of its contract guard program. As a result of the hearing, Subcommittee Chair Norton introduced H.R. 3068, which banned felons from receiving contracts to provide security for Federal buildings. The Committee reported H.R. 3068 on September 14, 2007. On October 2, 2007, the House passed H.R. 3068 by voice vote. To date, the Senate has taken no action on the bill.

On November 2, 2007, Chairman Oberstar and Subcommittee Chair Norton wrote to the House Appropriations Committee supporting FPS staffing levels of no less than 1,200 law enforcement personnel.

The Consolidated Appropriations Act, 2008 (P.L. 110-161) requires the Secretary of Homeland Security and the Director of the Office of Management and Budget to certify in writing to the Appropriations Committees that operations of the Federal Protective Service will be fully funded in fiscal year 2008 and to ensure that fee collections are sufficient for FPS to maintain, by July 31, 2008, at least 1,200 staff, including 900 police officers, inspectors, area commanders, and special agents who are directly engaged on a daily basis protecting and enforcing laws at Federal buildings.

On February 8, 2008, the Subcommittee held a hearing on the preliminary findings of the GAO report which had been requested by Chairman Oberstar and Subcommittee Chairwoman Norton on February 13, 2007. The hearing was scheduled because the GAO alerted the Subcommittee to serious preliminary findings concerning the condition of the FPS, and therefore the Subcommittee believed the preliminary report should be placed in the record at a public hearing as soon as possible.

WITNESSES

Mr. Mark Goldstein
Director, Physical Infrastructure Issues
Government Accountability Office

Mr. Gary Schenkel
Director, Federal Protective Service

Mr. David Wright
President, FPS Union
AFGE local 918

HEARING ON THE FEDERAL PROTECTIVE SERVICE: AN AGENCY IN NEED OF REBUILDING

Wednesday, June 18, 2008

HOUSE OF REPRESENTATIVES
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS AND EMERGENCY MANAGEMENT,
Washington, DC.

The Subcommittee met, pursuant to call, at 1:10 p.m., in Room 2167, Rayburn House Office Building, the Honorable Eleanor Holmes Norton [Chair of the Subcommittee] presiding.

Ms. NORTON. Good afternoon. We welcome today's witnesses from the Government Accountability Office, the Federal Protective Service and the FPS Union. GAO has completed its much anticipated report on the condition of the Federal Protective Service, or FPS.

At our February 8th, 2008 hearing on GAO's preliminary findings, the Subcommittee heard chilling testimony from the GAO that FPS had deteriorated so substantially that its difficulties "may expose Federal facilities to a greater risk of crime or terrorist attack." The Subcommittee has not forgotten that Federal facilities where Federal employees work, in particular the Pentagon and the Alfred P. Murrah Oklahoma City Federal Building, have been the choice targets of major terrorist attacks in this Country—clearly because Federal facilities are symbols of the United States Government.

The documented history of terrorist assaults on Federal assets and consistent threats since 9/11 have required continuing high levels of vigilance to protect both employees and visitors who use our Federal facilities. In the post-9/11 and Oklahoma City world, Congress recognized the need for bolstering police protection in and around the White House and the Capitol Complex, and one surely would not want to underestimate the importance of increased protection for the Federal workforce as well.

When the Department of Homeland Security was formed in 2002, the FPS was transferred from GSA to the newly created Department and placed within the Immigration and Customs Enforcement unit, ICE, as it is known. The Committee expressed its strong support for the transfer but insisted that FPS officers and guards be used exclusively for and by the FPS. Starting in February 2005, the Chairman and I have sent a series of letters to the DHS, the Department of Homeland Security, and held hearings questioning the use of funds, the placement of FPS within ICE, and the major

shift from a protection-based workforce to an inspection workforce. We have supported an increase in the number of FPS employees as well. These concerns have strong bipartisan support. Both Chairman Oberstar and Ranking Member Mica have expressed their own views about the gravity of the FPS situation.

The final GAO report confirms in stark terms GAO's preliminary findings reported at our February 2008 hearing. The report says that the FPS has seen its budget decimated, morale and staff plummet, and attrition skyrocket. The final report confirms the bipartisan concern that the effectiveness of the FPS has been compromised since its placement in Immigration and Enforcement inside the Department of Homeland Security. A February 18th, 2008 editorial in the Federal Times calls on Congress to consider removing FPS from ICE.

Our Subcommittee has carefully tracked the downward trajectory of the agency until it became clear that deeper investigation than hearings were necessary, and we requested the GAO report before us today. Among the many signs that an investigation was in order was an ICE-endorsed proposal last year to substantially reduce FPS officers across the Nation, including providing no FPS officers in almost 50 cities. Memoranda of Understanding, or MOUs, we were told, would be developed with cities to make up for the absence of Federal police officers. The GAO, in its preliminary review, found that not one MOU had been signed and found numerous instances in which the local jurisdictions had no knowledge at all of these supposed memoranda.

During our April 2007 hearing, when this proposal was first discussed, I voiced my concern that local police have little reason to volunteer to assume unfunded mandates to protect Federal sites, particularly at the same time that local police are facing cuts in their own budgets and in Federal programs. In GAO's final report we learn that the ICE management has abandoned the idea of MOUs and will now rely on "informal relationships" between FPS and local law enforcement entities. It is fair to ask if this is any way to protect Federal employees across the Nation in post-9/11 America. Is this any way to ensure the protection and security of an inventory that has a replacement value of $41 billion?

The GAO report leaves no doubt that the FPS, the Nation's first Federal police force, established in 1790, has been rocked by inadequate funding and staffing, leading to the inability to complete its core mission of facility protection of building security assessments and to complete building security assessments in a timely and professional manner, and to monitor and oversee the contract guards. We learn from the report, ominously, that proactive patrols, the core work of a police force, have been eliminated at many GSA facilities. This decision was made in spite of the fact that the GAO reports that "multiple governmental entities acknowledge the importance of proactive patrol in detecting and preventing criminal incidents and terrorism-related activities."

It appears that the ICE/FPS answer to funding problems and management issues has been to change the nature of the workforce from a protection-based police force to an inspection-based workforce. In addition to this baffling decision, ICE and FPS decided to

add contracting duties to the already overstretched inspector position.

As I reviewed the final report, I was struck by the similarities between the demise of the Federal Emergency Management Administration, or FEMA, and the ongoing destruction of this once highly regarded police force. Upon transfer, each of these entities suffered from a blurring of their mission's oversight by DHS entities with almost no programmatic or organizational similarities, leadership by management without the necessary expertise, and, in the case of the FPS, paperwork used in place of police work. The irony is too striking to be missed: both FEMA and FPS were moved to DHS to enhance their mission capacity for protection, only to suffer devastating decline inside a Homeland Security agency.

The Subcommittee has witnessed the slow disintegration of a workforce that once had a reputation as a highly effective and motivated police force, providing an invaluable and necessary service to both Federal employees and taxpayers. According to the report, however, the FPS workforce has been reduced by approximately 20 percent during a time when the number of Federal buildings has increased from 8,800 to 9,000. Yet, the GAO reports, while the Service was hemorrhaging officers, ICE and FPS was actually hastening the reduction by offering "early retirement, detailed assignments to other ICE and DHS components, and not filling vacant positions."

The Subcommittee commissioned this report to guide future action. Our major concern now must be moving to shore up the protection for hundreds of thousands of Federal employees and property. DHS and ICE appear to believe that, without statutory authorization, they can unilaterally change the core mission of the FPS so that it no longer is a police force by any accepted definition of the term. However, no one has told Federal employees and visitors not to expect routine patrols and protection from the FPS. If the FPS is no longer a primarily protective police force, someone should inform Federal agency heads and Federal employees, and certainly visitors throughout the United States who make 10 million law enforcement calls each year to the FPS, particularly considering that the 15,000 security guards on duty must remain stationary and do not patrol, while the FPS, too, no longer patrols, for the most part. FPS must tell us how it will be possible to continue, for example, to make 4,000 arrests annually on charges of committing crimes on Federal property.

These are not rhetorical questions or matters. We have been prepared to work with FPS on corrective action since our hearings first identified serious problems several years ago. We have shown every desire to be partners, not adversaries. But despite our hearings and the oversight of the Homeland Security Committee, on which I also sit, Congress has been ignored, even defied.

This Subcommittee, and now our Full Committee, are on notice. We ignore this report at our peril and may put hundreds of thousands of Federal employees at risk if we do. The report mandates immediate action and response unless FPS can show us otherwise. We will listen carefully to the agency's response. We welcome all the witnesses. Each of you is essential to this hearing. This is a very important, one of the most important hearings of this entire

year for this Subcommittee. We appreciate the time each of you has taken and the effort you have made in preparing testimony and coming this afternoon.

I am pleased now to ask the Ranking Member, Mr. Graves, if he has any opening remarks.

Mr. GRAVES. Thank you, Madam Chair, for having this hearing today.

I want to thank all of our witnesses for being here to discuss this very important issue on the Federal Protection Service.

I also particularly want to thank David Wright, from my home State of Missouri, for being here. I appreciate your efforts to improve the FPS and everything you have done to try to make things better.

We know Federal buildings are proven targets for terrorism. The devastating bombings in Oklahoma City and the terrorist attacks of 9/11 show that Federal buildings are prime targets. Despite the clear danger to Federal facilities, the GAO concluded security at Federal buildings has decreased and the risk of crime and terrorist attacks at Federal buildings has increased in recent years. There are many factors that have contributed to the increased risk: building security assessments are unreliable, patrolling is down, security equipment is broken, there are no reliable systems to assess risk or performance. Meanwhile, the over one million people that work and visit Federal buildings each year are poorly protected.

The number of security countermeasures that are not working is unacceptable, everything from security cameras, x-ray machines, FPS radios reportedly broken and, in some cases, have been for months and even years. For example, in one of the most sensitive buildings in the Country, only 11 of 150 security cameras are operating.

On top of this, FPS has eliminated patrolling of many facilities. FPS's own policy handbook identifies patrolling as necessary to prevent and deter crime and terrorist attacks. Despite this, FPS has reduced patrols and the contract officers are restricted to their fixed posts and can't make arrests.

There are real dangers to the lack of patrols. In one region, there were 72 homicides within three blocks of a major Federal office building. At other locations, FPS personnel complained that some Federal day care centers are left vulnerable to loitering and drug users.

DHS proposes relying more on local law enforcement to fill gaps and policing Federal facilities; however, DHS is unclear of what authority local police may have in responding to incidents at Federal facilities, and there is no formal agreement with them. For example, in 2006, the Kansas City Police Department chased two armed robbery suspects into a vacant Federal office complex in my home State. Given the size and complexity of the facility, local police called FPS for help. The FPS officers who responded were directed by their superiors to unlock the gates and stand down. Local police were left with no backup to apprehend armed robbers in an unfamiliar Federal complex.

If FPS won't back up local police at Federal facilities, why should we expect local law enforcement to help police Federal buildings?

Another glaring problem is the unreliability of building security assessments. According to GAO and an outside news investigation, the FPS conducted building security assessments without ever inspecting the buildings, recycled old security assessments, and copied assessments from one building report to another. In fact, GSA and other Federal agencies have begun to hire outside security firms or other Federal agencies, like the Army Corps of Engineers, to do their own assessments. In the end, agencies wind up paying twice for the same service, a prime example of Government waste.

In addition, while FPS was struggling to perform its basic mission of protecting Federal buildings, FPS reassigned dozens of key personnel to other functions within DHS. A news investigation also revealed FPS was spending time and resources on security assessments of several high-ranking Government officials' private homes.

I am very concerned about the safety and security of the people who work and visit our Federal buildings. Yet, given the mission, the poor management, the lack of real data to measure performance or to assess risk, I am concerned that throwing more money and personnel at FPS is not going to solve the agency's problems.

Again, Madam Chair, I would like to thank you for holding this hearing.

I look forward to our witnesses' testimony. Thank you all for being here. I am hopeful that this hearing is going to help focus some of what we need to do, I guess it is, to try and improve FPS and also trying to improve on its primary mission of protecting the people who visit the Federal buildings across this Country, and I want to thank you.

Ms. NORTON. Thank you very much, Mr. Graves.

Mr. Shuster, we are glad to have you, if you have any remarks.

Mr. SHUSTER. No, thank you.

Ms. NORTON. All right.

We would like to ask Mr. Goldstein, who did the report from the GAO, if he might begin now.

TESTIMONY OF MARK GOLDSTEIN, DIRECTOR, PHYSICAL INFRASTRUCTURE ISSUES, GOVERNMENT ACCOUNTABILITY OFFICE

Mr. GOLDSTEIN. Thank you, Madam Chair and Members of the Subcommittee. We are pleased to be here today to discuss the efforts of the Federal Protective Service in protecting Federal employees, the public, and GSA facilities.

As you know, in 2003, FPS transferred from the General Services Administration to the Department of Homeland Security and is responsible for providing physical security and law enforcement services to about 9,000 GSA facilities. Within DHS, FPS is part of the Immigration and Customs Enforcement component, the largest investigative arm of DHS.

This testimony provides information and analysis on FPS's operational challenges and actions it has taken to address them, funding challenges FPS faces and actions it has taken to address them, and how FPS measures the effectiveness of its efforts to protect GSA facilities. This testimony is based on a report we have issued today called Homeland Security: Federal Protective Services Faces

Several Challenges That Hamper Its Ability to Protect Federal Facilities.

My full testimony is summarized by the following:

Number one, FPS continues to face several operational challenges that have hampered its ability to accomplish its mission to protect GSA facilities, and the actions it has taken may not fully resolve these challenges. Since the transfer, while FPS has maintained 15,000 contract guards, its staff has decreased by about 20 percent, from almost 1,400 employees at the end of fiscal year 2004 to about 1,100 employees at the end of fiscal year 2007.

This decrease in staff has contributed to diminished security and increased the risk of crime or terrorist attacks at many GSA facilities. For example, FPS has decreased or eliminated law enforcement services such as proactive patrol in each of its 11 regions. In addition, FPS officials at several regions we visited said that its proactive patrol has, in the past, allowed its officers and inspectors to identify and apprehend individuals that were surveilling GSA facilities. In contrast, when FPS is not able to patrol Federal buildings, there is increased potential for illegal entry and other criminal activity at Federal buildings.

Moreover, FPS has not resolved longstanding challenges such as improving the oversight of its contract guard program. In addition, FPS faces difficulties in ensuring the quality and timeliness of its building security assessments, which are a core component of FPS's physical security mission. For example, one regional supervisor stated that while reviewing a BSA for an address he personally visited, he realized that the inspector completing the BSA had falsified the information because the inspector referred to a large building, when the actual site was a vacant plot of land owned by GSA.

FPS has also experienced problems ensuring that security countermeasures such as security cameras and magnetometers are operational. To address some of these operational challenges, FPS is currently changing to an inspector-based workforce which seeks to eliminate the police officer position and rely primarily on FPS inspectors for both law enforcement and physical security activities. FPS believes that this change will ensure that its staff has the right mix of technical skills and training needed to accomplish its mission.

FPS is also hiring an additional 150 inspectors and developing a new system for BSAs. However, these actions may not fully address or resolve the operational challenges that the agency faces, in part because the approach does not emphasize law enforcement responsibilities.

Second, until recently, the security fees FPS charged to tenant agencies have not been sufficient to cover costs and the actions it has taken to address the shortfalls have had adverse implications. Since transferring to DHS, DHS and FPS have addressed these projected shortfalls in a variety of ways. For example, DHS transferred emergency supplemental funding to FPS and FPS has restricted hiring and travel, limited training and overtime, and suspended employee performance awards.

According to FPS officials, these measures have had a negative effect on staff morale and are partially responsible for FPS's overall

attrition rate increasing from about 2 percent in fiscal year 2004 to about 14 percent in fiscal year 2007. FPS also increased the basic security fee charged to tenant agencies from 35 cents per square foot in fiscal year 2005 to 62 cents per square foot in fiscal year 2008. Because of these actions, fiscal year 2007 was the first year that FPS collections were sufficient to cover its costs. FPS also projects that collections will cover their costs in fiscal year 2008.

However, its primary means of funding its operations is the basic security fee, which is the same for Federal agencies regardless of the perceived threat to any particular building or agency. Therefore, the fee does not account for the risk faced by particular buildings, and, depending on that risk, it does not account for the level of service provided to tenant agencies or the cost of providing those services. For example, level I facilities may face less risk because they are typically small storefront operations with a low level of public contact.

However, these facilities are charged the same basic security fee of 62 cents per square foot as a level IV facility that has a high volume of public contact, may contain high-risk law enforcement intelligence agencies and highly sensitive government records. The report recommends incorporating a security fee that takes into account the complexity or level of effort of the service being performed for the higher level security facilities.

Finally, FPS is limited in its ability to assess the effectiveness of its efforts to protect GSA facilities. To determine how well it is accomplishing its mission to protect GSA facilities, FPS has identified some output measures such as determining whether security countermeasures, such as bollards and cameras, have been deployed and are fully operational, the amount of time it takes to respond to an incident, and the percentage of BSAs it has completed. Output measures assess activities, not the results of those activities.

However, FPS has not developed outcome measures to evaluate the results and the net effect of its efforts to protect GSA facilities. Outcome measures are important because they can provide FPS with broader information and program results, such as the extent to which its decisions to move to an inspector-based workforce will enhance the security at GSA facilities.

In addition, FPS does not have a reliable data management system that would allow to accurately track these measures or important measures such as the number of crimes and other incidents occurring at GSA facilities. Without such a system, it is difficult for FPS to evaluate and improve the effectiveness of its efforts to protect Federal employees and facilities, to allocate its limited resources, or to make informed risk management decisions. According to FPS officials, the agency is in the process of developing such a system and in the future that will allow it to improve its data collection and analysis of its performance.

In our report that we issued to this Subcommittee and other Congressional Committees, we recommended, among other things, that the Secretary of DHS direct the Director of FPS to develop and implement a strategic approach to better manage its staffing resources, to evaluate current and alternative funding mechanisms,

and to develop appropriate measures to assess performance. DHS has agreed with these recommendations.

This concludes our testimony. We are pleased to answer any questions that you may have. Thank you.

Ms. NORTON. Thank you very much, Mr. Goldstein. We have tried to be a problem solver throughout this process. When we saw ICE having a problem with contract guards. We didn't just have a hearing in which we exposed, for example, the fact that one of the contractors turned out to be a felon, we put in a bill, but we worked with ICE and we had a very good relationship with ICE in that working relationship, and we were very pleased that, working with them over a period of just a few weeks, ICE revised entirely its contracting, back pay—I shouldn't say back pay because people were getting back pay, but contractors weren't always getting their amounts.

So we have seen what can be done if the agency works with the Subcommittee and we are going to try to approach this quite devastating report in that spirit and try to get at what is the source of the problem.

There seems to be a management and resource problem, Mr. Goldstein. Listening to your testimony, I listened attentively to the fee structure and the placement of this force, this police force inside a DHS entity, in this case ICE, as perhaps a fatal placement here. It appears that what was truly a cosmic change for FPS is that they have had to get appropriated funds for the basic fee portion of the FPS budget that came out of the Building Fund, I believe, when FPS was a part of GSA.

Do you believe, looking at the various component parts of this problem, that placing FPS in a more appropriate place in DHS would help solve the problems of mission and funding? Is FPS in the right place? Why in the world is it in ICE; what was the thinking? And is it possible for FPS to support itself with this kind of a fee structure?

Mr. GOLDSTEIN. I will answer in several ways, Madam Chair. I think, first of all, when we did our interviews in seven of the regions of FPS and we talked to about 167 different individuals that were inspectors or officers or regional administrators out in the field, virtually every single individual that we asked the question that you just asked, which is where FPS should be placed, is FPS placed in the right location within DHS, almost every single individual said, no, they did not believe it should be part of ICE. They gave a variety of different responses of whether it ought to be more broadly in the physical security section or somewhere else within DHS.

One of the things that we are doing for this Committee now, in the second part of our work on FPS, is we are going to look systematically at exactly why it was placed there and whether it should be placed there. But as I say, almost no one believed that its placement in ICE was effective, based on the interviews that we did.

Ms. NORTON. If you think mechanically about where to place something, whether it is Border Patrol there, so here are some cops, throw them in with the other cops. But here you had a very different kind of police force, different kind of fee structure, not de-

pendent upon appropriated funds, and they got stuck and didn't seem to know what to do.

Mr. GOLDSTEIN. Also, ma'am, a number of not only the things that they do, but the way they are treated in terms of training and recruitment and all those kinds of things are very different from many of the ICE officers, and that too we will be looking at. There seems to be a bit of a second class system, if you will, between ICE officers and FPS officers, as reported to us by various FPS people in the field.

Ms. NORTON. Can they go from one to the other?

Mr. GOLDSTEIN. They can necessarily go from one to the other, and many, many people we talked to, both police officers and inspectors, one of their principle concerns that we will be looking into further is that they felt that they were not being treated commensurate with other ICE officers.

Ms. NORTON. In terms of pay or benefits or——

Mr. GOLDSTEIN. In terms of pay, in terms of training and opportunity and those kinds of things, that is correct. That they are under a different system and that was partly why their morale is bad and partly why they weren't fully integrated into ICE. As I say, we will be looking into that in the near future for this Committee.

Ms. NORTON. Well, it is truly lethal to put police forces together and then have invidious distinctions among them. I wonder, have there been problems with people wanting to get out of FPS and join the border police or other parts of the Federal police?

Mr. GOLDSTEIN. Yes, ma'am. Because of the way that FPS has been operating in the last couple of years, with its reduced staff and budget and morale being as bad as it has been, a number of officers have thought that they might go elsewhere within DHS, and we have many instances of individuals being told that they would not be able to transfer their law enforcement responsibilities to another part of DHS.

Ms. NORTON. Would the infrastructure and protection section of DHS or, for that matter, perhaps operating independently, as it did virtually at GSA—I mean, it was part of GSA, but there never were these kinds of—of course, it was part of this Committee—we never had any of these problems within GSA. Would it be better in infrastructure and protection or would it be better as a standalone entity in DHS, for example?

Mr. GOLDSTEIN. Many of the officers raised both of those issues, that it might be best in IP or it might be better as a standalone entity, and that is part of what we will look at to try and ascertain what was the reasoning behind why it is in ICE and what would be the best location for it. Some have obviously also indicated that it might be better at GSA.

Ms. NORTON. You spoke about retention pay and its effect on keeping officers on, officers' morale. What is retention pay and would you explain how that works here?

Mr. GOLDSTEIN. I was referring generally to pay levels and other kinds of human capital effects that they receive in terms of pensions and other things, and they are very different, I am told, between what FPS gets and what ICE and other law enforcement

agencies get, and they are treated differently; and this is partly what we will be looking at in the second phase, here, of this work.

Ms. NORTON. Congress is trying to deal with these problems within a police force that we now know ought to be one, certainly, it is my view. Out of the 19th century you have, for example—I don't suggest this to be the case for Border Patrol and FPS, but a lot of our thinking really has not jumped to the 21st century, with just the Library of Congress police and the Supreme Court police and the Capitol police. You know, if there was a threat on the Capitol Complex, having those divisions is a threat to the people in the Capitol Complex. So now I guess we are close to getting the Congressional police and the Capitol police together, and we recognize that it raises all kinds of issues. So your further investigation here is very welcome.

You mentioned, as a basic weakness, that the fee charge is regardless of risk.

Mr. GOLDSTEIN. That is correct.

Mr. NORTON. Is this how the fee structure was set up prior to Oklahoma City? How is risk determined? How is the fee charge done? Everybody in the whole, every kind of facility pays the same fee?

