STATEMENT OF DAVID L. WRIGHT,

PRESIDENT

LOCAL 918 – FEDERAL PROTECTIVE SERVICE

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

BEFORE THE

COMMITTEE ON HOMELAND SECURITY

SUBCOMMITTEE ON CYBERSECURITY, INFRASTRUCTURE

PROTECTION AND SECURITY TECHNOLOGIES

U.S. HOUSE OF REPRESENTATIVES

HEARING ON

"Securing Federal Facilities: Challenges of the Federal Protective Service and the Need for Reform."

July 13, 2011

Chairman Lundgren, Ranking Member Clarke and Members of the Committee:

My name is David Wright. I am President of AFGE Local 918, the NPPD Union, which represents the dedicated men and women of the Federal Protective Service. I have been an FPS Law Enforcement Officer for the past twenty-five years. In the almost ten years since the September 11 attacks, the Federal Protective Service has faced many challenges. During the last three years the need for reform has been well documented in seven reports by the Government Accountability Office and the nine hearings by Committees of the House and Senate. The NPPD Union has produced a "Chronicle of Federal Inaction" which is a compendium of GAO Reports, Congressional hearings and terror incidents at federal facilities and paints a stark picture of much oversight and little action. It depicts an agency criticized, underfunded and ill managed, but still fundamentally unreformed. The time for your action is now!

In the last 18 months under the guidance of Under Secretary Beers there has been progress, including the selection of a highly qualified career law enforcement professional as the FPS Director. Both Under Secretary Beers and Director Patterson have made significant progress to better protect Federal employees, facilities and members of the public who obtain services from their Government, but in doing so, they have used almost every tool in their toolbox. Today I am here on behalf of the dedicated law enforcement officers of the FPS to communicate to you that the time for reports and hearings has passed and immediate action by the Congress is required to prevent future attacks. The Senate Homeland Security and Government Affairs Committee has marked up a bill which is now awaiting action on the Senate floor. We urge this subcommittee and the full Homeland Security Committee to consider and adopt a comprehensive Federal Protective Service Reform Act as soon as possible.

Federal Facilities Face Increased Risk of Attack

Today our dedicated civil servants and the facilities where they work are clearly at heightened risk of attack. In the last two years, an IRS office in Austin was attacked by an airplane and there have been attacks by gunmen at the Pentagon and a Courthouse in Las Vegas. There were bombs left at a Courthouse in Spokane and a Federal Building in Detroit. Individuals parked and attempted to detonate truck bombs at a Courthouse in Springfield, Illinois; at an office building in Dallas where the Regional EPA Office is housed; and at a square in Portland, Oregon which is next to a US Court of Appeals Courthouse. Just last month there was a plot to attack a Federal building in Seattle with automatic weapons and grenades. While a Military Entrance Processing Station was the focus of the plot, that building also houses a childcare center for government employees and other Federal offices. These attackers were not deterred by armed contract guards, and their plan called for killing the guard as the first step in their attack plan.

Fortunately, the FBI monitored the truck bombing plots, ensured real explosives were not present and arrested the perpetrators at the scene. In the Seattle plot it appears the FBI drew an inside straight when local law enforcement was alerted by a convicted felon who had been recruited to participate in the attack. As a result of this information the FBI was able to thwart the attack.

These plots and attacks clearly indicate there are imminent threats to Federal workplaces. Had the FBI not detected the plans of the bombers in Springfield and Dallas, or been informed by a criminal of the plot in Seattle many lives could have been lost with tragic impact to both Federal employees and the public. None of these planned or actual attacks was deterred or detected by FPS, for there are simply not enough trained Federal Police Officers proactively patrolling the facilities we protect to detect or break up the terrorist planning cycle. While everyone in our nation hopes our inordinately long lucky streak at detecting and interdicting planned attacks will continue, hope is not a method and we can't always be lucky. Immediate concrete legislative action by the Congress is required to give Under Secretary Beers and Director Patterson the additional tools they need to provide safe and secure workplaces for the over 1 million dedicated civil servants who work in the 9,000 FPS secured facilities located in over 2,100 American communities. .

