

STATEMENT
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U.S. DEPARTMENT OF HOMELAND SECURITY

BEFORE
THE
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
WASHINGTON, D.C.

“OVERSIGHT OF FEDERAL PROGRAMS
FOR
EQUIPPING STATE AND LOCAL LAW ENFORCEMENT AGENCIES”

Submitted

By

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Good morning Chairman Carper, Ranking Member Coburn, and Members of the Committee. I am Brian Kamoie, the Assistant Administrator for Grant Programs at the Department of Homeland Security's (DHS) Federal Emergency Management Agency (FEMA). On behalf of Secretary Johnson and FEMA Administrator Fugate, it is my pleasure to appear before you today to discuss the Department's homeland security preparedness grant programs.

The Department's preparedness grant programs are administered by FEMA through the Grant Programs Directorate (GPD). Many of the Department's preparedness grant programs are authorized by the *Homeland Security Act of 2002* (Pub. L. No. 107-296), as amended, and by the *Implementing Recommendations of the 9/11 Commission Act of 2007* (Pub. L. No. 110-53) (*9/11 Act*). These programs assist states, local communities and tribal nations, and thus the Nation, to build and sustain critical capabilities to enhance their abilities to prevent, protect, mitigate, respond to, and recover from acts of terrorism and other catastrophic events.

From the attacks of September 11th to the Boston Marathon in 2013, as well as the response to and recovery from Hurricane Sandy in 2012, we, as a Nation, are more aware of the threats and vulnerabilities we face, as well as the capabilities we have built to address these hazards. As a Nation, we established a national preparedness goal, identified the capabilities necessary to achieve that goal, established five national planning frameworks and exercised the system at all levels of government. As a result of your support and investments, and the work of our partners throughout the country, our national capabilities have matured.

This maturation of the Nation's preparedness is a clear theme and finding of the Department's third annual *National Preparedness Report* released on August 6, 2014. Required annually by the *Post-Katrina Emergency Management Reform Act of 2006* (Pub. L. No. 109-295) and *Presidential Policy Directive 8: National Preparedness*, the *National Preparedness Report* summarizes progress in building, sustaining, and delivering the core capabilities described in the *National Preparedness Goal*.

In its conclusions, the *Report* discusses numerous real world incidents, including the response following the April 2013 Boston Marathon bombing, to highlight the maturation of the Nation's

preparedness. Many of the capabilities demonstrated in Boston were built, enhanced, or sustained with funds made available through the Department's preparedness grant programs. This includes funding from the Homeland Security Grant Program (HSGP), which includes the State Homeland Security Program and the Urban Areas Security Initiative (UASI).

We believe that the preparedness grant funds provided to Massachusetts and to Boston saved lives and restored and ensured public safety in the aftermath of the Boston Marathon bombing. Since 2002, Massachusetts has received more than \$990 million in preparedness grant funds. Since 2003, Boston has received more than \$415 million through the various preparedness grant programs, including \$210 million through UASI grants.

This funding was put to good use, including those funds used to purchase equipment. Much of the equipment purchased with preparedness grant funds, including the equipment purchased for State and local law enforcement agencies, enhanced the personal safety of law enforcement officers involved in the pursuit of the Tsarnaev brothers, expedited and facilitated the successful conclusion of that pursuit, and helped ensure the safety of the public.

Much of that equipment directly contributed to the apprehension of the surviving bombing suspect. During the pursuit, Massachusetts State Police used a Forward Looking Infrared (FLIR) camera purchased with preparedness grant funds to search for, locate, and apprehend Dzhokhar Tsarnaev. Further, the FLIR's ability to locate the suspect from a safe distance reduced the direct risk to law enforcement officers.

Personal protective equipment, such as ballistic vests worn by law enforcement officers, further contributed to their safety as did preparedness funds used to build specialized skills and tactics. Boston used UASI funds to train SWAT teams to better integrate bomb technicians into tactical operations, a crucial capability that was demonstrated in the aftermath of the bombings. UASI investments helped the Boston Regional Intelligence Center support bombing-related operations, analysis, and investigations. The Boston Urban Area also utilized UASI funds to support its Operational Communications capabilities

through a variety of enhancements, including: the acquisition of radio caches, the establishment of a mutual aid radio network, and the development of a radio channel plan.