Mr. GOLDSTEIN. They do, they pay the same basic security fee. They can pay additional fees in terms of building specific fees or for security work authorizations that will provide added features to the security of a building based on the recommendations of a building security committee, but everyone pays the same basic security fee regardless of whether they are a level I building or a level IV building, and that does not take into account——

Ms. NORTON. The same fee for a level IV building as for a level I building?

Mr. GOLDSTEIN. Yes, ma'am, whether you are a storefront or——

Ms. NORTON. Even though you may need more officers and security guards for a level IV building? Or does the fee take account of that?

Mr. GOLDSTEIN. That fee does not take account for it, it is a basic charge.

Ms. NORTON. Regardless of the size of building?

Mr. GOLDSTEIN. That is correct.

Ms. NORTON. Who invented that?

Mr. GOLDSTEIN. Sixty-two cents per square foot whether you are in a level I building or a level IV building.

Ms. NORTON. Is that how it has always been? Of course, that says a lot about pre-and post-9/11 right there.

Mr. GOLDSTEIN. One of the recommendations we made relates to cost accounting, where we are recommending that FPS try to get a better handle on what it costs to provide its security to buildings across the spectrum so that it could create a defensible system of security fees based on risk and the level of buildings, as opposed to a blanket fee that has no equity in it.

Ms. NORTON. For example, does it make any sense that all courthouses are deemed level IV, even if they are in a Federal building in a county that is isolated somewhere or if it is New York?

Mr. GOLDSTEIN. They are paying the same.

Ms. NORTON. Does that make any sense, I am saying?

Mr. GOLDSTEIN. No, ma'am, we don't believe it does, which gets to our recommendation.

Ms. NORTON. I have a number of other questions. I am going to go to the Ranking Member.

Mr. GRAVES. Thank you, Madam Chair.

Mr. Goldstein, given all the problems you found in your investigation with the Federal buildings and FPS, do you think that the occupants in them and the visitors to them are safe?

Mr. GOLDSTEIN. That is a hard question to answer, sir. In our conversations with 167 officers out in the field, we have found them increasingly concerned over time that they don't believe that they can provide the same level of security as they have been able to in the past.

And as my testimony indicated, with problems with countermeasures, with problems of not being able to provide proactive patrols in most areas, and with problems with not being able to rely on local jurisdictions to fill the gap if FPS officers aren't available or if contract guards can't do anything other than keep to their posts, that is very much cause for concern in a period of post-9/11 activity. So we would have to say yes, we are concerned that security of Federal property and the people within them has deteriorated and is not what it once was or could be.

Mr. GRAVES. Given what you just said about lack of patrols and obviously you testified about the staffing issues—and I think everybody today is probably going to talk about staffing issues and the problems there—do you think it is a wise decision for Homeland Security to move or to see FPS personnel doing other assignments within DHS or tasking FPS personnel and resources to do private homes? Do you think that makes sense, given the fact that we have a staffing issue and moving these resources and these personnel to other areas and doing other things like private homes, doesn't that contribute, then, to the problem of being able to provide adequate security?

Mr. GOLDSTEIN. Sure. Any time that the officers and inspectors and the officials are taken off of their principal duties and are asked to do something different, that is creating a further burden and drain on the resources for those remaining. We indicate several places in our report that when special events occur or when there are high level trials at Federal courthouses—for instance, we have one instance in the report where there was a high level, very high visibility trial a couple years ago, and 75 percent of that region's FPS resources were sent to provide perimeter security to that courthouse, leaving very few officers remaining to protect the rest of the region. So these kinds of activities do very much highlight the burdens being placed on the agency overall and their ability to protect Federal property.

Ms. NORTON. As far as the Federal Government is concerned, there are no distinctions among regions as far as the mission to protect according to risk, but clearly in this National Capital Region we are obligated to have special concern. I wish you would tell us your view of whether the National Capital Region is sufficiently covered by routine patrols in the kinds of facilities we have in this region in particular, almost all of whom would be, of course, level IV facilities.

Mr. GOLDSTEIN. I can tell you, ma'am, that every single region of FPS, including the National Capital Region, has far fewer officers than they did even a couple of years ago, and their ability to protect and to patrol and to react——

Ms. NORTON. Are patrols done in buildings within—let us take this region since you have the predominant Federal presence here. We will take this to be an indicator of what might be happening in other regions. Are there regular patrols? Are FPS officers in this region, bearing in mind that the far larger number of security guards cannot, as far as I understand, patrol?

Mr. GOLDSTEIN. There are some patrols in this region. There are not nearly as many as there used to be. And there are also many facilities in the National Capital Region, like elsewhere, that do not receive any proactive patrol at all, and many Federal facilities that have no nighttime or weekend coverage by FPS at all, just like throughout the rest of the Country. The National Capital Region has suffered in the same way that the other regions have.

Ms. NORTON. So even in this region there are level IV buildings without nighttime or weekend FPS coverage.

Mr. GOLDSTEIN. Yes, ma'am.

Ms. NORTON. Now, what that means is that the only coverage, if any, would be from stationary security guards?

Mr. GOLDSTEIN. That is correct, or if there happens to be a local metropolitan police officer nearby who may see something.

Ms. NORTON. Trust me on that one. So that the theory is that you can't get into the building passed the security guards, so there couldn't be a crime within the building?

Mr. GOLDSTEIN. That would be part of the rationale. But one of the biggest concerns remaining, of course, is that you would be undetected if you were surveilling those level IV buildings for terrorist purposes, and much of that work is done in evenings or on the weekends, when potential terrorists will know that there isn't really coverage and that nobody is watching them.

Ms. NORTON. Now, staff does have admission to do work in level IV buildings here and throughout the Country, is that so?

Mr. GOLDSTEIN. That is correct. And there are, in some facilities, in one region we visited, there are a number of facilities that I can think of where there are weekend hours for the public. And in discussing the coverage of FPS, GAO actually ended up being the entity that told an agency that I have in mind that FPS was not covering their facility on the weekend, and the agency was very surprised to learn that and indicated that it might have to shut its doors on the weekend as a result.

Ms. NORTON. And that is even though it was open on the weekends and visitors, that is to say, taxpayers and others from the public——

Mr. GOLDSTEIN. That is correct. This was a level IV building as well.

Ms. NORTON. Well, you can understand our concern, Mr. Goldstein. Let me ask you about the contract guard role. Now, how many FPS personnel—leave aside the inspector and the smaller number that do any patrols. How many FPS police are there?

Mr. GOLDSTEIN. As of the end of 2007, there were 215 police officers.

Ms. NORTON. And how many security guards?

Mr. GOLDSTEIN. There are 15,000. That has remained relatively stable, while the number of police officers has dropped about 40 percent since 2004.

Ms. NORTON. And there were how many in 2004?

Mr. GOLDSTEIN. 359 police officers in 2004.

Ms. NORTON. Now, who supervises the contract security guards?

Mr. GOLDSTEIN. It is a combination of the inspectors and the police officers. The principal responsibility is for the inspectors, because they have contract authority, but the police officers help in checking out the stations in the buildings as they go through. But it is principally the inspectors. And as our report indicates, there are a number of difficulties there, and because of the distance between Federal facilities, as well as the decrease in staffing, many contract guards have not seen an FPS official at their station in a long time, and we had officials tell us that they hadn't visited contract guard stations in some Federal facilities in a year or 18 months.

Ms. NORTON. That who hadn't, the FPS had not visited?

Mr. GOLDSTEIN. Correct, in a year or 18 months to some facilities. They are supposed to visit monthly, and it has gotten to the point where many inspectors have been encouraged to do their reviews by telephone.

Ms. NORTON. And this would mean even during the regular work week no FPS?

Mr. GOLDSTEIN. Right, for many buildings, because there are a limited number of inspectors. Many buildings are in rural areas or places that are far from where an FPS inspector lives, so oftentimes there is no coverage or very limited coverage.

Ms. NORTON. Are the contract guards peace officers?

Mr. GOLDSTEIN. No, ma'am, they are not.

Ms. NORTON. So they do not have the power to arrest.

Mr. GOLDSTEIN. That is correct.

Ms. NORTON. So a contract guard in a building which has not been visited in a couple of months by a FPS officer or inspector would have about the same power as I have to make an arrest.

Mr. GOLDSTEIN. That is correct.

Ms. NORTON. Does he have the power to pursue a criminal?

Mr. GOLDSTEIN. He can detain a perpetrator, but, based on our experience and our discussions—and I believe we indicated in our testimony—there are a number of instances we have already—and this is before we have thoroughly investigated the contract guard program, which we are about to do as well—that contract guards are being told by their contract guard companies to not get involved because of the liability.

We have in this report one instance that shows that, in which an officer was chasing an individual through a Federal building, a level IV Federal building. That individual had been in the process of being detained, had a handcuff on one arm, in the struggle lost most of his shirt; the perpetrator went flying through the lobby of the building pursued by an FPS officer. There were several contract guards, all of whom were armed, in the lobby; they simply stepped aside. The individual went flying out the front door, and

was only caught several blocks away by another FPS officer who happened to be going by in a patrol car.

So, no, the contract guards, even when armed and in the lobby, are not——

Ms. NORTON. This is a bizarre kind of story. Why would there be a liability problem for a security guard that was maintained by the Federal Government? What is the liability problem?

Mr. GOLDSTEIN. It is something we are going to investigate. We haven't done the work to really get into that issue yet, but it was raised in a number of the interviews we had. But we will get back to the Committee on that issue.

Ms. NORTON. This is mysterious to me, very mysterious, that the Federal Government could have security guards for which it had not accepted liability. So I am not——

Mr. GOLDSTEIN. I understand.

Ms. NORTON. Well, the notion that this is a question—legal matters like this get settled well before you decide to use a workforce other than your own. This is extremely disturbing, I say as a lawyer who does not relish litigation.

I am going to ask Mr. Shuster for any questions he may have.

Mr. SHUSTER. Thank you, Madam Chair.

Thank you, Mr. Goldstein, for being here today.

Mr. GOLDSTEIN. Yes, sir.

Mr. SHUSTER. I believe in your report you pointed out that many—I don't want to quantify this, but a lot of the inspections were being conducted without inspectors actually going to the site, doing it, I think it says, by e-mail? Is that a significant number?

Mr. GOLDSTEIN. By telephone.

Mr. SHUSTER. A significant number?

Mr. GOLDSTEIN. There were instances where inspectors were encouraged by their regional administrators to complete their inspections of contract guards by telephone, since there was either no money or time to complete them. One of the big problems that we faced is—in one region this is a big issue. They are supposed to, as I say, review contract guard posts monthly. In one region that we visited, in one metropolitan city, only 20 of the 68 facilities had been visited that month.

Mr. SHUSTER. Can you do an adequate job by doing it by phone?

Mr. GOLDSTEIN. I can't imagine how you would be able to do that, no, sir.

Mr. SHUSTER. You need to go out there. How long ago was your report done? When did you find that out?

Mr. GOLDSTEIN. This was fairly recent. These were all issues that were raised in our field work for the report that we are releasing today.

Mr. SHUSTER. And was it just significant in that one region, or was it widespread throughout the Country?

Mr. GOLDSTEIN. Well, the issue of reporting by telephone was raised in more than one location. The one where I am referring to, 20 out of the 68, just happened to be the log in one region that we talked to.

Mr. SHUSTER. What do you think it takes to do an assessment, hours, man-hours, days?

Mr. GOLDSTEIN. Usually, you try to check each month to be able to determine if people are reporting, if they had their certifications, if they are in the right places, the kind of incidents that they have had. Inspectors are also required to check time sheets for the contract guards as well.

Mr. SHUSTER. Right. I am talking more about building security assessments.

Mr. GOLDSTEIN. Oh, the building security assessments.

Mr. SHUSTER. Yes, I am sorry.

Mr. GOLDSTEIN. There are a lot of things that go into it. In fact, inspectors receive training to be able to do building security assessments. Many of the inspectors and regional officers indicated to us that the training for building security assessments is not adequate and that refresher courses are needed. FPS has begun to provide them, but many of the field offices have not had a refresher course yet. And many of the inspectors that we talked to said that they really don't have a good grasp of the kinds of things that are supposed to go into that security assessment.

Mr. SHUSTER. Let's back up a second. The building security assessments, were they being done without actually going to the building also?

Mr. GOLDSTEIN. There were some instances of that occurring. There were some instances where building security assessments were being simply cut and pasted from previous years, where nothing had changed, and there had been some examples where people weren't even doing that, where they were simply making it up.

Mr. SHUSTER. And, in your view, you really can't do a complete and adequate assessment unless you go to the building.

Mr. GOLDSTEIN. Even more than that, sir. There are time frames that are actually recommended for them. A level IV building assessment is supposed to take a couple weeks to accomplish. Because of the problems that they have had in maintaining a workforce that had the skills to do this and the number of building assessments they have had to do, in many instances they don't get more than a day or two, or sometimes a couple of hours, in which they are supposed to do this.

Mr. SHUSTER. When you say weeks, is that one person?

Mr. GOLDSTEIN. One person.

Mr. SHUSTER. One person.

Mr. GOLDSTEIN. And a number of the tools that they need, lighting assessment tools and the like, they don't have those actual tools to complete those parts of the assessment because they don't have the funds to pay for them.

Mr. SHUSTER. I note that some of the Federal agencies have resorted to hiring private firms to do the BSA.

Mr. GOLDSTEIN. And other Government agencies as well, such as the Corps of Engineers.

Mr. SHUSTER. And how does that work? What is your view on that as far as can it be done effectively? Is it done effectively?

Mr. GOLDSTEIN. Well, it can be done effectively. The problem is they are already still paying for that. They are paying twice.

Mr. SHUSTER. So they are paying the Federal Government Service——

Mr. GOLDSTEIN. That is right, because they are already paying FPS to do them.

Mr. SHUSTER. And I understand there are some reports that these building security assessments, there is some pressure in a particular region to speed them up because there is——

Mr. GOLDSTEIN. There is a major political event coming later this year, so there is considerable pressure to have all the building security assessments done by the end of this month, I believe.

Mr. SHUSTER. And the impact on the quality of the assessment is?

Mr. GOLDSTEIN. We haven't looked at that, but one would assume that could be an issue.

Mr. SHUSTER. All right, I have no further questions. Thank you.

Mr. GOLDSTEIN. Thank you, sir.

Ms. NORTON. Mr. Goldstein, I would like the objective view, your objective view of the effect that all of this has had on the morale of, let us say, the average FPS officer.

Mr. GOLDSTEIN. Sure. I mean, morale is not good. I mean, it is very simple: they don't have the equipment; officers don't have career paths; and they, in many instances, have been told to leave because of the decimation of the patrol function.

Ms. NORTON. Now, they don't have career paths because?

Mr. GOLDSTEIN. Because they can't advance to the inspector ranks.

Ms. NORTON. And the reason they can't?

Mr. GOLDSTEIN. They don't have the training and the skills base to do that, and FPS has not had the money to provide training for that.

Ms. NORTON. This is a police force in stalemate; it is just there. It sounds like it is there in name only.

Mr. GOLDSTEIN. It is increasingly fragile, I think that is correct. Inspectors are overworked and they are overwhelmed. These are all people who want to do a good job, but they are being hamstrung in many ways by the problems.

Ms. NORTON. Every police force has people who get to the retirement age. Are they recruiting officers, younger officers to come in?

Mr. GOLDSTEIN. They have had a number of problems doing that because, at least in the current environment, most people know that FPS is not a place, at least if you want to be a police officer, where you are going to be able to have a career, because they are phasing out that function. If you want to be an inspector and handle some of the other, sort of the broad panoply of issues that we talked about, an inspector has so many responsibilities and many of them are very overwhelmed by this, and I think only the addition of additional inspectors will help to start to alleviate that problem will you see a change. People are, I think, understandably wary at this point in time of joining the Federal Protective Service.

Ms. NORTON. Well, if you were recruited for the Federal Protective Service today, would you be recruited as a police officer or as one of these inspectors?

Mr. GOLDSTEIN. My understanding is that they are not hiring police officers, only inspectors, and that they are attaining and seeing the police officer function phase out.

Ms. NORTON. So you are saying to us that their goal is to have no police officers and only inspectors?

Mr. GOLDSTEIN. That is correct. We were told that both in the field and at headquarters that that is the goal.

Ms. NORTON. Who then would patrol?

Mr. GOLDSTEIN. There would really not be patrols. The law enforcement function would be one part of the inspectors' responsibility. But as we have indicated, the inspectors have oversight of contract guards, building security assessments, they are the contracting officer technical representatives, they have law enforcement response, criminal investigations, collecting contract guard time cards, and they are also responsible for the building security committee support.

Ms. NORTON. So it doesn't mention patrolling in there?

Mr. GOLDSTEIN. No, ma'am.

Ms. NORTON. In that list?

Mr. GOLDSTEIN. No. There is law enforcement response, but, again, that is only one of the many functions they have.

Ms. NORTON. Well, response is, as I take it, once somebody——

Mr. GOLDSTEIN. It is a response, it is not proactive, that is correct.

Ms. NORTON. Yes. Well, to say this is serious is to make a vast understatement.

I am going to ask the Full Committee Chairman, Mr. Oberstar, who has had a continuing serious interest in this issue, whether he has any questions or any statement. I appreciate his coming today.

Mr. OBERSTAR. Thank you, Madam Chair. Thank you for being very vigilant and diligent in following up on this issue. And I thank the gentleman from Missouri, the Ranking Member, for pursuing the matter further following our hearing last year.

It was shocking when we received information about the shortcomings that we heard, flaws and outright failures in the protection of the Federal workforce in the Federal office buildings across the Country. There are over 9,000 buildings that GSA either owns or leases. That is some 367 million square feet of Federal civilian office space. There is nearly $42 billion asset value in those properties. They are scattered in every State all across the Nation.

And we have a Federal workforce of various sizes in various communities, and the shocking thing that we heard last year was that a sizeable portion of the Federal Protective Service had been contracted out to private security guards that over the past three years the workforce of police force has been cut 40 percent. Inspectors were cut 10 percent, at a time when we are mounting a massive national Homeland Security initiative.

It seemed to me inconsistent with the mission of the Homeland Security Department to have one of the components of that agency cut its workforce, cut the number of inspectors and contract work out at the very time when we did the opposite with aviation. For years we had the security workforce at airports contracted for by the airlines to the lowest bidder, with reports of certain airport facilities, turnover as much as four-fold or six-fold. They couldn't keep trained personnel on station; they didn't have money to do and didn't do training or retraining. The way up for security per-

sonnel at domestic airports was a job at McDonald's in the airport terminal.

I served on the PanAm 103 Commission in the aftermath of that tragedy, and we proposed a federalized workforce comparable to that which existed in Germany in the course of our inquiry overseas, but the then Bush I administration would not hear of it. We backed off and included other measures that we thought were of great significance, and when they didn't act just introduced a bill incorporating in legislative language the 63 recommendations of our commission, and eventually we got those enacted.

Then came September 11th. Now we have the federalized workforce, and it is in place and it is professional. You can go to every airport around the Country and get the same treatment. And I have been in about half the States, at any rate, at least, all of the major airports, and now with my new replacement metal hip I set off the alarms and I get the same treatment at every airport, the same pat-down, the same procedure, and that is wonderful.

But now that is what we need in the Federal office buildings. I thought that after the alarming reports that we heard last year, things would get better. But, in fact, more private contract guards have been hired, according to your report, to replace the Federal Protective Service workforce; that armed guards and that contract authority guards took no action while a suspect with no shirt and handcuffs ran through the lobby of a Federal building; a GAO investigator witnessed a person trying to enter a high security facility with illegal weapons; contract guards allowed him to leave with the guns. What is this? What kind of system is this?

I heard you say a moment ago that morale is deteriorating. Have you found that throughout the system in various Federal office buildings, that the existing Federal workforce morale has deteriorated?

Mr. GOLDSTEIN. We found in our interviews throughout the regions that we went to that morale was a significant problem because of what FPS is facing and the challenges that they have to overcome. Yes, sir, in all the regions that we visited that was the case.

Mr. OBERSTAR. That is the same in the air traffic control workforce. They have not had increase in personnel; they are working longer hours; more hours at controls without respite; instead of a break after two hours; they are working three hours continuously at shift; not getting respite time, leave time, retraining time; and morale is deteriorating. Plus, their pay has been frozen at September 2006 levels. So if we are again repeating that situation in the protective workforce——

Mr. GOLDSTEIN. It sounds very similar, sir, yes.

Mr. OBERSTAR. Who conducts the building security assessment?

Mr. GOLDSTEIN. The inspectors do, sir. There are 541 inspectors within the Federal Protective Service, and among their responsibilities that I mentioned a few minutes ago are the building security assessments.

Mr. OBERSTAR. And do the members of the contract workforce participate in those assessments?

Mr. GOLDSTEIN. No. Their job is solely to remain in fixed posts and to secure the entrances and exits of the building.

Mr. OBERSTAR. Then when the assessment is completed, who acts on the recommendations of the assessment?

Mr. GOLDSTEIN. The assessments are provided to a building security committee. Every Federal building has a security committee that is made up of a representative of each tenant agency, and they get together on a regular basis and they evaluate the security assessments and the kind of measures that FPS is suggesting be put in place. In very few instances, however, are the measures that FPS is recommending actually implemented, for several reasons, one of which is that the individuals who sit on a building security committee are lay people, they do not have security expertise to determine what should or should not be incorporated into a building security.

Second of all, they don't have the authority to provide the funds to FPS to implement the measures; they have to go back to their headquarters and get permission to do so, and very rarely does that occur. Then, thirdly, when the measure is something the Federal Protective Service itself would implement, regional officials have told the inspectors not to include those particular items as part of the recommendations because the regional offices of FPS don't have the money to actually put those things in place either.

So it has gotten kind of to be a crazy situation. They are spending a lot of time and effort and money in completing building security assessments that in many instances don't go anywhere and nothing comes of them.

Mr. OBERSTAR. You anticipated my next two questions in your answer, thank you. Thank you, but that is shocking. That is astonishing to me that there is an assessment conducted and the personnel responsible for implementing tell the FPS don't do this, tell the building personnel don't do it because we don't have the money to implement it?

Mr. GOLDSTEIN. Because we don't have the money or our headquarters agency doesn't believe that it is something we ought to do or be involved in. So it is security by committee of lay people of, say, the Social Security Administration or HHS, or whomever happens to be a building tenant. They are the ones who make these decisions and, as I say, rarely do the actual countermeasures, such as an additional magnetometer or night patrol or something that would help improve security, actually get implemented because of the cost or even understanding what the threat might be.

Mr. OBERSTAR. Isn't that creating holes in our security protection for Federal office buildings?

Mr. GOLDSTEIN. Sure it is. Because if the premise is that the agency is trying to improve the security of Federal buildings and you do a security assessment and you make recommendations on how individual buildings might be better secured, and then nobody takes any action for all the reasons I have mentioned, then not only is the building not secure, but you have also wasted public funds to try to achieve that objective.

Mr. OBERSTAR. Did you find a differentiation among types of Federal buildings, that is, courthouses in one category, Social Security in others, veterans in others?

Mr. GOLDSTEIN. In terms of?

Mr. OBERSTAR. In terms of the security risk.

Mr. GOLDSTEIN. Well, there are four levels. There are actually five building security level risks that were put in place after the Oklahoma City bombing, the lowest being a level I, which is usually a storefront, sort of where you might go in for IRS or Social Security, and a level V, which is something like the CIA Headquarters, which is not protected by FPS, they only protect up to a level IV. But as we indicated earlier, the basic security fees are paid by tenants regardless of the level of security that a building has.

