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# MANAGEMENT CHALLENGES FACING THE FEDERAL PROTECTIVE SERVICE: WHAT IS AT RISK?

## HEARING

BEFORE THE

OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA SUBCOMMITTEE

OF THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

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# MANAGEMENT CHALLENGES FACING THE FEDERAL PROTECTIVE SERVICE: WHAT IS AT RISK?

**THURDAY, JUNE 19, 2008**

U.S. SENATE,
SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT
MANAGEMENT, THE FEDERAL WORKFORCE,
AND THE DISTRICT OF COLUMBIA,
OF THE COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 2:01 p.m., in Room SD–342, Dirksen Senate Office Building, Hon. Daniel K. Akaka, Chairman of the Subcommittee, presiding.

Present: Senators Akaka and Voinovich.

## OPENING STATEMENT OF SENATOR AKAKA

Senator AKAKA. I want to welcome all of you here to this hearing, especially our witnesses. I call this hearing of the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia to order.

Today's hearing, Management Challenges Facing the Federal Protective Service: What is at Risk?, will examine the results of the Government Accountability Office's review of Federal Protective Service (FPS) management and operations.

Approximately 1,100 FPS employees and 15,000 contract security guards protect 9,000 Federal facilities nationwide. More than one million Federal workers spend their days in these buildings in addition to millions of Americans who visit for government services, as tourists, or for other reasons. I requested that GAO conduct this review because I was concerned with the reports that FPS was weakened rather than strengthened by its transfer from the General Service Administration (GSA) to the Department of Homeland Security (DHS). I am sorry to say that my concern was well founded.

The GAO report makes clear that Federal buildings remain vulnerable to terrorism and other crime. FPS has been in crisis since it moved to DHS. The problems are numerous. Budget shortfalls have forced FPS to postpone purchasing and repairing needed equipment, such as security cameras and X-ray machines. FPS cut its workforce by 20 percent and restricted employee training, overtime, hiring, promotions, and bonuses to reduce personnel costs. And FPS imposed new restrictions on employee travel, leaving FPS

inspectors unable to oversee contract security guards located hours away.

These measures have undermined FPS's ability to secure Federal buildings and encouraged many FPS employees to look for better opportunities elsewhere. It was clear that Congressional action was urgently needed when the Administration proposed to reduce FPS's workforce further to 950 employees.

I cosponsored an amendment offered by Senator Clinton to the Fiscal Year 2008 Omnibus Appropriations Act which requires FPS to maintain no fewer than 1,200 employees and to raise the building security fees enough to fund FPS fully at that level. While that staffing level remains lower than FPS had until 2007, it will start to ease the pressure on FPS employees. However, it will take years for new employees to build up the knowledge and expertise that was lost as FPS officers left the agency.

In addition, understaffing has led to inadequate oversight of contract security guards and poor security guard performance. FPS does not have enough employees to oversee contract security guards properly. Some contract security guards are very rarely inspected because they are located far from the nearest FPS employee, or because they work nights or weekends when practically no FPS employees are on duty. Some FPS officers told GAO that they were instructed to conduct inspections of contract security guards over the telephone.

With poor oversight comes poor performance. GAO investigators uncovered numerous troubling contract guard failures. FPS contract guards watched and did nothing as a FBI surveillance trailer was stolen from a parking garage, and on a different occasion as a shirtless man with handcuffs hanging from one wrist ran away from a FPS inspector. There are more examples in the report.

This is a chronic problem in the Federal Government that has worsened under the current Administration with its heavy reliance on private contractors to do government work. We lack the skilled employees and resources necessary to oversee the work of private contractors. We must correct that mistake with FPS.

Even under the best of circumstances, there are serious limits to what FPS contract security guards can do. Contract guards are not sworn law enforcement officers and they do not have arrest powers. We need a clear understanding of the restrictions on contract guards' authority and how they can be addressed.

There is some good news. The recent security fee increase has allowed FPS to phase out some of the cost-cutting measures that I just described. The downside of the increase in fees is that many Federal agencies have had to divert operational funds to cover the higher fees. We need to begin to think seriously about FPS's funding and its fee structure. I am happy to hear that FPS agrees with that recommendation and will be examining its fee structure.

I am also pleased that FPS agreed with all of GAO's recommendations and that the agency seems to be making progress on some issues. However, it is not clear if the Administration has yet recognized the challenges FPS faces, even if FPS's leadership has. The Administration's fiscal year 2009 budget again proposed to repeal the 1,200-employee requirement and to downsize FPS to 950 employees.

We must continue to move forward with improving FPS. I will work to see that Congress focuses the attention and resources needed on this effort. I look forward to hearing more about FPS's challenges and progress, in particular the issues that I just highlighted. I want to thank our witnesses again for being here today to discuss these critical issues.

I will now turn to my friend, Senator Voinovich, for any opening statement that he would like to make. Senator Voinovich.

**OPENING STATEMENT OF SENATOR VOINOVICH**

Senator VOINOVICH. Thank you, Chairman Akaka. I really appreciate the fact that you are having this hearing today in regard to the Federal Protective Service.

I must tell you that I have more than a passing interest in this because in our Cleveland office, we are a tenant in the Anthony J. Celebrezze Building. I had a choice of whether I was going to go into that Federal building or continue the private leasing of another facility and I said, if I am going to be a Senator and I am going to have the General Service Administration under my jurisdiction, I ought to be in the building and find out about the management.

The ability of FPS to meet its mission to protect the buildings, grounds, and property that are owned, occupied, or secured by the Federal Government and persons on the property, I believe has continued to deteriorate since its transfer to the Department of Homeland Security in 2003. For the life of me, I can't understand why we did that, but we went ahead and did it. If you have somebody managing the building, they are worrying about the heating and cleaning and the security. But in 2003 we basically said, no, that is no longer GSA's responsibility. We are going to put building security into somebody else's hands.

It seems that FPS has become kind of a second-class citizen within the Department at the expense of public security and employee morale. One cannot say with certainty whether or not the problems we will discuss today existed when FPS was under the umbrella of the General Service Administration, although I doubt that. However, from an organizational perspective, there are obvious efficiencies to agency tenants, as I mentioned, when they have a single landlord responsible for property management, from turning the lights on to securing the doors.

Each day, FPS is responsible for protecting more than one million Federal employees in 9,000 buildings across the country. In addition, they protect the thousands of citizens who visit Federal buildings daily to access basic government services, such as applying for Social Security or veterans' benefits.

In Ohio, there are only 16 FPS employees responsible for overseeing the security of more than 200 Federal buildings. Thankfully, we have not suffered a large-scale attack which would expose our low level of readiness.

The GAO report that prompted these hearings paints a troubling picture of operational challenges, management problems, and poor coordination inside and outside of FPS. To meet their budget, FPS was forced to make poorly-timed cuts in funding for training and

retention bonuses. That is part of it. We didn't give them enough money to do the job.

There are questions of how the basic security fee is calculated, and FPS lacks the information necessary to measure its effectiveness. It seems to me that fees should be more closely modeled on the risk-based formula the Department of Homeland Security uses when allocating a number of its Homeland Security grants. It depends on what the situation is in terms of the threat assessment.

Last and perhaps more troubling, there is little or no evidence of FPS outreach to local law enforcement. The support of local law enforcement becomes increasingly important as FPS transitions to an inspector-based workforce. It seems that lessons learned from Hurricane Katrina on the need to establish working relationships in advance, before an event, haven't been applied to the security of our Federal buildings. To my knowledge, there isn't any real communication between the FPS employees in the Celebrezze Building and the Cleveland Police Department.

Director Schenkel, you inherited many of these problems and I commend you for recognizing the need to follow through on the GAO recommendations. As a career Senior Executive, you will have the opportunity to continue to lead the change in the new Administration. Acknowledging the problem is the beginning of finding a solution. I hope you will continue to keep the Subcommittee informed of your progress and call on us to assist you in reaching your goals. The end result will be a more secure environment for Federal employees and the citizens they serve, and a FPS workforce that is proud to serve.

I would like to thank the witnesses that are here today for coming to testify before this Subcommittee.

Senator AKAKA. Thank you very much, Senator Voinovich.

I welcome to the Subcommittee today's first panel of witnesses, Gary Schenkel, who is the Director of the Federal Protective Service, and Mark Goldstein, who is the Director for Physical Infrastructure Issues at the Government Accountability Office.

As you know, it is the custom of this Subcommittee to swear in all witnesses. I would ask both of you to stand and raise your right hand.

Do you solemnly swear that the testimony you are about to give the Subcommittee is the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. SCHENKEL. I do.

Mr. GOLDSTEIN. I do.

Senator AKAKA. Thank you. Let the record note that the witnesses responded in the affirmative.

Mr. Schenkel, will you proceed with your statement? Before that, I want you to know that while your oral statements are limited to 5 minutes, your entire written statements will be included in the record.

Mr. Schenkel, will you please proceed?

**TESTIMONY OF GARY W. SCHENKEL,[1] DIRECTOR, FEDERAL PROTECTIVE SERVICE, IMMIGRATION AND CUSTOMS ENFORCEMENT, U.S. DEPARTMENT OF HOMELAND SECURITY**

Mr. SCHENKEL. Chairman Akaka and Ranking Member Voinovich, 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 3 years and our vision for the future.

As this Subcommittee is aware, auditors from the Government Accountability Office recently had the opportunity to sample the day-to-day work performed by the Federal Protective Service. We appreciate the thoroughness of the audit and welcome the recommendations for improving FPS. Audited 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 the GAO report. Some additional context is needed.

The transfer of FPS into the Department of Homeland Security, Immigration and Customs Enforcement, provided an opportunity for FPS to comprehensively assess its mission and to ensure that its activities were focused on enhancing the security of 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 ICE and its stakeholders, but also that they move FPS towards greater compliance with the standards for internal control established by the GAO.

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

This strategic approach has resulted in a number of achievements, including in 2007 FPS eliminated a backlog of 2,200 invoices worth $92 million, some of which predated the transfer to the Department of Homeland Security. To improve FPS's 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, and in the month of May the percentage of payments paid within 30 days rose to 99.5 percent. Part of the success and timeliness of invoice payments is the fact that we added contracting officer technical representative 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 gauge its success at providing comprehensive security services that are meaningful for FPS stakeholders.

[1] The prepared statement of Mr. Schenkel appears in the Appendix on page 32.

FPS formally chartered an Executive Advisory Council to coordinate security strategies and activities, policy, and communication with the Federal Department and agency occupants of GSA-controlled facilities.

FPS also conducted a number of focus groups with stakeholders to identify and resolve issues and to identify systemic problems. The focus groups enabled us to immediately identify a common concern of all our clients in that they want FPS personnel to increase the level of physical security functions, such as contract oversight, qualified building service security assessments, and higher visibility throughout the service.

Among the most important improvements from a strategic approach is our movement to the Law Enforcement Security Officer or inspector-based workforce, which will meet these customer concerns while affording the added protection of law enforcement presence. To put in proper perspective the importance and advantage of transferring FPS's workforce, FPS was responsible for protecting 9,000 buildings in 2003. At that time, only 55 percent of FPS's law enforcement staff was qualified to conduct BSAs, a core FPS activity.

FPS made a conscious decision to integrate the entire security program by making the countermeasure program a true extension of its law enforcement activities by combining those responsibilities of a Law Enforcement Security Officer. A Law Enforcement Security Officer-based force allows the FPS necessary flexibility to provide law enforcement and immediate corrective action to contract security guards. Under the prior bifurcation of security operation, law enforcement had little or no oversight for the contract guard program.

Notwithstanding the important issues raised and recommended by the GAO, we agree with all that they have recommended.

I am extremely pleased to lead the proud and professional men and women of the Federal Protective Service. I interact with them every day. 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 challenges of its homeland security mission.

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

Senator AKAKA. Thank you very much for your statement, Mr. Schenkel.

Mr. Goldstein, please proceed with your statement.

