

Written Testimony of AFGE Local 918- Federal Protective Service Union

President David L. Wright before the Senate Homeland Security and

Governmental Affairs Committee on December 17, 2013:

The Navy Yard Tragedy: Examining Physical Security for Federal Facilities

Chairman Carper, Ranking Member Coburn and Members of the Committee:

Federal employees and facilities are very vulnerable to attack from both criminal and terrorist threats. We are all appalled at the Navy Yard tragedy. However, the Navy Yard, like other DOD Installations, is better protected than most federal facilities across the nation because they use a mix of armed federal and private security onsite, or use only federal and military personnel.

In the 7 years since the Union demanded reform aimed at efficiently and effectively accomplishing the FPS Mission, there have been numerous GAO reports critical of the Federal Protective Service, numerous Congressional hearings promising reform and enough incidents at federal buildings to shock Congress and the public into demanding reform. Yet little progress has been made in the reform of this critical Homeland Security agency. Should a tragedy like the Navy Yard shooting occur at a federal building secured by the FPS, many in government will have to answer for the inaction.

1. FPS Law Enforcement Personnel Active Shooter Training and Preparedness. FPS

Police Officers and Inspectors are fully trained and equipped to respond to Active Shooter incidents in Federal facilities – in the cities where we are sufficiently manned. FPS Law Enforcement recruits are extensively trained at Federal Law Enforcement Training Center (FLETC) in classroom and scenario based training. Recurring classroom and scenario based

training for each Law Enforcement Officer occurs annually in the Regions and every five years in Advance Law Enforcement Refresher Training (ALERT). As you may deduce from accounts of the Navy Yard shooting – many in FPS responded to the scene quickly. But much like the Capitol Police – FPS was disallowed to participate in the tracking of the suspect due to jurisdictional concerns – as the Navy Yard is not a “GSA –controlled facility”. As the National Capital Region (NCR) FPS HQ is barely two minutes from the Navy Yard – an expeditious FPS response was available but unused due to bureaucratic limitations. Additionally, FPS capabilities to respond to potential chemical and biological attacks at federal facilities – once a thriving program - has been all but eliminated by a management staff that apparently see such response as the purview of local authorities.

2. Vulnerability and threats. Federal buildings face serious threats and vulnerabilities:

Federal buildings are open to the public and are natural targets for individuals or groups who feel wronged by the Government. Some agencies, such as SSA and IRS, frequently receive threats from individuals, many of whom are emotionally disturbed. The Federal Facility Threat Picture, a FOUO document published quarterly by FPS, summarizes these threats. Others are attractive targets because of their mission criticality; threats to tenant agencies; size; and population - and thus are deemed medium or high risk (Facility Security Levels 3 & 4).

Decisions to implement or not implement FPS security countermeasure recommendations are made by Facility Security Committees (FSC’s) at individual facilities. FSC’s are comprised of a representative from each tenant federal agency. Many of the FSC members are non –security professionals assuming the FSC membership as a collateral duty. Tenant Agency lack of compliance with the ISC Physical Security Criteria also make facilities vulnerable. If FPS

recommended countermeasures are not accepted, the FSC's should recognize "acceptance of risk", but as noted in a memorandum from the Administrative Office of US Courts on November 22, 2013 "There is **no** ISC requirement that individual FSC members sign a document "accepting risk." Rather, the ISC standard is that if a proposal is voted down, it will be **noted** in the meeting minutes." This includes FSC decisions to have an install alarm or CCTV systems, which non-law enforcement employees are allowed to bypass screening for weapons and explosives, and other common sense protective measures. Additionally, the tenants in a building must pay FPS or GSA for any security countermeasures, so agency budget and individual FSC member's lack of authority to commit funding often becomes the only or most important factor in these decisions.