Dangerously Low Staffing Levels

FPS is woefully short of the personnel necessary to properly protect Federal facilities, including those necessary to ensure the competent performance of the over 13,000 contract guards that assist with the facilities protection mission. There are simply not enough Inspectors and Police Officers in the field to reliably detect pre-operational surveillance or break up an attacker's planning sequence through proactive patrols. In fact Inspectors in many regions tell me they spend almost all their time on the security assessments, guard post inspections, completing reports and administrative requirements for contracting officer and coordination with facility security committees to explain and negotiate necessary security procedures. There is little time for patrol of facilities other than scheduled Operation Shields. Since 2003 there has been a significant decrease in the number of arrests made by FPS Officers, which is indicative of a much reduced proactive activity level due to reduced service hours and elimination of Police Officer positions. As an example of reduced service hours, in 2003 there were more than 10 major cities where FPS had 24-hour law enforcement coverage; now there are two. Those who want to attack Federal workplaces don't work bankers' hours and neither should FPS. Adequate staffing levels for extended service hours in the largest cities coupled with proactive patrol and frequent contact with tenants to determine unusual or suspicious circumstances are critical to preventing future attacks.

Following the1995 bombing of the Murrah Building in Oklahoma City, FPS was authorized approximately 1,450 staff. After 9/11 there was no increase in authorized staff. In 2003 FPS transferred to DHS with approximately 1,450 positions, with over 92% were assigned to the regions. In 2007 most of Police Officer positions, which provided proactive patrol, surveillance detection/ deterrence and contract guard

monitoring were eliminated. Today, FPS staffing is slightly over 1,225 with only 80% assigned to the regions. For example, the number of acquisition and human capital staff who are on the FPS HQ payroll but do not report to the FPS Director, has more than doubled without anywhere near a 100% improvement in contract or personnel management.

Unfortunately, FPS stands alone in the DHS as the only organization with less staff than it had at the Department's inception. While FPS was cut 18%, the Administration and Congress increased the total number of DHS employees by 18%, from 162,550 in September 2004 to 191,658 in March 2011. It is time to recognize that the protection of Federal workplaces is of equal importance to other DHS missions. Had FPS increased at the same 18% rate as the Department it would have 1,711 personnel and be much better equipped to properly mitigate the risk of attack.

The below table illustrates differences in average buildings per Officer, the decrease in service and decrease in arrests between 2003 and 2010. The decrease in arrests is attributed to the virtual elimination of proactive patrol and curtailed service hours – the offenses still happen but the perpetrator is not caught.

	2003	2010
Buildings per Inspector/ Police Officer	7.7	11.0
GSA Managed Sq Ft per Officer	322,000	426,000
Cities with Night and Weekend Service	12	2
Arrests by Officers/ Inspectors (Lack of patrol results in fewer arrests)	3,100	1,600

After the ill advised and dangerous 2007 attempt by the embedded, intransigent and unaccountable bureaucrats at OMB to cut FPS staff by 35% to a total strength of 950, Congress stepped in and established a minimum number of in-service field staff and a minimum total FPS personnel strength. As a result, Section 1628 of Public Law 112-10 mandates that, no later than September 30, 2011, the Federal Protective Service shall maintain not fewer than 1,250 full-time staff and 935 full-time Police Officers, Inspectors, Area Commanders, and Special Agents who, while working, are directly engaged on a daily basis protecting and enforcing laws at Federal buildings (referred to as `in-service field staff'). I have been informed by bargaining unit members in the regions that the actual number of Inspectors, Police Officers, Area Commanders and Special Agents working in the field is barely 800. Apparently in the bizarre world of OMB and the DHS Headquarters bureaucrats, personnel assigned to the FPS Headquarters and GS 14 and 15 regional managers sitting at their desks can be considered in-service field staff directly engaged in enforcing laws, when even a simple reading of the statute indicates otherwise. Therefore, they have not provided the necessary funding to enable FPS to comply with the law and immediately hire an additional 135 Police Officers and Inspectors.

The President's 2012 Budget requested an increase of 146 positions. According to the Congressional Justification submitted with the budget, 88 of the positions are for Inspectors to help to bring the regions that that have the highest risk-based need in alignment with other regions of similar scope and more evenly distribute the workforce allocation. The FPS transition to NPPD required the remaining 56 positions to perform oversight and other support functions formerly provided by ICE as part of their appropriated base. These functions will now be accomplished by staff on the FPS payroll and paid through increased security charges to FPS protected facility tenants. Even **with this increase in staff, at the end of 2012, FPS will still have less than 90% of the capability it had before 9/11.**