In Boston, the activities supported by preparedness grant funds – the planning, organization, training, equipment, and exercises – all came together to prove the need and value of preparedness grant dollars. Events in Boston focused a spotlight on the violent nature of terrorism and the connection between specialized equipment and the ability of law enforcement agencies to respond quickly and effectively to a terrorist event while simultaneously providing for the safety and welfare of their officers and the public.

More broadly, beyond Boston, we believe that the preparedness grant programs have enhanced the Nation's overall security and preparedness. Since the beginning of these programs, we have strived to improve how these grant funds have been used and how these grant funds have been administered. Throughout the history of these programs, we have analyzed how these programs were being administered and how preparedness grant dollars have been used and measured, which I had the opportunity to discuss with you during this Committee's hearing on the Port Security Grant Program in June.

What happened in Ferguson, Missouri has resulted in tough questions and the beginning of a national discussion on these serious and complex issues. Preeminent among these is the response by law enforcement agencies to public demonstrations and protests, including the tactics and equipment employed in those responses. Policing in America's communities post-Ferguson is clearly under scrutiny. Also under scrutiny is the equipment used by law enforcement officers, particularly equipment perceived as having more of a military rather than law enforcement application in interactions with American citizens in their neighborhoods. This discussion will require that all of us, including the law enforcement community, address questions of police tactics and equipment, and by extension the civil rights and liberties of our citizens and the parameters surrounding assemblies, protests, and demonstrations by those citizens. A critical part of this discussion, particularly as we as a Nation look at the tactics and equipment employed by law enforcement, is the important concern for maintaining the safety of both community members as well as the law enforcement sworn to protect them.

This discussion, as evidenced by today's hearing, including the several federal agencies represented here, goes well beyond DHS and its preparedness grant programs. To facilitate this discussion, and particularly to take a critical look at federal funding for law enforcement and the oversight of those funds, President Obama ordered a review of federal programs that fund and support State, local and tribal law enforcement agencies. This review, which the President announced in mid-August, will take an especially close look at federal programs that fund or supply equipment to law enforcement agencies, in particular equipment that may be characterized as more military than civilian in nature. In announcing this review, the President made it clear that we as a government, as a Nation, needed to know if these programs, including the activities and equipment funded by these programs, are appropriate; whether law enforcement agencies receiving equipment under these programs also receive adequate training and guidance in the use of that equipment; and whether the federal agencies providing such assistance maintain proper oversight over the activities and actions these federal monies supported. This White House-led effort involves the participation of several federal agencies, including the Departments of Homeland Security, Defense, Justice, and Treasury. It will also require coordination with the Congress and with State, local and tribal officials. We at the Department of Homeland Security look forward to contributing to this effort and to the insights it will provide.

The primary grant program administered by the Department of Homeland Security that supports State, local and tribal communities, including the law enforcement community, and the grant program most relevant to events in Missouri, is the HSGP. The HSGP includes two interconnected grant programs: the State Homeland Security Program and the UASI. These two preparedness grant programs provide support to state and local law enforcement, and are the two grant programs that can be linked to supporting recent law enforcement activities within Ferguson.

Funds under the State Homeland Security Program are awarded directly to States, which in turn manage, distribute, and track the funding for their State. Per the requirements of the *Homeland*

Security Act of 2002, as amended, States are required to distribute (pass-through) 80 percent of these funds to local communities within the State.