Unlike this Senate and other Capitol buildings where the weapons screening force is comprised of Federal Police Officers, every one of the 1.4 million federal employees and visitors who use GSA -owned or leased facilities must rely on private sector contract guards for this function. These contract guards are beholden to state and local licensing restrictions and sometimes significant limits on authority. These guards are selected, trained, employed and supervised by private companies whose escalating wage rates during the contract period are paid by the government. Guards who violate contract terms are often only moved from one federal security post assignment to another since discipline is up to the private employer - retraining guards or hiring and training new guards eats into company profits. Even when malfeasance is detected, such as a case where a guard company employee falsified guard training records, it is treated as rogue behavior by an employee that the company can't control. The services from the company continue on that and other contracts with only that corporate employee debarred. The GAO recently highlighted serious significant issues with guard training and monitoring that included

contracts where guards had received no training on active shooter incidents and many cases where guards operating x-rays and magnetometers had not been trained to higher standards in detection of weapons and explosives.

Federal Police Officers at Senate and Capitol buildings are a proven cost-effective measure – how can we not provide the same protection at major GSA –controlled buildings with several hundred federal employees? Federal Police Officers at the entrance here are fully trained on the magnetometer and x-ray they operate – how can we demand less at all buildings? The Federal Officers at this building have the duty and authority to respond to active shooters – how can we demand less at federal buildings with thousands of occupants? Federal Police Officers are trained at the Federal Law Enforcement Training Center (FLETC) and are obligated in their lawful assigned duties to respond on behalf of the visitors, employees and federal property that they are assigned to protect.

3. Federal Protective Service mission and staff duties. FPS provides a safe workplace for federal employees and secure facilities for these employees and members of the public who seek services in the over 9,000 GSA facilities nationwide. Public Law requires FPS have a minimum of 1,371 total staff (down from 1,475 in FY07), of which 1,003 must be in-service field law enforcement staff. FPS also uses over 580 support contractors not involved in guard oversight. We accomplish the mission primarily through our Inspector workforce who are Federal Law Enforcement Officers also trained as Physical Security Specialists and assigned a portfolio of buildings. In addition to Inspectors there are Police Officers (being phased out through attrition), Explosive Detection Team Canine Handlers, Special Agents and Personnel Security Specialists who deliver primary services. There are also supervisors, program managers and mission support staff to perform management and support activities.

As law enforcement officers, the less than 650 Inspectors and legacy police officers respond to over 30,000 incidents a year, make over 1,900 arrests and conduct over 13,000 explosive K-9 sweeps in addition to community police/ physical security duties for their assigned buildings.

On average, each inspector who is not a K-9 handler has about 23 buildings and for each:

- Performs a Facility Security Assessment (FSA) either every three or five years based on the facility security level;
- Recommends security countermeasures such as alarms, CCTV, blast mitigation and contract guards (including estimated costs) as well as security practices and procedures such as entry control for employees and visitors, facility security plans and hours contract guard posts should be staffed based on the ISC Physical Security Criteria and threat assessments developed by FPS Special Agents;
- Presents and coordinates FSA recommendations for approval by Facility Security Committees (FSC) consisting of all tenant agencies;
- Participates in FSC meetings conducted at least annually to update facility occupants on law enforcement efforts and security measure effectiveness;
- Assists FSC in the development and exercise of emergency plans covering tenant actions to situations that range from fires and earthquakes to explosive attacks or active shooter;
- Recommends and conducts training for tenants on reaction to and prevention of undesirable events such as procedures to respond to an active shooter;
- Drafts and updates post orders to provide detailed instructions to contract guards;
- Participates in operation shields, marketed as providing a highly visible law enforcement presence with three or more Inspectors for at least an hour;

- Testing/ checks of countermeasures (i.e. alarms, CCTV) to ensure they are functioning properly when conducting an assessment and during some operation shields; and
- Conducts proactive police patrol to detect and deter threats to a facility as well as identify and mitigate opportunities for criminal or terrorist attack.

Inspectors and Police Officers also perform contract guard monitoring duties that include:

- Inspections of contract guard posts with a frequency based on the facility security level to ensure they are present for the correct times, understand the facility and follow the contract including specific orders/ instructions for that post;
- Compliance monitoring of contract guard initial training and refresher training ;
- Attendance to observe and document every FPS required contract guard firearms qualification (twice a year for most guards);
- Conduct eight hours of initial training for each new contract guard; and
- Conduct at least eight hours of weapons detection training for each guard.