Mr. OBERSTAR. Following last year's hearing and our request for GAO review, I stopped in to various Social Security offices in my district and there is, in each one, a security officer, usually a retired police officer from the community who has been engaged by Federal Protective Service or, I think in one case, by Social Security Administration—at least that is what I think it is. But every day or at least in the larger facilities almost every day there is some disgruntled person—not a terrorist with a bomb strapped to the body to blow the place up, but a disgruntled person who can make a scene and who is, therefore, intimidating to citizens who are coming to the facility for resolution of their various problems and to the Social Security Administration personnel. In others it is at least once a week there is some disgruntled person.

And I asked them, supposing somebody really intended to do harm, come with a bomb strapped to their leg or their body. Oh, we don't have a magnetometer here, we don't have an x-ray machine. The larger facilities, where there is a courthouse associated with the Federal building, they do have the x-ray machines and magnetometers.

We have these various levels of risk. Just my own random observation, backed by some years of experience in the investigative business, found these gaps in security. How do you rate the five levels of security standing for the Federal buildings under FPS jurisdiction? Did you find fewer problems at the lower security level Is and more at the level Vs, or what did you find?

Mr. GOLDSTEIN. We had a similar experience as you did, Mr. Oberstar, in terms of, with level I facilities such as Social Security or IRS, there they just have a storefront, that they are as vulnerable, if not more so, than the larger buildings because, as you say, they rarely have a magnetometer, they might have an off-duty police officer or a contract guard that they have hired, but they do have significant incidents and threats of incidents all the time.

And many Social Security offices that we talked to as part of who are on building security committees and the like express the same thing that you are saying as well. So they have significant threats that they have to encounter without the kind of resources that some of the larger buildings that do have, say, magnetometers or additional guards or even perhaps an FPS presence would have. Their recourse is to call local law enforcement, just like any other citizen. That is what they have.

Mr. OBERSTAR. And in some cases it takes a while for law enforcement to respond.

Mr. GOLDSTEIN. Sure. And an FPS officer is likely to take a much longer time. One of the things we did find, and our report highlights, is in many instances it will take hours, sometimes days,

for FPS actually to respond to an incident because there isn't a local FPS presence and they have to come from out of State, or certainly out of a city. So the only response of any consequence would be a local response.

Mr. OBERSTAR. Good heavens. That is outrageous. Now, when there is an incident and the Federal Protective Service contract guard comes on the scene, they don't have law enforcement authority; they don't have ability to arrest. What is the effect of their presence?

Mr. GOLDSTEIN. The contract guards at Federal buildings are used to allow people in and out of buildings. They guard access to the building, principally, and they watch people as they go through x-ray machines and they monitor the magnetometers, where they exist, as well.

But as we indicated in our report, there are a number of issues associated with the contract guard program, and it is something that we are starting to now look at. Now that we have finished this report for the Committee, we are starting to look at the contract guard program, and we will provide more information at a later date.

But we did find a number of instances, just based on our preliminary observations, of how the FPS monitors and oversees the contract guards and the roles and responsibilities of the contract guards themselves. So, yes, this is something that we will take a further look at.

Mr. OBERSTAR. [Presiding] I ask Mr. Graves if he has any further questions at this point. If not, then the Chair recognizes the gentleman from Pennsylvania, Mr. Carney.

Mr. CARNEY. Thank you, Mr. Chairman.

Mr. Goldstein, you mentioned that several Government entities really find great importance in proactive foot patrols. Which of these entities, could you specifically tell us that?

Mr. GOLDSTEIN. Sure. We found the Department of Homeland Security itself, including the Federal Protective Service, which has specific policy handbook for patrolling, that they have found that this is a very effective tool. We have also found that the FBI has said the same thing.

And we would note that the 9/11 Commission, among other entities, has also shown that potential terrorists are frequently to be found, in our discussions with FPS, said the same thing, that surveilling of Federal property is not uncommon and that only using proactive patrols—to be outside the building and not just at access points—is going to be the principal way you are going to thwart this sort of thing.

And they gave a number of instances where they have in the past, because they had proactive patrols, been able to thwart potential terrorists who were surveilling a building, suspicious people who were sitting in cars outside for several days in a row in the same car, a variety of those kinds of activities. And you are not going to get that kind of ability to thwart those kinds of things if you don't have proactive patrol and you are only relying on contract guards who are sitting at an entrance checking IDs or checking people who are going through x-ray machines.

Mr. CARNEY. How many agencies actually have the proactive foot patrols?

Mr. GOLDSTEIN. I don't know the answer to that, but we can try and find out and get back to you, sir.

Mr. CARNEY. Yes. I would like to know that.

Mr. GOLDSTEIN. The point is most of the Federal buildings are protected by—there are 9,000 Federal buildings, which is the bulk of the Federal portfolio, and they are protected by FPS.

Mr. CARNEY. Okay. You also mentioned that developing the use of resources based on risk management principles. What are some of the principles that we ought to be employing here?

Mr. GOLDSTEIN. Well, one of the things that concerned us is that it is difficult for FPS really to tell you where and how they ought to be deploying their scarce resources based on risk, because they don't have a full risk assessment model that would be able to help you determine where crime or potential terrorism is at its worst and, therefore, haven't deployed resources to that kind of a model.

They have more people in cities than they do in rural areas as one sort of broad-based measure, but the other problem related to this is their data systems are not reliable at this point in time and they are not able to tell you with any specificity or reliability how much crime is actually occurring where. Therefore, they can't tell you the current status of the threats to Federal property because that information is highly unreliable.

We tried to, not only based on how they define crime and how crime is entered into their system, but there are very big differences and discrepancies between regions and headquarters in terms of how much crime a certain region is supposed to have. We also found that because of the staffing shortfalls and the fact that you have had such a decrease in the number of police officers and inspectors, the crime simply isn't being reported to the mega centers. What looks like a decrease in crime is probably not a decrease in crime because they are simply not being reported.

Mr. CARNEY. One more question, Madam Chair, if you don't mind.

It is disturbing to know that the data problem exists, that they don't have the data to make these determinations.

Mr. GOLDSTEIN. They are working on fixing those systems, but it is going to take some time.

Mr. CARNEY. Right. My concern, though, is how is the intelligence flow to know if there is a threat and how they handle that?

Mr. GOLDSTEIN. We have heard mixed things about that, sir. When we were in the field, we were told by a number of the regions that they had very limited access to specific intelligence information unless they were part of the Joint Terrorism Task Force. That existed in several cities. But that, other than that they were not provided access to a lot of intelligence information. Our discussions at headquarters seemed to indicate that that wasn't the case. Also, in fact, if anything, there seems to be a little bit of a disconnect between headquarters and the field with respect to how much information they are getting from intelligence sources.

Mr. CARNEY. Thank you, I think.

Mr. GOLDSTEIN. Sorry.

Mr. CARNEY. No further questions at this time, Madam Chair.

Ms. NORTON. [Presiding] Thank you, Mr. Carney. I am going to let you go, Mr. Goldstein, but because of districts like Mr. Carney's and, for that matter, I think perhaps Mr. Graves', I have got to ask you about these informal relationships and these MOUs. Now, in big cities like the District and New York, we found very little in the way of proactive patrols and very few FPS officers, but we, of course, learned from your report that these MOUs, for MOUs between local police and FPS, instead of FPS, were in fact not being used and they were relying on informal relationships.

I have to ask you, before you go, whether you saw any evidence of informal relationships between local police and Federal facilities whereby local police were willing to be on call, at least, for Federal facilities or in any other way help to cover Federal facilities, instead of FPS.

Mr. GOLDSTEIN. In almost all the jurisdictions that we went to, we spoke with local law enforcement, and most of them were not even aware that the Federal Protective Service had instituted its inspector-based system or that the FPS had reduced or eliminated its evening and weekend hours. So they had not been told that the kind of protection that Federal property needed had changed, and had indicated to us—in fact, they were being told by us, by GAO, FPS had not indicated, and they were surprised——

Ms. NORTON. Thank you. I just want to make sure for the record, because we are not only interested in high-target places like the District. This is a Federal police force for every part of the United States, and at least 50 cities were to be left with no FPS officers at all, and now we find that the MOUs don't exist at all.

Yours has been a very sobering report, Mr. Goldstein. I assure you that the Subcommittee will not only take it under advisement, while the Full Committee Chairman was here we discussed what we can do right now. Thank you very much.

Now I would like to call the next two witnesses.

Mr. GOLDSTEIN. Thank you.

Ms. NORTON. The next witnesses are Gary Schenkel, who is the Director of the Federal Protective Service, and David Wright, the President of the FPS Union, which is AFGE Local 918.

I am going to begin with Mr. Schenkel.

TESTIMONY OF GARY SCHENKEL, DIRECTOR, FEDERAL PROTECTIVE SERVICE; AND DAVID WRIGHT, PRESIDENT, FEDERAL PROTECTIVE SERVICE UNION

Mr. SCHENKEL. Chairwoman Norton, Ranking Member Graves, distinguished Members, thank you for the opportunity to appear before you today to address the concerns raised in the report issued by the Government Accountability Office and to discuss the business improvements that FPS has made over the past three years and our vision for the future.

As this Subcommittee is aware, auditors from the Government Accounting Office recently had the opportunity to sample the day-to-day work performance by the Federal Protective Service. We appreciate the thoroughness of this audit and welcome the recommendations for improving FPS.

Auditor work products are used throughout ICE for the betterment of the agency, including within FPS. With this in mind, I be-

lieve that it is necessary to address some of the points raised in the GAO report. Some additional context is needed.

The transfer of the FPS into the Department of Homeland Security, U.S. Immigrations and Customs Enforcement, ICE, provided an opportunity for FPS to comprehensively assess its mission and to ensure that its activities were focused on enhancing the security of the Federal facilities it protects. FPS has embarked on a strategic approach to ensure that its operations are not only fully aligned with the goals and objectives of DHS and ICE and its stakeholder, but that they also move FPS towards greater compliance with the standards for internal control as established by GAO.

Using this strategic approach and this Subcommittee's support and guidance, we have significantly enhanced our business processes, including our contracting functions. For example, we have improved the procurement process for guard services that, in the National Capital Region alone, we have reduced the cost of three new contract security guard contracts by $5.5 million in fiscal year 2008, savings that were passed directly to the agency client.

This strategic approach has resulted in a number of achievements, including, in 2007, FPS eliminated a backlog of 2200 invoices worth $92 million, some of which predated the creation of the Department of Homeland Security, all the way back to 1999. Chairwoman Norton's attention to this issue was particularly helpful to us in identifying this area for improvement. To improve FPS invoice payment process, ICE/FPS consolidated the entire process by requiring that all invoices be sent to a single location.

Since the beginning of fiscal year 2008, FPS has paid 95 percent of all invoices within 30 days. In the month of May, the percentage of payments paid within 30 days rose to 99.5 percent. Part of the success in the timeliness of the invoice payments is the fact that we added our Contractor Officer Technical Representation, COTR, training to our basic training curriculum.

FPS improved working relationships with its internal and external stakeholders through newsletters and regular communications. FPS also provided customer service training to employees and used satisfaction surveys to gage its success at providing comprehensive security services that are meaningful for FPS stakeholders. FPS formally chartered an Executive Advisory Council, or EAC, to coordinate security strategies and activities, policy and communication with Federal department and agency occupants of GSA-controlled facilities.

FPS also conducted numbers of focus groups and meetings with stakeholders to identify and resolve issues and to identify systematic problems. The focus groups enabled us to immediately identify a common concern of our clients in that they want FPS personnel to increase the level of physical security functions, such as contract guard oversight, quality building security assessments, or BSAs, and higher visibility throughout its facilities. We heard them and we agreed that the physical security needs greater attention, but not at the exclusion of our law enforcement function.

Among the most important improvements from a strategic approach is our move to a Law Enforcement Security Officer, or LESO, inspector-based workforce, which will meet these customers' concerns while affording the added protection of law enforcement

presence. To put in proper perspective the importance and advantage of transforming FPS's workforce, FPS is responsible for protecting approximately 9,000 GSA owned and leased buildings in 2003.

At that time, only 55 percent of FPS law enforcement staff was qualified to conduct BSAs, a core FPS activity. As a result, the assessment function received far less attention than it required. Law enforcement staff qualified to conduct BSAs were stretched too thin, producing assessments that were inaccurate, incomplete, and untimely. Today, as FPS moves closer to a LESO-based workforce, more than 80 percent of its law enforcement staff is qualified to perform FPS's core mission requirements. LESOs still retain law enforcement authority and are able to conduct BSAs that are more accurate, complete, and timely.

The advantages of the LESO-based workforce are strategically aligned with the core mission of FPS: securing facilities and safeguarding their occupants. The LESO position incorporates the law enforcement duties of the Federal facilities FPS protects. In addition, the LESO receives extensive training in risk management, risk assessment, and countermeasures to mitigate those risks. A LESO-based workforce provides built-in flexibility to perform law enforcement and physical security functions. A LESO can be at a GSA facility performing an inspection or providing contract guard oversight and, if the need arises, immediately provide police response to a criminal activity.

FPS decided to integrate the entire security program by making the contract security guard program a true extension of its law enforcement activities by combining the responsibilities. A LESO-based workforce allows FPS the necessary flexibility to provide law enforcement and immediate corrective action to all countermeasures, including our contract security guards. Under the prior bifurcation of security operations, law enforcement had little or no oversight over the contract guard program or other integrated security countermeasures.

Differences in the traditional police officer and LESO position begin with basic training. The police officer receives basic law enforcement instruction in the Uniform Police Training Program, or UPTP, at the Federal Law Enforcement Training Center. For the police officer, basic training ends there. Basic training for the LESO only begins at UPTP. Following completion of the basic law enforcement training curriculum, the LESO Inspector is enrolled in the physical security training program. This advanced course provides the LESO extensive instruction in training and risk assessments, threat analysis, risk management, risk mitigation, and the latest technological advancements and countermeasures. To improve FPS's contract oversight capability, we have also added a training module that prepares the LESO to perform the duties of the Contract Officer's Technical Representative, or COTR.

Notwithstanding the important issues and recommendations offered by the GAO, we agree that more can be done, including the following: a strategic risk-based approach to staffing is needed, and we have begun the process of doing that using several workload studies and analysis that have been conducted; there is a need to clarify the responsibility of local law enforcement and first respond-

ers, and we intend to work closely with our law enforcement partners in this effort; we must incorporate performance management into our law enforcement and administrative activities; and update our current performance measures.

To this end, FPS is acquiring a new Risk Assessment and Management Program, also known as RAMP, to enhance its operational capabilities for gathering data and developing action plans to assess collective and individual performance. The RAMP will provide a suite of tools designed to ease the collection analysis and reporting of performance measure information. With respect to our collection and use of data, FPS will use RAMP, a secure Web-enabled tool, to conduct risk assessments. By building in specific workflow and enhanced reporting capabilities, FPS can use RAMP to identify security vulnerabilities and to provide the data FPS needs to make decisions as to workforce assignments, including conducting of security assessments and providing of security.

I am extremely pleased to lead the proud and professional men and women of the Federal Protective Service. I interact with them every day and I can tell you that they are dedicated, determined, and committed to developing and implementing and maintaining security systems to ensure the facilities they are charged with protecting are secure and their occupants are safe. I am confident that they can be relied upon to ensure that FPS will continue to meet the challenge of its homeland security mission.

Thank you again, Chairwoman Norton and Ranking Member Graves, for holding this important oversight hearing. I would be pleased to answer any questions you may have.

Ms. NORTON. Thank you, Mr. Schenkel.

Mr. Wright.

Mr. WRIGHT. Chairwoman Norton, Ranking Member Graves, Members of the Subcommittee, my name is David Wright. I am President of AFG Local 918, the Federal Protective Service Union. I have been an FPS law enforcement officer for the past 22 years. In the seven years since the September 11 attacks, I have watched with growing frustration and outrage as the Federal Protective Service has been allowed to deteriorate and drift like a rudderless, sinking ship.

Madam Chair, every American should be shocked and frightened by the GAO testimony we heard today. The sole Federal agency charged with the critical mission of protecting thousands of Federal buildings and millions of people from terrorists and criminal attack has had its core mission challenges, its funding cut by $700 million since 9/11, its officer pay reduced by 10 percent, and its law enforcement ranks nearly depleted.

If one of our local unions had performed in such a manner with respect to carrying out its mission and responsibilities, it would have been put into trusteeship. It is clear to us that we need Congress to act as a trustee for the Federal Protective Service.

It has only been through the intervention of this and other Committees of Congress that we have stopped this dangerous and irresponsibility trend. Meanwhile, in fiscal year 2008, FPS is projected to have only 1,200 personnel and budgeted at approximately $238 million nationwide for operational expenses, while there are over 1,600 Capitol Police budgeted $281 million to protect the Capitol

and Congressional offices in a 12-block area of Washington, D.C. The Secret Service has over 1,300 officers in its uniformed division to protect its assigned facilities in Washington, D.C. The Veterans Health Administration employs over 2,500 police officers to protect 154 medical centers nationwide.

I should also add that each of the above-mentioned agencies use extensive proactive patrol by police officers to detect and deter attack, the very critical activities that GAO has found missing in FPS.

The questions we need to answer today are why was this allowed to happen to FPS and what needs to be done. My written testimony answers both of those questions in detail, so I would ask that it be submitted for the record. I also want to make four key points here this afternoon.

Regardless of why this agency has been allowed to "twist in the wind," as the Senate DHS Appropriations Committee put it last year, we need to continue to rebuild the FPS in a rapid manner. A comprehensive review and assessment of manpower needs, as called for by GAO, and a request for sufficient personnel to perform the mission must be produced by the agency as quickly as possible. In the interim, Local 918 is asking Congress to increase the current level of 1200 personnel—that includes about 900 law enforcement—by about 400 in the fiscal year 2009 DHS appropriations bill.

GAO pointed to the importance of a uniform Federal law enforcement presence surrounding Federal buildings as an essential security requirement to detect and deter attack by terrorists and criminals. It is an approach embraced by all law enforcement agencies across the Country. Yet, it is precisely this component of proactive patrol that DHS and ICE have worked so hard to eliminate.

The Union believes that eliminating police officers and maintaining a depleted all-inspector workforce is a dangerous mistake. While inspectors can and do perform law enforcement tasks, they also have a very different set of responsibilities on a day-to-day basis: overseeing the contract guard workforce; performing building security assessments, which is very labor-intensive; training employees in regards to workplace violence; and other security issues, to name several. In the performance of these duties, it is less likely that inspectors will uncover criminal or terrorist activity. Such activity is far more often revealed through community interaction and continuous law enforcement uniform patrol, which are the primary responsibilities of FPS police officers.

Three, in the post-9/11 world of today, it makes absolutely no sense to rely on a square footage base fee to entirely determine the funding for FPS. While the Union does not oppose the continued funding of some optional FPS services through this funding mechanism, we strongly believe that most activities of FPS can and should be funded through annual appropriations. I have to reiterate, as I have over the past two years, the current funding formula is the root cause of the problems at FPS and it is in desperate need of reform.

My fourth point, just within the past two years, FPS police officers and other law enforcement officers have seen their pay cut by 10 percent. Many have been told that their jobs were being elimi-

nated and we have watched as the agency's core mission has been threatened by a misguided attempt of non-law enforcement bureaucrats to eliminate critical FPS law enforcement activities. I can tell you we have lost many talented, experienced officers as a result, and it will not be easy to attract them back or to hire new personnel to replace them in any short manner of time.

Evidently, the agency is finding this out as it tries to recruit new personnel for the positions required under last year's appropriations bill. As you can imagine, morale is in the tank. Your FPS law enforcement officers have borne the brunt of recent FPS budget reductions and we need Congress to step in. We have borne that brunt. We have taken the pay cuts; we have been out there without the equipment, without the supplies, without the uniforms. I have guys paying for uniforms out of pocket, I have guys paying for equipment out of pocket, and we will never see that money back.

Restoration of retention pay and the provision of law enforcement retirement benefits are two changes that should be implemented as part of any FPS building process. By the way, retention pay, as alluded to, when they cut retention pay a couple years ago, amounts to less than $5 million annually. As a result of losing that 10 percent retention pay, we have lost approximately 150 to 170 officers and inspectors.

Madam Chair, 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, un-monitored contract guards with no law enforcement authority, with 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.

I will be glad to answer your questions.

Ms. NORTON. Thank you, Mr. Wright.

I am going to go first to the Ranking Member, Mr. Graves.

Mr. GRAVES. Thank you, Madam Chair.

The core mission of FPS is to protect Federal buildings, the people who work in them, obviously, the people who visit them, and we all know, we all agree that Federal buildings are obviously targets. The GAO study concluded that many Federal buildings are more at risk of crime and terrorist attacks, which basically shows that FPS isn't adequately fulfilling its basic mission. Yet, during the time when we had some level IV buildings that did not have building assessments completed, FPS still had the time and resources to conduct security assessments of private residences of Federal officials, and I am surprised that nobody is talking about this.

My question, Mr. Schenkel, is how many of these assessments of private residences did FPS perform and whose were they?

Mr. SCHENKEL. I am aware of six. I have a list. They were performed. The most recent was probably two years ago, and they go back as far a six years.

Mr. GRAVES. Who are they?

Mr. SCHENKEL. Senator Feinstein's residence; Assistant Secretary Myers' residence; Robert Brown from FEMA; Mr. Alfonso Jackson, former Secretary of HUD, I believe.

I am incorrect, sir, it was five. I apologize. I thought there were six.

Mr. GRAVES. Were there specific threats that were anticipated?

Mr. SCHENKEL. There were specific threats in the case of Mr. Jackson, there were specific threats in the case of Ms. Myers, and implicated threats in the case of Senator Feinstein. I am not aware of anything on Mr. Brown, sir.

Mr. GRAVES. Who requested the assessments and who authorized them?

Mr. SCHENKEL. They would have to have been authorized by the regional director or whoever sat in this chair, sir. And they would be requested normally either by the local law enforcement entity responsible for that jurisdiction or another Federal law enforcement agency that was aware of a threat.

Mr. GRAVES. Well, what is the protocol in approving requests like this? I mean, what criteria do you use to evaluate? How many requests do you get, for that matter? How many were turned down?

Mr. SCHENKEL. I really have no idea. I can say that since April 1st of last year I have not seen any requests. But the normal protocol, if you would, would be a request from the law enforcement agency primarily responsible for that individual. In some cases it would be the Capitol Police, in some cases it would be the local law enforcement. They would request through a letter saying we request your assistance on a security assessment of a residence and then it would have to be handled on a case-by-case basis.

Mr. GRAVES. Is FPS reimbursed for all of these, for the resources, the manpower, whatever is done?

Mr. SCHENKEL. Not that I am aware of.

Mr. GRAVES. Well, do you think these assessments were appropriate use of FPS resources?

Mr. SCHENKEL. Not having been in the chair at the time, I would have to evaluate them very seriously, especially under the constraints that we have right now with the limited resources, sir.

Mr. GRAVES. I mean, everybody is talking about manpower shortages and everybody is talking about all of these problems, but, yet, we have got folks running around doing—not only that, we are not even touching on the issues of FPS personnel doing things other than what they are supposed to be doing in homeland security.

I will ask Mr. Wright, too, do you think that is an appropriate use of FPS personnel?

Mr. WRIGHT. I can say that I have never seen any protocol for assessments on private residences. A proper security assessment I believe would average around 80 hours. You are talking about an inspector at nearly $40 an hour, then you have the management process, the review process from there. We are talking probably $3500 for each of these assessments. These are Federal officials. Certainly, these assessments could have been conducted by other security professionals. Certainly, they could have offered to reimburse. Apparently, that didn't happen.

I find this absolutely disturbing if this happened. We have known about the financial plight of FPS since we moved into De-

partment of Homeland Security. Matter of fact, we have known about the financial plight since before March of 2003, when we came into Homeland Security, so, to me, this is inexcusable. It is a fraud, waste, and abuse issue.