Although funds under the State Homeland Security Program and the Urban Areas Security Initiative grant program fund a broad range of recipients, including emergency management agencies, public health and medical agencies, public works agencies, educational institutions, and fire departments, Section 2006 of the *Homeland Security Act of 2002*, as amended, requires the Department to ensure that at least 25 percent of the combined funds allocated under the State Homeland Security Program and the Urban Areas Security Initiative are used for law enforcement terrorism prevention activities (or LETPA). The Department ensures that this statutory requirement is met by requiring each State that receives a grant under the State Homeland Security Program or Urban Areas Security Initiative, or both, to dedicate at least 25 percent of the total funds they receive towards law enforcement terrorism prevention activities. The States have historically exceeded that minimum. Between Fiscal Year 2008 and Fiscal Year 2012, 36 percent of the funds allocated under the State Homeland Security Program and the Urban Areas Security Initiative were provided to support law enforcement terrorism prevention activities.

Eligible law enforcement terrorism prevention activities are set forth in Section 2006 of the *Homeland Security Act of 2002*, as amended, and outlined in the National Prevention Framework. Activities such as information sharing and analysis, forensics activities, screening, search and detection efforts as well as the interdiction and disruption of potential terrorist events are eligible expenses. Funds allocated to support law enforcement terrorism prevention activities also must be linked to one or more core capabilities within the National Preparedness Goal. More specific examples of these activities include:

- Maturation and enhancement of designated State and major Urban Area fusion centers, including information sharing and analysis, threat recognition, terrorist interdiction, and training/ hiring of intelligence analysts;

- Implementation and maintenance of the Nationwide Suspicious Activity Reporting Initiative, including training for front line personnel on identifying and reporting suspicious activities;
- Implementation of the *If You See Something, Say Something* campaign to raise public awareness of indicators of terrorism and terrorism-related crime and associated efforts to increase the sharing of information with public and private sector partners, including nonprofit organizations;
- Training for countering violent extremism; development, implementation, and/or expansion of programs to engage communities that may be targeted by violent extremist radicalization; and the development and implementation of projects to partner with local communities to prevent radicalization to violence, in accordance with the Strategic Implementation Plan (SIP) to the National Strategy on Empowering Local Partners to Prevent Violent Extremism in the United States; and
- Increased physical security, through law enforcement personnel and other protective measures, by implementing preventive and protective measures at critical infrastructure sites or other at-risk nonprofit organizations.

Supporting law enforcement terrorism prevention activities includes the purchase of equipment to support and enable those activities. Historically, across all of the homeland security preparedness grant programs, the purchase of equipment has represented the largest use of homeland security preparedness grant dollars. Looking at homeland security preparedness grant funding from Fiscal Year 2004 through Fiscal Year 2013, the Department's Integrated Financial Management Information System (or IFMIS) shows that 59.94 percent of preparedness grant program funds have been used for the purchase of equipment. This is followed by planning at 21.50 percent, training at 6.45 percent, organization support at 7.56 percent, management and administration at 2.55 percent, and exercises at 2.00 percent.

In general, recipients of preparedness grant program funds who purchase equipment must purchase equipment listed within the 21 allowable prevention, protection, mitigation, response, and recovery equipment standards listed in the Authorized Equipment List (AEL). The AEL, published by Department, identifies equipment allowable for purchase with homeland security

preparedness grant dollars. The AEL was developed, and is maintained and updated, by the Department in consultation with other Federal, State, local and tribal agencies in order to identify equipment needed by emergency responders to better prevent, protect against, respond to, and recover from terrorist events. The AEL is reviewed bi-annually to assess its contents in light of changing technologies, the changing needs of the various first responder communities, or based on specific requests from grantees.

The Department prohibits the use of homeland security preparedness grant funds for the purchase of weapons, including lethal and non-lethal weapons, ammunition, and weapon-related accessories such as weapon belts. These equipment categories are not included in the AEL. Homeland security preparedness grant funds may be used to purchase equipment that can be classified as personal protective equipment, such as ballistic protection equipment and explosive-resistant personnel carriers (commonly referred to as Bearcats). Section 2008 of the *Homeland Security Act of 2002*, as amended, allows equipment purchased with State Homeland Security Program and Urban Areas Security Initiative funds – including personal protective equipment – to be used for acts unrelated to terrorism, as long as that equipment is purchased to build and sustain terrorism-based capabilities.