Approximately 80 Special Agents investigate crimes and provide intelligence including:

- Conduct investigations of complex or serious crimes at federal facilities;
- Investigate and follow up with individuals who make threats to federal employees and facilities (except for threats to the Judiciary which are the purview of the USMS);
- Complete the threat portion of FSA;
- Conduct covert testing of contract guards and other facility countermeasures;
- Regional Intelligence Agents coordinate and disseminate threat information; and
- Serve on FBI Joint Terrorism Task Force (JTTF) to ensure awareness of threat information regarding federal facilities.

Personnel Security Specialists using criminal records and OPM investigations, annually adjudicate about 35,000 FPS contract guards and GSA building service contractors (i.e. building maintenance or construction workers) to ensure they meet suitability standards.

Inspectors and Police Officers are assigned to Area Commands which are responsible for a geographic area such as a large city (i.e. Cleveland), portion of a major city (i.e. Kansas City has two; DC about 10), or sometimes an entire state. Area Commands report to a District Commander. There are approximately 120 Areas and Districts. Districts report to one of 11 Regions. Regions have Program Managers for guards and security assessments; and Threat Branch (Special Agents); Risk Management and Mission Support branches. Regions report to one of three newly created Assistant Directors for Field Operations (ADFO).

4. FPS Contract Guards. FPS uses approximately 12,000 contract guards (called Protective Security Officers or PSO) to perform patrol & response; personnel, package, and vehicle screening; alarm and CCTV monitoring; and access & visitor control duties at buildings. Each post is typically recommended in a FSA based on the ISC Physical Security Criteria. FSC's approve the post and the hours it is staffed. The guard services for a building are funded based on the space each agency occupies. Specific services inside a tenant's space are provided to deter disruptive behavior in some offices (i.e. IRS and SSA) and are paid by that tenant. FPS procures, manages and monitors these services with some exceptions such as Judicial Space where contract guards (called Court Security Officers or CSO's) are procured and managed by the U.S. Marshals Service.

FPS has over 110 guard contracts. Each contract usually covers a portion of a state, the whole state or several states except in the NCR where the service areas are individual buildings rather

than a contiguous area. For example in my home region there is one contract which covers all four states. The entire state of Illinois is serviced through one contract. Conversely in the NCR there are over 40 contracts, so an Inspector with buildings in a ten block area could have three or more different contractors servicing those buildings. I have been told it is impossible to consolidate contracts to fixed geographic areas in NCR and replicate the reduced workload noticed in my home region due to small business set asides and other Federal Acquisition Regulation (FAR) issues. Given those rules I can understand why Congress uses Federal Police Officers instead of contract guards to protect Capitol facilities– it would be an impractical arrangement for the Capitol Police to manage one private guard company in the Hart Senate Building and another in the Dirksen Senate Building.

5. FPS Funding. FPS is often described as a “fee -funded” organization. But unlike CIS, TSA or CBP where the public using their services pay the fees, FPS collects only from other federal agencies using GSA -owned or leased facilities. It does this through three security charges. The first is a basic security charge which much like a local property tax is designed to pay for general law enforcement and security services. The second is a building specific security charge based on services provided to specific buildings and includes contract guard services as well as security systems (i.e. alarms and CCTV). The third is security work authorizations where individual tenants pay for guard services and security systems within their space such as guards in SSA and IRS offices. Additionally all tenant agencies pay GSA either in the rent bill for leased space or as an addition to the rent bill in owned space, for fixtures such as access control systems, bollards and blast mitigation. Security in this building is not based on the ability of an individual Senate Office’s ability to pay – why should other federal facilities be different?

6. Mission Performance. How well are the 740 or so boots on the ground Inspectors, legacy Police Officers and Special Agents doing at providing the critical law enforcement and security services to buildings FPS protects? Overall, quite well given the dynamic mission, HQ staff with little to no law enforcement field experience and inadequate numbers of Full Time Employees (FTE). How is FPS management doing? Not so well.