The FY 12 FPS Congressional Budget Justification also states: "The projected Federal employee to contractor ratio of 1:10 does not provide sufficient capability to assure contractor performance, particularly the 13,000 contract PSOs located at over 9,000 buildings across the nation. The FY 2012 request will result in a Federal employee to contractor ratio of 1:9 which is the optimal ratio." While the FPS field staff will certainly welcome the long overdue and critically needed staffing increase, a ratio of one federal employee (including support staff, senior managers and National Headquarters staff) to 9 contract guards is far from optimum. The below table illustrates historical ratios of FPS employees to contract guards. FPS was most successful at accomplishing its mission with a ratio in the range of three to five guards per FPS employee rather than the extremely high nine guards per FPS employee.

Fiscal Year	# of Guards	Guards per FPS Employee
FY 2000	5,000	3
FY 2002	7,000	5
FY 2011	13,000	10
FY 2012	13,000	9

I understand FPS has conducted an analysis of its staffing requirements that was approved by the Secretary which indicates the required staff necessary to properly protect Federal employees and facilities against attack is approximately 2,300. This would provide a sufficient level of proactive patrol and monitoring of contract guard performance. At 2,300 employees FPS would have almost the same five guards per FPS employee ratio as existed prior to 9/11.

In FY 2011 FPS is projected to have 1,225 personnel and approximately $250 million to protect 9,000 facilities and over 1 million employees nationwide. Contrast this with the over 1,600 Capitol Police with $292 million, to protect the Capitol and Congressional Offices in a 12 block area of Washington DC; and 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. Congress had ensured our veterans hospitals are adequately

protected, now it is time to provide at least the same protection to other Federal employees and facilities.

Hiring and Retaining Top-Notch Inspectors and Police Officers

FPS stands alone within the DHS as the only law enforcement organization that has not been authorized law enforcement retirement coverage. Additionally, other agencies with comparable facility protection missions such as the Capitol Police, Secret Service Uniformed Division and Park Police have been granted that retirement coverage. Just as Congress recognized with CBP that the lack of this coverage affected their ability to recruit and retain high quality employees it should do the same with FPS. A CBO analysis of the coverage proposed in the Senate SECURE Facilities Act indicates no additional cost for the first 20 years – in fact the additional required retirement contributions by employees would actually reduce the deficit through increased revenue during that period.

Dysfunctional FPS Funding Structure

FPS is funded through offsetting collections. The basic services provided to all protected facilities are provided through an assessment per square foot of space occupied by an agency much like a local property tax rather than a direct fee for service. Facility countermeasures, including contract guards, are funded by dividing the cost for those services by the square feet in the building to determine each tenant agency's share. This is then collected from the agency on a monthly basis. The funding sources and collection authorities should be included in an FPS Authorization Act rather than only on a year to year basis in annual Appropriations Acts. Of the $1.2 billion FPS collects in security charges less than $300 million goes to actual FPS operations. The remainder is collected and then passed directly through the FPS account to pay for contract guards and other security countermeasures. Relying only on increased basic fees, as OMB has done, ultimately reduces the basic security services agencies can afford and increases the risk of their employees and facilities to attack. It also complicates the agency budget process since by the time OMB approves any increase the agency budgets have been submitted. An appropriated base for future increases while maintaining the existing basic and building specific charges could resolve this and other issues. Other short-term alternatives include extending the basic security charge to DHS owned facilities and all unoccupied GSA space in their owned and leased facilities.

Contract Guards Not Adequately Monitored or Trained.

The GAO has clearly documented the risks inherent in depending on contract guards as a force multiplier without adequate government inspection, performance monitoring and training. Additionally since contract guards lack the authority to arrest, FPS must have sufficient staff to respond to guard reports of suspicious or unusual activity and take

appropriate enforcement action. With additional staff, FPS would have significantly higher assurance guards are performing and are trained to the specifications of the contract, through robust inspection and monitoring protocols. Guard training has been noted as inadequate with potentially tragic results as evidenced by an incident in Detroit where a Detroit Police Department Sergeant moonlighting as a FPS Contract Guard unwittingly brought a bomb into a major federal building. Contract guards should **not** have the sole responsibility for all dedicated facility patrol, access control, CCTV monitoring, and weapons detection at all facilities – to include complex buildings with established high and very high risks. Roving patrol and weapons detection positions at the highest risk facilities should be performed by Federal Police Officers, just as they are at the White House, the Capitol and Congressional Office Buildings, and the Pentagon. In-sourcing these positions at select facilities to use FPS Police Officers would materially reduce the risk of successful attack using tactics similar to those used by the GAO. Additionally, these entry level Police Officers would have a natural career path, building on their experience as Federal officers, to the Federal Protective Officer and Inspector positions, creating an initial accession position within FPS. The use of contract guards can continue for monitoring functions, for agency specific requirements, and at lower risk facilities with guard requirements such as Social Security Offices.