Mr. GRAVES. Well, the fact that there is no protocol, as you mentioned, too—and we haven't seen any protocol either—is something that disturbs me in a huge way.

Mr. WRIGHT. And from an agency, for Ms. Myers to have a security assessment done on her residence with public funds, and then to turn around and not endorse Law Enforcement Officers Safety Act for Federal Protective Service officers so we can protect ourselves while off duty, this is inexcusable.

Mr. GRAVES. We have got reports, too, doing assessments on some private companies, chemical companies, for instance. Is that correct, doing some outside assessment work?

Mr. SCHENKEL. I am not aware of anything like that, sir.

Mr. GRAVES. Detailed 39 inspectors for infrastructure protection?

Mr. SCHENKEL. That is not private security work. Those people, we got 39—actually, it is 30 right now, 30 inspectors detailed to infrastructure protection in the chemical facility sector, and they are doing inspections at chemical plants. They are Federal employees, they are just detailed to infrastructure protection and performing under the direction of infrastructure protection.

Mr. GRAVES. But it is a private facility.

Mr. SCHENKEL. These are private facilities, yes, sir.

Mr. GRAVES. I appreciate it, Madam Chair. Obviously, we have got problems that run pretty deep.

Ms. NORTON. I think you brought out some of them.

Mr. GRAVES. I appreciate your testimony very much.

Ms. NORTON. But the inspectors that the Ranking Member just raised, the physical security specialists, these people could be doing some of the inspections in Federal buildings, could they not?

Mr. SCHENKEL. Yes, ma'am.

Ms. NORTON. Well, why are they being detailed to private chemical plants, who can hire their own people with expertise? Why are we doing that?

Mr. SCHENKEL. Under the President's fiscal year 2008 budget, we only had enough resources to support a force of 950. Under the same situation, we promised that no one would lose a job. So those are fully reimbursable positions paid for by IP.

Ms. NORTON. So this brings money to keep these people working, these people who are necessary for the agency. In fact, if truth be told, this change to inspector-based workforce, Mr. Schenkel, is really driven by funding, isn't it?

Mr. SCHENKEL. Yes and no. I have to answer that truthfully because as much as we have discussed here, the testimony from Mr. Goldstein, the old GAO reports, we cite proactive patrol on the law enforcement side as being a negative, and there are multiple negatives on the physical security side. So with limited resources in that aspect, yes, ma'am, I have to concentrate my activities.

Ms. NORTON. We are just trying to get to the bottom of this. Now, here the testimony is that the security specialists are bringing revenue to the agency that the agency cannot get in any other way, because they are being hired out; therefore, the agency is

being reimbursed. If they were employed in the agency, of course, the agency would have to take it out of appropriations, which the agency does not have.

Mr. SCHENKEL. That is correct.

Ms. NORTON. Now, I want to establish that these inspectors, physical security specialists, could be doing some of the very same work that law enforcement officers now used as inspectors are doing, isn't that correct?

Mr. SCHENKEL. Yes, ma'am. The people on the IP detail are LESOs, they are all LESOs. The common term is inspector, but they are all law enforcement security officers, not physical security specialists.

Ms. NORTON. I am trying to make sure. But could not the physical security specialists be doing this work inside of Federal buildings, were we able to afford them?

Mr. SCHENKEL. Yes, ma'am

Ms. NORTON. Instead of law enforcement officers.

Mr. SCHENKEL. I don't believe that they would have the expertise. A regular physical security specialists, unfortunately, when we came out of GSA, there were about 140 different position descriptions. The physical security specialist title actually applies to a multiple faceted responsibility. Some——

Ms. NORTON. Well, you know, these are people who can adapt themselves and get trained, apparently, pretty quickly by the private sector to inspect chemical plants. They must have some core knowledge.

Mr. SCHENKEL. Those are LESOs, ma'am.

Ms. NORTON. Excuse me?

Mr. SCHENKEL. I am sorry, we are confusing two different positions here. The people that are at the IP detail that are doing the physical inspections of the chemical plants are law enforcement security officers, or inspectors, the same as we would use for the BSAs.

Ms. NORTON. They are law enforcement officers?

Mr. SCHENKEL. Yes, ma'am.

Ms. NORTON. Who would be doing work inside the agency if we could afford them?

Mr. SCHENKEL. Yes, ma'am.

Ms. NORTON. According to the GAO report—I am now reading directly from the report. I think we just need to get this straight. The GAO says that the FPS currently is in the process of training to an all-inspector workforce and adding 150 inspectors to the workforce. Is that the case?

Mr. SCHENKEL. Yes, ma'am.

Ms. NORTON. Now, that means that you are in the process of converting from a police force, the core mission before this change, to a group of inspectors who do not patrol.

Mr. SCHENKEL. I don't want to disagree with you, ma'am, but that is not quite correct, because by going to a 100 percent law inspector security officer force, I then have the flexibility, as opposed to before, as I stated, 55 percent of my force being able to do just the physical security parts or being overburdened with the physical security parts, I can now take 100——

Ms. NORTON. But the primary function of the FPS officer is not going to be the normal routine proactive patrol that we associate with the regular police officer mission throughout the United States. Is that not the case?

Mr. SCHENKEL. Part of their time they will be dedicated to proactive patrol.

Ms. NORTON. How much of their time?

Mr. SCHENKEL. Roughly 20 percent.

Ms. NORTON. So for 9,000 buildings with stationary guards, 20 percent of the time of the police officer will be spent in patrols.

Mr. SCHENKEL. Yes, ma'am.

Ms. NORTON. Or simply responding and all that goes with police work. Which?

Mr. SCHENKEL. No, in proactive patrol.

Ms. NORTON. In proactive patrol.

Mr. SCHENKEL. Because we will be able to use the LESO in both——

Ms. NORTON. Mr. Wright, let me ask you. A police officer, unlike a regular Federal worker, can retire earlier, isn't that true? Is trained to carry a gun and is generally considered a very specialized Federal employee or employee if employed by others, is that right?

Mr. WRIGHT. In the case of FPS, no. FPS police officers, FPS inspectors, neither job classification has law enforcement retirement benefits.

Ms. NORTON. Neither? Sorry, would you speak into the microphone?

Mr. WRIGHT. Neither law enforcement officers, police officers or inspectors, neither job series is entitled to Federal law enforcement benefits with the Enhanced Retirement Bill——

Ms. NORTON. So when do they retire? When does FPS—do they retire at the same retirement rate as everybody else?

Mr. WRIGHT. Yes. With the exception of special agents, which is another class.

Ms. NORTON. In your judgment, do you need to be a trained police officer to do the inspector function that has now become the primary function of these officers?

Mr. SCHENKEL. In my judgment, the inspectors——

Ms. NORTON. I am asking Mr. Wright.

Mr. SCHENKEL. Oh, I am sorry.

Ms. NORTON. Then I will ask you.

Mr. Wright, do you think that your officers——

Mr. WRIGHT. Yes.

Ms. NORTON. And then Mr. Schenkel.

Mr. WRIGHT. In years past, the inspector position as idealized—basically, what you have, the original intent, as I recall—I have been here for a while—was a number of FPS police officers handling the majority of proactive patrol and response duties. Like I say, this was in years past. We wanted to supplement that core of police officers. Whereas, we had unarmed physical security specialists in the past, you develop a cadre of inspectors. So as your police officers are patrolling, responding, you had this cadre of inspectors who are performing building security assessments, making recommendations for protection and so on, and be available for call.

Ms. NORTON. So what is the ratio of those doing these building assessments and those patrolling, ideally?

Mr. WRIGHT. That is to be determined by a workload assessment.

Ms. NORTON. Well, I am talking about the FPS. I am trying to get some sense in a Federal facility.

Mr. WRIGHT. In my ideal world, I would say two to one.

Ms. NORTON. Two to one what?

Mr. WRIGHT. More police officers than inspectors, definitely.

Ms. NORTON. Would you disagree with that, Mr. Schenkel? If this were possible. I understand now the position you are in now and the funding, but with all things being equal, if this were possible, do you agree that in the post-9/11 world, where we have enhanced security here to a fare-thee-well with a 50 percent increase in Capitol police, in this same post-9/11 world, where the Federal employee lives at the two to one ratio, if we could afford it, would make sense?

Mr. SCHENKEL. Based on what the GSA/FPS MOA expects for that basic security fee, I would say Mr. Wright is probably underestimating the ratio.

Ms. NORTON. Because of the climate in which we live.

I am going to go to Mr. Carney, give him a chance.

Mr. CARNEY. Thank you, Madam Chair. Just a few questions.

Mr. Wright, since 9/11, how many officers have resigned or retired, gone to do other things? That are outside the sort of normal retirement cycle.

Mr. WRIGHT. As I recall, around 9/11 we had about 1500 employees, and I believe nearly 1200 officers and inspectors. Today, the latest figure that I have, which is probably at least a month old, we are down to 1,060 law enforcement.

Mr. CARNEY. Mr. Schenkel, you mentioned RAMP, the program RAMP. When is that going to be ready to be deployed?

Mr. SCHENKEL. The contract is going to be awarded within the next three weeks. We should have the pilot on the street in January 2009.

Mr. CARNEY. Okay. How long is the pilot supposed to last, do you know?

Mr. SCHENKEL. It is not determined yet, but we hope to have it in everyone's hands by the end of 2009 or early 2010, this being the reason: because we have six different systems that we are dependent on right now, several of which don't belong to us. That is why we need this system so desperately to make those determinations, as Mr. Wright alluded to, for those workload models and studies.

Mr. CARNEY. Okay, when you talk about your work, Mr. Schenkel, with local authorities, you have a deconfliction issue, everywhere, I imagine. What are you doing to provide that deconfliction and how much do you actually rely on local law enforcement officials?

Mr. SCHENKEL. In most areas, a great deal. With the exception of some exclusive jurisdictional areas, we depend primarily on local law enforcement. Say, for the State of Maine, the State of Maine has never had more than three FPS officers or inspectors. To think that there would be a commensurate response as there would be, say, at 26 Federal Plaza would never happen. So, consequently, we

depend on these mutually beneficial relationships. We have bomb dogs that we work with local law enforcement. We do provide a physical security assessment if they need one for a specific event or facility. And that mutually beneficial and mutually supporting effort has worked out quite well for us.

Mr. CARNEY. Okay.

Mr. Wright, what is the state of morale with FPS officers?

Mr. WRIGHT. As I said in my statement, it is absolutely in the tank. I think the Union's efforts in keeping morale up and assuring the employees that things have to get better has been instrumental in keeping a lot of individuals around. I lost a lot of good friends that have departed for other agencies. Like I say, other than that, it is in the tank.

Mr. CARNEY. Mr. Schenkel, given a reasonable estimate, if you could have the resources you needed—and I am not talking about the gold plate and everything here, I am talking about just the resources to do the job—how much more money do you need, do you think?

Mr. SCHENKEL. The decision has to be made first on what our customer agencies have to expect for that basic security fee. Like I said, if it is 24 hour response, we would need 45,000 police officers to have 24 hour coverage at every one of our 9,000 facilities. Right now, that basic security fee gives an expectation that Maine will have the same kind of response in police presence as 26 Federal Plaza or NCR here, which is limited on resources as well. So to throw a dollar out without that starting point I think would be unfair.

Mr. CARNEY. Okay, well, let's make it fair. How close are we to assessing that need?

Mr. SCHENKEL. Well, we are entering the negotiations right now with GSA on our next MOA, so I think this is what the accountability report stresses, is that there has got to be a starting point and a fairness or equitable adjustment, if you will, on what the basic security responsibilities of FPS are for all 9,000 buildings, and then those that are level IV, say, for instance, that require a greater level of attention or a greater police presence.

Mr. CARNEY. This will be my final question, Madam Chair.

If you were someone who was intending to do the Country harm, would you be happier today or more concerned?

Mr. SCHENKEL. I would be less concerned than I was a year ago, but I am always concerned; that is why I am in this business. The reason I say that is I think because we have been focused now on that contact guard oversight, on that countermeasure implementation, and the requirements that our customers expect, I think that our buildings are in better shape than they perhaps were a year and a half ago. But I think there is always room for great improvement.

Mr. CARNEY. Mr. Wright, care to comment?

Mr. WRIGHT. Personally, I believe that we are more at risk today than prior to 9/11, similar to the days prior to the Oklahoma City bombing.

Mr. CARNEY. No further questions.

Ms. NORTON. It is very hard to understand how things get better with the fewer staff you have patrolling buildings. Maybe I live in another kind of world.

Mr. Schenkel, you spoke about in negotiation with GSA on the fees. It hasn't seemed to have gotten us very far, but it might if OMB were to take the lump sums that had been agreed upon and if they became an indirect appropriation in a lump sum. That would seem to be a common sense way of doing this. Could we ask that that be done? Is there any reason why that could not be done to try to at least clear up the getting the fees where they are supposed to go?

Mr. SCHENKEL. I think that would be a good start because that would give that baseline appropriation, if you will, for those basic security requirements that FPS could offer, and then there would be that additional charge for any other building-specific charges which should include additional police presence in some buildings.

Ms. NORTON. Now are you willing to make that recommendation to OMB?

Mr. SCHENKEL. I have already discussed this with them, ma'am.

Ms. NORTON. What has OMB said about this?

Mr. SCHENKEL. They haven't said much. I haven't got a response.

Ms. NORTON. The Committee, we are just looking for a more efficient way to get at the fees question. They seemed to work when they were at GSA. This is very bothersome that the switch, where now it looks like appropriated funds come into the picture, and we get serious budget problems in the agency that weren't there before.

Mr. Wright, do you have any view on this? One lump sum?

Mr. WRIGHT. Yes, that would be an absolute great first step. We have to make those fees invisible to the agencies because, as we speak, agencies are stepping away from FPS and forming their own physical security programs.

Ms. NORTON. Well, how are they able to do that? You mean they are taking what they otherwise would give, what they used to give to GSA, for example, and simply not giving the money at all?

Is that true, Mr. Schenkel?

Mr. SCHENKEL. Well, the taxpayer is paying it twice is what is happening. GSA is moving forward with a physical security program that basically duplicates what FPS is doing.

Ms. NORTON. Why have you delegated them the authority to do this?

Mr. SCHENKEL. We have not. We have not delegated them the authority, ma'am.

Ms. NORTON. Well, how are they able to?

How many agencies in this area, in the D.C. metropolitan area, have what amount to must be some kind of implied delegation authority to move away?

Do you know of any who are, in fact, moving away, Mr. Wright? Can you name any?

Mr. WRIGHT. The main one that causes me concern is the U.S. Marshal Service and Administrator of the Courts. We now have a pilot program in place which the Marshal Service has taken over perimeter security or they are scheduled to here in the next couple of months, taking over perimeter security at Federal courthouses.

Ms. NORTON. Mr. Schenkel, that clearly could not have happened without an MOU from FPS or somebody. You can't just step in and say, okay, we are doing your job now.

And, by the way, I am worried about this being paid twice.

Mr. WRIGHT. Right.

Mr. SCHENKEL. Yes, ma'am.

Mr. WRIGHT. I will say on FPS's behalf, there is tremendous pressure from the judiciary and the Administrator of the Courts on these issues.

Ms. NORTON. Again, here, we get back to GSA not doing its job because the courts then run the FPS or whoever are the guards. This is going to require Congress to look. This, of course, is also in our jurisdiction because the courts are.

This is going to require really, once again, our trying to get a hold of courts who also tried to build their own buildings until we got a hold of that, and now they are trying to guard their own buildings. This, obviously, complicates these negotiations you are in.

But I need to know where the authority is coming and, Mr. Schenkel, within 30 days, I need to know the names of any agencies which are now doing their own security outside of the now—I was about to say GSA—the FPS-administered security. That is number one.

I want to know how many, who are they and by what authority within 30 days, would you please submit to this Committee?

Mr. SCHENKEL. Yes, ma'am. We have already just completed an inventory, and so we have that.

Ms. NORTON. Thank you.

But you don't know what the authority has been for doing that?

Mr. SCHENKEL. Prior to FPS coming to the Department of Homeland Security, these delegations of authority were granted fairly easily by the GSA. We have not granted.

Ms. NORTON. You think all of these are old authorities and none of them have recently come?

Mr. SCHENKEL. None of them have been recent, no, ma'am.

Ms. NORTON. They could be pulled back, however.

Mr. SCHENKEL. Yes, ma'am.

Ms. NORTON. Well, it is very important to get that information because this Committee has jurisdiction over the courts, whomever it is who has done this.

Let me ask you, Mr. Schenkel, how has placing FPS in ICE improved the performance of FPS?

Mr. SCHENKEL. In the financial realm primarily because we deal with 800.

Ms. NORTON. Well, of course, not until we got together because there was quite a shambles there.

Mr. SCHENKEL. That is absolutely correct. Yes, ma'am. But, as you know, we deal with about $800 million in contracts a year. We are not staffed to handle that kind of a financial challenge.

Ms. NORTON. It would appear—and you may tell me different and I would be glad to hear it—that infrastructure and the Office of Infrastructure Protection may have a more closely related mission, and they could handle the overhead issues that FPS isn't equipped to handle?

Why was ICE chosen?

Mr. SCHENKEL. Ma'am, that happened long before I got here.

Ms. NORTON. But you would think that the mission would be understood enough to know why we are here rather than there.

Mr. SCHENKEL. The mission aligns itself. However, Infrastructure Protection does not have the law enforcement authority. I can only surmise that were put in ICE.

Ms. NORTON. Border Control has law enforcement authority, but it is altogether different from what FPS does, and those distinctions are made even in the officers and in their benefits and every other way, apparently.

So just putting things together, they call themselves police forces, and that is what we fear. Is that how they got put together?

Is the overhead problem dealing with that problem, why FPS is not a stand-alone agency? Couldn't DHS then handle these overhead problems, filling out the forms and the payroll?

Mr. SCHENKEL. I am talking primarily on the contract side, ma'am. The HR system could certainly support our officers and our mission support.

Ms. NORTON. Oh, I see. You mean the contract officers.

Mr. SCHENKEL. Yes, ma'am, and the contracts themselves. We would have to have some kind of deep support system to support our minimal mission support staff when dealing with these contracts.

Ms. NORTON. Has going to an inspector-based force done anything about staffing except reduce it, anything about funding except reduce it? Indeed, has it even allowed the security assessments to be performed in a timely manner?

I am trying to find some benefit for having gone to this inspector-based workforce.

Yes, Mr. Schenkel.

Mr. SCHENKEL. Yes, ma'am, it has because we have been able to now complete all of the overdue basic security assessments. We have been able to work a work plan.

Ms. NORTON. But the GAO does not say so. They say it is not on a timely basis.

Mr. SCHENKEL. I would have to refute that, ma'am, and I have the documentation to show it.

Ms. NORTON. Okay. We are going to ask you to submit that within 30 days. That is the kind of thing we want, if you disagree with the GAO report, we will be pleased to get that assessment. Go ahead.

You go to an inspector-based workforce and immediately, look what happens. You reduce the staff. You make up for your funding shortfall, and it is hard for us to see any other benefit and certainly any other benefit to law enforcement as such.

Mr. SCHENKEL. Well, the benefit to law enforcement, as Mr. Wright has already discussed, we don't have 6c coverage. We don't have a law enforcement retirement.

By moving our police officers to a LESO position, an inspector position, we give them the opportunity to have a career path where they can, instead of topping out at a GS-7 or 8 police officer, they can be promoted up to a GS-12. That is attracting some or many, I should say, not just some of our police officers.

Ms. NORTON. Well, Mr. Wright, is that true, the retirement benefits? Do any other benefits enhance by moving?

Do your officers prefer this new dual structure?

Mr. WRIGHT. Benefits are not enhanced. They are offered the career opportunity to top out at a GS-12 and potentially a career track to 13, 14, 15.

Ms. NORTON. So there is some benefit to the employee.

Mr. WRIGHT. Correct, but it is not, as we call in law enforcement, 6c or 12d benefits is not included in that

Ms. NORTON. What is the reluctance to make the Federal Protective Service Officer equivalent of other officers?

Mr. SCHENKEL. There is no reluctant, ma'am. We would love to have 6c coverage.

Ms. NORTON. I can't understand the difference between the Capitol Police. I can't help but to make this invidious comparison between the various police forces. I am not sure I like what I see here.

Mr. WRIGHT. I think historically it has been tied to the language of the law. As it was developed initially, to my understanding, it was aimed towards criminal investigators. Long-term investigations being a requirement of that original law.

Ms. NORTON. Which original law? I am sorry. Which original law?

Mr. WRIGHT. I would have to submit that to you. I can look up.

Ms. NORTON. I am sorry. I didn't hear. Would you start again because I didn't understand the distinction you were making?

Mr. WRIGHT. The reluctance for giving Federal Protective Service the 6c-12d law enforcement officer benefits, it has always been disputed by OPM, number one.

The definition of our law enforcement, our police officers never fit the definition given in 6c and 12d because that law, that original law focused on long-term investigations. It was designed for criminal investigators and special agents.

As it has developed throughout the years, that law has incorporated everything from detention to protection of public officials, basically everything but a first responder.

Ms. NORTON. Initially, you say there were criminal investigations. Like investigators and nothing more, is that it?

Mr. WRIGHT. The history that I understand as to how that law was developed was aimed toward criminal investigators.

Ms. NORTON. But these are peace officers, carry guns and do whatever else other peace officers do.

Mr. WRIGHT. Absolutely.

Ms. NORTON. You heard our concern, Mr. Schenkel, about these MOUs and, by the way, we heard your testimony about the mutual relationships that have been developed in some places where there are shallow Federal facilities. In the first place, I think that is very efficient and commend the agency for that.

But, of course, the cities or jurisdictions we were talking about, the 50 that were to lose all FPS officers, had them before and didn't have mutual relationships. You heard the testimony that not only were there no MOUs, some of them had not heard of MOUs. They weren't in these other relationships you described earlier with Mr. Carney.

For all intents and purposes, in these 50 cities, do any kind of formal relationships of any kind exist between the local police department and the agency, the Federal Agency?

Mr. SCHENKEL. As far as an MOU or an MOA signed with a law enforcement?

Ms. NORTON. Or any other thing you can cite. So informal relationships doesn't mean anything that the Federal employee and the agency can rely upon?

Mr. SCHENKEL. Other than the fact that 81 percent of the 9,000 buildings are leased properties. So, consequently, local law enforcement is obligated to respond and to protect those facilities.

As far as an MOU or an MOA, we do not have those.

Ms. NORTON. Well, how is it that the testimony was that they had not understood that they were to respond to those properties?

It might be a leased property, but if it is a Federal Agency called the XYZ Agency and you are a local officer, you think it is the XYZ Federal Agency. Unless you know that you are supposed to respond, the fact that it is leased to a Federal Agency doesn't mean it isn't Federal property.

Mr. SCHENKEL. I am not disagreeing with you at all, ma'am, because I didn't even the Federal Protective Service existed when I was with the Chicago Police Department, but I think that is indicative of the paucity of the agency. It is not that people are ignoring the Federal Protective Service, but because they have always responded to those facilities, whether they be Federal or not, they didn't even know we existed.

Ms. NORTON. Are you telling me that the Chicago Police Department responded to Federal facilities?

Mr. SCHENKEL. Yes, ma'am.

Ms. NORTON. Mr. Schenkel, name the kinds of Federal facilities that the local police department felt they should respond to in Chicago.

Mr. SCHENKEL. Any other than the main Federal buildings and courthouse downtown.

Ms. NORTON. So, in point of fact, you believe that they have a responsibility to respond and they will respond, and you don't need to have FPS officers associated with these structures.

Mr. SCHENKEL. I didn't say that, and I would never say that. I think we do need Federal police officers or Federal law enforcement security officers involved because that builds those relationships and provides that in-depth knowledge and that leveled security, if you will.

Ms. NORTON. So you are then?