The AEL notes that certain equipment purchased with DHS grant funds (e.g. ballistic personal protective equipment, such as helmets, body armor, and eye/ear protection) is not for riot suppression. As a point of reference, the 21 allowable categories under the AEL are:

1. Personal Protective Equipment
2. Explosive Device Mitigation and Remediation Equipment
3. Chemical, Biological, Radioactive, Nuclear, and Explosive (CBRNE) Operational and Search and Rescue Equipment
4. Information Technology
5. Cyber Security Enhancement Equipment
6. Interoperable Communications Equipment
7. Detection
8. Decontamination

9. Medical
10. Power
11. CBRNE Reference Materials
12. CBRNE Incident Response Vehicles
13. Terrorism Incident Prevention Equipment
14. Physical Security Enhancement Equipment
15. Inspection and Screening Systems
16. Animal and Plants
17. CBRNE Prevention and Response Watercraft
18. CBRNE Aviation Equipment
19. CBRNE Logistical Support Equipment
20. Intervention Equipment
21. Other Authorized Equipment

Given that homeland security preparedness grant program funds under the State Homeland Security Program and the Urban Areas Security Initiative are awarded directly to the State, the Department relies on and works with the State to provide oversight of these funds. The Department does conduct direct oversight of the State to ensure that the State complies with all monitoring and oversight requirements. Since 2002, Missouri has been awarded \$173,434,570 in State Homeland Security Program funding. The St. Louis Urban Area has been designated as a high-risk urban area since 2003 and has received \$87,001,590 in Urban Areas Security Initiative funds. The St. Louis Urban Area is comprised of the City of St. Louis and the counties of St. Charles, Franklin, Jefferson, and St. Louis, as well as several counties in Illinois, specifically St. Clair, Madison, and Monroe counties.

The Department has worked with Missouri officials and searched our own data to identify equipment purchased with preparedness grant dollars, specifically funding from the State Homeland Security Program and the Urban Areas Security Initiative that may have been used in the law enforcement response to demonstrations in Ferguson. Missouri officials have provided us a very detailed inventory of equipment purchased with preparedness grant funds. This is a lengthy document which we are now analyzing to understand what equipment was purchased, by

who and for what purpose. That said, based on our discussions with State officials, we have identified major pieces of equipment and broad categories of grant-funded equipment used in Ferguson.

From these discussions, we have identified that St. Louis County, St. Louis City, and St. Charles County had tactical teams and line officers in Ferguson at various times as part of the law enforcement response. Additionally, the Missouri Highway Patrol had teams and equipment present as well, again supported by preparedness grant funds.

Missouri officials have also identified that the St. Louis Urban Area used preparedness grant dollars to supply various items for the law enforcement agencies in the region, which include response vehicles, helicopters, interoperable communications equipment (headsets and radios), personal protective equipment (suits and ballistic protection), night vision, and explosive detection and remediation equipment. The equipment identified by Missouri and purchased for use by the State and local communities, such as the St. Louis urban area, addressed objectives identified by the State in its 2011 homeland security strategy and in its funding applications for fiscal years 2010 through 2012. In its strategy as well as in its grant applications, Missouri identified resources and capabilities it would require to prevent, protect from, respond to, and recover from acts of terrorism.

Missouri has documented that from 2003 to the present, St. Louis County received approximately \$9.6 million in preparedness grant funds. Of that \$9.6 million, \$9.4 million was spent on equipment and \$200,000 for training. The equipment includes two helicopters, mapping systems, forward looking infrared FLIR camera systems and searchlights, a Bearcat explosive response / ordinance vehicle (purchased with \$350,000 in Fiscal Year 2012 UASI funds), explosive response and remediation equipment (X-ray systems, bomb disabling tools), communication equipment (radios, headsets), night vision equipment, and tactical response equipment (tools, personal protective equipment). However, because several of the tactical teams share equipment, as well as multiple pieces of similar equipment involved, it is difficult for the State to assess at this time which of these specific items purchased may or may not have been used in the Ferguson response.