Facility Security Committees Fail to Approve Necessary Security Measures

The GAO reported Facility Security Committees, which are not composed of security professionals, have responsibility for approving security countermeasures to reduce that facilities vulnerability to attack. Additionally, due to budget pressures, agencies had competing uses in addition to security, for their funds. As an example, at an unguarded courthouse in a western state, there were gunshots directed into a congressional office window. FPS has proposed a nighttime guard for that facility each year since initial building planning in 2002, but it has never been implemented by the FSC. Action to place DHS in charge of this process, coupled with a means to collect the cost of countermeasures deemed mandatory by the ISC are necessary to ensure facilities are properly protected.

Role, Mission and Duties of the FPS not Clearly Established in Statute

The FPS should have the same clear statutory guidance as other law enforcement agencies. A FPS Authorization Act should include the mission, duties and powers of the Director relative to training and the primary functions of investigation, law enforcement patrol, emergency plan assistance, security countermeasures, suitability adjudication of guards and building service contractors, contracting for guard service, awareness training for Federal employees and facility security assessments.

Qualification, Training and Performance Standards for Armed or Unarmed Contract Guards at Federal Facilities

There are no codified standards for the use of contract guards to protect Federal facilities. In addition to FPS, several agencies contract for their guard services and in many cases have less rigorous training and performance standards than FPS. The FPS should be required to establish minimum qualification, training and performance standards for the use of armed contract guards to protect Federal facilities subject to ISC standards. The ISC in conjunction with the FPS should establish companion standards for unarmed contract guards. Additionally, the FPS should be responsible for providing all armed guard services to non-court facilities subject to ISC standards. Establishing standard requirements and limiting which agencies can procure guard services will allow the government to achieve economies of scale, reduction of other agency contracting/ security staff and would likely result in considerable cost savings.

ISC Guidance Misinterpreted by Facility Security Committees

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

DHS Lacks Statutory Authority to Enforce Security Standards

When President Clinton issued Executive Order 12977 in 1995 establishing the ISC, he specified that the GSA Chair the Committee with Director (then Assistant Commissioner) of FPS as a full member of the ISC. He also made the Director of FPS responsible for monitoring Federal agency compliance with the policies and recommendations of the ISC. When the Bush Administration revised the order upon the creation of DHS, the critical monitoring role was eliminated. The duties, roles and responsibilities of the committee and the chair should be codified to promote efficiency and clarity in the provision of facility security across all agencies. The DHS Secretary should be given clear authority for oversight and control of the ISC.

Agencies Security Organizations Attempt to Provide Services that FPS Delivers More Efficiently

Since 2001 the number of non-DOD security specialists and police officers has increased in the government by over 3,200 positions. For example, CBP security staff has increased by over 200% CIS by over 135%; ICE by over 260% and FEMA by over 92%. Even GSA - whose security mission was transferred with FPS to DHS - increased its security staff by over 650%.

Many of these security positions appear to duplicate functions and services provided by FPS, and may represent inefficient agency empire building. Some agencies have even claimed that since they have security specialists they should not have to pay security charges. This is like a homeowner buying a shotgun and garden hose, then claiming he should be exempt from paying taxes for police and fire protection. Ad hoc security staff and procedures can create additional vulnerabilities and make coordination of government wide standards difficult. It was even reported that the DHS Office of Security attempted to create its own law enforcement agency to protect its GSA owned space, rather than use FPS for the service. The "I will take care of my agency and everyone else be dammed" attitude prevalent in some of these uncoordinated security staffs increase both the overall cost and the risk that we may fail to put the pieces together to prevent an attack. These separate organizations each build their own supervisory and overhead staff and in total cost more than placing the responsibility with a single agency. A single provider like FPS can achieve nationwide economies of scale that elude most non-DOD security staffs potentially resulting in substantial savings.