Mr. SCHENKEL. I am a proponent of Federal law enforcement.

Ms. NORTON. Then you think that these 50 cities or jurisdictions should be covered?

Mr. SCHENKEL. If we have the resources, absolutely, yes, ma'am.

Ms. NORTON. Can you testify here today who can be expected to respond in those 50 jurisdictions which are now not covered by MOUs or in any other formal way?

Do you know for a fact that the local police would respond?

Mr. SCHENKEL. I would have to go city by city, ma'am.

Ms. NORTON. Have you gone city by city?

Mr. Schenkel, it seems to me that there is an affirmative duty here. Given the GAO report that tells us that these local police officers don't understand that there was to be an MOU or that they were to respond, there is now an affirmative duty on the part of FPS to make sure that these 50 jurisdictions are covered. How are you making sure they are covered?

Mr. SCHENKEL. Because I rely on the 81 percent of Federal properties that are leased, and then we have to. Our entire knowledge——

Ms. NORTON. See, we are going in circles now because the testimony from the GAO was that these people didn't even know that there were supposed to be MOUs, and you are relying on the fact that they know that they are supposed to go in. You see why I would be nervous if I were in those 50 jurisdictions, to hear the contradiction between you and the GAO on that score?

Mr. SCHENKEL. I am not trying to contradict. I am just trying to add, I guess, a sense of perspective here is that local law enforcement patrols, responds to nearly all of the facilities, whether they be Federal or not, in their local jurisdiction. It certainly could be enhanced by the presence or an increase in numbers of Federal law enforcement officers.

Ms. NORTON. Mr. Schenkel, the Subcommittee is going to have to ask you to submit evidence within 30 days that in those 50 jurisdictions, local law enforcement has been informed that they may enter a Federal facility.

This is very important to note. We had some testimony from the GAO that the FPS opened the facility and let in the local law enforcement officer, thereby apparently giving them permission.

But you are telling me they have permission and they should know they have permission and they should know that you are relying on them if there is a call and, moreover, that these Federal facilities know that who they are supposed to call is the local police department. That is your testimony here today?

Mr. SCHENKEL. No, ma'am, not at all. The Federal facilities know to call the mega center if there is an alarm or if there is an intrusion or if there is a problem and then based on availability of Federal police officers.

Ms. NORTON. There are no Federal police officers, we now know, in those 50 jurisdictions, Mr. Schenkel.

Mr. SCHENKEL. Then the mega centers contact local law enforcement, and local law enforcement makes the response.

Ms. NORTON. So it seems to me if that is the case and I am in a Federal building, a Federal courthouse or something, I think I want to call the local cops myself rather than to use you as the pass-through.

Mr. SCHENKEL. In many cases.

Ms. NORTON. Because you won't have any help to give to me and only the local law enforcement? Do you realize how chaotic this is, Mr. Schenkel?

Mr. Schenkel, I need to know. This Subcommittee needs to know within 30 days who the 50 jurisdictions are, whether they understand and whether you have informed them that they are principally to rely on local law enforcement, whether the local law enforcement knows that they have been informed and that they have

permission to enter Federal facilities. Within 30 days, we need that information.

We will not close this session in this state of affairs, just not knowing. There have been too many questions raised by the report. We need to know, particularly in those 50 jurisdictions, do they know that they are not covered because there is not Federal police there?

Do they know? Therefore, have you informed them? Therefore, you obviously should inform them that they must call the local police.

The local police, you will have to inform that the local police know and understand that they are to respond to these calls. You will have to inform us that they have permission and understand they have permission to enter a Federal facility.

Mr. SCHENKEL. I don't think that can be done, ma'am.

Ms. NORTON. Excuse me?

Mr. SCHENKEL. I don't think that can be done.

Ms. NORTON. Why?

Mr. SCHENKEL. Because it would be dependent literally on each and every individual facility within each and every——

Ms. NORTON. They all come out of your jurisdiction. We are talking about FPS jurisdiction. Where you used to have officers, you don't have officers now, and you are telling me that you are depending upon the fact that they are leased buildings and they can call the local cops if they only call you first.

Now I am trying to find out whether we can get together a system that would work there and would make us feel that these employees are being protected.

We don't have any testimony from you that the locals will respond. Your testimony is based on the fact that these are leased buildings. This leaves us in a totally problematic position here with respect to at least those 50 positions, and we would hate to move from others where there may be only 1 or 2 FPS officers.

I don't know what to tell you. I think you need to come in and talk to staff because either you have to work out a system whereby they know they are supposed to respond or you have to respond. You have the authority if it is a Federal facility. There is no way to get away from your responsibility.

Mr. SCHENKEL. If you put a note——

Ms. NORTON. If you are here testifying you are not going to accept that responsibility, you then have the responsibility to make sure that somebody will.

Mr. SCHENKEL. In that context.

Ms. NORTON. We have no reason to believe that the local police officers or the local police understand or have been informed that they have permission to enter and that they are being depended upon to enter. I don't even know that you have the authority to do it, to tell you the honest to goodness truth.

Mr. SCHENKEL. Okay.

Ms. NORTON. You see my problem, Mr. Schenkel. I am going to have staff be in touch with you. This is a dangerous situation, sir.

Mr. SCHENKEL. Yes, ma'am.

Ms. NORTON. Finally, liability, just before I run to vote, I can vote in the Committee as a whole.

Liability, a confused notion that we could have people, contractors who have obviously have been contracted by the Federal Government but believe they cannot do part of their job because they personally would incur liability. Would you explain, please? They, the contractor.

Mr. SCHENKEL. Other than with the GAO report, that is the first I have heard of that, but they are held to responsibilities to retain and to react, the contractors and the contract guards. So we have to address that on a case by case basis on that individual contractor which we will be more than happy to do if the GAO provides the names of the contractor.

Ms. NORTON. Mr. Wright, do you know anything about this?

Mr. WRIGHT. Yes. It has been pretty historical.

I think, as I testified last year, each security company, each security guard has differing commissioning requirements. So, if he is a guard in Kansas City, he has to go to Kansas City PD and get a commission. That commission sets his authority on what he is able to do on any property, to include Federal property.

That being said, contractors are private companies. I am not anti-free enterprise, but companies and individuals acting in that capacity, they don't have a career, a Federal career to worry about. They don't have the backup of the U.S. Attorney or the Department of Justice.

Ms. NORTON. Mr. Wright, I understand that. I am a lawyer, and that is why I understand that this could be corrected. I understand what you are saying. They are State-regulated.

Mr. WRIGHT. Right.

Ms. NORTON. We hire them, we, the Federal Government. It is something called Federal Supremacy. The notion that a Federal contractor might not perform his stated duties because of liability is a clear and present danger to the assignment he has.

Mr. Schenkel, I am going to ask you within 30 days to have your General Counsel. Would it be the General Counsel of ICE?

Mr. SCHENKEL. OPLA, they call it, Office of Principal Legal Advisor.

Ms. NORTON. The General Counsel, to get us a clarifying memo. I want him to read the GAO examples of where contractors felt they could not move forward to perform the duties in their contract for fear of liability, and I would like a legal memorandum describing that situation and what they propose to do about it.

Mr. SCHENKEL. Yes, ma'am.

Ms. NORTON. Thank you very much for this. This has been very important testimony to a hearing that will require us to take some action, some action before this session of Congress closes. We must take the action because the Committee now is on notice.

We have cross-examined the witnesses. You have done the best you could in answering it. Some of it is not in your control, and we understand. Some of it has to do with funding. Some of it has to do with management. All of it will have to do with everybody's responsibility if we leave this session of Congress without doing something about it.

I thank you very much for this testimony, and this hearing is adjourned.

[Whereupon, 3:45 p.m., the Subcommittee was adjourned.]

Subcommittee on Economic Development, Public Buildings and Emergency Management

Hearing on "The Federal Protective Service: An Agency in Need of Rebuilding"
Wednesday, June 18, 2008

Statement – Congressman Jason Altmire (PA-04)

Thank you, Chairwoman Norton, for calling today's hearing to discuss the Government Accountability Office's (GAO) review of the Federal Protective Service (FPS).

The report recently released by the GAO highlights that the FPS may no longer have the resources needed to protect our nation's federal buildings from crime and terrorist attack. In just the past three years, the number of police officers employed by the FPS has been slashed by 40% and the number of investigators by 10%. Furthermore, the FPS no longer conducts proactive patrols at most locations. In the past, these patrols had acted as a significant deterrent to criminal activity.

The highlighted policy changes and the reduction in personnel seem to be caused by a lack of funding. The FPS admitted that "authorized fees and FTE levels have not been sufficient to ensure that basic security services are available and provided to all facilities that the FPS is tasked to protect." This is particularly alarming when you consider that two federal buildings – the Pentagon and the Oklahoma City federal building – have come under major terrorist attack in the past 13 years.

Congress began addressing this situation last year by including a provision which requires the Secretary of Homeland Security to fully fund the FPS program and increases the staffing level to 1,200 within the Consolidated Appropriations Act. This was an important step toward rebuilding the FPS and I look forward to discussing what more may be needed with my colleagues and our witnesses today.

Madam Chair, thank you again for holding this hearing.

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Good ~~Morning~~ Afternoon Madam Chairwoman, I want to thank you for holding this hearing today. The protection of the federal workforce is extremely important, particularly in light of the dangerous times in which we find ourselves.

Last year, Madam Chairwoman, you and Chairman Oberstar directed the Government Accounting Office (GAO) to examine the question of whether budget and personnel are sufficient to support the Federal Protective Service (FPS) as it continues its transition at the Department of Homeland Security (DHS). Today, we will examine the GAO's final report on the subject.

It should be noted that in February the President submitted a budget proposal to Congress that, for the second year in a row, the FPS has been singled out for drastic cuts in funding and personnel. I'm interested in GAO's assessment of the current situation; what it believes the future holds for the FPS; and whether or not we are providing our federal work force and the many valuable and historic buildings the correct amount of protection.

Again Madam Chairwoman, I thank you for holding this hearing today and I look forward to the testimony of the witnesses you've assembled before us.

STATEMENT OF
THE HONORABLE ELEANOR HOLMES NORTON
TRANSPORTATION AND INFRASTRUCTURE COMMITTEE
SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS, AND EMERGENCY MANAGEMENT
JUNE 18, 2008
FEDERAL PROTECTIVE SERVICE: AN AGENCY IN NEED OF REBUILDING

We welcome today's witnesses from the Government Accountability Office (GAO), the Federal Protective Service (FPS) and the FPS Union. GAO has completed its much anticipated report on the condition of the Federal Protective Service (FPS). At our February 8, 2008 hearing on GAO's preliminary findings, the subcommittee heard chilling testimony from the GAO that FPS had deteriorated so substantially that its difficulties "may expose federal facilities to a greater risk of crime or terrorist attack". The subcommittee has not forgotten that federal facilities where federal employees work, in particular the Pentagon and the Alfred P. Murrah Oklahoma City federal building, have been the choice targets of major terrorist attacks in this country, clearly because federal facilities are symbols of the United States government. The documented history of terrorist assaults on federal assets and consistent threats since 9/11 have required continuing high levels of vigilance to protect both employees and the visitors who use federal facilities. In the post 9/11 and Oklahoma City world, Congress recognized the need for bolstering police protection in and around the White House and the Capitol Complex, and one surely would not want to underestimate the importance of increased protection for the other federal workforce, as well.

When the Department of Homeland Security was formed in 2002, the FPS was transferred from GSA to the newly created department and placed within Immigration and Customs Enforcement (ICE). The Committee expressed it strong support for the transfer but insisted that FPS officers and guards be used exclusively for and by the FPS. Starting in February 2005, the Chairman and I have sent a series of letters to the DHS and held hearings questioning the use of funds, the placement of FPS within the ICE and the major shift from a protection based workforce to an inspection workforce have supported an increase in the number of FPS employees. These concerns have strong bi-partisan support. Both Chairman Oberstar and Ranking Member Mica have expressed their own views about the gravity of the FPS situation.

The final GAO report confirms in stark terms GAO's preliminary findings reported at our February 2008 hearing. The report says that the FPS

has seen its budget decimated, morale and staff plummet, and attrition skyrocket. The final report confirms the bi-partisan concern that the effectiveness of the FPS has been compromised since its placement in Immigration and Customs Enforcement inside the Department of Homeland Security. A February 18, 2008 editorial in the *Federal Times* calls on Congress to consider moving FPS out of ICE.

Our Subcommittee carefully tracked the downward trajectory of the agency until it became clear that deeper investigation than hearings were necessary and we requested the GAO report before us today. Among the many signs that an investigation was in order was an ICE-endorsed proposal last year to substantially reduce FPS officers across the nation, including providing no FPS officers in almost 50 U.S. cities. Memoranda of Understanding (MOU), we were told, would be developed, with cities to make up for the absence of federal police officers. The GAO, in its preliminary review, found that not one MOU had been signed and found numerous instances in which the local jurisdictions had no knowledge at all of these supposed memoranda.

During our April 2007 hearing, when this proposal was first discussed, I voiced my concern that local police have little reason to volunteer to assume unfunded mandates to protect federal sites, particularly at the same time that local police are facing cuts in their own budgets and in federal programs. In GAO's final report we learn that the ICE management has abandoned the idea of MOU'S and will now rely on "informal relationships" between FPS and local law enforcement entities. It is fair to ask if this is any way to protect federal employees across the nation in post 9/11 America? Is this any way to ensure the protection and security of an inventory that has a replacement value at $41 billion?

The GAO report leaves no doubt that the FPS, the nation's first federal police force, established in 1790 has been rocked by inadequate funding and staffing, leading to the inability to complete its core mission of facility protection, to complete building security assessments in a timely and professional manner, and to monitor and oversee the contract guards. We learn from the report, ominously, that proactive patrols have been eliminated at many GSA facilities. This decision was made in spite of the fact the GAO reports that "multiple governmental entities acknowledge the importance of proactive patrol in detecting and preventing criminal incidents and terrorism-related activities."

It appears the ICE/FPS answer to funding problems and management problems has been to change the nature of the workforce from a protection based police force to an inspection based workforce. In addition to this baffling decision, ICE/FPS decided to add contracting duties to the already over stretched inspector position.

As I reviewed the final report I was struck by the similarities between the demise of the Federal Emergency Management Administrations (FEMA) and the ongoing destruction of this once highly regarded police force. Both experienced a sharp decline once they were transferred to DHS. Upon transfer, each entity suffered from a blurring of their mission's oversight by a DHS entity with almost no programmatic or organizational similarities; leadership by management without the necessary expertise and, in the case of the FPS, paperwork used in place of police work. The irony is too striking to be missed. Both FEMA and FPS were moved to DHS to enhance their mission capacity for protection only to suffer devastating decline inside a homeland security agency.

The subcommittee has witnessed the slow disintegration of a workforce that once had a reputation as a highly effective and motivated police force, providing an invaluable and necessary service to both federal employees and taxpayers. According to the report, however, the FPS workforce has been reduced by approximately 20% during a time when the number of federal buildings has increased from about 8,800 to over 9,000. Yet, the GAO reports, while the Service was hemorrhaging officers, ICE/FPS was actually hastening the reduction by offering "early retirement, detailed assignments, to other ICE and DHS components, and not filling vacant positions."

The subcommittee commissioned the report to guide future action. Our major concern must now be moving to shore up the protection for hundreds of thousands of federal employees and property. DHS and ICE appear to believe that without statutory authorization, they can unilaterally change the core mission of the FPS so that it is no longer a police force by any accepted definition of the term. However, no one has told federal employees and visitors not to expect routine patrols and protection from the FPS. If the FPS is no longer a primarily protective police force, someone should inform federal employees and visitors throughout the United States who make 10 million law enforcement calls each year to the FPS, particularly considering that the 15,000 security guards on duty must remain stationary, while FPS no longer patrols. FPS must tell us all how it will be possible to continue to make 4000 arrests annually on charges of committing crimes on federal property.

These are not rhetorical questions or matters. We have been prepared to work with the FPS on corrective action since our hearings first identified serious problems several years ago. We have had every desire to be partners, not adversaries, but despite out hearings and the oversight on the Home Security Committee on which I also sit, Congress has been ignored, even defied. This subcommittee and now our full Committee are now on notice. We ignore this report at our peril and may put hundreds of thousands of federal employees at risk. The report mandates immediate action and response unless FPS can show otherwise. We will listen carefully to the agency's response. We welcome all the witnesses. Each of you is essential to this hearing. We appreciate your time and effort in preparing testimony.

Statement of
The Honorable James L. Oberstar
Subcommittee on Economic Development, Public Buildings, and Emergency Management
Hearing On
"Federal Protective Service: An Agency In Need Of Rebuilding"
June 18, 2008

During the 110th Congress, the Committee on Transportation and Infrastructure is focusing its efforts on ensuring the safety and security of the nation's critical infrastructure. We believe in, and are committed to, the importance of investing in the nation's infrastructure, from highways and transit to railroads, aviation, locks, dams, levees, wastewater facilities, and Federal buildings which make up the "built" infrastructure.

Today, the Subcommittee will receive testimony from the Government Accountability Office ("GAO") on a report that Chairwoman Norton and I requested in February 2007. At that time, we were so concerned about the condition of the Federal Protective Service ("FPS") that we requested that GAO conduct a top-to-bottom review of the FPS. We were concerned that there were not sufficient resources for the FPS to effectively fulfill its mission to protect Federal buildings, Federal employees, and the public who use the buildings.

The FPS is an entity within Immigration and Customs Enforcement ("ICE") of the Department of Homeland Security and its mission is to "protect Federal buildings" and includes responsibility for protection against bomb threats, bombings, vandalism, mass demonstrations, and violence against public buildings. We asked GAO to review the FPS' mission and responsibilities, budget authority, and necessary employee levels to support the mission. We asked for a review of salaries, recruitment programs, training, and retention of personnel.

The General Services Administration owns or has a lease interest in almost 9,000 buildings nationwide. The functional replacement value of the owned inventory alone in $41.7 billion, while the annual rent paid to lessors for leased buildings is over $4 billion. It is an awesome responsibility to maintain and protect the one million Federal employees who work in these Federal buildings and the public who use them daily. Regrettably, it is not clear that DHS and this administration appreciate the magnitude of this responsibility to the American public and its workforce.

I have become increasingly concerned that the FPS does not have adequate resources to provide top flight protection for Federal employees and buildings, and this GAO report confirms those fears. FPS' workforce has been drastically reduced in recent years, which is only one of many concerns raised in this alarming GAO report. This report reveals several factors that have adversely impaired the FPS' ability to protect Federal buildings and staff, including large staff turnover, poor building security assessments, inability to investigate crimes committed in Federal buildings, and lack of functioning cameras and other equipment that prevent incidents and enhance security.

The GAO found that, since the FPS' transfer from GSA to DHS, security at GSA facilities has diminished and the risk of crime or terrorist attacks at many GSA facilities has

increased. In the past three fiscal years (FY 2004 through FY 2007), the FPS has cut the number of police officers by 40 percent (144 police officers) and inspectors by 10 percent (59 inspectors). As a result, FPS admits that, "authorized fees and FTE [full-time equivalent] levels have not been sufficient to ensure that basic security services are available and provided to all facilities that the FPS is tasked to protect."

In addition, the GAO report findings include:

FPS has eliminated proactive patrols at many GSA facilities which, in the past, have allowed FPS police officers and inspectors to identify and apprehend individuals that were surveilling GSA facilities;

many Federal buildings are unprotected at night or on weekends, and supervisors are often located several hours away from buildings they are tasked with overseeing;

contract guards are unable or have been directed not to get involved in emergency situations or incidents;

response times by FPS personnel can extend into hours or days; and

security equipment, such as cameras, magnetometers, X-ray machines, and FPS radios, are often broken for months or years and poorly maintained.

In typical fashion, this administration's response is that we need to "transform" the agency and privatize its functions. Private contract guards have been hired to supplement the FPS workforce and are typically assigned to fixed posts and are not proactive in investigating threats to Federal buildings or apprehending criminals. In the report, FPS officials reported that armed contract guards took no action as a shirtless suspect wearing handcuffs ran through the lobby of a major Federal building being chased by an FPS inspector. In another instance, GAO investigators witnessed an individual attempting to enter a high-security facility with illegal weapons. The contract guards allowed the individual to leave with the weapons – in clear violation of FPS policy.

Since its transfer to DHS, the FPS it has lost the focus of its mission and the administration has been unwilling to provide the necessary budgetary resources for the agency to achieve its critical mission. It appears the administration will not act until it is too late. The FPS experience is all too reminiscent of another DHS agency – FEMA. We saw the devastating effects of DHS' management of FEMA in response to Hurricane Katrina. We need to fix the FPS now.

United States Government Accountability Office

GAO

Testimony

Before the Subcommittee on Economic Development, Public Buildings and Emergency Management, Committee on Transportation and Infrastructure, House of Representatives

For Release on Delivery
Expected at 1:00 p.m. EDT
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HOMELAND SECURITY

The Federal Protective Service Faces Several Challenges That Raise Concerns About Protection of Federal Facilities

Statement of Mark L. Goldstein, Director
Physical Infrastructure Issues

GAO-08-914T

June 18, 2008

GAO
Accountability• Integrity• Reliability

Highlights

Highlights of GAO-08-914T, a testimony to Chair and Ranking Member, Subcommittee on Economic Development, Public Buildings and Emergency Management, Committee on Transportation and Infrastructure, House of Representatives

Why GAO Did This Study

The Federal Protective Service (FPS) is responsible for providing physical security and law enforcement services to about 9,000 General Services Administration (GSA) facilities. To accomplish its mission of protecting GSA facilities, FPS currently has an annual budget of about $1 billion, about 1,100 employees, and 15,000 contract guards located throughout the country.

GAO was asked to provide information and analysis on challenges FPS faces including ensuring that it has sufficient staffing and funding resources to protect GSA facilities and the over one million federal employees as well as members of the public that work in and visit them each year. GAO discusses (1) FPS's operational challenges and actions it has taken to address them, (2) funding challenges, and (3) how FPS measures the effectiveness of its efforts to protect GSA facilities. This testimony is based on our recently issued report (GAO-08-683) to this Subcommittee.

What GAO Recommends

In our recently issued report, GAO recommended, among other things, that the Secretary of DHS direct the Director of FPS to develop and implement a strategic approach to better manage its staffing resources, evaluate current and alternative funding mechanisms, and develop appropriate performance measures. DHS agreed with the recommendations.

To view the full product, including the scope and methodology, click on GAO-08-914T. For more information, contact Mark L. Goldstein at (202) 512-2834 or goldsteinm@gao.gov.

HOMELAND SECURITY

The Federal Protective Service Faces Several Challenges That Raise Concerns About Protection of Federal Facilities

What GAO Found

FPS faces several operational challenges that hamper its ability to accomplish its mission and the actions it has taken may not fully resolve these challenges. FPS's staff has decreased by about 20 percent from fiscal years 2004 through 2007. FPS has also decreased or eliminated law enforcement services such as proactive patrol in many FPS locations. Moreover, FPS has not resolved longstanding challenges, such as improving the oversight of its contract guard program, maintaining security countermeasures, and ensuring the quality and timeliness of building security assessments (BSA). For example, one regional supervisor stated that while reviewing a BSA for an address he personally visited he realized that the inspector completing the BSA had falsified the information because the inspector referred to a large building when the actual site was a vacant plot of land owned by GSA. To address some of these operational challenges, FPS is currently changing to an inspector based workforce, which seeks to eliminate the police officer position and rely primarily on FPS inspectors for both law enforcement and physical security activities. FPS is also hiring an additional 150 inspectors. However, these actions may not fully resolve the challenges FPS faces, in part because the approach does not emphasize law enforcement responsibilities.