**TESTIMONY OF MARK L. GOLDSTEIN,[1] DIRECTOR, PHYSICAL INFRASTRUCTURE ISSUES, U.S. GOVERNMENT ACCOUNTABILITY OFFICE**

Mr. GOLDSTEIN. Thank you very much, Chairman and Mr. Voinovich. We are pleased to be here to discuss the efforts of the Federal Protective Service in protecting Federal employees, the

[1] The prepared statement of Mr. Goldstein appears in the Appendix on page 41.

public, and GSA facilities. As you know, in 2003, FPS transferred from the General Service Administration to the Department of Homeland Security and is responsible for providing physical security and law enforcement services to about 9,000 GSA buildings. 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. The testimony is based on our report issued yesterday, "GAO Homeland Security: Federal Protective Service Faces Several Challenges that Hamper Its Ability to Protect Federal Facilities."

My testimony summarizes the following: First, 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 surveiling GSA facilities. In contrast, while FPS is not able to patrol Federal buildings, there is an 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 BSAs, which are a core component of FPS's physical security mission. For example, in the recent past, 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 vacant.

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.

Second, until recently, the security fees FPS charged to 10 agencies have not been sufficient to cover its costs and the actions it has taken to address the shortfalls have led to adverse implications. Since transferring to DHS, DHS and FPS have addressed these projected shortfalls in a variety of ways. DHS has transferred emergency supplemental funding to FPS, and FPS has restricted hiring and traveling, 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 rates 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. It also projects that collections will cover its 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 risk or threat to a 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 1 facilities may face less risk because they are typically small, storefront properties 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 4 facility that has a high volume of public contact, may contain high-risk law enforcement and intelligence agencies, and have highly-sensitive government records.

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 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 these activities.

However, FPS has not developed outcome measures to evaluate the results and the net effect of its operations to protect FPS 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. In addition, FPS does not have reliable data management systems that would allow it to accurately track and measure, or other important measures, such as the number of crimes and other incidents occurring at GSA facilities.

In our report that we issued to this Subcommittee and other Congressional committees, we recommended, among other things, that the security of DHS direct 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. We are happy to report that DHS agreed with all of these recommendations.

This concludes my comments and I would be happy to answer any questions that you may have for us. Thank you.

Senator AKAKA. Thank you very much, Mr. Goldstein.

Mr. Schenkel, as Mr. Goldstein just testified, FPS eliminated employee performance awards and restricted employee hiring, promotions, training, travel, and overtime to deal with its budget

shortfall. As he also mentioned, one of the challenges is morale and he indicated that there has been harm to morale. I understand that some FPS workers were frustrated with the level of communication about FPS's budget and staffing and they wonder why the budget restrictions were not eased sooner when it became clear that FPS would not have a budget deficit in fiscal year 2007.

What are you doing to improve morale in FPS, and in particular to address any gaps in communication with workers and with the union? Mr. Schenkel.

Mr. SCHENKEL. Well, to begin with, I have given them an open and honest position of where we stood and where we need to go and how we need to get there. I visited nine of the 11 regions, personally held town halls and spoke with the members, not only the police officers and inspectors, but also the mission support people. I think telling them the honest truth as to where we stood and where we need to go and what resources we have to get there, I think was the first starting point.

Because we had such a, and I will use the word convoluted, way of doing business prior to the last several years, it was very opaque, the way things were conducted. I am not saying it is the wrong thing, right thing, incorrect way, and certainly not trying to throw another agency in the limelight. I am saying it was a very difficult system for us to sort out and I think we finally got our hands on that in 2006, 2007. As a consequence to that, we were able to provide performance wards for 2007. We were able to provide some individual spot awards for individual acts.

In addition, we were finally able to provide a uniform allowance to get all of our officers in the same uniform. Although it was minimal, we have actually been able to increase that towards the end of this year.

In regards to the union, I have reached out to President Wright. I think we have a very good relationship. I will let him answer that on his behalf, however. I came from a very large police department that had very large union participation and I brought that kind of mindset with me, is that nobody knows better about Beat 2212 than the beat officer on 2212, and we need to listen to the people and I think that we are making some tremendous progress on some of our operational issues. We would obviously like to provide more financial support to them, but at this point, I think we are making progress in the right direction, sir.

Senator AKAKA. Thank you, Mr. Schenkel.

Mr. Goldstein, I would like to hear any thoughts you have on how FPS could improve officer morale.

Mr. GOLDSTEIN. When we did our review over the last year, we visited seven of the 11 regions of the Federal Protective Service and we talked to more than 160 officers, inspectors, regional administrators, and support staff out in the field, and we found that they were extremely discouraged. Morale was not in very good shape for a number of reasons. They didn't have effective equipment. Mr. Schenkel has talked about uniforms. Equipment they were missing included security cameras, radios that didn't work, a lot of equipment to handle Building Security Assessments. Special kinds of technical light meters and things that they needed to do some of those activities were not in working order or available. So

equipment and uniforms and things like that are certainly one thing.

But more broadly speaking, I think morale would be improved if the Federal Protective Service was able to put in place a system that most of the officers and inspectors felt would be effective in protecting Federal property. In our review, in our discussions with officers, many of them felt that the shift to proactive—that was going to eliminate proactive patrol in many places would not be an effective means of protecting property, which is the principal reason that they hold those jobs in trying to protect the people and the buildings themselves.

So there is, I think to some extent, a large policy issue that FPS is going to have to work through with its union and with the officers to be able to achieve greater harmony.

Senator AKAKA. Mr. Schenkel, GAO's report states that FPS is no longer using its cost-cutting measures. What is FPS doing to address the training needs that were not met during the last couple of years?

Mr. SCHENKEL. That has been a very big priority of us from when I first arrived and I found out the sad state of training, that the officers, when I would go on the visits to the regional offices, we were supposed to be the premier force when it comes to being building security assessors and identify risk and yet some of our officers hadn't been to any training for years. Consequently, we reinstated our ALERT training, which includes additional hours on physical security assessments and training and new innovations that we are going to use within that.

In addition, as I think Mr. Goldstein mentioned, we have the RAMP Program coming online, which will give the individual inspector a defensible document, if you will, that belongs to the Federal Protective Service as opposed to the disparate systems that we are dependent upon now to try and gather. That should cut that workload down.

In addition to that, in addition to the benefits that we will gain by having this defensible document, that should cut that workload down substantially, as well, and we have also revisited the curriculum at our Physical Security Training Program (PSTP), down at FLETC in Glynco, Georgia, added the COTOR training, as we had mentioned in the opening statement. We are making improvements, not just in the law enforcement side of training, but we are trying to also make those same kinds of improvements in our physical security assessment and physical security training programs.

Senator AKAKA. Well, I am happy to hear that training is a priority.

Mr. SCHENKEL. Yes, sir.

Senator AKAKA. You have mentioned some of the training, but does FPS track employee training to ensure that employees get appropriate advanced and refresher training?

Mr. SCHENKEL. We are now, sir. We have appointed Josh Vayer as our Training Coordinator at the headquarters level. We are standardizing the process and procedures for training throughout the regions. And we have also hired a new individual down at FLETC to represent FPS under the umbrella of ICE's Office of Training and Development who will also be our advocate at FLETC

and also coordinate all of our follow-on and veteran training, our in-service training at that location. Plus we are going to move our follow-on post-UPTP, or individual official initial training, up to our Bryn Mawr facility, where we will have access from the headquarters level to also not only document and observe the training, but also interact with any of our new employees that we may be able to hire here in the next few years.

Senator AKAKA. Thank you. Senator Voinovich.

Senator VOINOVICH. Mr. Goldstein, how long have you been looking over the shoulder of the FPS?

Mr. GOLDSTEIN. We started our review about a year ago, sir.

Senator VOINOVICH. Did you have any previous experience with auditing the FPS?

Mr. GOLDSTEIN. We have done several reviews over a number of years. We have looked at performance measures there. We have looked at the mega-centers. And we have included FPS in a broader review at the Department of Homeland Security that we did, looking at performance measures with respect to risk management and to criteria for establishing security.

Senator VOINOVICH. Did you have a chance to look at any of the other past reports about the FPS and compare them to the conditions that are existing today?

Mr. GOLDSTEIN. The reports we did in the past were slightly different in that we didn't look at the workforce in the regions and specifically the kinds of challenges that they faced operationally in the past, except for a little bit when we looked at the mega-center and performance measures. But many of the same kinds of issues—performance measures, criteria for risk mitigation, and threat assessment and the like—that we have seen in previous years certainly exist in the kind of challenges they face today and we do address them in this report, also.

Senator VOINOVICH. Well, the question I have from a management point of view, after the report came back and cited FPS as a low priority within the Department of Homeland Security, and just based on your experience with management, do you think the decision to pull FPS from the General Service Administration over to Homeland Security was a wise decision?

Mr. GOLDSTEIN. I would answer it in two ways, Senator. We are doing a two-part review for this Subcommittee, and in the second part of that, we are looking very specifically at that question, which is where is the best location for FPS.

But I can tell you already, based on the interviews we have done in the field, that almost to a person that we discussed this issue with in the field, officers and inspectors and regional administrators, almost every one of them did not believe that it belonged—that FPS did not belong in ICE. Many said it belonged perhaps in Infrastructure Protection or as a stand-alone unit in DHS, and some thought perhaps that it belonged back at GSA. But one of the things we will look at over the next couple of months is exactly where it might be best housed.

Senator VOINOVICH. Mr. Schenkel, this is probably a tough question for you to answer because you haven't been on board that long, but you have had extensive management experience in the Marine Corps and then you had a very important position with the Chicago

Police Department. It is going to be very difficult for you to answer this, but from an objective point of view, if you looked at where FPS is today, do you think it would be better to place FPS back with the General Service Administration?

Mr. SCHENKEL. I think that any time that you put a manager in a position where he or she is faced with the choice of buying cleaning supplies or security guards, that puts that individual in a very difficult position. I think that is—I call it the Max Arrow approach. That is the screeners that used to be at airports around the country many years ago, even prior—far prior to September 11, 2001. It is a very cut-throat business. There is very low profit margin in that kind of business. And my concern would be that if it came down to price, we would go to the lowest bidder as opposed to the better standard of quality.

Senator VOINOVICH. But up until now, that hasn't been the case. It seems that FPS has been given the back of the hand, and one could argue that in terms of the attention given, FPS has not been as much of a priority as it should be. If you go to Chicago they are putting a lot more money into security than they did prior to September 11, 2001 and building security is given a higher priority, particularly if they do any kind of a threat assessment as to their location.

So your answer is you think it is better off where it is at right now?

Mr. SCHENKEL. I think it is best away from the General Service Administration. I think that we are very dependent on ICE. ICE has been very helpful, especially on the financial end of it. We do not have those long trails and contracting support and experience that is necessary to support our contract guard program and our countermeasure program as a stand-alone entity. So regardless of where we were placed, if we are placed correctly or incorrectly in an agency within DHS, we still require that substantial financial support that we enjoy from ICE.

Senator VOINOVICH. Would you agree that after FPS was transferred into the Department of Homeland Security, that somebody in DHS didn't realize its importance and didn't give it the priority that it deserved?

Mr. SCHENKEL. I can't answer that one, sir, because I don't sit in those chairs. I don't have access to the information that other people have. I think we have been treated very fairly since I have been here and they have been extremely supportive. We would not have been able to pay those 2,200 invoices last July. We would not have been able to consolidate our financial system, which continually detracted from our mission, were it not for ICE's support.

Senator VOINOVICH. OK. And Mr. Goldstein, do you agree with that? The impression that I got was it came over to the Department of Homeland Security and they had other priorities and FPS didn't get the kind of attention that it deserved for lack of understanding how important FPS was in terms of securing our buildings.

Mr. GOLDSTEIN. I can't say specifically because we didn't look at that as a question, but I think it is important to note that one of the early problems that was faced was the loss of the subsidy from the Federal Buildings Fund, and I would suspect that the Depart-

ment of Homeland Security didn't fully recognize the impact of the loss of that subsidy——

Senator VOINOVICH. Well, the subsidy was if FPS, and therefore GSA, needed money to deal with a particular security concern, they could reach into the Federal building fund, and that made up for any shortfall.

Mr. GOLDSTEIN. Well, for a number of years, from 2000 through 2004, they received anywhere between $95 and $140 million in order to help pay the bills at FPS, and I suspect they didn't quite recognize the impact that would have in losing those funds when they took over FPS and they didn't understand a number of the other ramifications. So I am not sure that it is a question that they didn't pay attention to it so much as that they didn't understand all of the implications of the agency that they were inheriting.