Recommended Immediate Congressional Actions to Prevent Attacks

The critical tools necessary for successful protection of Federal workplaces include sufficient FPS law enforcement officers, measures to allow FPS to recruit and retain top-notch employees, tools to properly manage the contract security force until many of these positions can be in-sourced, codification of the FPS mission, and delineation of the responsibilities of the Interagency Security Committee and facility security committees.

1. Provide sufficient minimum FPS staffing levels to properly protect Federal facilities:

- The Congress should immediately notify the DHS Secretary and the Director of OMB that staff assigned to FPS HQ and GS 14 and 15 managers are not field staff; the current staffing situation is unacceptable; and inform them they must comply with the law which requires 935 in-service field staff before September 30, 2011.
- Until an FPS authorization bill that establishes the FPS missions and sets minimum staffing levels is enacted, restore the annual Appropriations Act rider setting minimum levels of in-service field staff. For FY 2013 this level should be set to at least 1,450 total staff with a minimum of 1,325 in-service field staff to

match the number of positions FPS came to DHS with. Restore full-time Police Officer positions responsible for proactive patrol coupled with extended service hours in New York City and other major cities.

2. Authorize FPS Officers Law Enforcement Retirement on the same basis as CBP Officers.

3. Establish standard minimum requirements for contract guards at all Federal facilities:

- Assign FPS responsibility to establish minimum qualification, training and performance standards.
- Achieve economies of scale by mandating FPS as the source of armed guards at all facilities under ISC standards.
- Modify procurement rules to ensure the most effective and efficient providers with proven track records of superior performance fill these critical requirements.

4. Clearly establish an FPS funding mechanism that results in sufficient security measures to prevent future attacks.

- Consider an appropriated base for increased staff requirements.
- Consider extending the basic security charge to DHS owned facilities and all unoccupied GSA space within their owned and leased facilities

5. Codify the roles and responsibilities of the ISC.

- With the mandate of section 1315 of title 40 USC that the DHS protect all Federal facilities, the ISC should be codified as well.
- FPS should be restored to its roles in the original directive.
- Clear guidance should be provided that DHS is in charge of security standards for Federal facilities. Federal facility security standards are too important to be left to a consensus decision by ad hoc committee members.

6. Establish FPS as the primary law enforcement and security provider for facilities subject to ISC standards.

- Achieve personnel and other cost savings using the FPS national economies of scale to provide facility security and law enforcement services.
- Maintain current status for US Marshals, Secret Service and FBI.

7. Require critical security positions provided by contract guards be in-sourced.

- Just as Congress and the White House use Federal Police Officers for dedicated patrol and weapons detection positions, all high risk Federal facilities should use these highly qualified law enforcement personnel rather than depending entirely on contract guards to perform these functions.
- Direct the Department to in-source these positions.
- Implement the transition at the rate of 300 officers a year.

Summary

The protection of Federal employees, facilities and the members of the public who seek services from their Government has been an essential function of the Federal Government since 1790 when as a result of legislation, six night watchmen were hired to protect the buildings in Washington DC intended for Government use. Congress again recognized this solemn obligation when it gave the mission of protecting Federal facilities to DHS. In placing this mission with the Department, Congress also recognized making one agency responsible gives us the best chance of connecting the dots before a future attack. Additionally, in these times of fiscal constraint, vesting this responsibility in one organization consumes fewer resources than every agency building their own security capabilities, a crucial consideration.

The dedicated men and women of FPS need your immediate help to enable our success and to protect federal employees across the country. Clearly, with the significant increase in plots and terrorist incidents affecting Federal facilities, legislation to give DHS the necessary tools and staff is critical. Since 2003 Congress has found the resources to increase the DHS staff by 18% while FPS was cut by 18%. A down payment of at least the same 18% staffing increase the rest of DHS received since 2003 would be a good start.

Mr. Chairman, Federal Buildings are a real and symbolic target of domestic and international terrorist and criminal attacks. The attacks - whether successful or thwarted, covered by the press or not - are real threats and have already cost peoples' lives. The sole Federal agency charged with the critical mission of protecting thousands of federal buildings and millions of people from these terrorist and criminal attacks is faced with potential failure that if not immediately remedied by the Congress, will likely result in tragic loss of life.

If we are to succeed in preventing the next attack, immediate legislative action to reform the Federal Protective Service is required now!

Again, thank you for the opportunity to testify at this important hearing.

The document chronicling GAO Reports and Congressional Hearings to reform FPS in recent years is attached.