Until recently, the security fees FPS charged to agencies have not been sufficient to cover its costs and the actions it has taken to address the shortfalls have had adverse implications. For example, the Department of Homeland Security (DHS) transferred emergency supplemental funding to FPS. FPS restricted hiring and limited training and overtime. According to FPS officials, these measures have had a negative effect on staff morale and are partially responsible for FPS's high attrition rates. FPS was authorized to increase the basic security fee four times since it transferred to DHS in 2003, currently charging tenant agencies 62 cents per square foot for basic security services. Because of these actions, FPS's collections in fiscal year 2007 were sufficient to cover costs, and FPS projects that collections will also cover costs in fiscal year 2008. However, FPS's primary means of funding its operations—the basic security fee—does not account for the risk faced by buildings, the level of service provided, or the cost of providing services, raising questions about equity. Stakeholders also expressed concern about whether FPS has an accurate understanding of its security costs.

FPS has developed output measures, but lacks outcome measures to assess the effectiveness of its efforts to protect federal facilities. Its output measures include determining whether security countermeasures have been deployed and are fully operational. However, FPS does not have measures to evaluate its efforts to protect federal facilities that could provide FPS with broader information on program outcomes and results. FPS also lacks a reliable data management system for accurately tracking performance measures. Without such a system, it is difficult for FPS to evaluate and improve the effectiveness of its efforts, allocate its limited resources, or make informed risk management decisions.

June 18, 2008

Madam Chair and Members of the Subcommittee:

We are pleased to be here to discuss the efforts of the Federal Protective Service (FPS) in protecting federal employees, the public, and General Services Administration (GSA) facilities. As you know, in 2003, FPS transferred from GSA to the Department of Homeland Security (DHS) and is responsible for providing physical security and law enforcement services to about 9,000 GSA facilities.[1] Within DHS, FPS is part of the Immigration and Customs Enforcement (ICE) component, the largest investigative arm of DHS. FPS is funded by the security fees it collects from the agencies it protects and does not receive a separate appropriation. To accomplish its mission of protecting GSA facilities, FPS currently has an annual budget of about $1 billion, about 1,100 employees, and 15,000 contract guards located throughout the country. While there has not been a large-scale attack on a domestic federal facility since the terrorist attacks of September 11, 2001 and the 1995 bombing of the Alfred P. Murrah Federal Building in Oklahoma City, Oklahoma, ongoing terror threats and crime require that FPS effectively manage its resources to protect the over one million employees as well as members of the public that work in and visit GSA facilities each year.

Recently, FPS has faced several challenges. Chief among them is ensuring that it has sufficient staffing and funding resources to accomplish its mission of protecting GSA facilities. It has also faced challenges in assessing the physical security of the facilities it protects and overseeing its contract guard program. To help address these challenges, in 2007, FPS adopted a new approach to protect GSA facilities. Under this approach, FPS plans to essentially eliminate its police officer position and mainly use inspectors and special agents to perform multiple law enforcement and physical security duties concurrently and will place more emphasis on physical security activities, such as completing building security assessments (BSA), and less emphasis on law enforcement activities, such as proactive patrol. In addition, while FPS plans to maintain a level of 15,000 contract guards, the majority of the guards are stationed at fixed posts, from which they are not permitted to leave, and do not have arrest

[1]For the purposes of this testimony, the 9,000 facilities referred to are under the control or custody of GSA.

authorities. These challenges have raised questions about FPS's ability to accomplish its facility protection mission.

This testimony provides information and analysis on (1) FPS's operational challenges and actions it has taken to address them, (2) funding challenges FPS faces and actions it has taken to address them, and (3) how FPS measures the effectiveness of its efforts to protect GSA facilities. The testimony is based on our recently published report: GAO, *Homeland Security: Federal Protective Service Faces Several Challenges That Hamper Its Ability to Protect Federal Facilities.*[2]

Due to the sensitivity of some of the information in this report we cannot provide information about the specific locations of crime or other incidents discussed. We conducted this performance audit from April 2007 to June 2008 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Summary

FPS continues to face several operational challenges that have hampered its ability to accomplish its mission to protect GSA facilities and the actions it has taken may not fully resolve these challenges. Since the transfer, while FPS has maintained 15,000 contract guards, its staff has decreased by about 20 percent from almost 1,400 employees at the end of fiscal year 2004 to about 1,100 employees at the end of fiscal year 2007. This decrease in staff has contributed to diminished security and increased the risk of crime or terrorist attacks at many GSA facilities. For example, FPS has decreased or eliminated law enforcement services such as proactive patrol in each of its 11 regions. In addition, FPS officials at several regions we visited said that proactive patrol has, in the past, allowed its officers and inspectors to identify and apprehend individuals that were surveilling GSA facilities. In contrast, when FPS is not able to patrol federal buildings, there is increased potential for illegal entry and other criminal activity at federal buildings. Moreover, FPS has not resolved longstanding challenges, such as improving the oversight of its

[2] GAO, *The Federal Protective Service Faces Several Challenges That Hamper Its Ability to Protect Federal Facilities*, GAO-08-683 (Washington, D.C.: June 11, 2008).

contract guard program.[3] In addition, FPS faces difficulties in ensuring the quality and timeliness of BSAs, which are a core component of FPS's physical security mission. For example, one regional supervisor stated that while reviewing a BSA for an address he personally visited he realized that the inspector completing the BSA had falsified the information because the inspector referred to a large building when the actual site was a vacant plot of land owned by GSA. FPS has also experienced problems ensuring that security countermeasures, such as security cameras and magnetometers, are operational. To address some of these operational challenges, FPS is currently changing to an inspector based workforce, which seeks to eliminate the police officer position and rely primarily on FPS inspectors for both law enforcement and physical security activities. FPS believes that this change will ensure that its staff has the right mix of technical skills and training needed to accomplish its mission. FPS is also hiring an additional 150 inspectors and developing a new system for BSAs. However, these actions may not fully resolve the operational challenges FPS faces, in part because the approach does not emphasize law enforcement responsibilities.

Until recently, the security fees FPS charged to tenant agencies have not been sufficient to cover its costs and the actions it has taken to address the shortfalls have had adverse implications. Since transferring to DHS, DHS and FPS have addressed these projected shortfalls in a variety of ways. For example, DHS transferred emergency supplemental funding to FPS and FPS restricted hiring and travel, limited training and overtime, and suspended employee performance awards. According to FPS officials, these measures have had a negative effect on staff morale and are partially responsible for FPS's overall attrition rate increasing from about 2 percent in fiscal year 2004 to about 14 percent in fiscal year 2007. FPS also increased the basic security fee charged to tenant agencies from 35 cents per square foot in fiscal year 2005 to 62 cents per square foot in fiscal year 2008. Because of these actions, fiscal year 2007 was the first year FPS collections were sufficient to cover its costs. FPS also projects that collections will cover its costs in fiscal year 2008. However, FPS's primary means of funding its operations is the basic security fee, which is the same for federal agencies regardless of the perceived threat to a particular building or agency. Therefore, the fee does not account for the risk faced

[3]GAO, *Homeland Security: Transformation Strategy Needed to Address Challenges Facing the Federal Protective Service*, GAO-04-537 (Washington, D.C.: July 14, 2004). DHS Office of Inspector General, *Federal Protective Service Needs To Improve its Oversight of the Contract Guard Program*, OIG-07-05 (Washington, D.C.: October 30, 2006).

by particular buildings and, depending on that risk, it does not account for the level of service provided to tenant agencies or the cost of providing those services. For example, level I facilities may face less risk because they are typically small storefront-type operations with a low level of public contact. However, these facilities are charged the same basic security fee of 62 cents per square foot as a level IV facility that has a high volume of public contact, may contain high-risk law enforcement and intelligence agencies and highly sensitive government records. In addition, a 2007 Booz Allen Hamilton report of FPS's operational costs found that FPS does not link the actual cost of providing basic security services with the security fees it charges tenant agencies. The report recommends incorporating a security fee that takes into account the complexity or the level of effort of the service being performed for the higher level security facilities.

FPS is limited in its ability to assess the effectiveness of its efforts to protect GSA facilities. To determine how well it is accomplishing its mission to protect GSA facilities, FPS has identified some output measures such as determining whether security countermeasures, such as bollards and cameras, have been deployed and are fully operational; the amount of time it takes to respond to an incident; and the percentage of BSAs completed on time. Output measures assess activities, not the results of those activities. However, FPS has not developed outcome measures to evaluate the results and the net effect of its efforts to protect GSA facilities. Outcome measures are important because they can provide FPS with broader information on program results, such as the extent to which its decision to move to an inspector-based workforce will enhance security at GSA facilities. In addition, FPS does not have a reliable data management system that would allow it to accurately track these measures or other important measures such as the number of crimes and other incidents occurring at GSA facilities. Without such a system, it is difficult for FPS to evaluate and improve the effectiveness of its efforts to protect federal employees and facilities, allocate its limited resources, or make informed risk management decisions. According to FPS officials, the agency is in the process of developing a system that will allow it to improve its data collection and analysis of its performance. In our report that we issued last week to this Subcommittee and other congressional committees, we recommended, among other things, that the Secretary of DHS direct the Director of FPS to develop and implement a strategic approach to better manage its staffing resources, evaluate current and alternative funding mechanisms, and develop appropriate measures to assess performance. DHS agreed with these recommendations.

Background

As the primary federal agency that is responsible for protecting and securing GSA facilities and federal employees across the country, FPS has the authority to enforce federal laws and regulations aimed at protecting federally owned and leased properties and the persons on such property, and, among other things, to conduct investigations related to offenses against the property and persons on the property. To protect the over one million federal employees and about 9,000 GSA facilities from the risk of terrorist and criminal attacks, in fiscal year 2007, FPS had about 1,100 employees, of which 541, or almost 50 percent, were inspectors. FPS inspectors are primarily responsible for responding to incidents and demonstrations, overseeing contract guards, completing BSAs for numerous buildings, and participating in tenant agencies' BSC meetings.[4] About 215, or 19 percent, of FPS's employees are police officers who are primarily responsible for patrolling GSA facilities, responding to criminal incidents, assisting in the monitoring of contract guards, responding to demonstrations at GSA facilities, and conducting basic criminal investigations. About 104, or 9 percent, of FPS's 1,100 employees are special agents who are the lead entity within FPS for gathering intelligence for criminal and anti-terrorist activities, and planning and conducting investigations relating to alleged or suspected violations of criminal laws against GSA facilities and their occupants.

FPS also has about 15,000 contract guards that are used primarily to monitor facilities through fixed post assignments and access control. According to FPS policy documents, contract guards may detain individuals who are being seriously disruptive, violent, or suspected of committing a crime at a GSA facility, but do not have arrest authority.

The level of law enforcement and physical protection services FPS provides at each of the approximately 9,000 GSA facilities varies depending on the facility's security level. To determine a facility's security level, FPS uses the Department of Justice's (DOJ) Vulnerability Assessment Guidelines which are summarized below.

- A level I facility has 10 or fewer federal employees, 2,500 or fewer square feet of office space and a low volume of public contact or contact with only a small segment of the population. A typical level I facility is a small

[4]FPS officials have stated that there is no official policy on the number of buildings assigned to each inspector. The number of buildings is entirely dependent on geographic dispersion and risk level.

storefront-type operation, such as a military recruiting office.

- A level II facility has between 11 and 150 federal employees, more than 2,500 to 80,000 square feet; a moderate volume of public contact; and federal activities that are routine in nature, similar to commercial activities.
- A level III facility has between 151 and 450 federal employees, more than 80,000 to 150,000 square feet and a moderate to high volume of public contact.
- A level IV facility has over 450 federal employees, more than 150,000 square feet; a high volume of public contact; and tenant agencies that may include high-risk law enforcement and intelligence agencies, courts, judicial offices, and highly sensitive government records.
- A Level V facility is similar to a Level IV facility in terms of the number of employees and square footage, but contains mission functions critical to national security. FPS does not have responsibility for protecting any level V buildings.

FPS is a reimbursable organization and is funded by collecting security fees from tenant agencies, referred to as a fee-based system. To fund its operations, FPS charges each tenant agency a basic security fee per square foot of space occupied in a GSA facility. In 2008, the basic security fee is 62 cents per square foot and covers services such as patrol, monitoring of building perimeter alarms and dispatching of law enforcement response through its control centers, criminal investigations, and BSAs. FPS also collects an administrative fee it charges tenant agencies for building specific security services such as access control to facilities' entrances and exits, employee and visitor checks; and the purchase, installation, and maintenance of security equipment including cameras, alarms, magnetometers, and x-ray machines. In addition to these security services, FPS provides agencies with additional services upon request, which are funded through reimbursable Security Work Authorizations (SWA), for which FPS charges an administrative fee. For example, agencies may request additional magnetometers or more advanced perimeter surveillance capabilities.

FPS's Ability to Accomplish Its Mission Is Hampered by Operational Challenges and the Steps It Has Taken May Not Fully Resolve Them

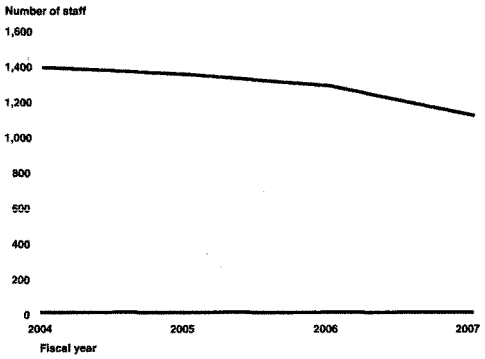
FPS faces several operational challenges, including decreasing staff levels, which has led to reductions in the law enforcement services that FPS provides. FPS also faces challenges in overseeing its contract guards, completing its BSAs in a timely manner, and maintaining security countermeasures. While FPS has taken steps to address these challenges, it has not fully resolved them.

FPS's Staff Has Steadily Declined Since It Transferred to DHS

Providing law enforcement and physical security services to GSA facilities is inherently labor intensive and requires effective management of available staffing resources. However, since transferring from GSA to DHS, FPS's staff has declined and the agency has managed its staffing resources in a manner that has reduced security at GSA facilities and may increase the risk of crime or terrorist attacks at many GSA facilities. Specifically, FPS's staff has decreased by about 20 percent from almost 1,400 employees at the end of fiscal year 2004, to about 1,100 employees at the end of fiscal year 2007, as shown in figure 1. In fiscal year 2008, FPS initially planned to reduce its staff further. However, a provision in the 2008 Consolidated Appropriations Act requires FPS to increase its staff to 1,200 by July 31, 2008.[5] In fiscal year 2010, FPS plans to increase its staff to 1,450, according to its Director.

[5] Pub. L. No 110-161, 121 Stat 1844, 2051 (2007).

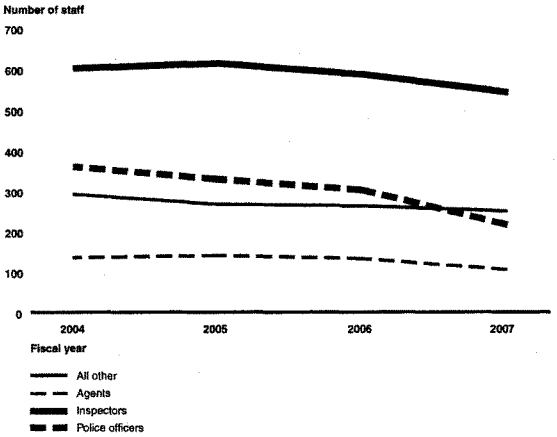
Figure 1: FPS's Workforce, Fiscal Years 2004 through 2007



Source: Federal Protective Service.

From fiscal year 2004 to 2007, the number of employees in each position also decreased, with the largest decrease occurring in the police officer position. For example, the number of police officers decreased from 359 in fiscal year 2004 to 215 in fiscal year 2007 and the number of inspectors decreased from 600 in fiscal year 2004 to 541 at the end of fiscal year 2007, as shown in figure 2.

Figure 2: Composition of FPS's Workforce by Position, Fiscal Years 2004 through 2007



Source: Federal Protective Service.

Note: "Inspectors" include an unknown number of physical security specialists, who do not have law enforcement authority. The category "All other" includes administrative and support staff.

Critical Law Enforcement Services Have Been Reduced or Eliminated

At many facilities, FPS has eliminated proactive patrol of GSA facilities to prevent or detect criminal violations. The FPS Policy Handbook states that patrol should be used to prevent crime and terrorist attacks. The elimination of proactive patrol has a negative effect on security at GSA facilities because law enforcement personnel cannot effectively monitor individuals who might be surveilling federal buildings, inspect suspicious vehicles (including potential vehicles for bombing federal buildings), and detect and deter criminal activity in and around federal buildings. While the number of contract guards employed in GSA facilities will not decrease and according to a FPS policy document, the guards are authorized to detain individuals, most are stationed at fixed posts from which they are not permitted to leave and do not have arrest authority.

According to some regional officials, some contract guards do not exercise their detention authority because of liability concerns.

According to several inspectors and police officers in one FPS region, proactive patrol is important in their region because, in the span of one year, there were 72 homicides within 3 blocks of a major federal office building and because most of the crime in their area takes place after hours when there are no FPS personnel on duty. In addition, FPS officials at several regions we visited said that proactive patrol has, in the past, allowed its police officers and inspectors to identify and apprehend individuals that were surveilling GSA facilities. In contrast, when FPS is not able to patrol federal buildings, there is increased potential for illegal entry and other criminal activity at federal buildings. For example, in one city we visited, a deceased individual had been found in a vacant GSA facility that was not regularly patrolled by FPS. FPS officials stated that the deceased individual had been inside the building for approximately three months.

In addition, more recently, at this same facility, two individuals who fled into the facility after being pursued by the local police department for an armed robbery were subsequently apprehended and arrested by the local police department. While the local police department contacted FPS for assistance with responding to the incident at the federal facility, FPS inspectors were advised by senior FPS supervisors not to assist the local police department in their search for the suspects because GSA had not paid the security fee for the facility.

In addition to eliminating proactive patrol, many FPS regions have reduced their hours of operation for providing law enforcement services in multiple locations, which has resulted in a lack of coverage when most federal employees are either entering or leaving federal buildings or on weekends when some facilities remain open to the public. Moreover, FPS police officers and inspectors in two cities explained that this lack of coverage has left some federal day care facilities vulnerable to loitering by homeless individuals and drug users. The decrease in FPS's duty hours has also jeopardized police officer and inspector safety, as well as building security. Some FPS police officers and inspectors said that they are frequently in dangerous situations without any FPS backup because many FPS regions have reduced their hours of operation and overtime.

Adequate Oversight of Contract Guard Program Remains a Challenge

Contract guard inspections are important for several reasons, including ensuring that guards comply with contract requirements; have up-to-date certifications for required training, including firearms or cardiopulmonary resuscitation, and that they perform assigned duties. While FPS policy does not specify how frequently guard posts should be inspected, we found that some posts are inspected less than once per year, in part, because contract guards are often posted in buildings hours or days away from the nearest FPS inspector. For example, one area supervisor reported guard posts that had not been inspected in 18 months while another reported posts that had not been inspected in over one year. In another region, FPS inspectors and police officers reported that managers told them to complete guard inspections over the telephone, instead of in person. In addition, when inspectors do perform guard inspections they do not visit the post during each shift; consequently some guard shifts may never be inspected by an FPS official. As a result, some guards may be supervised exclusively by a representative of the contract guard company. Moreover, in one area we visited with a large FPS presence, officials reported difficulty in getting to every post within that region's required one month period. We obtained a copy of a contract guard inspection schedule in one metropolitan city that showed 20 of 68 post inspections were completed for the month.

Some tenant agencies have also noticed a decline in the level of guard oversight in recent years and believe this has led to poor performance on the part of some contract guards. For example, according to Federal Bureau of Investigation (FBI) and GSA officials in one of the regions we visited, contract guards failed to report the theft of an FBI surveillance trailer worth over $500,000, even though security cameras captured the trailer being stolen while guards were on duty. The FBI did not realize it was missing until three days later. Only after the FBI started making inquiries did the guards report the theft to FPS and the FBI. During another incident, FPS officials reported contract guards—who were armed—taking no action as a shirtless suspect wearing handcuffs on one arm ran through the lobby of a major federal building while being chased by an FPS inspector. In addition, one official reported that during an off-hours alarm call to a federal building, the official arrived to find the front guard post empty while the guard's loaded firearm was left unattended in the unlocked post.

We also personally witnessed an incident in which an individual attempted to enter a level IV facility with illegal weapons. According to FPS policies, contract guards are required to confiscate illegal weapons, detain and question the individual, and to notify FPS. In this instance, the weapons

were not confiscated, the individual was not detained or questioned, FPS was not notified, and the individual was allowed to leave with the weapons. We will shortly begin a comprehensive review of FPS's contract guard program for this Subcommittee and other congressional committees.

Difficulties in Ensuring Quality and Timeliness of Building Security Assessments

Building security assessments, which are completed by both inspectors and physical security specialists, are the core component of FPS's physical security mission. However, ensuring the quality and timeliness of them is an area in which FPS continues to face challenges. The majority of inspectors in the seven regions we visited stated that they are not provided sufficient time to complete BSAs. For example, while FPS officials have stated that BSAs for level IV facilities should take between two to four weeks to complete, several inspectors reported having only one or two days to complete assessments for their buildings. They reported that this was due to pressure from supervisors to complete BSAs as quickly as possible. For example, one region is attempting to complete more than 100 BSAs by June 30, 2008, three months earlier than required, because staff will be needed to assist with a large political event in the region. In addition, one inspector in this region reported having one day to complete site work for six BSAs in a rural state in the region.

Some regional supervisors have also found problems with the accuracy of BSAs. One regional supervisor reported that an inspector was repeatedly counseled and required to redo BSAs when supervisors found he was copying and pasting from previous BSAs. Similarly, one regional supervisor stated that, in the course of reviewing a BSA for an address he had personally visited, he realized that the inspector completing the BSA falsified information and had not actually visited the site because the inspector referred to a large building when the actual site was a vacant plot of land owned by GSA. In December 2007, the Director of FPS issued a memorandum emphasizing the importance of conducting BSAs in an ethical manner.

FPS's ability to ensure the quality and timeliness of BSAs is also complicated by challenges with the current risk assessment tool it uses to conduct BSAs, the Federal Security Risk Manager system. We have previously reported that there are three primary concerns with this system. First, it does not allow FPS to compare risks from building to building so that security improvements to buildings can be prioritized. Second, current risk assessments need to be categorized more precisely. According to FPS, too many BSAs are categorized as high or low, which

does not allow for a refined prioritization of security improvements. Third, the system does not allow for tracking the implementation status of security recommendations based on assessments.[6]

Some Security Countermeasures Have Not Been Maintained

According to FPS, GSA, and tenant agency officials in the regions we visited, some of the security countermeasures, such as security cameras, magnetometers, and X-ray machines at some facilities, as well as some FPS radios and BSA equipment, have been broken for months or years and are poorly maintained. At one level IV facility, FPS and GSA officials stated that 11 of 150 security cameras were fully functional and able to record images. Similarly, at another level IV facility, a large camera project designed to expand and enhance an existing camera system was put on hold because FPS did not have the funds to complete the project. FPS officials stated that broken cameras and other security equipment can negate the deterrent effect of these countermeasures as well as eliminate their usefulness as an investigative tool. For example, according to FPS, it has investigated significant crimes at multiple level IV facilities, but some of the security cameras installed in those buildings were not working properly, preventing FPS investigators from identifying the suspects.