Senator VOINOVICH. The last question I have, Senator Akaka, is to Mr. Schenkel. One of the things that I have been very pleased about since we forced the Department of Homeland Security is the communication that has gone back and forth between local police departments, the sheriffs, the FBI, and other security entities in the community. But according to this report, that relationship hasn't been built up between the FPS and local law enforcement agencies. I would like to know, what have you done to try and remedy that situation?

Mr. SCHENKEL. Well, first of all, I am a little surprised that the statement was even made because we have extremely good relationships with all of our local law enforcement agencies. We have got mutual supporting informal agreements existing all over the country. We have expertise and assets that most police departments don't have, that being bomb dogs, that being the expertise in physical security assessment and determining what countermeasures are appropriate. So on a frequent, if not daily, it is certainly a weekly basis, there is some region at some point doing some interaction with local law enforcement, and——

Senator VOINOVICH. You are telling me that the FPS employees in Ohio are sitting at the table with the other law enforcement agencies today to exchange information and so forth? Is that what you are telling me?

Mr. SCHENKEL. I can't say that they are with every law enforcement agency, but I can——

Senator VOINOVICH. How many of them? Have you ever done an inventory of a State to find out how many of them actually are communicating with each other? And the other issue is, are they communicating with the private outfit that has been hired or are they communicating with the FPS people that are in between the law enforcement agencies and the private sector people?

Mr. SCHENKEL. They are supposed to be communicating with the FPS, the district commanders, area commanders, if not regional directors.

Senator VOINOVICH. Well, I would sure like to get an answer to that.

Mr. SCHENKEL. All right, sir.

Senator VOINOVICH. I would appreciate finding out just what kind of relationship there is between the FPS in Ohio and our local

law enforcement officers and whether any of them are sitting in on those task forces that we have currently around the State.

Mr. SCHENKEL. Yes, sir.

Senator VOINOVICH. Thank you.

Senator AKAKA. Thank you very much, Senator Voinovich.

Mr. Schenkel, I believe that mentoring programs are critical in integrating new employees into an organization and building their skills. Mentoring might be particularly useful in FPS because there may be skill gaps from the high attrition and the recent restrictions on training. Does FPS have a mentoring program or any plan to establish one?

Mr. SCHENKEL. Yes, sir. The FTEP, or Field Training—I want to call it the Field Training Officer Program, but we changed it to FTEP, and forgive me, I can't remember what the "E" is for, but it is a field training officer program to indoctrinate and inculcate new inspectors into the service. The initial documents were put together. The plan is on the table and being reviewed by employee and labor relations. We had input from individuals from the union up in Region 10, and then it will get a final brush from Local 918 before we enact it. It is based on the San Jose FTO Program.

Senator AKAKA. Mr. Schenkel, GAO's report detailed broken security cameras, X-ray machines, radios, and other important equipment. You testified that you have a national maintenance contract in place in order to ensure timely repair and replacement of security equipment. Can you tell us more about that process and the time line for getting it done?

Mr. SCHENKEL. Yes, sir. The National Countermeasures Program was a priority when I first got here, when I found out that we bought equipment as opposed to leased equipment, because I knew that much of this was 1960s technology. I did a short stint with the TSA and had some experience with the X-ray machines and walk-through metal detectors, etc. So I asked some of the folks to reach out to TSA and to some of the other agencies that were frequent users of these kinds of equipment.

As I mentioned before, it was a somewhat challenging way of doing business in the past years, and subsequently we have found out that there is a tremendous ownership question in regards to many of these security measures, in particular cameras, X-ray machines, and walk-through metal detectors. So when we conducted our inventory to find out how bad a situation this was, we found out that there were three different owners, if you will. In some cases, the equipment was claimed to be owned by GSA. In some instances, in particular around courthouses, the equipment was claimed to be owned by the Marshals Service. And in other instances, it was Federal Protective Service.

So about 60 days ago, we were near the end of our inventory and what I told them is if there is any question, FPS will take responsibility for this. The National Countermeasures Program will be in place in October 2008. This will include a National Countermeasures Maintenance Program to where there will not be an individual company that would have to be called to maintain this equipment. We will have one contract nationwide, and as I said, this will begin in October 2008. In addition, we will be replacing

the first third of the equipment that is long past its usefulness, as well.

Senator AKAKA. I would like to hear both of your thoughts on this issue. As FPS's response to the GAO report indicates, the building security fee structure was created to provide basic protection to Federal buildings as real estate assets. Since that time, it has become all too clear that terrorism is a real threat and Federal buildings may be attractive targets to those who would do us harm. Failure to account for the increased risks that Federal buildings face has led to insufficient investment in Federal building security. As you know, FPS currently is entirely fee funded. Should Congress appropriate money to cover some of FPS's basic costs? Mr. Schenkel.

Mr. SCHENKEL. I have discussed this recently with OMB and with other Congressional and Senatorial staffers as well as ICE, and we think that there is certainly a good argument for a baseline appropriation. Right now, we charge it at 62 cents, to go to 66 cents next year for a basic security fee, with the expectation of our customers to all who receive that same basic service. That same basic service right now is the same at 26 Federal plazas as it is in Bangor, Maine, for a book repository, which is unrealistic with a force of only 1,200 people.

I think once it is determined what that basic security fee should pay for, in other words, if right now we are required to provide the basic security assessment, assist with occupant emergency plans, investigate all threats against individuals inside of our buildings and investigate all threats against our buildings, etc., and have proactive patrol and law enforcement response. That is a big order for 1,221 people.

I think if it is determined that basic security fee would provide only portions of that or if there was something over and above that was required due to specific threats or a higher-risk building or a higher-risk area, that would have to be a separate cost. So if there was a baseline that would be provided not only as an appropriation but for that appropriation every customer would have that same expectation that we could meet, I think that would be a starting point, sir.

Senator AKAKA. Mr. Goldstein, what are your thoughts about this?

Mr. GOLDSTEIN. We recommended in our report that FPS evaluate whether a fee-based structure or some alternative is the most appropriate way to support the Federal Protective Service. We are not against a fee-based structure. There are many fee-based structures in the Federal Government that support agencies. But this is one that isn't fully effective at this point in time for the reasons that both Mr. Schenkel and myself have mentioned in terms of the equitability of the costs, the spreading out of risk across all the patrons, and regardless of where you are, you pay the same fee.

One of the issues that FPS has to address, as well, with respect to its charges is whether it has an effective cost accounting system that can account for the costs of providing security to its tenants, and we believed and made a recommendation that they need to improve their cost accounting and FPS has agreed to do that, as well.

So while we are not in a position to say that you should absolutely go to an appropriations approach, we do believe that further evaluation of the fee-based structure and an appropriations structure is clearly necessary and that is what FPS has agreed to do.

Senator AKAKA. Mr. Schenkel, FPS's attrition rate increased dramatically in recent years. Now that FPS is hiring again, rather than downsizing, and does not face a budget deficit, is the attrition rate improving?

Mr. SCHENKEL. The attrition rate thus far this year is 6 percent, as opposed to last year it was 14 percent at this same time. We are able to attract some other Federal law enforcement officers because of our ability to increase their grade.

Senator AKAKA. As you know, the Fiscal Year 2008 Omnibus Appropriations Act requires FPS to have 1,200 employees by July 31, 2008. Your testimony states that FPS has 1,051 employees, which is about 50 fewer people than you had at the beginning of the fiscal year, and you plan to be close to 1,200 by September 30, 2008. What is the cause of the delay? When did you start hiring, and are you having a hard time attracting qualified candidates?

Mr. SCHENKEL. The delay was evidently instituted by Secretary Chertoff sending a letter requesting that he be given the authority to wait until September 30. The ability to attract, as I just previously mentioned, we started recruiting in the March-April time frame.

We have been very fortunate because we targeted a very lucrative audience, if you will, that being the veterans, many of them coming back from the Gulf, or from the Middle East, looking for work in security and having experience. Because we have gone to that LESO-based force, we are able to attract folks that would perhaps be going to a regular police department that also would have had some challenges attracting people. But because of our ability to increase their grade, provide them equipment now, quality equipment, we are able to attract a great number. As a matter of fact, we have got 800-and-some—835, I believe—on our certification list.

I would be lying to you if I told you it wasn't a painful process, getting them through the process of hiring, the Federal hiring, most of which is out of our control. But we are pushing them very hard. We have got plenty of folks that want to go to work for us. It is just difficult getting them through the funnel.

Senator AKAKA. Senator Voinovich.

Senator VOINOVICH. We keep harping on the fact that since FPS staff has decreased by about 20 percent with further reductions expected until Congress mandated a minimum number of FPS employees. I keep thinking that FPS wasn't given the attention it needed and it is unfortunate that Congress had to step in to indicate that.

How many FPS employees and how many contract employees do you believe are needed to meet the FPS mission? Not just the number of contract employees, but how about FPS employees? And do you agree with staffing recommendations contained in the 2006 workforce assessment? In terms of succession planning, do you agree that 1,200 is the right number to get the job done or is it more than that or less than that?

Mr. SCHENKEL. I think 1,200 is a good baseline to start with. One of the things that our customers have asked for and what we kind of term as a FPS-light situation is having inspectors available who are stationed in nearly every Level 4 building or Level 4 complex of buildings. That would be slightly higher than the 1,200 number that would be required, but then again that would have to roll back to determine what would be expected on that basic security fee. An increase—a substantial increase—would be required to support the kind of language that is in the FPS-GSA Memorandum of Agreement right now. But 1,200 is a good starting point, and to get to that frequent visibility and presence in Level 4 buildings would require several hundred more.

Senator VOINOVICH. Do you have a current strategic human capital plan?

Mr. SCHENKEL. We do, sir, and we are depending on several of those systems that are coming online this year, in principal the RAMP system and the Computer Aided Dispatch. We have made the improvements to our daily operations log at our mega-centers, which does our dispatching and accounts for our personnel and location that GAO recommended back in 2004. I think once we are able to actually capture that data, as Mr. Goldstein mentioned, I think we will be able to provide you some very accurate numbers as to what the appropriate number to support the kinds of expectations that are necessary.

Senator VOINOVICH. You underscored the difficulty in getting people through the system. One of the things that Senator Akaka and I are trying to do is get rid of some of the clogs in the system so that we can bring people into the Federal Government. Would you like to share with us your frustrations and why is it you are having such a tough time hiring individuals to FPS?

Mr. SCHENKEL. We are able to attract people. Our HR systems are very good. But as so many agencies, we are dependent on outside, or other agencies to process beyond the job—even to make it a job announcement, I am sorry. As a result, we are just another group inside another group of priorities and everybody has got a priority. It gets bogged down primarily at the medical side on the medical evaluations, anything that we can do to expedite that piece. We are getting fairly good at the background investigations because we do a lot of our background investigation. We do them all for GSA and for our people and for all our security guards, so we are able to assist in that. But it is beyond the offer stage that it becomes excruciatingly painful.

Senator VOINOVICH. So it is medical. How about security clearances?

Mr. SCHENKEL. Security clearances, we are doing fairly well in. Again, that is probably because we own a piece of that, so we are able to control it and expedite it when necessary.

Senator VOINOVICH. To issue a posting of FPS jobs, you have got to do that through OPM?

Mr. SCHENKEL. No, sir, we go through CBP on that, sir.

Senator VOINOVICH. OK. So it is posted. Then you have your applicants. Then you review them and then you do the investigation and the health part of this?

Mr. SCHENKEL. Correct. Once we review——

Senator VOINOVICH. Who runs the health? Where do you have to send people? Where do they get the health thing?

Mr. SCHENKEL. It is a contract, sir.

Senator VOINOVICH. So you have contract people that do that work for you?

Mr. SCHENKEL. Through Customs and Border Protection.

Senator VOINOVICH. Can that part of the process be sped up a bit.

Mr. SCHENKEL. It could probably use a little——

Senator VOINOVICH. How long does it take you to get a security clearance?

Mr. SCHENKEL. We have got it down to roughly—well, for our applicants, because they require a "Secret" clearance, it will take approximately 30 to 45 days.

