



Wednesday, March 13, 2019

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**FOR A HEARING ON “IMPROVING THE FEDERAL RESPONSE: PERSPECTIVES
ON THE STATE OF EMERGENCY MANAGEMENT”**

**BEFORE THE U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON HOMELAND SECURITY
SUBCOMMITTEE ON EMERGENCY PREPAREDNESS, RESPONSE, AND
RECOVERY**

**310 CANNON HOUSE OFFICE BUILDING, WASHINGTON, DC
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Good afternoon Chair Payne, Ranking Member King, member Rose, and members of the subcommittee. I am James Waters, Chief of the Counterterrorism Bureau of the New York Police Department (NYPD). On behalf of Police Commissioner James P. O’Neill and Mayor Bill de Blasio, I am pleased to testify before your subcommittee to discuss emergency preparedness as well as how our partnerships and the funding you and your colleagues appropriate has supported the NYPD’s efforts to secure New York City.

I believe we would all agree that the concept of emergency preparedness should not imply a reactive posture. We cannot take a posture that accepts there is nothing we can do to prevent an attack and instead should merely prepare for the inevitability of it happening and how we should respond. With more than 16 years of experience overseeing NYPD’s counterterrorism operations, first as the Commanding Officer of the Joint Terrorism Task Force (JTTF) then as Chief of Counterterrorism, I can tell you with the highest degree of certainty that the NYPD does not take such an approach. While we leverage every one of our resources and partnerships to train and equip our personnel and ready our city for man-made and natural catastrophes, our fundamental belief is that emergency preparedness is driven by a proactive posture aimed at preventing an attack on our city and building resilience into our policies, procedures, people, and infrastructure. However, there should be no mistaking it: whether proactive or reactive, our ability to prevent or be adequately prepared for catastrophic events is dependent in no small part on our successful collaboration with our federal partners and the significant funding which the federal government provides our city. Funding that, if eliminated, reduced, or frankly not increased, will result in an erosion of our capabilities, cessation of many of the initiatives that I will talk about today, and a significant limitation of our overall emergency preparedness posture.

Although New York City has become the safest big city in the nation, it remains the primary target of violent extremists, both foreign and homegrown. The attacks of September 11, 2001, forever changed how the NYPD views its mission, and following that tragedy, the Department recognized that we must be an active participant in preventing terrorist attacks. Soon after that horrific attack, the NYPD became the first police department in the country to develop its own robust counterterrorism infrastructure, operating throughout the city, country, and the world to develop intelligence and techniques to combat this ever evolving threat and bolstering our ability to respond

to these attacks and other mass-scale emergency events. Vital to this effort has been collaboration and information sharing with other city and state agencies, neighboring states, the private sector and, especially, the federal government.

We have worked meticulously to build this investigative and emergency response infrastructure, while protecting and upholding the constitutional rights and liberties accorded to those who live, work, and visit New York City – but we recognize that the specter of an attack is always looming. In the last 17 years, the NYPD and our partners have uncovered over two dozen terrorist plots against our City. In most cases, they have been thwarted by the efforts of the NYPD and the FBI-NYPD JTTF.

Tragically, we could not stop all of them. In September of 2016, an individual inspired by Al-Qaeda set off homemade pressure cooker bombs in the Chelsea neighborhood of Manhattan and in Seaside Park, New Jersey, injuring 30 people. Multiple additional unexploded devices were subsequently discovered. This case highlights that although our proactive efforts could not prevent this attack, our reactive preparedness resulted in the immediate activation of partnerships and plans that quickly located the perpetrator and the other devices before more havoc could be wreaked. Collaboration between the FBI, ATF, our New Jersey partners, and the NYPD, among others, led to this individual's capture and he is currently serving multiple life sentences.

On October 31, 2017, an ISIS-inspired extremist used a rented truck to mow down innocent cyclists and pedestrians on the West Side Highway running path in Manhattan and near Ground Zero, killing eight. The collaboration between the NYPD and the FBI led to a fruitful investigation which resulted in federal charges of lending support to a terrorist organization, in addition to murder charges. This individual will be tried later this year. In December of 2017, an ISIS-inspired extremist attempted a suicide bombing when he set off a homemade explosive device at the Port Authority Bus Terminal subway station in Manhattan that injured three individuals and himself. Once again, the collaboration between the NYPD and its state and federal partners resulted in a successful investigation which led to a guilty verdict. Most recently, between October 22nd and November 2nd of last year, an individual sent explosive devices through the mail to numerous elected officials and high profile private citizens, in addition to a news outlet. This attack spanned states up and down the East coast and as far west as California. We are grateful that there was no loss of life as a result of this incident, and proud of the coordinated effort that included law enforcement from multiple localities, states and the federal government that located all of the devices, and which resulted in the capture of the individual responsible. These attacks strengthen our resolve to prevent future carnage.