We are still in discussions with Missouri officials to determine which specific items may have been deployed to Ferguson, and we will continue to work with State officials to more precisely identify preparedness grant dollars used to support the law enforcement response in Ferguson. State officials have identified a preparedness grant-funded transport truck that was deployed to Ferguson to transport law enforcement officers and evacuate citizens requesting assistance. Additional personal protective masks and protective vests used in the Ferguson response from St. Charles County and partially funded with preparedness grant dollars were also identified.

In reviewing the use of those preparedness grant dollars, the Department will make every effort to evaluate whether the use was appropriate and in keeping with the requirements governing the preparedness grant programs. This includes the requirement and assurance that federal grant dollars not be used to engage in any conduct that is contrary to any federal, State, or local law.

The Department considers oversight of preparedness grant programs a priority, and takes this responsibility very seriously. The Department's grant monitoring provides a systematic means of ensuring oversight, accountability and proper management of preparedness grants. Monitoring ensures that:

- Funds are used in accordance with Federal law, regulations and administrative procedures;
- Funds are utilized to meet the objectives of the grant program as determined by law and grant guidance;
- Waste, fraud and abuse of grant funding is identified where it may exist and is eliminated; and
- Grantees are practicing sound grant management practices and making progress toward program goals.

To achieve these goals, the Department has maintained a rigorous system of both programmatic and financial monitoring. Each recipient of grant funds has been monitored to ensure that funds have been used in ways consistent with program and financial requirement. Over the history of

these programs the Department has continually reviewed its program and financial monitoring practices to determine how these practices might be improved. In Fiscal Year 2013, FEMA developed and implemented an integrated monitoring plan that seeks to gain efficiencies and improved information sharing between the financial and programmatic monitoring staff. The Department's preliminary reviews of integrated monitoring indicate that it is providing a more detailed understanding of the use of preparedness grant dollars. The Department will continue to assess the use of integrated monitoring as well as continue to consider additional areas for improved monitoring.

While financial and programmatic monitoring work hand-in-hand, they are not duplicative and therefore entail separate methodologies and processes.

1. **Financial Monitoring:** Assurance of compliance with statutory, regulatory, and FEMA grant administration requirements; and
2. **Programmatic Monitoring:** Identification of administrative or performance issues that threaten the success of grant objectives, and targeting assistance for issue resolution.

Integrated analysis of financial and programmatic monitoring data will also lead to an increased ability to proactively target assistance to grantees. Also in Fiscal Year 2014, in an effort to further increase insight into grantee activities, the Department began the implementation of project-level grant applications, as recommended by the U.S. Government Accountability Office for all the preparedness grant programs. Project-level grant applications provide an unprecedented level of information about how grantees are intending to utilize preparedness grant funds. This level of information will improve the Department's ability to ensure that grant spending is not duplicative, will better enable the Department to document the progress grantees are making towards filling capability gaps, and provide a clearer understanding of the actual use of preparedness grant dollars, which I know has been a longstanding interest of the Committee.

Enhanced insight into the use of preparedness grant dollars will enable us to better understand and monitor a grantee's use of preparedness grant funds. Better monitoring will enable better

oversight and enhance us to hold grantees accountable. And better accountability will enable us to work with grantees on remedies, whether such remedies would be to require grantees to provide corrective action plans, adopt improved grant management practices, or return misused funds.

Improvement of the Department's oversight of preparedness grant dollars is part of the path forward. The Department looks forward to contributing to those discussions and to the scrutiny that discussion will give the preparedness grant programs. In that discussion all equities and interests, those of citizens and those of law enforcement, must be addressed and balanced. There are a number of actions that can be considered, including better oversight of federal grant programs, increased scrutiny and changes to funded activities and allowable use of funds, enhanced training for law enforcement officers and possible changes in police tactics.

Mr. Chairman, Ranking Member Coburn, Members of the Committee, this concludes my statement. I am happy to have had this opportunity to discuss these important issues before the Committee and I am happy to respond to any questions the Committee may have.