Complicating this issue, FPS officials, GSA officials, and tenant representatives stated that additional countermeasures are difficult to implement because they require approval from BSCs, which are composed of representatives from each tenant agency who generally are not security professionals. In some of the buildings that we visited, security countermeasures were not implemented because BSC members cannot agree on what countermeasures to implement or are unable to obtain funding from their agencies. For example, a FPS official in a major metropolitan city stated that over the last 4 years inspectors have recommended 24-hour contract guard coverage at one high-risk building located in a high crime area multiple times, however, the BSC is not able to obtain approval from all its members. In addition, several FPS inspectors stated that their regional managers have instructed them not to recommend security countermeasures in BSAs if FPS would be responsible for funding the measures because there is not sufficient

[6]GAO, *Federal Real Property: DHS Has Made Progress, but Additional Actions Are Needed to Address Real Property Management and Security Challenges*, GAO-07-658 (Washington, D.C.: June 22, 2007).

money in regional budgets to purchase and maintain the security equipment.

FPS Has Taken Some Actions To Resolve Operational Challenges But Its Actions May Not Fully Resolve These Challenges

According to FPS, it has a number of ongoing efforts that are designed to address some of its longstanding challenges. For example, in 2007, FPS decided to adopt an inspector-based workforce approach to protect GSA facilities. Under this approach, the composition of FPS's workforce will change from a combination of inspectors and police officers to mainly inspectors. The inspectors will be required to complete law enforcement activities such as patrolling and responding to incidents at GSA facilities concurrently with their physical security activities. FPS will also place more emphasis on physical security, such as BSAs, and less emphasis on the law enforcement part of its mission; contract guards will continue to be the front-line defense for protection at GSA facilities; and there will be a continued reliance on local law enforcement. According to FPS, an inspector-based workforce will help it to achieve its strategic goals such as ensuring that its staff has the right mix of technical skills and training needed to accomplish its mission and building effective relationships with its stakeholders.

However, the inspector-based workforce approach presents some additional challenges for FPS. For example, the approach does not emphasize law enforcement responsibilities, such as proactive patrol. Reports issued by multiple government entities acknowledge the importance of proactive patrol in detecting and deterring terrorist surveillance teams, which use information such as the placement of armed guards and proximity to law enforcement agency stations when choosing targets and planning attacks. Active law enforcement patrols in and around federal facilities can potentially disrupt these sophisticated surveillance and research techniques. In addition, having inspectors perform both law enforcement and physical security duties simultaneously may prevent some inspectors from responding to criminal incidents in a timely manner and patrolling federal buildings.

FPS stated that entering into memorandums of agreement with local law enforcement agencies was an integral part of the inspector-based workforce approach because it would ensure law enforcement response capabilities at facilities when needed. According to FPS's Director, the agency recently decided not to pursue memorandums of agreement with local law enforcement agencies, in part, because of reluctance on the part of local law enforcement officials to sign such memorandums. In addition, FPS believes that the agreements are not necessary because 96 percent of the properties in its inventory are listed as concurrent jurisdiction

facilities where both federal and state governments have jurisdiction over the property. Nevertheless, the agreements would clarify roles and responsibilities of local law enforcement agencies when responding to crime or other incidents.

However, FPS also provides facility protection to approximately 400 properties where the federal government maintains exclusive federal jurisdiction. Under exclusive federal jurisdiction, the federal government has all of the legislative authority within the land area in question and the state has no residual police powers. Furthermore, state and local law enforcement officials are not authorized to enforce state and local laws or federal laws and regulations at exclusive federal jurisdiction facilities. According to ICE's legal counsel, if the Secretary of Homeland Security utilized the facilities and services of state and local law enforcement agencies, state and local law enforcement officials would only be able to assist FPS in functions such as crowd and traffic control, monitoring law enforcement communications and dispatch, and training. Memorandums of agreement between FPS and local law enforcement agencies would help address the jurisdictional issues that prevent local law enforcement agencies from providing assistance at facilities with exclusive federal jurisdiction.

As an alternative to memorandums of agreement, according to FPS's Director, the agency will rely on the informal relationships that exist between local law enforcement agencies and FPS. However, whether this type of relationship will provide FPS with the type of assistance it will need under the inspector-based workforce is unknown. Officials from five of the eight local law enforcement agencies we interviewed stated that their agency did not have the capacity to take on the additional job of responding to incidents at federal buildings and stated that their departments were already strained for resources. FPS and local law enforcement officials in the regions we visited also stated that jurisdictional authority would pose a significant barrier to gaining the assistance of local law enforcement agencies. Representatives of local law enforcement agencies also expressed concerns about being prohibited from entering GSA facilities with service weapons, especially courthouses.[7] Similarly, local law enforcement officials in a major city stated that they cannot make an arrest or initiate a complaint on federal property, so they have to wait until a FPS officer or inspector arrives.

[7] 18 U.S.C. § 930(a)

Another effort FPS has begun is to address its operational challenges by recruiting an additional 150 inspectors to reach the mandated staffing levels in the fiscal year 2008 Consolidated Appropriations Act.[8] According to the Director of FPS, the addition of 150 inspectors to its current workforce will allow FPS to resume providing proactive patrol and 24-hour presence based on risk and threat levels at some facilities. However, these additional 150 inspectors will be assigned to eight of FPS's 11 regions and thus will not have an impact on the three regions that will not receive them. In addition, while this increase will help FPS to achieve its mission, this staffing level is still below the 1,279 employees that FPS had at the end of fiscal year 2006 when, according to FPS officials, tenant agencies experienced a decrease in service.

FPS's Risk Management Division is also in the process of developing a new tool referred to as the Risk Assessment Management Program (RAMP) to replace its current system (FSRM) for completing BSAs.[9] According to FPS, a pilot version of RAMP is expected to be rolled out in fiscal year 2009. The RAMP will be accessible to inspectors via a secure wireless connection anywhere in the United States and will guide them through the process of completing a BSA to ensure that standardized information is collected on all GSA facilities. According to FPS, once implemented, RAMP will allow inspectors to obtain information from one source, generate reports automatically, enable the agency to track selected countermeasures throughout their lifecycle, address some issues with the subjectivity of BSAs, and reduce the amount of time spent on administrative work by inspectors and managers.

FPS's Actions to Address Budgetary Challenges Have Had Adverse Implications

FPS funds its operations through the collection of security fees charged to tenant agencies for security services. However, until recently these fees have not been sufficient to cover its projected operational costs. FPS has addressed this gap in a variety of ways. When FPS was located in GSA it received additional funding from the Federal Buildings Fund to cover the

[8]The 2008 Consolidated Appropriations Act required FPS to employ no fewer than 1,200 employees, 900 of which must be law enforcement personnel.

[9]RAMP will replace several FPS systems including its Security Tracking System and the Contract Guard Employment Requirements Tracking System and may be integrated with other systems associated with the BSA program.

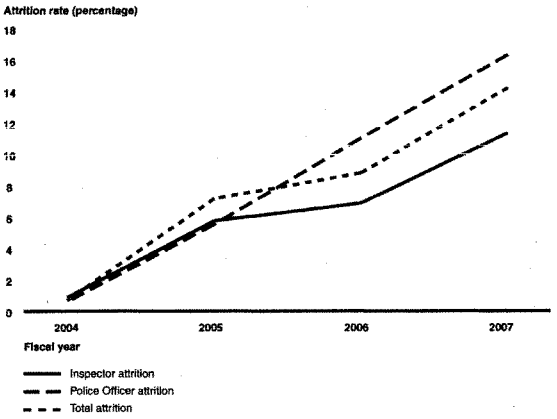
gap between collections and costs.[10] Since transferring to DHS, to make up for the projected shortfalls to ensure that security at GSA facilities would not be jeopardized, and to avoid a potential Anti-deficiency Act violation in fiscal year 2005, FPS instituted a number of cost saving measures that included restricted hiring and travel, limited training and overtime, and no employee performance awards. In addition, in fiscal year 2006, DHS had to transfer $29 million in emergency supplemental funding to FPS. FPS also increased the basic security fee charged to tenant agencies from 35 cents per square foot in fiscal year 2005 to 62 cents per square foot in fiscal year 2008. Because of these actions, fiscal year 2007 was the first year FPS's collections were sufficient to cover its costs. FPS also projects that collections will cover its costs in fiscal year 2008. In fiscal year 2009, FPS's basic security fee will increase to 66 cents per square foot, which represents the fourth time FPS has increased the basic security fee since transferring to DHS.

However, according to FPS, its cost savings measures have had adverse implications, including low morale among staff, increased attrition and the loss of institutional knowledge, as well as difficulties in recruiting new staff. In addition, several FPS police officers and inspectors said that overwhelming workloads, uncertainty surrounding their job security, and a lack of equipment have diminished morale within the agency. These working conditions could potentially impact the performance and safety of FPS personnel. FPS officials said the agency has lost many of their most experienced law enforcement staff in recent years and several police officers and inspectors said they were actively looking for new jobs outside FPS. For example, FPS reports that 73 inspectors, police officers, and physical security specialists left the agency in fiscal year 2006, representing about 65 percent of the total attrition in the agency for that year. Attrition rates have steadily increased from fiscal years 2004 through 2007, as shown in figure 3. For example, FPS's overall attrition rate increased from about 2 percent in fiscal year 2004 to about 14 percent in fiscal year 2007. The attrition rate for the inspector position has increased, despite FPS's plan to move to an inspector-based workforce. FPS officials said its cost-saving measures have helped the agency address projected revenue shortfalls. The measures have been eliminated in fiscal year 2008.

[10]Established by Congress in 1972 and administered by GSA, the Federal Buildings Fund is a revolving fund in the U.S. Treasury into which federal agency rent and certain other moneys are deposited. Moneys deposited into the fund are available, subject to congressional appropriation, for GSA's real property management and related activities. See 40 U.S.C § 592.

In addition, according to FPS, these measures will not be necessary in fiscal year 2009 because the basic security fee was increased and staffing has decreased.

Figure 3: FPS's Attrition Rates, Fiscal Years 2004 through 2007



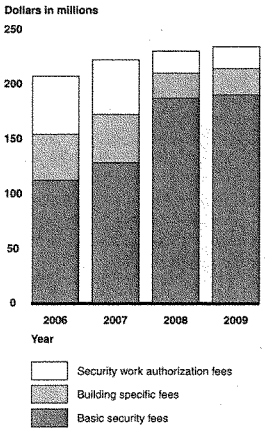
Source: GAO analysis of FPS data.

Note: "Inspectors" includes an unknown number of physical security specialists, who do not have law enforcement authority. The category "Total attrition" includes inspectors, police officers, physical security specialists, special agents, and administrative and support staff.

FPS's Basic Security Fee Does Not Account for Risk and Raises Questions about Equity

FPS's primary means of funding its operations is the fee it charges tenant agencies for basic security services, as shown in figure 4. Some of the basic security services covered by this fee include law enforcement activities at GSA facilities, preliminary investigations, the capture and detention of suspects, and BSAs, among other services. The basic security fee does not include contract guard services.

Figure 4: Amount of Fees Collected by FPS, Fiscal Years 2006 through 2009



Source: FPS.

Note: This figure does not include pass through funding, which is funding provided to FPS by customer agencies for building-specific and SWA security services. Pass through funding is not directly appropriated to FPS, but FPS collects it from customer agencies and uses the funds to manage the procurement and installation of security countermeasures or other security services provided through the building-specific or SWA programs. Fiscal years 2008 and 2009 are projections.

However, this fee does not fully account for the risk faced by particular buildings or the varying levels of basic security services provided, and does not reflect the actual cost of providing services. In fiscal year 2008, FPS charged 62 cents per square foot for basic security and has been authorized to increase the rate to 66 cents per square foot in fiscal year 2009. FPS charges federal agencies the same basic security fee regardless of the perceived threat to that particular building or agency. Although FPS categorizes buildings into security levels based on its assessment of the building's risk and size, this categorization does not affect the security fee charged by FPS. For example, level I facilities typically face less risk because they are generally small storefront-type operations with a low level of public contact, such as a small post office or Social Security Administration office. However, these facilities are charged the same basic

security fee of 62 cents per square foot as a level IV facility that has a high volume of public contact and may contain high-risk law enforcement and intelligence agencies and highly sensitive government records.

In addition, FPS's basic security rate has raised questions about equity because federal agencies are required to pay the fee regardless of the level of service FPS provides or the cost of providing the service. For instance, in some of the regions we visited, FPS officials described situations in which staff is stationed hundreds of miles from buildings under its responsibility. Many of these buildings rarely receive services from FPS staff and rely mostly on local police for law enforcement services. However, FPS charges these tenant agencies the same basic security fees as those buildings in major metropolitan areas in which numerous FPS police officers and inspectors are stationed and are available to provide security services.

FPS's cost of providing services is not reflected in its basic security charges. For instance, a June 2006 FPS workload study estimating the amount of time spent on various security services showed differences in the amount of resources dedicated to buildings at various security levels. The study said that FPS staff spend approximately six times more hours providing security services to higher-risk buildings (levels III and IV buildings) compared to lower-risk buildings (levels I and II buildings). In addition, a 2007 Booz Allen Hamilton report of FPS's operational costs found that FPS does not link the actual cost of providing basic security services with the security fees it charges tenant agencies. The report recommends incorporating a security fee that takes into account the complexity or the level of effort of the service being performed for the higher level security facilities. The report states that FPS's failure to consider the costs of protecting buildings at varying risk levels could result in some tenants being overcharged. We also have reported that basing government fees on the cost of providing a service promotes equity, especially when the cost of providing the service differs significantly among different users, as is the case with FPS.[11]

Several stakeholders have raised questions about whether FPS has an accurate understanding of the cost of providing security at GSA facilities.

[11]GAO, *Federal User Fees: A Design Guide*, GAO-08-386SP (Washington, D.C.: May 29, 2008). GAO, *Understanding the Tax Reform Debate: Background, Criteria & Questions*, GAO-05-1009SP (Washington, D.C.: September 1, 2005).

An ICE Chief Financial Office official said FPS has experienced difficulty in estimating its costs because of inaccurate cost data. In addition, OMB officials said they have asked FPS to develop a better cost accounting system in past years. The 2007 Booz Allen Hamilton report found that FPS does not have a methodology to assign costs to its different security activities and that it should begin capturing the cost of providing various security services to better plan, manage and budget its resources. We have also previously cited problems with ICE's and FPS's financial system, including problems associated with tracking expenditures.[12] We also have previously reported on the importance of having accurate cost information for budgetary purposes and to set fees and prices for services. We have found that without accurate cost information it is difficult for agencies to determine if fees need to be increased or decreased, accurately measure performance, and improve efficiency.

FPS Faces Limitations in Assessing Its Performance

To determine how well it is accomplishing its mission to protect GSA facilities, FPS has identified some output measures, such as determining whether security countermeasures have been deployed and are fully operational, the amount of time it takes to respond to an incident and the percentage of BSAs completed on time. Output measures assess activities, not the results of those activities. However, FPS has not developed outcome measures to evaluate the results and the net effect of its efforts to protect GSA facilities. While output measures are helpful, outcome measures are also important because they can provide FPS with broader information on program results, such as the extent to which its decision to move to an inspector-based workforce will enhance security at GSA facilities or help identify the security gaps that remain at GSA facilities and determine what action may be needed to address them. The Government Performance and Results Act requires federal agencies to, among other things, measure agency performance in achieving outcome oriented goals. Measuring performance allows organizations to track the progress they are making toward their goals and gives managers critical information on which to base decisions for improving their performance. In addition, we and other federal agencies have maintained that adequate and reliable performance measures are a necessary component of effective management. We have also found that performance measures should

[12]GAO, *Homeland Security: Management Challenges Remain in Transforming Immigration Programs*, GAO-05-81 (Washington, D.C.: October 14, 2004). GAO, *Homeland Security: Department wide Integrated Financial Management Systems Remain a Challenge*, GAO-07-536 (Washington, D.C.: June 21, 2007).

provide agency managers with timely, action-oriented information in a format conducive to helping them make decisions that improve program performance, including decisions to adjust policies and priorities.

FPS is also limited in its ability to assess the effectiveness of its efforts to protect GSA facilities, in part, because it does not have a data management system that will allow it to provide complete and accurate information on its security program. Without a reliable data management system, it is difficult for FPS and others to determine the effectiveness of its efforts to protect GSA facilities or for FPS to accurately track and monitor incident response time, effectiveness of security countermeasures, and whether BSAs are completed on time. Currently, FPS primarily uses the Web Records Management System (WebRMS) and Security Tracking System to track and monitor output measures. However, FPS acknowledged that there are weaknesses with these systems which make it difficult to accurately track and monitor its performance. In addition, according to many FPS officials at the seven regions we visited, the data maintained in WebRMS may not be a reliable and accurate indicator of crimes and other incidents because FPS does not write an incident report for every incident, all incidents are not entered into WebRMS and because the types and definitions of items prohibited in buildings vary not only region by region, but also building by building. For example, a can of pepper spray may be prohibited in one building, but allowed in another building in the same region. According to FPS, having fewer police officers has also decreased the total number of crime and incident reports entered in WebRMS because there is less time spent on law enforcement activities. The officials in one FPS region we visited stated that two years ago there were 25,000 reports filed through WebRMS, however this year they are projecting about 10,000 reports because there are fewer FPS police officers to respond to an incident and write a report if necessary.

In conclusion, Madam Chair, our work shows that FPS has faced and continues to face multiple challenges in ensuring that GSA facilities, their occupants, and visitors, are protected from crime and the risk of terrorist attack. In the report we issued last week, we recommended that the Secretary of Homeland Security direct the Director of FPS to develop and implement a strategic approach to manage its staffing resources; clarify roles and responsibilities of local law enforcement agencies in regards to responding to incidents at GSA facilities; improve FPS's use of the fee-base dsystem by developing a method to accurately account for the cost of providing security services to tenant agencies; assess whether FPS's current use of a fee-based system or an alternative funding mechanism is

the most appropriate manner to fund the agency; and develop and implement specific guidelines and standards for measuring its performance including the collection and analysis of data. DHS concurred with these recommendations and we are encouraged that FPS is in the process of addressing them.

This concludes our testimony. We are pleased to answer any questions you might have.

Contact Information

For further information on this testimony, please contact Mark Goldstein at 202-512-2834 or by email at goldsteinm@gao.gov. Individuals making key contributions to this testimony include Daniel Cain, Tammy Conquest, Colin Fallon, Katie Hamer, Daniel Hoy, and Susan Michal-Smith.

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STATEMENT

OF

GARY W. SCHENKEL

DIRECTOR, FEDERAL PROTECTIVE SERVICE

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

U.S. DEPARTMENT OF HOMELAND SECURITY

BEFORE THE

SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS AND EMERGENCY MANAGEMENT

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

U.S. HOUSE OF REPRESENTATIVES

The Federal Protective Service: An Agency in Need of Rebuilding

JUNE 18, 2008

WASHINGTON, DC

INTRODUCTION

Chairwoman Norton, Ranking Member Graves, and distinguished Members. Thank you for the opportunity to appear before you today to address the concerns raised in the report issued by the Government Accountability Office (GAO), and to discuss the business improvements that FPS has made over the past three years and our vision for the future.

FPS BACKGROUND

FPS delivers integrated law enforcement and security services to federal agencies in General Services Administration (GSA) owned and leased facilities throughout the United States and its territories. Those services cover a wide range of activities that are performed by more than 15,000 contract security guards and 1,051 Federal Government personnel, including law enforcement and support staff. Contract security guards are employees of private sector companies, under contract with FPS, that perform fixed-post access control and screening functions. FPS Law Enforcement Security Officers (LESO) (Inspectors) are uniformed law enforcement officers who possess the full authority and training of law enforcement officers. In addition, they are trained as physical security experts and provide comprehensive security services, including building security assessments, implementing and testing security measures, and monitoring and overseeing the contract guard force.

FPS annually conducts nearly 2,500 building security assessments and responds to approximately 1,400 demonstrations. In Fiscal Year (FY) 2007, FPS conducted more than 1,000 criminal investigations for crimes against government facilities and

employees, and arrested more than 3,000 criminals and fugitives for committing crimes on federal property. Additionally, contract security guards seized nearly 800,000 weapons and other prohibited items from persons attempting to enter federal facilities. Of the approximately 9,000 buildings protected by FPS, 1,500 are categorized as Security Level III or IV (highest risk buildings).

RESPONSE TO GAO'S RECOMMENDATIONS

Recently, auditors from the Government Accountability Office (GAO) had the opportunity to sample some of the day-to-day work performed by the Federal Protective Service that I have just described. We appreciate the recent audit work performed by GAO and the observations made for improving FPS. Auditor work products are used throughout ICE for the betterment of the agency, including within FPS. With this in mind, I believe that it is necessary to address some of the points raised in GAO's report. Some additional context is needed.

STRATEGIC ALIGNMENT

The transfer of FPS into the Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE) provided an opportunity for FPS to comprehensively assess its mission and to ensure that its activities were focused on enhancing the security of the federal facilities it protects. FPS has embarked on a strategic approach to ensure that its operations are not only fully aligned with the goals and objectives of DHS, ICE and its stakeholders, but that they also move FPS toward greater compliance with the standards for internal control as established by GAO.

We are developing a workforce that meets all the needs of the facilities we protect, and we are ensuring that our fee model reflects our business model and that our customers get the best value for their resources. As a result of this subcommittee's support and guidance, we have significantly improved and enhanced our contracting functions. For example, we have improved the procurement process for guard services that, in the National Capital Region alone, reduced the cost of three new security guard contracts by $5.5 million in FY 2008, savings that were passed directly to the agency client. Additionally, we are identifying and defining the data that will be used for outcome-based performance management and the associated performance measures.

This strategic approach has improved FPS business processes, including:

- Our efforts to transform FPS into a performance-based law enforcement organization have already produced notable results. In 2007, FPS eliminated a backlog of 2,200 invoices worth $92 million, some of which pre-dated the creation of the Department of Homeland Security all the way back to 1999. Chairwoman Norton's attention to this issue was particularly helpful to us in identifying this area of improvement. Also in 2007, in an effort to improve how FPS processes and pay its invoices, ICE/ FPS consolidated the entire invoice process by requiring that all invoices be sent to a single location, the ICE Burlington Finance Center. This centralization has allowed FPS to improve its ability to pay its invoices to its vendors on time.

- Since the beginning of FY 2008, FPS has paid 95 percent of all invoices within 30 days and, in the month of May, the percentage of payments paid within 30 days rose to 99.5 percent. Part of the success in the timeliness of invoice payments is the fact that we added Contractor Officer Technical Representative (COTR) training to our basic training curriculum. So far, approximately 400 LESO (Inspectors) have received this training and are now monitoring and documenting contract guard performance. FPS has taken steps to improve its management of other countermeasure programs as well. During FY 2008, we will have a national countermeasures program in place and an associated national maintenance contract to ensure timely repair and replacement of security measures such as cameras, walk-through metal detectors and other parts of our integrated security program.
- FPS has improved working relationships with its internal and external stakeholders through newsletters and regular communication. FPS has provided customer service training to employees and used satisfaction surveys to gauge its success at providing comprehensive security services that are meaningful for FPS stakeholders. FPS formally chartered an Executive Advisory Council (EAC) to coordinate security strategies and activities, policy, and communication with federal department and agency occupants of GSA-controlled facilities.
- FPS also conducted a number of focus group meetings with stakeholders to identify and resolve issues and to identify systemic problems. The focus groups enabled us to immediately identify a common concern of our clients in that they want FPS personnel to increase the level of physical security functions such as

> contract guard oversight, quality Building Security Assessments (BSA's) and higher visibility throughout its facilities. We heard them, and we agreed that physical security needs greater attention, but not to the exclusion of the law enforcement function.