The NYPD's Critical Response Command (CRC) is one of our first lines of defense against any threat. An elite squad, with officers trained in special weapons, long guns, explosive trace detection, and radiological and nuclear awareness, who regularly respond quickly to any potential terrorist attack across the city, including active shooter incidents. This team, which is central to the Counterterrorism Bureau's proactive counterterrorism mission, conducts daily deployments, saturating high probability targets with a uniformed presence aimed at disrupting terrorist planning operations and deterring and preventing attacks. But the Counterterrorism Bureau has a mandate broader than the CRC's operations: The Bureau has wide-ranging responsibilities that include designing and implementing large-scale counterterrorism projects; conducting counterterrorism

training for the entire patrol force and other law enforcement agencies; identifying critical infrastructure sites and developing protective strategies for such sites; researching, testing and developing plans for the use of emerging technologies used to detect and combat chemical, biological, radiological, nuclear, and explosive weapons; developing systems and programs to increase harbor security, which includes the pro-active deployment and mapping of background radiation in the Port of New York and New Jersey; and interfacing with the NYC Office of Emergency Management, which coordinates the city's response to mass-scale events.

Our emergency prevention apparatus is not limited to the important work that our dedicated professionals conduct each day. We frequently work with other government agencies to help protect our city. Most notably, the NYPD is a member of the Joint Terrorism Task Force, led by the FBI, which combines the resources of multiple law enforcement agencies to investigate and prevent terrorist attacks. Additional initiatives include Operation SENTRY, which consists of regular meetings with law enforcement agencies from around the country in order to share information and training techniques, and to pursue joint investigative avenues. At last count there are 275 participating law enforcement partners. Law enforcement in this country cannot be content to merely focus on activity in their own jurisdictions. Terrorist plots can be planned online or discussed in one part of the country and executed in another. This is especially the case with attacks that are perpetrated by those inspired to act by terrorist groups, rather than receiving information, instructions, or directions from them (also known commonly as "directed" attacks). Information silos can be deadly and Operation SENTRY is designed to breakdown walls between jurisdictions.

The NYPD also participates in Multi-Agency Super Surges which are joint operations to focus manpower at sensitive transit locations conducted with Port Authority Police, Amtrak Police, MTA Police, New Jersey Transit Police, the FBI, TSA, and the National Guard SHIELD Group. These collaborative efforts also include the Securing the Cities Initiative, which is a Department of Homeland Security (DHS) funded initiative between the NYPD and regional law enforcement partners to protect against a radiological attack like a "dirty bomb". As a part of this effort, radiation detection equipment was installed in neighboring jurisdictions and at key points of entry into the five boroughs so that the City is virtually ringed with a radiological alarm system. Additionally, the DHS Office of Intelligence and Analysis (I & A) certified a Sensitive Compartmented Information Facility (SCIF) at NYPD Headquarters that supports classified information sharing integral to the NYPD's counterterror mission. We also have personnel from I & A assigned to New York City in addition to a DHS Special Security Officer assigned full time to manage SCIF operations. The DHS Intelligence Analyst assigned to the NYPD sits with our Intelligence Bureau's cadre of intelligence research specialists and proactively shares DHS and Intelligence Community information with the NYPD. This has resulted in leads for existing investigations, new investigations being opened, and two joint finished intelligence products over the past year alone. Our civilian intelligence research specialists, who are also funded by DHS, work hand-in-hand with our uniformed members to detect and disrupt threats to the city, in addition to providing critical strategic intelligence analysis.

In addition to partnerships with the federal government, other states and localities, and foreign governments, we have increasingly partnered with the private sector. These partnerships are instrumental. Our public-private initiatives, interconnected yet distinct, begin with our federally funded Domain Awareness System (DAS), which receives data from real time sensors, including

radiological and chemical sensors, ShotSpotter, information from 911 calls, and live feeds from CCTV cameras around the city. Not all of these cameras are city owned or operated. In fact, most of them are not. They belong to private entities that have chosen to partner with us, providing encrypted one-way access to their cameras as well as other information, in our collective effort to keep the city and its millions of inhabitants safe. This information, including camera feeds, can also be accessed by NYPD officers on their Department-issued mobile devices in real time.