- Law Enforcement Response – Inspectors and Police Officers report challenges in responding to calls for service. Many tenants call local police because FPS does not have sufficient resources due to staffing and facility security tasks and is only on duty in most places for 8 to 10 hours weekdays. I would grade this area a B+ for times Inspectors and Police Officers are on duty.
- Facility Security Assessments -- Inspectors report the interim vulnerability assessment tool works okay as they become more familiar with it – but still cumbersome due to widely uneven application by Regional and mid –level managers. Inspectors are concerned it does not align well with the ISC security criteria and misses several countermeasures; that only a baseline level of protection is computed while the ISC requires a customized level of protection; threat levels are from the nationwide Design Basis Threat rather than a specific building; and well informed FSC's expect the deliverables in the ISC standards which are higher than MIST provides. Some tenants ask about the lack of consequence consideration, but most are more concerned that recommendations be tailored to their facilities' threats. Overall tenants appear satisfied and understand the recommendations. Based on these reports, I would grade this area a C+.

- Emergency and Security plans -- Inspectors report they simply don't have time to work with facilities on emergency and security plans particularly in buildings with government and commercial tenants that require greater coordination. Much of this work is pushed to tenant staff to the detriment of those agencies' primary missions. I would grade this area a C+ since the work is getting done but FPS duties are pushed to tenant staff.
- Tenant Training – Inspectors are very concerned FPS does not adequately deliver training for active shooter to tenants. There have been several sessions where local police participated but fully integrated training both for responders and those in a facility are critical to reduce the tragic consequences inherent in active shooter incidents. I would grade this area a C; FPS can provide updated information but practice is critical. We have a fire drill in every facility each year, why can't we do the same for active shooter reaction?
- Proactive Patrol – Patrol is critical to detect and deter threats as well as to recognize when operational or other countermeasures are not working. FPS randomly conducts “Operation Shield” but during FY 13 there were only 1,141 at 460 buildings nationwide. There were 8,600 field interviews conducted with only 103 citations, arrests or opening of investigation. Inspectors report regular unannounced proactive patrols by individual or pairs of officers are much more likely to provide an acceptable level of detection and deterrence than a miniscule 1.2% arrest rate. I grade this as a B for effort and give management a D for results. Buildings on Capitol Hill benefit from extensive proactive patrol from the Capitol Police; why shouldn't all large facilities have the same benefit?

- Investigations – Special Agents report the scenarios eligible for use on covert tests of guards have been reduced and limit the ability to fully assess guard performance. I give FPS management a D for not using the full range of tests.
- Contract Guard Oversight – In October GAO reported continued failure to ensure guards are properly trained. That being said, in some Regions all guards receive FPS training, untrained guards are never used at a screening post, guard firearms qualification is fully monitored and guards are trained on active shooter at the facility they protect. This happens because dedicated FPS Inspectors work overtime to ensure contract guards are trained to prevent weapons from entering facilities and are properly qualified on their weapon. They live the mission of keeping federal employees and facilities safe and simply refuse to fail. I make no excuse for supervisors and senior managers in many Regions who fail to ensure proper training. These problems could have been fixed. Three years later they obviously should have been fixed, and the managers who failed should be held accountable. I grade management at HQ, and in the deficient regions and districts with an F. The Inspectors who refused to fail and their managers get an A.
- Facility Security Committees – Clearly the current structure is broken on decisions to implement physical security countermeasures and documenting risk acceptance. If the Administrative Office of the Courts don't take risk acceptance seriously almost no one will. I would grade this area a D.
- Security Funding – The current method of moving money within the Government to pay for critical law enforcement and security to protect employees and facilities is inefficient since it implements countermeasures such as armed guards based on an agencies' ability to pay - not actual risk. I grade funding a D.