Senator VOINOVICH. Mr. Goldstein, performance metrics provide a clear picture of whether or not agencies are meeting their mission requirements and are being good stewards of the taxpayer dollars. FPS plans to implement the Data Management System to support performance management by 2011. It seems to me that 3 years is a long time to develop that system given the technology currently available. Are there actions you would recommend FPS to take to acquire this capability more quickly?

Mr. GOLDSTEIN. There may be some off-the-shelf applications that they can use, some best practices from other agencies that they might review. I think FPS recognizes that it has an issue and it is taking some steps to remedy that situation. I do think it can take a couple of years.

But I think if they were to take a look at other agencies that have effective practices in place to help understand how they can improve the kinds of outcome performance measures that they need to gauge the effectiveness of their mission, I think that would be very useful. There are many other Federal agencies and private sector organizations that are leaders in this field and they can probably learn from them in the meantime so that by the time they are ready to get their system fully underway, they will have some meaningful measures that they could deploy.

Senator VOINOVICH. So they could probably look at some other areas in order to speed this up a bit?

Mr. GOLDSTEIN. Yes, sir. I think so.

Senator VOINOVICH. Yes. Mr. Schenkel, you are a member of the Senior Executive Service?

Mr. SCHENKEL. Yes, sir.

Senator VOINOVICH. And you are not one of the political appointees over in the Department?

Mr. SCHENKEL. No, sir.

Senator VOINOVICH. How difficult was it for you to come into the position that you are in?

Mr. SCHENKEL. To be hired or just take on the responsibility?

Senator VOINOVICH. Well, one of the problems that we noticed is it is very difficult to get people to come into the Federal Government. If you look at the number of people that are coming in at the level you came in, there aren't that many of them.

Mr. SCHENKEL. I applied September 9, 2006, and was hired April 1, 2007.

Senator VOINOVICH. Repeat that again.

Mr. SCHENKEL. I applied September 2006 and was hired April 1, 2007.

Senator VOINOVICH. It took a while.

Mr. SCHENKEL. Yes, sir.

Senator VOINOVICH. Thank you.

Senator AKAKA. Thank you, Senator Voinovich.

Mr. Schenkel, you testified that moving to an inspector-based workforce, eliminating the FPS police officer position but expecting inspectors to do building patrol and other law enforcement functions is useful because inspectors were stretched too thin when they were 55 percent of the FPS workforce. Now, they are 80 percent of the smaller FPS workforce. If inspectors were stretched too thin to do accurate, complete, and timely building assessments, why were you moving forward with further reducing FPS staff? If you had more employees, would you need them to cover such a broad range of tasks?

Mr. SCHENKEL. I believe so, sir, because of our small numbers. We are expected to do a great number of different kinds of activities. Having an inspector or a LESO law enforcement security officer, I have a certified police officer. I have a sworn officer, gun-toting, badge-wearing individual that can also concentrate on his or her core competency and the expectation from our customer agencies.

We are in the protection business as well as in the law enforcement business. By having an inspector-based or a Law Enforcement Security Officer-based force, it gives me complete flexibility to move those people around to where the threat is the greatest or when the risk changes. If I only have half of my force available to do that, I am going to end up in the exact same situation Mr. Goldstein described in his report. The 9 of 10, if you will, or certainly 90 percent of the comments made by the GAO all circled around our inability to provide the protection mission, and the 1 percent or the one piece was a proactive patrol. I can take an inspector or a Law Enforcement Security Officer and put him or her on patrol. I cannot take a police officer and assign him or her a Building Security Assessment.

Senator AKAKA. Mr. Goldstein, do you have any thoughts on whether the problem of inspectors being stretched too thin reflects a need to move to an inspector-based model rather than a need to hire more inspectors?

Mr. GOLDSTEIN. We did hear many concerns, Mr. Chairman, from inspectors in the field that they were sort of overworked and overwhelmed by their job responsibilities and police officers were very concerned that inspectors would not be responding in a timely way when there were law enforcement situations because of the other responsibilities that they had. Inspectors are responsible for the oversight of contract guards, for Building Security Assessments, for contracting officer technical representation duties, for law enforcement response, criminal investigations, collecting contract guard time cards, and they also run the Building Security Committees, which is the organization of tenants in each building that represent security needs and interface with FPS.

So that is quite a lot of responsibilities and many of the people we talked to felt that not only that were they overwhelmed by those responsibilities, but there might not always be a timely response, and there were several examples that were provided to us where inspectors did not respond in a timely way when they were called by police officers for assistance.

Senator AKAKA. If FPS converts its police officers to inspectors, is there a danger that the agency will lose some specialization and focus on its law enforcement functions? Mr. Schenkel.

Mr. SCHENKEL. I don't believe so, because I think by having that 100 percent flexibility, it gives the regional directors, the district commanders, the autonomy and the authority to address the risks as they change. If we concentrate on absolutely just one thing, we can only protect so many buildings from being hit by airplanes. The threat could change literally tomorrow, and it does. Whatever kind of threat there is that we are able to provide an adequate countermeasure for, the enemy, if you will, will always find some low-tech means of countering that. I think we have to remain flexible and I think that by proper management and leadership down at the district and area level, we don't lose that law enforcement expertise any more than we would lose our physical security or our protection mission abilities.

Senator AKAKA. Mr. Goldstein, do you have any thoughts on that?

Mr. GOLDSTEIN. I think when we did our review, we looked at this as sort of a three-legged stool. You have the protection provided by the FPS itself in terms of its people, its inspectors and its police officers. You have the countermeasures of Magnetometers and X-ray machines and cameras and the like. And then you have the local police forces that can respond if and when they have a good working relationship with FPS. And it seems to me that you need all three of these for effective security of Federal property and that currently there are certainly challenges that FPS faces in providing effective protection in all three of these areas. And so I think the view is that you need to be able to assure that you can work effectively in providing security through all three of these components.

I do agree that flexibility for an inspector would be useful, provided that there are sufficient resources in terms of the inspector workforce as well as to ensure that having enough of them would allow for some level of proactive patrol that has been demonstrated to be an effective countermeasure to surveillance and other kinds of criminal activities.

Senator AKAKA. Mr. Schenkel, I understand that FPS night coverage was reduced as staffing declined. Most major cities do not have a single FPS employee on duty throughout the night. How many cities currently have a FPS employee on duty during night hours, and do you plan to expand overnight coverage?

Mr. SCHENKEL. I am going to have to get back with you on the first question, but on the second question, I can answer yes, most definitely, we intend to return to our 24-hour patrols wherever they were before based on risk. The situations may have changed and may have shifted to other locations, but will return to the 24-hour patrol.

Senator AKAKA. Any questions, Senator Voinovich?

Senator VOINOVICH. Mr. Chairman, I think that we have a vote at 3:30 and I have other questions, but I think we ought to get Mr. Wright on so we can hear his testimony.

Senator AKAKA. Thank you very much.

I want to thank the first panel for your testimony. They will certainly help us with what we are trying to do. Thank you.

Mr. SCHENKEL. Thank you.

Mr. GOLDSTEIN. Thank you.

Senator AKAKA. At this time, I would like to welcome to the Subcommittee David Wright, President of the American Federation of Government Employees Local 918, which represents Federal Protective Service employees.

As you know, it is the custom of this Subcommittee to swear all witnesses, so please stand and raise your right hand.

Do you solemnly swear that the testimony you are about to give this Subcommittee is the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. WRIGHT. I do.

Senator AKAKA. Thank you very much. Let the record note that the response was in the affirmative.

I want you to know that while your oral statement is limited to 5 minutes, your entire written statement will be included in the record. Will you please begin with your statement?

**TESTIMONY OF DAVID WRIGHT,[1] PRESIDENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES LOCAL 918, FEDERAL PROTECTIVE SERVICE**

Mr. WRIGHT. Yes, sir. Chairman Akaka and Ranking Member Voinovich, my name is David Wright and I am President of AFGE Local 918, the Federal Protective Service Union. I have been a FPS law enforcement officer for the past 22 years, to include time in management.

In the 7 years since the September 11, 2001 attacks, I have watched with growing frustration and outrage amongst my fellow workers as the Federal Protective Service has been allowed to deteriorate and drift like a rudderless sinking ship. Mr. Chairman, 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 September 11, 2001, its employee 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 irresponsible trend. Meanwhile, in fiscal year 2008, FPS is projected to have 1,200 personnel with a budget of approximately $238 million

[1] The prepared statement of Mr. Wright appears in the Appendix on page 66.

nationwide for operational purposes while there are over 1,600 Capitol Police budgeted at $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 that 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 and I appreciate them being placed in the record.

I 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 report put it last year, we need to continue to rapidly rebuild the FPS. A comprehensive review and assessment of manpower needs and requests for sufficient personnel to perform the mission must be produced by the agency as quickly as possible and as recommended by GAO. In the interim, Local 918 is asking Congress to increase the current level of 1,200 personnel by about 400 in the fiscal year 2009 appropriations bill.

Two, the GAO pointed to the importance of the uniformed Federal law enforcement presence surrounding Federal buildings as an essential security requirement to detect and deter attack. It is an approach embraced by all law enforcement agencies across the country, yet this is precisely the 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 workforce 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 workforce, performing Building Security Assessments, to name several. In the performance of these duties, it is less likely inspectors will uncover criminal or terrorist activity.

Three, in the post-September 11, 2001 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, to include operations of FPS, can and should be funded through annual appropriations. I want to make it very clear, the current funding formula is one of the two root causes of the problems here at FPS and it is in desperate need of reform.

Four, just within the past 2 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. As you can imagine, morale is in the tank. Your FPS Federal law enforcement officers have borne the brunt of recent FPS budget reductions. We

need Congress to step in. Restoration of retention pay and provision of law enforcement retirement benefits are two changes that should be implemented as part of any FPS rebuilding process.

Mr. Chairman, I believe the state of FPS right now is a little different from that of the airline industry security prior to September 11, 2001. 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.

I am available for your questions.

Senator AKAKA. Thank you very much, Mr. Wright.

FPS's spending restrictions harmed employees' morale over the last couple of years. Repairing that damage will take time. Do you have any thoughts on what FPS needs to do to improve morale within the agency? You mentioned the word "reform". If you can be specific on what you mean by reform and on your thoughts specifically on improving the morale within the agency?

Mr. WRIGHT. Correct. I would like to reiterate that I have been with FPS for 22 years. We have always had our problems, and in my opinion, we have always been treated as second-class citizens. That just became magnified as we came into ICE.

As far as reform, there is a culture in FPS. We have 11 different regions. I like to call them 11 different kingdoms. I know that headquarters does their best to pass the word on and unify the regions with uniform processes, but this doesn't happen. Improving morale—we have always been the boots on the ground. We have always been the first responders. Yet we do not have law enforcement coverage. We do not have the benefits afforded other Federal law enforcement officers. That would be a great start.

Senator AKAKA. The GAO report contained some troubling accounts of poor work on Building Security Assessments, including copying and pasting information from old BSAs into new ones. Workers often get the blame for these types of problems, but they may be a symptom of inadequate staffing or training. Are the FPS inspectors you represent being pressured to conduct BSAs too quickly, and are they receiving all of the training they need?

Mr. WRIGHT. It has been my experience that training is nonexistent after the physical security training program, or Physical Security Academy, as we call it. There is tremendous pressure to conduct these assessments. It is seen as our bread and butter. It is seen as the major service that we provide, at least in the eyes of the agency.

What is happening here this year is a good indication. We have a 12-year, or a 12-month cycle. It has effectively been reduced to 6 or 9 months for inspectors across the Nation. I can tell you that here in a major municipality on the East Coast, I was speaking to an individual, myself and an officer having lunch together. He was one individual responsible for a patrol zone, a very large patrol zone where he had to travel about 45 miles between calls for service. He was the only individual on duty and the inspectors were tucked away in a room conducting their assessments. So these

timeliness issues of assessments, unfortunately corners get cut, tremendous pressure by first-level management to get these things done.

Senator AKAKA. Mr. Wright, you recommend that FPS officers be granted the enhanced pension benefits that other Federal law enforcement officers receive. Could you tell us more why you believe FPS officers deserve these benefits and how the benefits might affect recruiting and morale?