The Lower Manhattan Security Initiative and the Midtown Manhattan Security Initiative are the backbones of DAS, and are great examples of additional steps the NYPD takes, in partnership with the private sector. Lower Manhattan and Midtown Manhattan contain many of the country's most attractive locations for attacks, and businesses located within these sensitive areas have allowed us to access their cameras, technology and security personnel as force multipliers, allowing the NYPD to better prevent terrorist attacks. This collaboration includes Operation Nexus, where the NYPD works with businesses throughout the nation to provide them with information to help them identify suspicious transactions that may be linked to terrorist plots. Our private sector partnerships also includes an initiative called NYPD SHIELD, which established a two-way line of communication and information sharing between the NYPD and approximately 20,000 private sector members from businesses and organizations throughout the country, representing almost every sector of industry and government. The information we share enables us to better secure our city and allows businesses, both individually and collectively as industries, to enhance their own security.

The NYPD relies on federal funding to protect New York City against terrorist attacks and to strengthen emergency preparedness, including the security of critical transportation and port infrastructure. This funding has helped staff our counterterrorism and intelligence bureaus and purchase critical detection and response equipment. It allows the Department to purchase, train and deploy vapor wake dogs, who are able to detect explosive particles. In addition, it enables us to place radiation and chemical sensors in fixed high profile locations and in a variety of mobile conveyances in order to expand our coverage to include likely points and paths of entry for these dangerous materials; this allows us to find radioactive material before they ever reach our city limits. These appropriations have also made it possible to provide comprehensive training and safety equipment to our officers responding to explosive, chemical, biological, and radiological incidents, as well as training officers to respond to active shooter incidents so they can engage and end coordinated terrorist attacks. This vital funding also provides critical instruction to officers in life-saving techniques that can be implemented during an ongoing attack, in the effort to save lives before it is safe enough for medical personnel to enter an active crime scene.

The support we receive from the federal government in the form of funding, as well as our relationships with our federal law enforcement partners have been and continues to be invaluable. However, we continue to seek greater funding levels that are commensurate with the unique position in which New York City finds itself – at the top of the terrorist target list. The identification of plots targeting our city is becoming increasingly challenging as we are seeing more and more attackers becoming inspired rather than directed. Extremist groups are increasingly using this cost-efficient method to recruit, educate and operationalize their deadly agenda. The traditional terrorist recruitment, training and plotting framework, where sympathizers would be identified and brought to established locations around the globe for training and where terror plots

were conceived, prepared and operationalized, is quickly being substituted. These locations are becoming less commonplace. Instead, the internet is used to identify, influence, train and instruct recruits. This emerging and expanding decentralized methodology is making it increasingly more difficult for law enforcement to identify and detect radicalized individuals, terror plots in their planning stages and networks of conspirators, as plots are hatched and attacks carried out by lone-wolves. With additional funding above and beyond the current levels, the NYPD could enhance its proactive, preventative posture by expanding its intelligence gathering capabilities, increasing deployments in critical areas of the City, purchasing and employing the most current and cutting edge technology, enhancing and expanding its collaborative efforts, as well as continuing to develop its emergency response capabilities in the event a tragic incident occurs.

While I have outlined the various steps the NYPD takes to address the constant threat to our city and to manage emergencies, there is one threat that has emerged which has the potential of being lethal and which the Department is prohibited from effectively countering as a matter of federal law. Though we have yet to see it here in the United States, terror groups such as ISIS and Al-Qaeda have incorporated unmanned aircraft systems, or drones, in battle overseas. As we have seen this past December in London, where illegal drone flights brought an entire airport to a standstill for 17 hours, when we are unable to disable or disrupt a drone posing a threat, we are at its mercy.