- Staffing – Although I am not privy to exact staffing data, our research shows that 270 employees and over 350 contractors are assigned to FPS HQ. The Inspectors, Police Officers and Special Agents who perform our direct services comprise only 54% of the staff, with law enforcement supervisors another 9%. Thus only 63% of the staff engage in or directly supervise law enforcement/security at buildings. I’m not a management expert but almost 20% of personnel and 55% of support contractors assigned to the HQ “supporting” 11 largely self-sustaining regions seems out of kilter. I shouldn’t be surprised, since the HQ contracting staff increases based on the cost of the contracts and guard wage rates they negotiate. According to our research, it is clear that FPS has about 920 in-service field law enforcement staff including numerous Regional staff who do not respond to calls for service or perform facility security assessments. It appears that FPS may not have quite reached the goal of complying with the law that requires over 1,000 field level law enforcement. 80 or more additional Police Officers would greatly improve service delivery. I give management a D for staffing HQ instead of more Police Officers and Inspectors to physically protect facilities.
- Duplicative Security Staff in Federal Agencies: Federal agency Security Directors naturally want complete control of all aspects of security just as agencies want to own and lease their own office space regardless of efficiency. Some security staff such as the DHS Office of Security and ICE Security Management Unit even armed their security specialists using 40 USC 1315. They do not have a law enforcement role and their use as such is inefficient; the same goes for the size of security staff at many agencies some of whose staff duplicates services provided by FPS. I give these agencies a C- for diminishing their mission resources.

7. Improvement Recommendations.

- **Law Enforcement Response to include Active Shooter and Chemical/Biological Attack Response** –Recommend hiring and reinvigoration of the GS-083 Federal Police Officer workforce in major cities to ensure adequate response to criminal incidents. Remove all bureaucratic obstacles to FPS response to Active Shooter situations – if life is endangered at a Federal property – FPS law enforcement officers should respond as equipped, trained and available. Reinvigorate the FPS Hazardous Materials Response Plan and workforce.
- Facility Security Assessments – Remove FPS from the (to date) unsuccessful business of creating an ISC –compliant FSA tool. Recommend that DHS create the ISC –compliant FSA tool that would ensure the more cost effective custom level of protection rather than the baseline driven only by the general facility security level.
- Emergency and Security plans -- We can't keep pushing our work onto agencies – FPS has the security mission and it should execute it across the nation with increased resources and manpower.
- Tenant Training –We have a fire drill in every facility each year, why can't we do the same for active shooter reaction?
- Proactive Patrol – Routine proactive patrol at FSL 3 and 4 buildings.
- Investigations – Use the full range of covert test scenarios.
- Contract Guard Oversight – Establish clear requirements that match available resources and hold managers accountable.

- Use of Contract Guards -- Since the use of Federal Police Officers is a cost effective alternative at Senate and Capitol Buildings, it should be the same for large multi-tenant facilities open to the public with a Facility Security Level of 3 or 4. Continue the use of contract guards at small facilities such as SSA, CIS and IRS service offices.
- Facility Security Committees – Recommend required reporting to Congress of which recommended ISC criteria are not implemented. Agency budget considerations for FPS recommended physical security countermeasures should be the purview of that Agency’s HQ - not at the field or regional level. Alternatively, FPS as an “honest broker” could be empowered as the authority at the national level to overrule any FSC where too much risk is accepted.
- Security Funding – FPS be funded to implement building specific security based on risk priorities not agencies’ ability to pay.
- Staffing -- Recommend starting with the FY 07 FTE of 1,475 which provided better and effective service before OMB, whose offices are protected by the Secret Service, cut the protection provided to other federal employees. Make NPPD fund its own support (i.e. Human Capital) from its budget instead of sucking up more than 30 FPS FTE who really don’t work for FPS. Mandate efficient HQ operations by transferring at least 3 of the 8 SES to areas in DHS that really need them. Raise and enforce the in-service field staff minimum to 1,140.

Can FPS do better? Absolutely! Performance across the board can improve with focused professional and ethical management that builds on best practices in the regions -- give our Inspectors tools that work and direction on priorities and they will make sure these issues are

fixed. What has not worked is lack of clear direction funneled through extra layers of ineffective, scattered management and new bureaucracies.

In summary, as AFGE President J. David Cox recently stated while calling on federal agencies to review their operational procedures to ensure the safety and security of all federal employees “Federal employees are on the front lines in delivering services to the American people and oftentimes that puts them in harm’s way.” These employees and the public they serve deserve the best and most effective protection we can provide.