Mr. WRIGHT. As we all know, these benefits are commonly referred to as 6c/12d, early retirement age, more benefits. Most police agencies out there at this point, CBP, Border Patrol, and ICE, are actively hiring. DRO is actively hiring. We are competing for these officers and when they look at FPS and they see that the benefits are not there that they can obtain in other agencies, then they are likely to go elsewhere.

As far as deserving, we are the boots on the ground. We are the first ones on the scene. I think that has always been a fault in the law that first responders are basically not included in law enforcement benefits. The history shows that those benefits were aimed towards investigators and have since been tweaked to include detention, transportation of criminals, and protection of Federal officials, whereby the first responder does not receive those benefits.

Senator AKAKA. Senator Voinovich.

Senator VOINOVICH. You were here to hear the questions that I asked the other two witnesses and one of the major questions I asked was looking at this from an objective perspective, and based on cutting the budget and a few other things, and now you are talking about comparable fringe benefits, do you think we would be better off taking the FPS and bringing it back under the General Service Administration?

Mr. WRIGHT. No. General Service Administration was a different situation. I look at it as GSA is the government's landlord. I look at it as being in an agency dealing with real estate, realty professionals managing a law enforcement force, in effect, tantamount to having a mayor or someone being over a police force. There is not enough separation there. A separate division within GSA may be possible. We would have to be pretty much a sovereign entity within GSA if that happened.

Senator VOINOVICH. Looking at it from a management point of view, if I have responsibility for the oversight of the building and other additional responsibilities, I believe one of the most important ones is security. So, you are saying that when GSA had FPS, you don't think GSA gave enough attention to the security aspect of this?

Mr. WRIGHT. That is my opinion.

Senator VOINOVICH. So you think you are better off where you are at?

Mr. WRIGHT. It is a really tough spot, two different circumstances. The placement within ICE is—it is a terrible fit. I am not sure what the solution is.

Senator VOINOVICH. Well, I would be interested in what you think the solution is.

Mr. WRIGHT. Personally, I think the solution is a stand-alone agency within DHS. We have responsibility for 9,000 properties,

millions of employees and visitors on a yearly basis. We have our authority issues. We have jurisdiction issues. And I think the placement of FPS going into ICE and being placed in a turf battle of Immigration versus Customs and we are low guy on the totem pole, that is a problem.

Senator VOINOVICH. Yes, and that——

Mr. WRIGHT. My opinion——

Senator VOINOVICH. Is that the reason why you think you have gotten the back of the hand or short shrift, because in terms of priorities, they don't think that what you are doing is as important as some of the other responsibilities?

Mr. WRIGHT. Absolutely. The fee funding structure and the lack of respect for the FPS mission are the cause of our problems today.

Senator VOINOVICH. Based on your observations, following up on the question that I asked the other witness, Mr. Schenkel, what is your evaluation of the relationship between the FPS and local law enforcement agents around the country, and to your knowledge, do you participate in these task forces that we have throughout the country where we get the various law enforcement agencies together to talk about sharing of information and so forth? Are there strategic plans in place, for example, if something would happen at one of your buildings to bring in the local law enforcement agencies to enhance your ability to deal with some of these things?

Mr. WRIGHT. I can speak for Kansas City, Missouri, where I spent the majority of my career. We have an informal relationship with Kansas City PD. As far as the strategic plan, no. We know who to call. We ask them to assist and they generally assist. But as far as a plan, no. My experience from—coming from my counterparts across the Nation is there is a lack of reciprocity, that local police departments will respond to our situations, but when it comes to us assisting the locals, say we have a canine bomb detection team and they could use that team for a couple of hours, these local departments are turned down.

Senator VOINOVICH. They are turned down from using the equipment that you have to enhance the job that you are doing?

Mr. WRIGHT. Yes.

Senator VOINOVICH. Wow. Why are they doing that?

Mr. WRIGHT. We have a management structure that is stuck in the 1970s. They all believe that FPS does not have the authority to assist other agencies, say, for example, a bomb threat call to a school. I mean, that is the main consideration. That is not GSA property. You can't go. You cannot assist. We have had instances in Kansas City where the police department has requested our presence at major functions and without that agency compensating FPS, we do not respond. So it is a reciprocity thing.

Senator VOINOVICH. Well, here is the question I asked Mr. Schenkel. I want a report back about the number of task force relationships there and the strategic plans in place in the event that would happen.

Mr. WRIGHT. Right.

Senator VOINOVICH. I am going to be real selfish about it. I want you to start in Cleveland, Ohio.

Mr. WRIGHT. OK.

Senator VOINOVICH. I was mayor in the State of Ohio, and I was governor, and I want to know what is really going on in my home town and where we have our Cleveland offices in that Celebrezze Building. We will use that kind of as a model to find out just where we are at.

Is one of the things that we had hoped would happen when the Department of Homeland Security was created was that we were going to try and compare the various responsibilities that law enforcement had. Within Homeland Security, you have FPS and a lot of other groups. Has any effort, to your knowledge, been made to look at the respective responsibilities that various law enforcement personnel have and fringe benefits that accrue so you don't end up having people shopping from one agency to another?

Mr. WRIGHT. No. I don't know of any such study.

Senator VOINOVICH. Well, Mr. Chairman, for the record, I would like to have that question answered because from what I understand, your fringe benefits are different than some of the other Federal law enforcement entities. And your folks feel like you are maybe second-class citizens within ICE.

Mr. WRIGHT. Right. CBP just got 6c law enforcement coverage. ICE and DRO get law enforcement coverage. We are law enforcement officers in one agency and we are being treated disparately.

Senator VOINOVICH. Thank you, Mr. Chairman.

Senator AKAKA. Thank you, Senator Voinovich.

Following up on the Senator's request, I would like to ask that you respond to that, if you can do that in writing, as well.

Mr. WRIGHT. OK.

Senator AKAKA. Mr. Wright, as you know, contract security guards do not have arrest powers. They may detain people who are suspected of committing a crime, but according to the GAO, some do not because they fear liability. GAO reported numerous troubling incidents in which guards stood by as they witnessed security incidents. You have worked for many years for FPS and its predecessors. In your experience, how widespread is this problem?

Mr. WRIGHT. I have seen and heard of numerous incidents. I think just about every FPS law enforcement officer can tell you at one time or another about an incident in which contract guards have released individuals or failed to pursue individuals. The problems with contract security is, and I am not anti-free enterprise here, but they do work for a company, so they do have that added pressure of liability towards themselves and the company. They are also basically at will employees. An individual can be removed from a Federal security contract with no rights at all. So you have individuals that have these concerns and they are basically working a day-to-day job without a career.

Senator AKAKA. Mr. Wright, FPS inspectors oversee contract security guards, but they are not able to spend much time inside Federal buildings. Do contract security guards generally have a supervisor from the contracting company on site?

Mr. WRIGHT. Yes. When the agency pays for that supervisor, they can be provided on site, the proviso being that they are being paid for their hourly wage and contract cost. Otherwise, it has been my experience that at least the major companies that I have worked with have a roving supervisor that go from one property to another.

But as far as a supervisor on post, yes, the FPS does pay a premium to have a contract supervisor on post.

Senator AKAKA. Mr. Wright, although contract security guards are not sworn law enforcement officers, many of them are armed. Is FPS able to ensure that contract security guards are well trained and vetted before coming on board? Have there been any security incidents that you know of involving contract security guards?

Mr. WRIGHT. I think the most notorious security incident was a theft of FPS weapons by a contract security guard, and consequently transported to another State for sale. I do know that they are vetted. I do know that we do background checks. But as I say, these are individuals. When they walk into these jobs, these are not really careers. These are day-to-day jobs in which they earn a good wage and things happen. I could research on more incidents. I just fail to recall any more at this point.

Senator AKAKA. Mr. Wright, as you know, very few cities have any FPS officers on duty at night and on weekends. Why is night and weekend coverage valuable, and how many cities should have it?

Mr. WRIGHT. Night and weekend coverage is valuable. These are the times that it is known that surveillance of properties take place by criminal or terrorist elements. No one is on duty to watch. Of course, we had the recent pipe bomb explosion at the San Diego Federal Courthouse. There were no FPS officers on duty at that time. That may have been averted by just the patrol or the surveillance. We will probably never know.

I know of two major cities that have 24/7 patrol, and even at that, it is very minimal at this point. As far as the number of cities, I have seen several different breakdowns. I think the union recognizes a cut-off of about 22 major cities that need 24/7 coverage.

Senator AKAKA. As you know, FPS plans to move to an inspector-based workforce, eliminating the police officer position but expecting inspectors to do more law enforcement functions. Could this model work if FPS was staffed at the level that inspectors had adequate time for their traditional duties as well as for law enforcement functions, or is there a danger of losing focus on law enforcement activities regardless of the staffing level?

Mr. WRIGHT. For an all-inspector workforce to work, I think the given average now is an inspector could probably work 20 percent of his time on law enforcement patrol and response. At least that is the agency's stance. I don't agree with that. I know that I can spend my 40 hours in a week on physical security duties. It would be a matter of process. It would be a matter of procedures, getting all the regions online, mandating inspectors to go on patrol at certain times, maybe a semi-yearly basis changing duties. It is tough to be sitting there conducting physical security duties and then have your call for service and respond in that mindset. It is not a good mix.

The original intent of the inspector was you had your police force that provided primary law enforcement patrol and response. They were out there 40 hours a week. You have your inspectors that are conducting assessments, conducting physical security, protecting the properties by implementing countermeasures and procedures,

and then be available when that unexpected demonstration hits, or to be available when that bomb threat comes out.

I would be much more satisfied with a large number of police officers conducting their patrol. I would be much more comfortable with that model, but that being said, I guess if you give me 3,000 or 4,000 inspectors, we could work that out.

Senator AKAKA. Well, thank you.

Senator Voinovich, do you have any final questions?

Senator VOINOVICH. Yes. Again, I would go back to my home town, and it would be interesting to know how many people actually are doing policemen's work and how many are doing the inspection work. I would just be interested.

Who does the threat assessment on these buildings?

Mr. WRIGHT. Inspectors do threat assessments.

Senator VOINOVICH. So, somewhere in DHS or FPS, there is a file that talks about all the buildings around the country that you are responsible for and there is a threat assessment in regard to those as to what needs to be done or does not need to be done?

Mr. WRIGHT. Generally, an inspector is given a list of buildings to be responsible for. While I was actively in FPS in Kansas City, I had a list generally of 18 to 20 buildings. That seemed to be the average for Region 6, although I have heard of regions where individuals are responsible for 60 buildings.

Senator VOINOVICH. OK, but the fact of the matter is that initially, there is somewhere an evaluation of where buildings are located and the threat assessment. I think you would start from there. Then is there any kind of a dynamic updating of that on a periodic basis to review it, again to determine the threat that might be likely there? Can you answer that?

Mr. WRIGHT. We are basically working off the DOJ security assessment, or Department of Justice Federal Building Security Assessment that was accomplished in June 1995. Level 4 is to be inspected every 2 years. Level 3 is to be inspected every 3 years——

Senator VOINOVICH. You mean to say that there hasn't been an update to the system since September 11, 2001? My logic tells me that somebody would look out across the country at the buildings and do another threat assessment.

Mr. WRIGHT. No. We have basically continued on from when that cycle began in 1995. The courthouse is evaluated every 2 years.

Senator VOINOVICH. Mr. Chairman, I think we ought to get an answer to that question, to know just exactly what the threat assessment is with regard to respective buildings around the country.

Mr. WRIGHT. I can say that immediately after September 11, 2001, and it is always baffling how these things work, that a pile of money became available for countermeasures. So I do know that in the 3 months after September 11, 2001, I was asked what buildings of my building list do I have mandatory countermeasures recommended that I could not get paid for, and when I named those buildings and I named those countermeasures, I got them paid for. That was September 11, 2001 emergency funds. So there was that effort to look at countermeasures that were on record, recommendations that were on record. Beyond that, we have just continued that cycle.

Senator VOINOVICH. OK. Who goes out to determine whether or not the private contractor that has been hired, in fact, really is getting the job done in terms of securing the facility?

Mr. WRIGHT. We are talking about contract security guards?