Currently, federal law prohibits state and local governments from using technology that could be used to jam a drone's signal. Additionally, current law provides no pathway for state or local governments to apply to the FCC for an exception from this prohibition. The NYPD recommends amending Title 47 of the Federal Code to allow state and local governments to purchase jamming technology to use against unmanned aircraft systems in select circumstances with proper oversight. Recently, DHS and the Department of Justice (DOJ) were empowered by law to use such technology. However, our DHS and DOJ partners simply do not have the resources to ensure the level of geographic coverage New York City requires against this threat, no matter their best efforts. The difficulty that DHS and DOJ will have responding to this threat in NYC is magnified in places where they do not have permanent field offices. The NYPD is ready, willing and able to deploy this option if given the authority. Select members of the NYPD could be trained in its use and ready to respond swiftly anywhere in the five boroughs. Mere moments of delay could mean the difference between successfully stopping an attack and catastrophe.

Given that we are all here to speak about emergency preparedness, I wish to highlight a vital component to any such preparation and response: effective communication systems that enable our first responders to communicate. To this end I would be remiss if I did not take a moment to talk about the T-Band and how vitally important it is to the NYPD and its regional law enforcement and emergency response partners, and first responders nationwide. Aside from large scale natural disasters and terrorist attacks, such as Hurricane Sandy and the September 11th attacks, the Department receives nearly 10 million 911 calls annually and patrols approximately 306 square miles of some of the most densely populated geography in the nation. The T-Band is a portion of the spectrum used in New York City and the surrounding region to support critical communication and provide regional interoperability among first responders. The NYPD and its regional partners have spent years and hundreds of millions of local, state and federal dollars to build and improve these T-Band networks, including in the subway and train tunnels in and around the city, the largest

such tunnel system in the world. Under current law, portions of the T-Band will be auctioned off to private interests beginning in 2021. This would squeeze first responders into smaller and smaller sections of the band, even as the demand on the band continues to increase. To be blunt, this would be catastrophic to public safety and emergency readiness and response. There is no viable alternative spectrum available for us to move to. For example, the entire New York City subway system is wired for T-Band and, learning from 9/11, the New York City building code now requires all new high-rise construction to be wired for T-Band as well. Cell phones do not allow the same type of immediate, multi-point communication that a police radio does. Even if there were a viable alternative, it would take years and billions of dollars to build up another communication infrastructure alongside the existing T-Band infrastructure. We would then have to seamlessly transfer all communications to the new system wholesale without a break in service, which would be, to put it lightly, next to impossible. And, given all of this, we would not even be able to guarantee it would work nearly as well as the T-Band systems we have spent years perfecting. On behalf of the NYPD, the FDNY, and the City of New York, we urge the House to pass the *Don't Break Up the T-Band Act of 2019*.

Additionally, while we certainly are encouraged by steps taken by the FCC to improve the Wireless Emergency Alert (WEA) system, we urge the FCC to adopt rules that better allow us to respond to the full range of modern emergency scenarios, from hurricanes to terrorist attacks. When the City issued a WEA notification regarding the Chelsea Bomber in 2016 to every phone in the five boroughs, the millions of New Yorkers who wanted to help were merely given several lines of text with no picture. In this age of instant access to visual information via social media, we need to enhance our ability to rapidly and securely deliver comprehensive emergency information, including images, to the public. This information must come from a trusted source, like WEA, before unverified or incorrect information is shared widely on social media networks, sowing further confusion and panic. Pictures provide instant recognition and speak a universal language. They enable rapid response from every potential witness who could save lives through fast action. The lack of an ability to disseminate photographs and other multimedia highlights a weakness in the system. In the face of emerging threats, we need to remain on technology's cutting edge by using public information systems to their fullest capacity and, where necessary, improving those capabilities. In addition, as the nature of emergencies is their lack of predictability, the City continues to strongly urge Congress to eliminate the ability for mobile phone customers to opt out of WEA messages. Our nation's threat environment has changed dramatically since the creation of WEA in 2006 and local public safety officials must have the unfettered ability to reach our constituents at a moment's notice.

At the NYPD, our philosophy is simple: we have to gather the best intelligence available, utilize the most up-to-date technology, expand our partnerships, take proactive measures to identify and neutralize threats, and react to natural disasters and other mass-scale events in a manner which ensures public safety and prevents the loss of life, all while remaining committed to protecting individual liberties.

Over seventeen years after September 11, 2001, New York City enjoys the distinction of being the safest big city in America. It is also commercially vibrant, culturally diverse, and free. We can claim these successes are due, in no small measure, to the approximately 58,000 uniformed and civilian members of the New York City Police Department, the partnerships we have built, and



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the assistance we receive from the federal government, which has proven itself a vital partner in the face of an ever present threat.

Thank you again for this opportunity to testify today. I am happy to answer any questions you may have.