Among the most important improvements from a strategic approach is our move to an LESO (Inspector)-based workforce, which will meet these customer concerns while affording the added protection of a law enforcement presence. In fact, FPS has been working toward hiring the150 new law enforcement officers prescribed by the Congress by September 30, 2008. To date, 136 individuals have accepted offers of employment and are currently in the hiring process. We continue to actively recruit for the remaining 14 positions. To put in proper perspective the importance and advantages of transforming FPS's workforce, FPS was responsible for protecting approximately 9,000 GSA-owned and leased buildings in 2003. At that time, only 55 percent of FPS law enforcement staff was qualified to conduct Building Security Assessments (BSA's), a core FPS activity. As a result, the assessment function received far less attention than it required. Law enforcement staff qualified to conduct BSA's were stretched too thin, producing assessments that were inaccurate, incomplete, and untimely. Today, as FPS moves closer to an LESO (Inspector)-based workforce, more than 80 percent of the FPS law enforcement staff is qualified to perform FPS' core mission requirements. LESO's still retain law enforcement authority and are able to conduct BSA's that are more accurate, complete and timely.

The advantages of the LESO (Inspector)-based workforce are strategically aligned with the core mission of FPS: securing facilities and safeguarding their occupants. The GS-0080 LESO (Inspector) position incorporates the law enforcement duties at the federal facilities FPS protects. In addition, the GS-0080 LESO (Inspector) receives extensive training in risk assessment, threat management and countermeasures to mitigate risks. An LESO (Inspector)-based workforce provides built-in flexibility to perform law enforcement and physical security functions. An LESO (Inspector) can be at a GSA facility performing an inspection or providing contract guard oversight and, if the need arises, immediately provide a police response to criminal activity.

FPS decided to integrate the entire security program by making the contract security guard program a true extension of its law enforcement activities by combining those responsibilities. A LESO-based force allows FPS the necessary flexibility to provide law enforcement and immediate corrective action to contract security guards. Under the prior bifurcation of security operations, law enforcement had little or no oversight over the contract guard program.

Differences in the GS-0080 LESO (Inspector) position and the traditional GS-0083 Police Officer position begin with basic training. The GS-0083 Police Officer receives basic law enforcement instruction in the Uniform Police Training Program (UPTP) at the Federal Law Enforcement Training Center (FLETC). For the GS-0083 Police Officer, basic training ends with the completion of the UPTP. Basic training for the GS-0080 LESO (Inspector) only begins with the UPTP. Following completion of that basic law

enforcement training curriculum, the LESO (Inspector) is enrolled in the Physical Security Training Program (PSTP). This advanced course provides the LESO (Inspector) extensive instruction and training in risk assessments, threat analyses, risk mitigation, and the latest technological advancements in countermeasures. To improve FPS's contract oversight capability, we also added a training module that prepares the LESO (Inspector) to perform the duties of the Contracting Officer's Technical Representative (COTR).

ADDRESSING GAO'S CONCERNS

Notwithstanding the important issues raised and recommendations offered by GAO, we agree that more can be done, including the following:

- A strategic, risk-based approach to staffing is needed and we have begun the process of doing this using several workload studies and analyses that have been conducted. This approach also provides an opportunity for ICE to integrate the strategic goals and objectives defined in the FPS Strategic Plan into specific organizational and individual performance measures and address mission accomplishment based upon levels of risk.
- There is a need to clarify the responsibilities of local law enforcement and first responders, and such a clarification will lend itself to de-confliction and might possibly even lead to collaboration for enhanced security and responsiveness. We intend to work closely with our law enforcement partners in this effort
- We must incorporate performance management into our law enforcement and administrative activities, and use the ICE FPS strategic plan as the foundation for updating our current performance measures to focus on operational outputs while

supporting strategic level outcome reporting. FPS is also acquiring a new Risk Assessment and Management Program (RAMP) to enhance its operational capabilities for gathering data and developing action plans to assess collective and individual performance. The RAMP will provide a suite of tools designed to ease the collection, analysis, and reporting of performance measure information. This will also contribute to more effective management and increase the effectiveness of services provided to stakeholders.

- With respect to our collection and use of data, FPS will use RAMP, a secure, Web-enabled tool to conduct risk assessments. We agree with GAO's recommendation for appropriate countermeasures and to monitor them throughout their lifecycle. By building in a specific workflow and providing enhanced reporting capabilities, FPS can use RAMP to identify security vulnerabilities and to provide the data FPS needs to make decisions as to workforce assignments, including the conducting of security assessments and the providing of security.

CONCLUSION

I am extremely pleased to lead the proud and professional men and women of the Federal Protective Service. I interact with them every day and I can tell you that they are dedicated, determined and committed to developing, implementing and maintaining the security systems to ensure that facilities they are charged with protecting are secure and that their occupants are safe. I am confident that they can be relied upon to ensure that FPS will continue to be able to meet the challenge of its homeland security mission.

Thank you again, Chairwoman Norton and Ranking Member Graves, for holding this important oversight hearing. I would be pleased to answer any questions you might have.

TESTIMONY OF DAVID L. WRIGHT, President

Federal Protective Service Union, AFGE

601 E. 12th Street, Room #633
Kansas City, MO. 64106
816-291-0984

Before the

Subcommittee on Economic Development, Public Buildings
and Emergency Development
of the
House Transportation and Infrastructure Committee

June 18, 2008

"The Federal Protective Service: An Agency in need of Rebuilding"

Chairwoman Norton, Ranking Member Graves and Members of the Subcommittee:

My name is David Wright. I am President of AFGE Local 918, the Federal Protective Service Union. I have been an FPS Law Enforcement Officer for the past twenty-two years. In the seven years since the September 11 attacks, I have watched with growing frustration and outrage, as the Federal Protective Service, has been allowed to deteriorate and drift like a rudderless, sinking ship.

Madam Chair, every American should be shocked and frightened by the GAO testimony we heard here today. The sole Federal agency charged with the critical mission of protecting thousands of federal buildings and millions of people from terrorist and criminal attack has had its core mission challenged, its funding cut by $700 million since

9/11, its employee pay reduced by ten percent, and its law enforcement ranks almost depleted.

If one of our local unions had performed in such a manner with respect to carrying out its mission and responsibilities, it would have been put into trusteeship. It is clear to us that we need Congress to act as a trustee for the Federal Protective Service.

It has only been through the intervention of this, and other committees of Congress, that we have stopped this dangerous and irresponsible trend. Meanwhile, in FY 2008 FPS is projected to have 1,200 personnel and approximately $238 million nationwide, while there are over 1,600 Capitol Police with $281 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.

I should also add that all these agencies use extensive proactive patrol by police officers to detect and deter attack – the very critical activities GAO found missing in FPS.

The questions we need to answer today are: Why was this allowed to happen to FPS and what needs to be done? My written testimony answers both of these questions in detail, so I would ask that it be submitted for the record. I just want to make four key points here this afternoon:

1. Regardless of why this agency has been allowed to "twist in the wind" as the Senate DHS Appropriations Committee Report put it last year, we need to continue to rapidly rebuild the FPS. A comprehensive review and assessment of manpower needs and a request for sufficient personnel to perform the mission must be produced by the agency as quickly as possible. In the interim, Local 918 is asking Congress to increase the current level of 1200 personnel by about 400 in the FY' 09 DHS Appropriations bill.

2. The GAO 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. Yet it is precisely this component of FPS activity that DHS and ICE have worked so hard to eliminate. The union believes that eliminating police officers and maintaining a depleted 'all-inspector' work force is a dangerous mistake. While Inspectors can and do perform law enforcement jobs, they also have a very different set of responsibilities on a day-to-day basis – overseeing the contract guard work force, performing building security assessments and training employees about workplace violence or other security issues, to name several. In the performance of these duties, it is less likely they will uncover criminal or terrorist activity. Such activity is far more often revealed through community interaction and continuous uniformed patrol which are the primary responsibilities of FPS police officers.

3. 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 the union does not oppose the continued funding of some optional FPS services through this mechanism, we strongly believe that most activities of FPS can and should be funded through annual appropriations. The current funding formula is a root cause of the problems at FPS and it is in desperate need of reform.

4. Just within the past two years, FPS police officers and other law enforcement officers have seen their pay cut by 10 percent. Many have been told their jobs were being eliminated and we have watched as the agency's core mission has been threatened by a misguided attempt of non –law enforcement bureaucrats to eliminate critical FPS law enforcement activities. I can tell you we have lost many talented, experienced officers as a result and it will not be easy to attract them back or to hire new personnel to replace them. Evidently, the agency is finding this out as it tries to recruit new personnel for the positions required under last year's DHS Appropriations bill. As you can imagine, morale is in the tank. Your FPS Federal Law Enforcement Officers have borne the brunt of recent FPS budget reductions and we need Congress to step in. Restoration of retention pay and the provision of law enforcement retirement benefits are two changes that must be implemented as part of any FPS rebuilding process.

Madam Chair, 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.

How did the FPS became an agency in need of rebuilding? And how can the Congress improve the protection provided for the almost 9,000 General Services Administration managed Federal facilities located in over 2,100 American communities, the over one million dedicated civil servants who work in these facilities and the members of the public who obtain services there?

As the Government Accountability Office pointed out in their report "Preliminary Observations on the FPS's Efforts to Protect Federal Property", the FPS is not only having difficulty meeting its mission but these difficulties have placed both facilities and Federal employees at increased risk of criminal and terrorist attack. I and many of my

fellow FPS employees attribute most of these difficulties to actions of Immigration and Customs Enforcement, the Department of Homeland Security and OMB. Others have also pointed to major problems with FPS funding, including the Senate DHS Appropriations Subcommittee which reported: "The explosion of the Murrah Federal Building in Oklahoma City in 1995 and the first attack on the World Trade Center in 1993 demonstrate how critical the need is for a force to protect Federal facilities and respond to incidents therein. Since its transfer to the Department of Homeland Security from the GSA, FPS has been left to slowly twist in the wind, its funding requirements ignored by an agency that until recently was deeply mired in its own fiscal problems. Prior to 2003, any FPS funding shortfalls were easily made up by GSA.... Rather than raising fees for services FPS officers and agents provide, the administration has chosen instead to `transform' FPS and make major reductions in its mission and its law enforcement personnel ....The increased level of risk resulting from these reductions is unacceptable."

To understand how FPS became an agency in need of rebuilding it is important to review the recent history of how we protect Federal buildings.

Number of FPS Police Officers, Inspectors, Criminal Investigators and other staff:

When I joined FPS it was part of the Public Buildings Service (PBS) of the General Services Administration, the government's real estate company. In 1986 to achieve cost

savings, PBS reorganized the FPS. The PBS plan was to provide Federal buildings with the same security as their commercial counterparts and pass most of the FPS law enforcement and security responsibility to local police and contract security guards. PBS felt Government rents, including security costs, should be the same as what private business paid for their office space. The reductions resulted in a 1995 FPS field staff of approximately 950 Police Officers, Physical Security Specialists and regional managers.

Unfortunately, it took the tragic bombing of the Murah Building in Oklahoma City on April 19, 1995 to show PBS and our nation that Federal buildings are at risk to terrorist attack, and have inherently different law enforcement and security requirements than commercial office buildings. After the Oklahoma City bombing, President Clinton commissioned a study of the security of Federal buildings that noted significant shortfalls within a system where GSA property managers and leasing agents were responsible for security. A study of FPS personnel requirements, based on the 1995 threats to Federal buildings recommended an overall FPS staff, excluding the national headquarters, of 1,480. Among other functions, this staff level provided for the monitoring of the 5,000 contract security guards used to assist FPS to protect the facilities. Since that time the number of contract security guards has tripled to 15,000, and the threats to our Federal facilities were changed forever by the 9/11 attacks. However, there has been no increase in the FPS staff necessary to detect and deter these new threats or to ensure contract security guards are performing according to their contract.

After 9/11, as the threats faced by Federal facilities changed in a fundamental, and DHS was created, the FPS was authorized only 1,453 total personnel. In 2007 the proposed budget was for 1,541, but completely abdicating its responsibility, the Administration proposed only 950 total personnel for 2008. For example, in Washington DC there were 248 personnel in 1995 before the Murrah Building attack, 340 on 9/11 and approximately 200 in 2007.

I am shocked at the leadership failure by the Department, ICE and OMB, which in the FY 2008 Administration budget, increased the risk of criminal and terrorist attack on Federal employees, facilities and members of the public, by gutting the FPS to roughly the same number of field staff as existed at the time of the Oklahoma City bombing in 1995.

Meanwhile, after timely intervention by Congress, in FY 2008 FPS is projected to have 1,200 personnel and approximately $238 million nationwide, while there are over 1,600 Capitol Police with $281 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.

All these agencies use extensive proactive patrol by police officers to detect and deter attack – the very critical activities GAO found missing in FPS.

Between 2000 and 2007, as FPS personnel were cut by 20%, executive agencies increased the number of police officers by 40% and the number of security specialists by 46%. Why is it this way? Who knows? I'm frustrated -- I just can't explain to our Officers, who put their lives on the line every day to protect people and facilities, why this has happened. And neither can the Department or ICE, except to say we must accept some risk – some risk? We have accepted way too much risk to both our civil servants and facilities when the VA Police is twice the size of FPS.

When Congressional or White House employees call the police, Federal officers trained to the unique challenges of securing these facilities respond, why isn't the same response available to all Federal employees?

FPS Funding

After the creation of DHS, FPS continued to be funded through fees paid by agencies renting space from GSA. This has caused agencies to divert scarce funding, necessary to provide service to the public, to pay for their own security, including security fees collected by DHS. Ultimately, this funding mechanism resulted in increased risk, deferral of necessary security requirements or failure to meet Interagency Security Committee Standards.

The Administration had little difficulty finding billions of dollars to fund wars in Iraq and Afghanistan, increased border enforcement, and increases to the overall ICE budget but not to adequately protect Federal buildings and employees. In 2006 a FPS Officer

overheard a senior ICE manager state she was going to eliminate FPS. Additionally, according to some GSA employees, OMB proposed transferring procurement and monitoring of the FPS contract security guards to GSA, with GSA property managers responsible for guard monitoring and supervision --- a return to the failed structure that existed prior to the Oklahoma City bombing. The Administration had returned to the faulty assumptions that Federal buildings required no more protection than a commercial property, and the FPS law enforcement responsibility could be transferred as an unfunded mandate to local police departments. These leadership failures on the part of ICE, DHS and OMB eventually caused a funding crisis that reduced the personnel protecting Federal facilities.

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% a year from 2003 to 2008, despite increases in the fees charged to agencies for their protection. This cut in funding is behind many of the problems noted in the GAO report

In 2007, the Congress recognized the substantial risk increase caused by the inadequate Administration budget and mandated minimum numbers of FPS field staff and adequate funding, but in its 2009 budget justification ICE stated they were seeking repeal of these provisions. Only after a letter from the Appropriations Committee Chairmen, did the Department relent and agree to follow the law.

Pay and Attrition of FPS Officers:

After 1995, the number of FPS field staff steadily increased, but was plagued by attrition to other Federal Agencies where employees were fully recognized as law enforcement officers, with authority to protect themselves while off duty and law enforcement retirement benefits. GSA continually resisted granting these benefits to FPS, not because they did not meet the basic statutory requirements, but because it would require increased agency retirement contributions. By 9/11 FPS still had not been able to reach the 1,480 personnel strength. After 9/11 the FPS Director and GSA obtained approval to pay FPS Police Officers and Inspectors a 10% retention allowance and obtained OPM approval for special salary rates. These critical actions stopped the hemorrhage of qualified personnel and by 2003 FPS personnel strength approached 1,400, only to fall as a result of the Administration's ill conceived 'transformation' initiative that included elimination of retention pay and failure to maintain the increased pay of the special salary rates. As FPS has hemorrhaged many of its most qualified personnel and, since FPS was not funded to accomplish its mission many agencies without security expertise including ICE, GSA and CBP have significantly increased their physical security personnel. This has resulted in unnecessary, inefficient duplication of functions, and the lack of a unified strategy to protect critical facilities.

The government reorganization that created the Department of Homeland Security placed FPS under the Immigration and Customs Enforcement Bureau which has as its mission

the enforcement of our nation's immigration and customs laws. This is a mission entirely different from that of the FPS which is to protect government employees, visitors and properties from criminal and terrorist attack.

How Do We Rebuild the FPS?

To achieve the promise of one Department responsible for securing the Homeland, including Federal facilities, we should rebuild FPS by starting with a foundation of sufficient uniformed field staff, proactive patrol of facilities to detect and deter attack, direct appropriations of basic and required FPS services, and restoration retention pay and provision of law enforcement retirement benefits. Once this foundation is established, Congress acting in its role as trustee should enact comprehensive legislation to ensure adequate protection for Federal facilities and employees.

1. Sufficient FPS staff to perform its critical mission. The GAO report noted that proactive patrols are a crucial tool to detect and deter attacks. Our first priority should be to provide the necessary FPS in-service field staff to meet the current mission of protecting GSA and DHS facilities. Adding money under the current "fee" funding scheme merely taxes other Federal agencies and takes needed funding from their mission to serve the public. However, one option for increased funding would remedy the long standing issue of funding FPS service wide and other general overhead costs. Prior to the FPS transfer to DHS, GSA paid these costs through their budget not from security fees. For fiscal year 2009, we recommend increasing the ICE appropriation by approximately

$59 million to pay the costs of FPS shared services, Information Technology Operations & Maintenance, National Security Special Events, Inauguration/ Presidential transitions costs and GSA rent. This option would also require a change to the ICE appropriation language to include the operations of FPS. With the transfer of these costs to ICE, FPS should have funding (under the current projected fee structure) for a total FTE of 1,591. This would support approximately 1,200 in-service field staff.

For ***future year*** minimum staff, we recommend a workload study conducted by experienced law enforcement professionals, like that commissioned by the FPS Director in 2005, be performed to report to Congress the service levels necessary to adequately protect Federal buildings including law enforcement personnel required to restore 24/7 coverage in the 22 cities with the largest concentrations of higher risk and total facilities as well as supported Federal employees. The workload study should be conducted by the Union and career FPS law enforcement personnel - with ICE and OMB involvement kept to a minimum.

2. Proactive patrols to detect and deter attack. The GAO found this is a critical component of an effective posture to protect Federal buildings against attack. Since 2005 the number of crimes reported to FPS and number of arrests by FPS Officers have fallen dramatically. This is not because crime is not occurring but because FPS patrols are no longer visible at our facilities – GAO provided startling examples of serious problems in this area. When these patrols do not occur our contract guards are much less likely to report suspicious or unusual activity, the kind of reports that often result in arrests, but

since FPS Inspectors are tied up with security tasks they are not "on the street" to observe these violations themselves. FPS Police Officers are a critical component to accomplish this task, therefore of the recommended additional field staff for FY 09 at least 200 should be Police Officers dedicated to patrolling the areas with the biggest concentrations of Federal facilities. This should include restoration of 24-hour and weekend service in critical metropolitan areas.

3. Appropriation of essential funding. Stop the inequitable 'fee' funding scheme imposed on agencies for basic FPS and mandatory security measures that forces these agencies to choose between providing services to the public or securing their employees from their diminishing budgets. Give DHS the clear authority and responsibility to fund FPS general overhead expenses from their appropriated base, just as GSA did prior to FPS transfer to DHS. It is clearly inappropriate for the critical mission of FPS in a post 9/11 world to rely entirely upon square footage based fees to fund basic and mandatory services. 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. Continually increasing 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. Authorize and directly appropriate all basic, building specific and security fixture security costs to DHS/ FPS to implement an integrated risk-based strategy to protect Federal facilities. Supplemental security services, above minimum requirements, would continue through reimbursable agreements.

4. Restore retention pay and provide law enforcement retirement benefits. FPS has difficulty attracting the high-quality law enforcement officers needed to protect Federal facilities and has seen many superbly qualified officers leave since retention pay was cancelled. Additionally, the special salary rates granted to FPS by OMB in 2002 have been eroded so that in many places they are now less than the standard General Schedule Salary Rates. I have been told that it is almost impossible to recruit well qualified personnel in San Francisco and other high cost areas, where it was certainly less difficult with the retention pay and special salary rates. As part of its role as trustee for FPS, Congress should provide for retention pay and restoration of the additional salary rates, much as it has done for the Secret Service Unformed Division and FBI Police, who have similar facilities protection missions. As described earlier, FPS officers are treated as second-class citizens under the federal law enforcement retirement program. They should be granted the same retirement benefits afforded to other law enforcement personnel who have facilities protection missions such as the Secret Service Uniformed Division, Capitol Police and US Park Police. In that same vein, ensure that FPS Officers are 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.

5. Once Congress has established a foundation for rebuilding FPS, serious consideration should be given to these important structural security and law enforcement enhancements for the rebuilt FPS:

a) Enhance the ability to protect employees, visitors and facilities by applying the Assimilative Crimes Act and the rules for conduct on GSA property to all Federal facilities. To protect the critical buffer zones adjacent to the facilities, expand the applicability of appropriate rules to areas immediately adjacent to Federal facilities.

b) Establish FPS as an organization primarily responsible for the DHS Government Facilities mission. There is no real rationale for having placed FPS within ICE and few would debate that it has not been a good fit. This has caused lost capability and has greatly diminished FPS' status and visibility. The effectiveness of the FPS would be greatly enhanced by establishing it as a bureau within the Department of Homeland Security

c) Security standards for Federal facilities are promulgated by the Interagency Security Committee which was established by executive order. Its critical standards are often viewed as optional by many agencies. Congress should establish the Interagency Security Committee as the standard setter for the minimum security requirements at all Federal facilities. Designate the Director of FPS as the committee chair and make the rebuilt FPS responsible for monitoring and reporting compliance with all committee standards. Standards and recommendations contained within FPS Security Assessments

are mere exercises in bureaucracy without Congressional funding and mandates to Agencies.

d) The lack of minimum standards for contract security guards that are used to protect facilities is a risk that can be reduced. Even many FPS protected facilities in the Washington DC area use guards procured under a delegation of authority from FPS to the occupying Agency. This diffusion of contracting authority for this critical function increases cost by preventing economies of scale and results in varied training, different standards and an inability to coordinate information and actions. The rebuilt FPS should be the primary source for the procurement, monitoring and supervision of contract guards at almost all facilities. FPS would ensure all contract guards meet minimum training, background requirements, and their performance is aggressively monitored. Allow limited delegation, where appropriate, with reimbursement for FPS monitoring costs.

e) FPS has significant experience coordinating background investigations of Federal contractors. It is at the forefront in implementing the requirements of HSPD 12. Rather than every Federal Agency establishing staffing to perform these tasks it would be more efficient and would level peak workload if FPS would also process and adjudicate all background investigations of contractors working in Federal facilities either on an appropriated or reimbursable basis.

f) To achieve the promise of the protection of Federal facilities under one Department as envisioned by the Homeland Security Act, establish the Federal Protective Service, through DHS, as the primary organization responsible to mitigate the risk of terrorist and criminal attack at Federal facilities excluding those who mitigate unique risks such as Congress, DOD, Intelligence Community, NASA, DOE, Coast Guard and VHA for their installations; Secret Service protected facilities; and Marshals Service for protection of judges and courtrooms. Allow very limited delegations of authority to agencies, with monitoring. Establish FPS as a distinct element within DHS focused on both the interior enforcement and the infrastructure protection missions. Reduce the inherent risk and inefficiency caused by duplicative structure and personnel in many agencies to perform missions that would be more efficiently accomplished by a rebuilt FPS. By fiscal year 2011, transfer other agency security and law enforcement functions funding and personnel to FPS, except those who mitigate unique security risks and have specialty missions. Maintain the separate identity, qualifications and training of these elements, where appropriate.

The Union is convinced these measures will rebuild and position the FPS as a professional law enforcement agency that can effectively detect and deter criminal and terrorist attacks while protecting our critical Federal facilities, the dedicated civil servants who work in them and members of the public who visit them. Again, thank you for the opportunity to testify at this important hearing.

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