Senator VOINOVICH. Well, you have got contract security guards that have been hired and your people are the interface——

Mr. WRIGHT. Right.

Senator VOINOVICH [continuing]. With them, but who determines whether or not they have an adequate number of people on the job, or better yet, where they are placed and other technology or barricades or whatever it is to try and make sure that the building actually is secure?

Mr. WRIGHT. It is the inspector's responsibility to come up with those recommendations, those lists, and then it is the inspector's responsibility to go to the Building Security Committee, which normally is composed of building tenants, and say, we need a 24-hour guard here. We need five more cameras at these positions. We need hydraulic vehicle barriers at these doors. And then you—basically, you have to sell it to them, and then someone on that Building Security Committee has to come up with the funds somehow, and it doesn't work.

Senator VOINOVICH. So the money to take care of the problem, all that kind of equipment, say a hydraulic barricade like we have here for the Senate and all that kind of stuff, that is paid for by the General Service Administration?

Mr. WRIGHT. The General Service Administration can generally front the money and then charge it back to the agency in the rent. The most successful I have been, besides September 11, 2001 emergency money, is to do an assessment, to do my recommendations, and to talk to this Building Security Committee year after year and say, it is upcoming on your budget process. It is important that you share this security assessment with your superiors. We need the funding for this. Beyond that, every agency pays, whether it is through the rent or they don't pay.

Senator VOINOVICH. So they get together, decide what to do, and then they say to their tenants——

Mr. WRIGHT. Right.

Senator VOINOVICH [continuing]. If you want this, then it is going to cost so much money. We will put it in and then you guys will amortize the cost over a period of time as a part of your rent.

Mr. WRIGHT. And it is very convoluted and it does not work very well at all.

Senator VOINOVICH. That is why I am going back to the General Service Administration——

Mr. WRIGHT. Right.

Senator VOINOVICH [continuing]. In terms of if they had that responsibility, then maybe some of that would be more forthcoming.

I have to tell you something. From what I have heard today, I have really got some real concerns about what is going on and I think, Mr. Chairman, we have to get some more information here.

Mr. WRIGHT. Well, I express the fullest confidence in the officers, the employees that we have left. I have confidence in Mr. Schenkel. I will say that he and I do have an open line of communication that I do not use very often. I am very disappointed when it filters down

to the regional directors, because what I hear comes out from Mr. Schenkel absolutely does not filter down to the ground level.

Senator VOINOVICH. Well, get together and talk about it.

Mr. WRIGHT. OK.

Senator VOINOVICH. Thank you, Mr. Chairman.

Senator AKAKA. Thank you very much, Senator Voinovich.

I want to thank you, Mr. Wright, and each of our witnesses again for the time that you spent preparing and presenting this valuable testimony to the Subcommittee. Your work will help to improve the Federal Protective Service.

It is clear that FPS must focus on rebuilding its relationship with its employees. I hope that FPS will continue to address its staffing, training, and morale problems. FPS has an obligation to act as a responsible employer. Just as importantly, these workforce problems can undermine the security of Federal buildings and put Federal workers and members of the public at risk.

Additionally, I believe we need to begin to look more closely at the FPS's heavy reliance on contract security guards. It is clear that FPS does not have enough staff to oversee the contract security guards. Moreover, it concerns me that even the most high-risk Federal buildings do not have a single sworn law enforcement officer on site most of the time. Often, having contract workers do Federal employee jobs saves little or no money and it creates very serious risks. I hope that GAO will look closely at this issue in the next phase of its review.

Finally, FPS's funding should be revised. FPS needs to review its rate structure to make it more equitable. I believe that Congress should consider an appropriation to cover some of FPS's expenses to ensure that we are investing properly in Federal building security. GAO's report was eye-opening. It is clear that there is an urgent need to address FPS's management and operational challenges. This Subcommittee will work to address those challenges.

The hearing record will remain open for 2 weeks for additional statements or questions other Members may have.

This hearing is adjourned.

[Whereupon, at 3:54 p.m., the Subcommittee was adjourned.]

# APPENDIX

## PREPARED STATEMENT OF SENATOR LIEBERMAN

At today's hearing we will examine challenges facing the Federal Protective Service (FPS) in its mission to protect 9,000 Federal buildings and 1 million Federal employees all across this country that have been detailed in a report released yesterday by the Government Accountability Office (GAO) and requested by this Committee last year.

I have no doubt that the men and women working for the Federal Protective Service are dedicated individuals, however, as the GAO report details, the problems at FPS are serious. The agency has been forced to grapple with expanding responsibilities following the attacks of September 11, 2001 in the midst of funding shortfalls and a shrinking workforce.

As the GAO report notes, staff levels have decreased by 20 percent since 2004, which inevitably contributes to diminished security and an increased risk of crime or terrorist attacks at Federal facilities.

GAO also found that FPS oversight of its contract guard program has continued to lag, with some posts not having been inspected in over a year, and that funding challenges and poor financial management have handcuffed the FPS—by freezing hiring challenges and poor financial management have handcuffed the FPS—by freezing hiring and limiting training—and has led to declining morale and safety, increased attrition, and poor overall performance.

Unfortunately, the Administration's proposals to address the funding and financial management challenges facing the FPS only appear to make the problems worse.

The proposal to eliminate all FPS officers—but not their duties—and move to an all inspector-based workforce with responsibilities for both inspection and law enforcement would further strain a workforce already stressed perilously thin. It's hard to imagine how these employees could fulfill the agency's patrol, response and physical security roles simultaneously.

This plan is also likely to increase the burden on local law enforcement forced to respond to incidents at Federal facilities; something FPS seems to have spent little time discussing with local law enforcement.

Some of the problems highlighted in the GAO report need to be addressed by the FPS' customers—other Federal agencies. As the FPS continues to work to secure Federal property and personnel, by assessing the physical security of Federal facilities and recommending security countermeasures to address vulnerabilities, Federal agencies need to heed FPS' advice and implement and maintain those countermeasures.

However, it is also unacceptable that the FPS has allowed security countermeasures it controls, like cameras and metal detectors, to fall into disrepair.

These problems have not sprung up overnight, and they can't be fixed overnight, but I am committed to working with DHS and the FPS to address the challenges highlighted by GAO.

We should begin by ensuring the agency has the support it needs to fulfill its mission. FPS' increase of the basic security fee it charges agencies for its services is an important first step towards providing financial stability for the agency.

Now the FPS needs to implement GAO's recommendations, and develop and implement a strategy and staffing plan, clarify the roles and responsibilities of local law enforcement agencies, assess the agency's methodology for charging fees for services, develop standards for measuring performance and improve its ability to collect and analyze relevant data.

I look forward to reviewing the testimony of today's witnesses: FPS Director Gary Schenkel, employees' representative Inspector David Wright, and U.S. Government Accountability Office (GAO) representative Mark Goldstein.

The Federal Protective Service is a crucial, but often overlooked, component of the Department of Homeland Security. The shortcomings highlighted by GAO are serious, and it's important that Congress work with the agency to meet these challenges head on.

I look forward to working with my colleagues on the Committee, DHS and the FPS on these issues.

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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 OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA**

**COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS**

**UNITED STATES SENATE**

***Management Challenges Facing the Federal Protective Service: What is at Risk?***

**JUNE 19, 2008**

**WASHINGTON, DC**

## INTRODUCTION

Chairman Akaka, Ranking Member Voinovich, 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 Congress' 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. 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, Chairman Akaka and Ranking Member Voinovich, for holding this important oversight hearing. I would be pleased to answer any questions you might have.

United States Government Accountability Office

GAO

Testimony

Before the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, Committee on Homeland Security and Governmental Affairs, U.S. Senate

For Release on Delivery
Expected at 2:00 p.m. EDT
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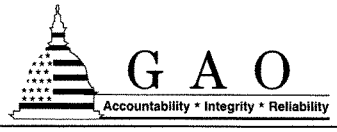
# HOMELAND SECURITY

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

Statement of Mark L. Goldstein, Director
Physical Infrastructure Issues

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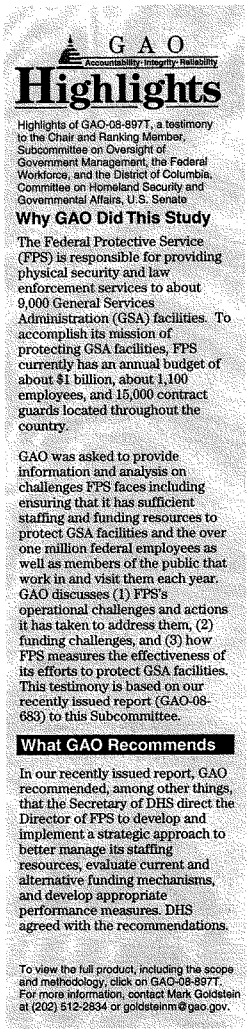

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# Highlights

Highlights of GAO-08-897T, a testimony to the Chair and Ranking Member, Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, Committee on Homeland Security and Governmental Affairs, U.S. Senate

## 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-08-897T. For more information, contact Mark Goldstein at (202) 512-2834 or goldsteinm@gao.gov.

June 19, 2008

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 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 19, 2008

Mr. Chairman 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, *Homeland Security: 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

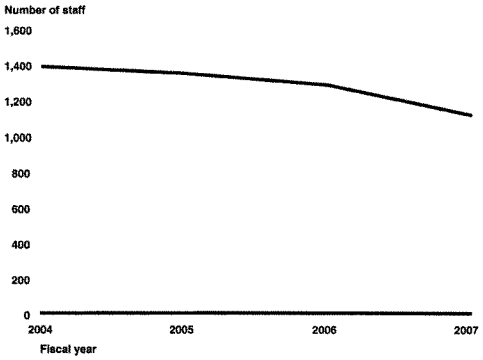
FPS faces several operational challenges, including decreasing staff levels, which has led to reductions in the law enforcement services that FPS provides. FPS also faces challenges in overseeing its contract guards, completing its BSAs in a timely manner, and maintaining security countermeasures. While 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).

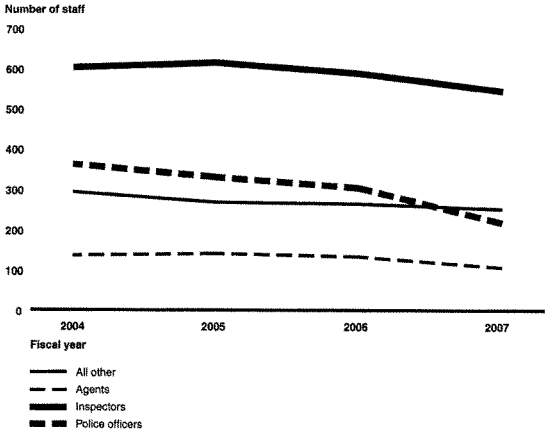
**Figure 1: FPS's Workforce, Fiscal Years 2004 through 2007**




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, DC.: June 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.

[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.

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

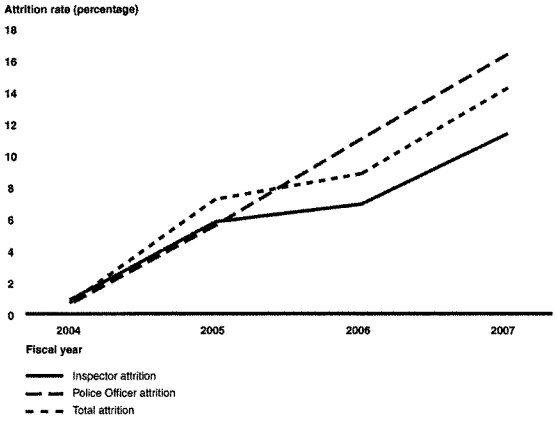
FPS funds its operations through the collection of security fees charged to tenant agencies for security services. However, until recently these fees have not been sufficient to cover its projected operational costs. FPS has addressed this gap in a variety of ways. When FPS was located in GSA it received additional funding from the Federal Buildings Fund to cover the gap between collections and costs.[16] 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

[16]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.

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. 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.

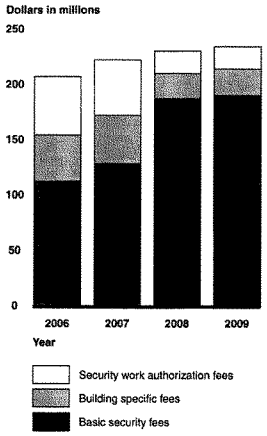
Note: "Inspectors" includes an unknown number of physical security specialists, who do not have law enforcement authority. The category "Total attrition" includes inspectors, police officers, physical security specialists, special agents, and administrative and support staff.

## 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]

[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).

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

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

performance measures are a necessary component of effective management. We have also found that performance measures should 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, Mr. Chairman, 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-based system 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.

TESTIMONY OF DAVID L. WRIGHT, President

Federal Protective Service Union, AFGE

Before the

Senate Subcommittee on
Oversight of Government Management, the Federal Workforce
And the District of Columbia
of the
Committee on Homeland Security and Government Affairs

June 19, 2008

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

Chairman Akaka, Ranking Member Voinovich, 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.

# Statement of

# Paul Strauss

## United States Senator

**District of Columbia (Shadow)**

**before the**

**COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS**

**SUBCOMMITTEE ON OVERSIGHT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA**

Daniel Akaka, Chair

## Regarding

## Management Challenges Facing the Federal Protective Service: What is at Risk?

Thursday, June 19, 2008

2: p.m.

Dirksen Senate Office Building, Rm. 342

Chairman Akaka, and members of the Committee on Homeland Security and Governmental Affairs Subcommittee on Oversight Management, the Federal Workforce, and the District of Columbia, as the Senior elected United States Senator for the District of Columbia, I thank you for allowing me to submit this statement for the record.

Recently, the GAO submitted its findings concerning the effectiveness of the agency to determine whether the Federal Protection Agency's budget and personnel were adequate for the to properly meet the threats we face from terrorism today.

I am shocked and saddened by the conclusion that we are not prepared for such threats, and here in the District of Columbia, where there are approximately 122,413 federal employees, most working in federal buildings, we find ourselves left wide open for catastrophe. Since placing the FPS under the direction of Homeland Security, the FPS falls short of providing adequate security in our federal buildings.

The list of problems with the FPS, the GAO report found, is extensive. The number of ways that sheer incompetence, under funding, and negligence has rendered our Federal facilities even more prone to danger now than they were prior to the September 2001 attacks is disturbing to me and would outrage my constituents in the district. It would probably come as news to no one that residents of Washington DC as well as those who work here have the most to fear from these homeland security failures. This city is home to the largest concentration of federal buildings in our nation.

The GAO audit of the FPS found huge holes in their security practices. The FPS has no reliable data management systems, paralyzing its ability to coordinate and make informed decisions. Data systems, it was explained, have huge discrepancies and are unable to effectively catalogue local threats. Due to budget cuts, assessments of Level 4 buildings (which demand the highest security measures, and which should take weeks to prepare,) have routinely been conducted over the phone. In fact, since folding into the DHS, FPS staff has steadily declined some 20% and the agency has managed its staffing resources in a manner that has reduced security at government facilities and may leave them more vulnerable to crime and terrorist attacks. Additionally, there is little to no cooperation amongst the FPS and the local law enforcement.

The reality is that since the FPS has been places under the Department of Homeland Security, the quality of their performance has decreased. DC Representative Eleanor Holmes Norton has publicly stated that what we're seeing here is the near collapse of the FPS, comparable to what we saw with FEMA. DC and DC federal buildings are important in the frontline of the War on Terror. As we saw with the bombing of the Alfred P. Murrah Federal Building in Oklahoma, no federal building is off limits to terrorist threats and devastating attacks. These disturbing findings are of especially relevant to me and my constituents, considering the higher concentration of federal buildings in DC.

I urge this Committee to act quickly to approve the FPS and make it an actual budget priority for the DHS. I strongly recommend that funds be allocated for the FPS in same

way that other agency's within the Homeland Security Department are. We are fortunate to have had early warnings of these problems and deficiencies of the FPS, and I would strongly advise you, from one DC resident to (presumably) another, to correct the problems that the acquisition of the FPS by the Department of Homeland Security has caused.

In closing, let me thank my Legislative Aide, Ms. Elena Box for her assistance in the preparation of this statement. I would be happy to answer any questions that you or any other members of this committee may have.

**BACKGROUND**

**MANAGEMENT CHALLENGES FACING THE FEDERAL PROTECTIVE SERVICE: WHAT IS AT RISK?**

**June 19, 2008**

**FPS Faces Serious Management and Operational Challenges**

A. Background

FPS is responsible for protecting approximately 9,000 properties that are owned or leased by the federal government from terrorism and other criminal activity. FPS's workforce consists primarily of:

- Inspectors who are responsible for completing building security assessments (BSA) for federal facilities and recommending security countermeasures for those buildings; overseeing contract security guards, including reviewing guards' time cards; participating in Building Security Committee meetings; patrolling facilities; and responding to incidents;
- Physical security specialists who have similar duties to inspectors, except they have no law enforcement authority and therefore do not patrol or respond to incidents;
- FPS police officers who patrol facilities, respond to incidents, and assist in monitoring contract guards; and
- Special agents who gather criminal and anti-terrorist intelligence and conduct criminal investigations.

In addition to FPS employees, 15,000 contract security guards provide security services for FPS at federal facilities.[1]

In 2003, FPS was transferred from the General Services Administration (GSA) to the Department of Homeland Security (DHS), where is it a component of Immigration and Customs Enforcement (ICE). In July 2004, GAO reported that FPS faced a number of significant challenges related to its transition from GSA to DHS, FPS funding issues, and FPS's expanding homeland security mission.[2]

Since that time, FPS has continued to struggle with budget shortfalls and other issues, as discussed below. In February 2007, Senators Lieberman, Collins, Akaka, and Voinovich requested that GAO review FPS management and operations. The GAO's report, which will be

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[1] *See* Government Accountability Office, T*he Federal Protective Service Faces Several Challenges that Hamper its Ability to Protect Federal Facilities* (June 2008), GAO-08-683 (hereafter, "GAO Report"), at pp. 6-8.

[2] *See generally* Government Accountability Office, *Transformation Strategy Needed to Address Challenges Facing the Federal Protective Service* (July 2004), GAO-04-537.

released publicly on July 18, 2008,[3] provides information and analysis of FPS's operational and management challenges.

B. Funding Challenges

FPS is funded entirely through security fees from tenant agencies. FPS charges a basic security fee by square foot of space, which covers patrol, monitoring building alarms, criminal investigations, and completing BSAs. Additionally, FPS charges tenant agencies fees for building specific security services including security at building entrances and security equipment, such as x-ray machines, magnetometers, and cameras. Finally, certain funding appropriated to tenant agencies for security countermeasures, such as bollard car barriers, and other security services is passed through to FPS.[4]

In recent years, those fees have not covered FPS's costs. When FPS was part of GSA, GSA provided it supplemental funding out of the Federal Buildings Funds. In fiscal year (FY) 2005, the first year that Federal Buildings Fund money was not available to FPS, FPS increased the basic security fee from $0.30 to $0.35 per square foot. The fee increase brought in $15 million more, but left FPS with a $70 million projected deficit.[5]

To make up the shortfall, FPS took a variety of cost-cutting measures, including postponing the purchase of certain equipment, eliminating employee performance awards, and restricting employee hiring, promotions, training, travel, and overtime.[6] These measures harmed morale and increased attrition, leading to the loss of many experienced staff. Despite its cost-saving efforts, in FY 2006 DHS transferred FPS $29 million of emergency funding.[7]

In FY 2007, FPS did not face a shortfall as it increased the basic security fee from $0.35 to $0.39 per square foot while maintaining the spending restrictions. In FY 2008, FPS increased the basic security fee dramatically, to $0.62 per square foot of space, which allowed it to eliminate its cost-cutting measures. In FY 2009, the fee is slated to increase to $0.66 per square foot.[8]

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[3] The report was provided to staff of the requesters on June 11, 2008, and currently is embargoed from public release. It is available to congressional staff upon request, but should be considered For Official Use Only.

[4] *See* GAO Report at p. 11.

[5] *See ibid.* at p. 25.

[6] *See ibid.* at p. 26; Statement of Mark L. Goldstein, Director, Physical Infrastructure Issues, GAO, before the House Subcommittee on Economic Development, Public Buildings and Emergency Management, Committee on Transportation and Infrastructure (February 8, 2008) (hereafter "GAO February 2008 Testimony"), at p. 11; Statement of Gary W. Schenkel, Director, Federal Protective Service, before the House Committee on Homeland Security (May 1, 2007) (hereafter, "Schenkel May 2007 Testimony") at p. 4.

[7] *See* GAO Report at pp. 26-27.

[8] *See ibid.* at p. 26.

The fee increases have caused federal agencies hardship, particularly because FPS frequently has announced rate increases late in the budget cycle. Consequently, many agencies have been forced to divert operational funds to pay the unexpected fees.[9]

The basic security fees also raise questions of equity. Federal buildings are classified into security levels under a system of security standards developed after the 1995 Oklahoma City bombing, and the level of protection that FPS provides depends on facilities' security level.[10] FPS protects level I through level IV facilities, with level IV facilities having the highest risk and security and level I facilities having the lowest. A typical level I facility would be a small storefront operation with 10 or fewer federal employees, while a typical level IV facility might include high-risk law enforcement or intelligence functions and have more than 450 federal employees.[11] BSAs are required more frequently for higher level facilities.[12] An FPS study concluded that FPS staff spend approximately six times as many hours on level III and IV buildings compared to level I and II buildings. However, the basic security fee is not adjusted to reflect the building threat or level of security provided.[13] As FPS indicated in its response to the GAO's report, the basic security fee was developed by GSA to provide protection to real estate assets, but it may not be appropriate to a focus on terrorism and critical infrastructure protection.[14]

Finally, FPS has an inadequate cost accounting system, which may hinder its ability to track its expenses and to fairly and accurate determine fees for services.[15]

C. Low Staffing Levels Hinder FPS Services

Despite increased awareness that federal facilities may be terrorist targets, FPS staffing has decreased significantly since it became part of the Department of Homeland Security because of budget shortfalls. From FY 2004 through FY 2007, FPS's workforce decreased about 20 percent, from approximately 1,400 to about 1,100, while the number of federal facilities it protects grew from about 8,800 to about 9,000. The number of FPS police officers fell most rapidly, reducing nearly 40 percent, as compared to 10 percent for inspectors, from FY 2004 through FY 2007. Of the employees remaining at the end of FY 2007, approximately half are

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[9] *See ibid.* at p. 31.

[10] *See ibid.* at pp. 8-9; Congressional Research Service, *The Interagency Security Committee and Security Standards for Federal Buildings* (Updated November 23, 2007), Order Code RS22121.

[11] *See* GAO Report at p. 9. There also are level V facilities, which are similar to level IV facilities but also contain mission functions critical to national security. FPS does not protect level V buildings.

[12] *See ibid.* at p. 10

[13] *See ibid.* at pp. 29-30.

[14] *See ibid.* at p. 43.

[15] *See ibid.* at p. 31.

inspectors or physical security specialists, nearly 20 percent are police officers, nearly 10 percent are special agents, and about 20 percent are administrative, support, and other staff.[16] As discussed below, FPS is moving toward an "inspector-based" workforce consisting primarily of inspectors with few or no police officers.

DHS encouraged attrition to help it quickly reduce its staff size to deal with its budget deficit, offering voluntary early retirement to some employees and detailed others to other DHS components in order to reduce staffing. FPS's attrition rate has increased steadily and significantly since it became part of the DHS, from approximately 1 percent overall in FY 2004 to approximately 14 percent in FY 2007.[17]

The Administration proposed to further downsize FPS to 950 employees in FY08.[18] However, the 2008 Consolidated Appropriations Act requires FPS to employ at least 1,200 employees, at least 900 of whom must be law enforcement personnel.[19] Although the Administration opposed this staffing increase and stated that it would seek its repeal, FPS is in the process of hiring additional inspectors to meet this requirement.[20] FPS staffing will remain below the nearly 1,300 employees that FPS had at the end of FY 2006 with these new employees.[21]

The Administration's FY 2009 budget again calls for 950 FPS employees.[22] Nevertheless, GAO reports that FPS plans to increase its staff to 1,450 in FY 2010. A 2006 FPS workforce study recommended that FPS have 2,700 total staff, 1,800 of whom would be either inspectors or police officers.[23]

Because providing security and law enforcement services for 9,000 facilities is labor intensive, the reduced staffing hinders FPS's ability to protect federal buildings. FPS has decreased or eliminated patrols within and around federal buildings and other law enforcement services in many locations. Proactive patrols may be particularly important to deterring criminal and terrorist activities and detecting surveillance of federal buildings and other suspicious activities. Additionally, many FPS regions have reduced their hours of operation for providing

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[16] *See ibid.* at pp. 7, 12-14.

[17] *See ibid.* at pp. 13, 27-28.

[18] *See* Schenkel May 2007 Testimony, at p. 6.

[19] *See* GAO Report at p. 24; Public Law 110-161, 121 Stat. 1844, 2051 (2007).

[20] *See* Department of Homeland Security, Immigration and Customs Enforcement, Federal Protective Service, *Fiscal Year 2009 Congressional Justification* ("FY 2009 Congressional Justification"), at pp. 1, 7; GAO Report at p. 24.

[21] *See* GAO Report at p. 24.

[22] *See* FY 2009 Congressional Justification, at pp. 8, 17.

[23] *See* GAO Report at p. 24.

law enforcement services. Some federal building representatives told GAO that the decline in FPS's law enforcement presence in recent years negatively affects security.[24]

*1. Building Security Assessments*

FPS's low staffing levels has made completing BSAs a challenge. FPS conducts approximately 2,500 BSAs yearly.[25] FPS inspectors informed GAO that they are not provided enough time to complete BSAs. Several reported being given two days or less to complete assessments, although FPS officials have stated that BSAs for large buildings require two to four weeks. Additionally, training to conduct BSAs may not be adequate, and FPS has not provided inspectors refresher training in recent years.[26]

Perhaps unsurprisingly in light of these issues, FPS has had some problems with BSA quality. GAO found that some inspectors had copied and pasted work from previous BSAs into new BSAs, including one BSA completed for a "large building" that actually was a vacant plot of land owned by the federal government. Some tenant agencies conduct their own additional BSAs or contract with an outside provider to have them done because of concerns with the timeliness and quality of some FPS BSAs.[27]

*2. Oversight of Contract Security Guards*

FPS gradually has increased its reliance on contract security guards over time, and these guards provide most of the front-line security services at federal facilities.[28] However, there are significant limitations to the contract security guards' authorities. Most guards work at fixed posts, particularly at building entrances, from which they are not permitted to leave. Additionally, contract security guards do not have arrest authority. Under FPS policy, they can detain individuals being seriously disruptive, violent, or suspected of committing a crime, but some regional officials reported to GAO that some guards do not do so because of liability concerns.[29]

The GAO reports several troubling incidents of FPS contract guard failures or inaction:

- FPS guards witnessed the theft of a $500,000 FBI surveillance trailer from a parking garage without taking action, and they failed to report the theft until days later.

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[24] *See ibid.* at pp. 14-15.

[25] *See* Schenkel May 2007 Testimony, at p. 2.

[26] *See* GAO Report at pp. 18-19.

[27] *See ibid.* at p. 18.

[28] *See* Statement of Jim Taylor, Deputy Inspector General, U.S. Department of Homeland Security, before the House Committee on Homeland Security (May 1, 2007) (hereafter, "Taylor May 2007 Testimony").

[29] *See* GAO Report at pp. 14-15.

- FPS guards watched a shirtless man with handcuffs on one arm flee from an FPS inspector without taking action.
- Local police responding to an off-hour building alarm found the FPS guard post empty and unlocked, with a loaded, unattended firearm left inside.
- When an individual tried to enter a federal building with illegal weapons, FPS guards turned the individual away instead of detaining him or her and confiscating the weapons.[30]

A DHS Inspector General audit of FPS oversight of contract guards found similarly alarming problems, including guards on post without valid background suitability determinations, armed guards without valid firearm qualifications, and guards without security clearances who were required to have them.[31]

As the FPS workforce was reduced, FPS inspectors became responsible for overseeing larger numbers of contract security guards, in addition to their other duties increasing. This increased the challenge of overseeing contract security guards adequately. With attrition, FPS has at times failed to reassign responsibility for guard oversight for some time, leaving certain contract security guards without FPS oversight.[32] Moreover, some contract guard posts are very rarely inspected, in part because some contract guards are stationed hours or days away from the nearest FPS inspector. In one region, FPS inspectors and police officers told GAO that they were directed to complete "inspections" of contract guards over the telephone.[33] Additionally, because very few FPS employees work night and weekend shifts, night and weekend contract guards may be unlikely to be inspected.[34]

*3. Vacant properties*

At some vacant federal properties, neither FPS nor contract security guards provide protection because no one pays security fees for the properties. The *Federal Times* recently reported that a vacant federal office complex in Kansas City has become a haven for criminal activity. FPS officers have refused even to provide backup to local police attempting to apprehend suspects at the complex.[35] Additionally, a deceased person was found in the same complex approximately three months after he died.[36] In sum, the lack of FPS protection at vacant properties may leave federal assets at risk of crime or other problems.

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[30] *See ibid.* at pp. 17-18.

[31] DHS Office of Inspector General, *Federal Protective Service Needs to Improve its Oversight of the Contract Guard Program*, (October 2006), OIG-07-05.

[32] *See* GAO February 2008 Testimony, at p. 8.

[33] *See* GAO Report at p. 16-17.

[34] *See* GAO February 2008 Testimony, at p. 13.

[35] *See* Stephen Losey, "Price of Protection: FPS Lacks Funding and Staff to Patrol Kansas City Complex," *Federal Times* (June 9, 2008), at p. 6.

[36] *See ibid.*; GAO Report at p. 15.

D. Inspector-based workforce

As noted above, FPS plans to transition to an inspector-based workforce. Police officers will be phased out, and inspectors will be required to do law enforcement activities such as patrolling buildings in addition to their physical security activities.[37] According to FPS, most FPS police officers already have or soon will convert to become inspectors. FPS inspectors are paid more than FPS police officers, but they do not have the retirement and other benefits that statutory federal law enforcement officers have. The agency believes that an inspector-based workforce will provide it greater flexibility because inspectors can do all of the functions that police officers can do while police officers are more limited. FPS believes that the additional inspectors that it is hiring will allow FPS to resume proactive patrolling and other law enforcement activities.[38]

On the other hand, having inspectors perform both types of duties may distract from the focus on law enforcement. FPS's inspector-based workforce may require greater reliance on state and local law enforcement. Several local law enforcement agencies that GAO interviewed stated that they were unaware of FPS's transition to an inspector-based workforce and that they were concerned that they did not have the resources to take on additional responsibility for responding to incidents at federal buildings. One FPS official reported that local police sometimes did not respond to incidents.[39]

Jurisdictional issues may provide a barrier to increased reliance on local law enforcement. State and local police cannot enforce federal law, and some incidents on federal property may violate federal but not state or local law. Additionally, the federal government has exclusive jurisdiction in approximately 400 federal properties, so local police have no authority to enforce even state and local law in those buildings. FPS and local law enforcement officials informed GAO that they believed jurisdictional authority and confusion over the law may be a barrier to gaining local law enforcement assistance.[40]

E. Equipment and Security Countermeasures

FPS's ability to provide security is hampered by inadequate equipment. In some places, security countermeasures, such as security cameras, FPS radios, x-ray machines, and magnetometers are broken or poorly maintained. FPS officials reported to GAO that investigations of significant crimes in federal buildings have been hampered because security cameras in those buildings were not working properly.[41]

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[37] *See* GAO Report at p. 21.

[38] *See ibid.* at p. 24.

[39] *See ibid.* at pp. 21-23.

[40] *See ibid.* at pp. 22-23.

[41] *See ibid.* at pp. 19-20.

Funding constraints at times make it difficult to install new security countermeasures in federal facilities. Building Security Committees, composed of representatives of the tenant agencies who generally are not security professionals, may deny approval of measures requiring building specific funding because of the cost. Additionally, several FPS inspectors told GAO that they were instructed not to recommend security countermeasures if FPS would have to pay for them.[42]

Furthermore, FPS currently does not have adequate risk management tools. FPS currently uses the Federal Security Risk Manager (FSRM) system to perform BSAs. The FSRM does not allow risks to be compared from building to building or for risk categories to be defined precisely enough for refined prioritization. Additionally, FPS cannot track whether security recommendations are implemented using the system.[43]

FPS is in the process of developing a new system called the Risk Assessment Management Program (RAMP) to replace FSRM. RAMP will be accessible by secure wireless connection anywhere in the country, and the program will consolidate and standardize information collection and reporting in BSAs. FPS expects to pilot RAMP in FY 2009 and for the system to be fully operational in FY 2011.[44]

F. Performance Assessment

GAO reports that although FPS measures certain outputs, such as its response time to incidents, it has not developed outcome measures to evaluate the net effect of its programs. Additionally, FPS does not reliably and consistently collect data for the measures that it does track. For example, FPS does not write incident reports and enter the data about them consistently, and FPS does not use standard guidelines and definitions for reports. FPS believes that the future RAMP system, described above, should mitigate this problem, as it will incorporate an integrated data management system with standard guidelines for collecting information.[45]

G. GAO Recommendations

GAO made six recommendations to FPS to improve its operational and management challenges. FPS officials agreed with all recommendations and they are taking corrective actions. A summary of each recommendation and response follows:

- Develop better data to understand FPS staffing needs and implement better staffing practices. FPS stated that it is using several workload studies to establish a more strategic, risk-based approach to staffing.

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[42] *See ibid.* at p. 20.

[43] *See ibid.* at p. 19; Government Accountability Office, *Federal Real Property: DHS Has Made Progress, but Additional Actions Are Needed to Address Real Property Management and Security Challenges* (June 2007), GAO-07-658.

[44] *See* GAO Report at pp. 24, 34.

[45] *See ibid.* at pp. 32-34.

- Clarify the roles and responsibilities of local law enforcement agencies with respect to federal facilities. FPS stated that it will examine the responsibilities of local law enforcement to respond to incidents at federal facilities.
- Improve cost accounting and restructure the fee system to reflect risk and security services. FPS stated that it will undertake a study to examine alternative fee methodologies.
- Evaluate the current fee-based system and alternate funding mechanisms. FPS stated that it will continue to research and develop funding options to be proposed in the next budget cycle.
- Develop and implement better performance measurements and improve accountability. FPS stated that it will continue updating performance measures and implementing the RAMP program to aid more effective management.
- Improve data categorization, collection, and analysis. FPS stated that is developing systems for collecting and analyzing data to help improve its operations, and the RAMP program will advance this effort.[46]

**Additional Resources**

Government Accountability Office, *The Federal Protective Service Faces Several Challenges that Hamper its Ability to Protect Federal Facilities* (June 2009), GAO 08-683.

Government Accountability Office, *Federal Real Property: DHS Has Made Progress, but Additional Actions Are Needed to Address Real Property Management and Security Challenges* (June 2007), GAO-07-658.

Government Accountability Office, *Transformation Strategy Needed to Address Challenges Facing the Federal Protective Service* (July 2004), GAO-04-537.

Statement of Mark L. Goldstein, Director, Physical Infrastructure Issues, GAO, before the House Subcommittee on Economic Development, Public Buildings and Emergency Management, Committee on Transportation and Infrastructure (February 8, 2008).

Statement of Gary W. Schenkel, Director, Federal Protective Service, before the House Committee on Homeland Security (May 1, 2007).

Statement of Jim Taylor, Deputy Inspector General, U.S. Department of Homeland Security, before the House Committee on Homeland Security (May 1, 2007).

DHS Office of Inspector General, *Federal Protective Service Needs to Improve its Oversight of the Contract Guard Program* (October 2006), OIG-07-05.

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[46] *See ibid.* at pp. 36, 41-44 (Appendix II: Comments from the Department of Homeland Security).

Congressional Research Service, *The Interagency Security Committee and Security Standards for Federal Buildings* (Updated November 23, 2007), Order Code RS22121.



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